

EOG RESOURCES INC  
Form S-3ASR  
May 18, 2009

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**As filed with the Securities and Exchange Commission on May 18, 2009**  
**Registration No. 333-**

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

**Form S-3**  
**REGISTRATION STATEMENT**  
**UNDER**  
**THE SECURITIES ACT OF 1933**

**EOG RESOURCES, INC.**

*(Exact name of registrant as specified in its charter)*

**Delaware**

*(State or other jurisdiction of  
incorporation or organization)*

**47-0684736**

*(I.R.S. Employer  
Identification Number)*

**1111 Bagby, Sky Lobby 2**  
**Houston, Texas 77002**  
**(713) 651-7000**

*(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)*

**Frederick J. Plaeger, II**  
**Senior Vice President and General Counsel**

**EOG Resources, Inc.**  
**1111 Bagby, Sky Lobby 2**  
**Houston, Texas 77002**  
**Telephone: (713) 651-7000**  
**Facsimile: (713) 651-6987**

*(Name, address, including zip code, and telephone number, including area code, of agent for service)*

*Copy to:*

**Arthur H. Rogers**  
**Fulbright & Jaworski L.L.P.**  
**1301 McKinney, Suite 5100**  
**Houston, Texas 77010**  
**Telephone: (713) 651-5421**  
**Facsimile: (713) 651-5246**

**Approximate Date of Commencement of Proposed Sale to the Public:** From time to time after this registration statement becomes effective, subject to market conditions and other factors.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company   
(Do not check if a smaller reporting company)

**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities to be Registered</b>	<b>Amount to be Registered<sup>(1)(2)</sup></b>	<b>Proposed Maximum Offering Price per Unit<sup>(1)(2)(3)</sup></b>	<b>Proposed Maximum Aggregate Offering Price<sup>(1)(3)</sup></b>	<b>Amount of Registration Fee<sup>(4)</sup></b>
Debt securities				
Preferred stock, \$.01 par value per share				
Common stock, \$.01 par value per share <sup>(5)</sup>				
<b>Total</b>	\$900,000,000	100%	\$900,000,000	\$50,220

(1) Not specified as to each class of securities to be registered pursuant to General Instruction II.E to Form S-3. This registration statement covers an indeterminate amount of debt securities and an indeterminate number of shares

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of preferred stock and common stock that the registrant may issue, and an indeterminate number of shares of common stock that the selling stockholders may sell, from time to time at indeterminate prices with an aggregate initial offering price not to exceed \$900,000,000. The maximum offering price per unit will be determined by the registrant or the selling stockholders, as the case may be, in connection with the issuance or sale by the registrant or selling stockholders of the securities registered herein.

- (2) Also includes an indeterminate number of shares of common stock or preferred stock as may be issued upon conversion, exchange or settlement, as the case may be, for any debt securities or preferred stock that provide for conversion, exchange or settlement, as the case may be, into preferred stock or common stock registered hereby. Separate consideration may or may not be received for any securities that are issued upon conversion of or in exchange or settlement for those securities.
  - (3) Estimated solely for purposes of calculating the registration fee. Includes shares of common stock that may be sold by selling stockholders. The aggregate public offering price of all of the securities registered hereby will not exceed \$900,000,000.
  - (4) Calculated pursuant to Rule 457(o) under the Securities Act of 1933, as amended.
  - (5) Each share of common stock has one attached right to purchase the registrant's Series E Junior Participating Preferred Stock under the Rights Agreement, dated as of February 14, 2000, between EOG Resources, Inc. and EquiServe Trust Company, N.A. (as successor to First Chicago Trust Company of New York), as Rights Agent, as amended by the Amendment to Rights Agreement, dated as of December 13, 2001, Amendment No. 2 to Rights Agreement, dated as of December 20, 2001, Amendment No. 3 to Rights Agreement, dated as of April 11, 2002, Amendment No. 4 to Rights Agreement, dated as of December 10, 2002, Amendment No. 5 to Rights Agreement, dated as of February 24, 2005, and Amendment No. 6 to Rights Agreement, dated as of June 15, 2005.
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**PROSPECTUS**

**EOG Resources, Inc.**

***\$900,000,000***

***DEBT SECURITIES***

***PREFERRED STOCK***

***COMMON STOCK***

**We may offer from time to time**

our unsecured debt securities consisting of notes, debentures or other evidences of indebtedness, which may be convertible into our common stock;

shares of our preferred stock, which also may be convertible into our common stock; and/or

shares of our common stock.

The aggregate initial offering price of the debt securities, preferred stock and common stock to be offered by us will not exceed \$900,000,000. We may offer these securities in amounts, at prices and on terms to be determined based on market conditions at the time of sale and set forth in a prospectus supplement.

We may offer the preferred stock and debt securities as separate series. The terms of each series of debt securities, including, where applicable, the specific designation, aggregate principal amount, authorized denominations, maturity, rate or rates and time or times of payment of any interest or dividends, any terms for optional or mandatory redemption, which may include redemption at the option of holders on the occurrence of certain events, any terms for conversion to common stock or payment of additional amounts or any sinking fund provisions, and any other specific terms in connection with the offering and sale of such securities will be set forth in a prospectus supplement.

We may sell the debt securities, preferred stock and common stock directly, through agents designated from time to time or to or through underwriters or dealers. See Plan of Distribution. If any underwriters are involved in the sale of any debt securities, preferred stock or common stock in respect of which this prospectus is being delivered, the names of such underwriters and any applicable commissions or discounts will be set forth in a prospectus supplement. The net proceeds to us from such sale also will be set forth in a prospectus supplement.

We may also allow selling stockholders to offer and sell common stock under this prospectus.

Our common stock is listed on the New York Stock Exchange under the symbol EOG. On May 15, 2009, the last reported sale price of common stock on the New York Stock Exchange was \$68.25 per share.

**You should read carefully the information included or incorporated by reference in this prospectus and any applicable prospectus supplement, including any information under the heading Risk Factors, for a discussion of factors you should consider before deciding to invest in any debt securities, preferred stock or common stock offered by this prospectus. See Risk Factors on page 3.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.**

The date of this prospectus is May 18, 2009.

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**About this prospectus**

This prospectus is part of a registration statement that we have filed with the United States Securities and Exchange Commission, referred to in this prospectus as the SEC or the Commission, using a shelf registration process. Using this process, we may, from time to time, offer to sell any combination of the securities described in this prospectus in one or more offerings at an aggregate initial offering price to be specified at the time of any such offer. This prospectus provides you with a general description of the securities we may offer. Each time we offer to sell securities, we will provide a supplement to this prospectus. The prospectus supplement will describe the specific terms of that offering, including the specific amounts, prices and terms of the securities offered. The prospectus supplement may also add, update or change the information contained in this prospectus. Please carefully read this prospectus and the applicable prospectus supplement, in addition to the information contained in the documents we refer you to under the heading **Where You Can Find Additional Information** appearing immediately below. If there is any inconsistency between the information in this prospectus and any prospectus supplement, you should rely on the information in the applicable prospectus supplement.

**Where you can find additional information**

We file annual, quarterly and other reports, proxy and information statements and other information with the SEC. You may read and copy any document we file at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for information regarding the public reference room and its copying charges. You can also find our filings on the SEC's website at <http://www.sec.gov> and on our website at <http://www.eogresources.com>. Information contained on our website, except for the SEC filings referred to below, is not a part of, and shall not be deemed to be incorporated by reference into, this prospectus. In addition, our reports and other information concerning us can be inspected at the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

The SEC allows us to incorporate by reference the information we have filed with the SEC, which means that we can disclose important information to you by referring you to those documents without actually including the specific information in this prospectus. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and may replace this information and information previously filed with the SEC. We incorporate by reference into this prospectus the following documents:

our Annual Report on Form 10-K for the year ended December 31, 2008, filed with the SEC on February 25, 2009;

our Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009, filed with the SEC on May 4, 2009;

our Current Reports on Form 8-K filed with the SEC on March 4, 2009 and March 18, 2009;

the description of our common stock, par value \$.01 per share, contained in our Registration Statement on Form 8-A filed with the SEC on August 29, 1989; and

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the description of our preferred stock purchase rights contained in our Registration Statement on Form 8-A filed with the SEC on February 18, 2000, as amended by Amendment No. 1 on Form 8-A/A filed with the SEC on December 14, 2001, Amendment No. 2 on Form 8-A/A filed with the SEC on February 7, 2002, Amendment No. 3 filed as an exhibit to our Current Report on Form 8-K filed with the SEC on April 12, 2002, Amendment No. 4 filed as an exhibit to our Current Report on Form 8-K filed with the SEC on December 11, 2002, Amendment No. 5 filed as an exhibit to our Annual Report on Form 10-K for the fiscal year ended December 31, 2004, filed with the SEC on February 25, 2005, and Amendment No. 6 filed as an exhibit to our Current Report on Form 8-K filed with the SEC on June 21, 2005.

We also incorporate by reference into this prospectus any future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, referred to in this prospectus as the Exchange Act, until we sell all of the securities offered by this prospectus, other than information furnished to the SEC under Items 2.02 or 7.01, or the exhibits related thereto under Item 9.01, of Form 8-K, which information is not deemed filed under the Exchange Act and is not incorporated by reference into this prospectus.

You may request a copy of these filings at no cost by writing or telephoning our Corporate Secretary at our principal executive offices, which are located at 1111 Bagby, Sky Lobby 2, Houston, Texas 77002, telephone: (713) 651-7000.

In this prospectus, references to EOG, we, us, our and the Company each refers to EOG Resources, Inc. and, unless otherwise stated, our subsidiaries.

**You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized anyone to provide you with different information.**

**We are not offering to sell these securities in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this prospectus or the documents incorporated by reference in this prospectus is accurate as of any date other than the date on the front of those documents. Our business, financial condition, results of operations and prospectus may have changed since those dates.**

#### Oil and gas terms

When describing commodities produced and sold:	gas	=	natural gas
	oil	=	crude oil
	liquids	=	crude oil, condensate, and natural gas liquids
When describing natural gas:	Mcf	=	thousand cubic feet
	MMcf	=	million cubic feet
	Bcf	=	billion cubic feet
	MMBtu	=	million British Thermal Units
When describing liquids:	Bbl	=	barrel
	MBbl	=	thousand barrels
	MMBbl	=	million barrels
When comparing oil and other liquids to natural gas:	1 Bbl of oil	=	6 Mcf of natural gas equivalent
	Mcfe	=	thousand cubic feet equivalent



MMcfe = million cubic feet equivalent  
Bcfe = billion cubic feet equivalent

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**Business**

EOG Resources, Inc., a Delaware corporation organized in 1985, together with its subsidiaries, explores for, develops, produces and markets natural gas and crude oil primarily in major producing basins in the United States, Canada, Trinidad, the United Kingdom North Sea, China and, from time to time, select other international areas. At December 31, 2008, our total estimated net proved reserves were 8,689 Bcfe, of which 7,339 Bcf were natural gas reserves and 225 MMBbl, or 1,350 Bcfe, were crude oil and condensate and natural gas liquids reserves. At such date, approximately 71% of our reserves (on a natural gas equivalent basis) were located in the United States, 15% in Canada and 14% in Trinidad. As of December 31, 2008, we employed approximately 2,100 persons, including foreign national employees.

**Risk factors**

Investing in our securities involves risks. Before deciding to purchase any of our securities, you should read carefully the discussion of risks and uncertainties under the heading **Risk Factors** contained in our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, which is incorporated by reference in this prospectus, and under similar headings in our subsequently filed Quarterly Reports on Form 10-Q and Annual Reports on Form 10-K, as well as the other risks and uncertainties described in any applicable prospectus supplement and in the other documents incorporated by reference in this prospectus. See the section entitled **Where You Can Find Additional Information** in this prospectus. The risks and uncertainties we discuss in the documents incorporated by reference in this prospectus are those we currently believe may materially affect our company.

**Information regarding forward-looking statements**

This prospectus and the documents incorporated by reference into this prospectus include forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, referred to in this prospectus as the Securities Act, and Section 21E of the Exchange Act. All statements, other than statements of historical facts, including, among others, statements and projections regarding our future financial position, operations, performance, business strategy, budgets, reserve information, levels of production and costs and statements regarding the plans and objectives of our management for future operations, are forward-looking statements. We typically use words such as expect, anticipate, estimate, project, strategy, intend, plan, target, goal, may, will and believe or other variations or comparable terminology to identify our forward-looking statements. In particular, statements, express or implied, concerning our future operating results and returns or our ability to replace or increase reserves, increase production or generate income or cash flows are forward-looking statements. Forward-looking statements are not guarantees of performance. Although we believe the expectations reflected in our forward-looking statements are reasonable and are based on reasonable assumptions, no assurance can be given that these assumptions are accurate or that these expectations will be achieved or will prove to have been correct. Moreover, our forward-looking statements may be affected by known and unknown risks, events or circumstances that may be outside our control. Important factors that could cause our

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actual results to differ materially from the expectations reflected in our forward-looking statements include, among others:

the timing and extent of changes in prices for natural gas, crude oil and related commodities;

changes in demand for natural gas, crude oil and related commodities, including ammonia and methanol;

the extent to which we are successful in our efforts to discover, develop, market and produce reserves and to acquire natural gas and crude oil properties;

the extent to which we can optimize reserve recovery and economically develop our plays utilizing horizontal and vertical drilling and advanced completion technologies;

the extent to which we are successful in our efforts to economically develop our acreage in the Barnett Shale, the Bakken Formation, our Horn River Basin and Haynesville plays and our other exploration and development areas;

our ability to achieve anticipated production levels from existing and future natural gas and crude oil development projects, given the risks and uncertainties inherent in drilling, completing and operating natural gas and crude oil wells and the potential for interruptions of production, whether involuntary or intentional as a result of market or other conditions;

the availability, proximity and capacity of, and costs associated with, gathering, processing, compression and transportation facilities;

the availability, cost, terms and timing of issuance or execution of, and competition for, mineral licenses and leases and governmental and other permits and rights of way;

competition in the oil and gas exploration and production industry for employees and other personnel, equipment, materials and services and, related thereto, the availability and cost of employees and other personnel, equipment, materials and services;

our ability to obtain access to surface locations for drilling and production facilities;

the extent to which our third-party-operated natural gas and crude oil properties are operated successfully and economically;

our ability to effectively integrate acquired natural gas and crude oil properties into our operations, fully identify existing and potential problems with respect to such properties and accurately estimate reserves, production and costs with respect to such properties;

weather, including its impact on natural gas and crude oil demand, and weather-related delays in drilling and in the installation and operation of gathering and production facilities;

the ability of our customers and other contractual counterparties to satisfy their obligations to us and, related thereto, to access the credit and capital markets to obtain financing needed to satisfy their obligations to us;

our ability to access the commercial paper market and other credit and capital markets to obtain financing on terms we deem acceptable, if at all;

the accuracy of reserve estimates, which by their nature involve the exercise of professional judgment and may therefore be imprecise;

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the timing and extent of changes in foreign currency exchange rates, interest rates, inflation rates, global and domestic financial market conditions and global and domestic general economic conditions;

the extent and effect of any hedging activities engaged in by us;

the timing and impact of liquefied natural gas imports;

the use of competing energy sources and the development of alternative energy sources;

political developments around the world, including in the areas in which we operate;

changes in government policies, legislation and regulations, including environmental regulations;

the extent to which we incur uninsured losses and liabilities;

acts of war and terrorism and responses to these acts; and

the other factors described under Item 1A, Risk Factors, on pages 13 through 19 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2008 and any updates to those factors set forth in our subsequent Quarterly Reports on Form 10-Q.

In light of these risks, uncertainties and assumptions, the events anticipated by our forward-looking statements may not occur, and you should not place any undue reliance on any of our forward-looking statements. Our forward-looking statements speak only as of the date made and we undertake no obligation to update or revise our forward-looking statements, whether as a result of new information, future events or otherwise.

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Unless otherwise indicated in an accompanying prospectus supplement, we intend to apply any net proceeds that we receive from the sale of debt securities, preferred stock or common stock to our general funds to be used for working capital and general corporate purposes, including in certain circumstances to retire outstanding indebtedness.

We will not receive any proceeds from any sale of shares of our common stock by selling stockholders.

**Ratios of earnings to fixed charges and  
earnings to combined fixed charges and preferred stock dividends**

	<b>Three months ended March 31, 2009</b>	<b>2008</b>	<b>Year ended December 31, 2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
Ratio of Earnings to Fixed Charges	7.64	32.50	17.64	24.64	22.45	12.01
Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends	7.64	32.32	15.99	20.50	19.91	10.06

In calculating the ratio of earnings to fixed charges and ratio of earnings to combined fixed charges and preferred stock dividends, earnings represents the sum of net income, income tax provision and fixed charges, less capitalized interest. Fixed charges represents interest (including capitalized interest), amortization of debt costs and the portion of rental expense representing the interest factor. Preferred stock dividends represents dividends in respect of our 7.195% Fixed Rate Cumulative Perpetual Senior Preferred Stock, Series B, the remaining outstanding shares of which were repurchased by us in January 2008.

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**Description of debt securities**

The following description highlights the general terms and provisions of the debt securities. When debt securities are offered in the future, which we call the Offered Debt Securities, the prospectus supplement will explain the particular terms of the Offered Debt Securities and the extent to which these general provisions may apply.

The Offered Debt Securities will be senior unsecured obligations of EOG. The Offered Debt Securities will be issued under an indenture between EOG and Wells Fargo Bank, NA, as trustee, dated as of May 18, 2009. The indenture is filed as an exhibit to the registration statement of which this prospectus is a part. The following statements are summaries of certain of the provisions contained in the indenture and do not purport to be complete statements of all the terms and provisions of the indenture. We encourage you to refer to the indenture for full and complete statements of such terms and provisions, including the definitions of certain terms used in this prospectus, because those provisions and not these summaries define your rights as a holder of the Offered Debt Securities. We have italicized numbers in the following discussion to refer to section numbers of the indenture so that you can more easily locate these provisions.

When we refer to EOG, we, us or our in this section, we mean only EOG Resources, Inc. and not its subsidiaries.

*General.* The indenture does not limit the aggregate principal amount of unsecured debentures, notes or other evidences of indebtedness we may issue under the indenture from time to time in one or more series. We may in the future issue securities in addition to the Offered Debt Securities. The terms of the Offered Debt Securities that are listed below will be contained in the prospectus supplement relating to such Offered Debt Securities:

the title of the Offered Debt Securities;

any limit on the aggregate principal amount of the Offered Debt Securities;

the person or entity to whom any interest on the Offered Debt Securities is payable;

the date or dates on which the principal of and any premium on the Offered Debt Securities is payable;

the rate or rates, which may be fixed or variable, or the method by which such rate or rates shall be determined, at which the Offered Debt Securities shall bear interest, if any, the date or dates from which such interest shall accrue, or the method by which such date or dates shall be determined, the interest payment dates on which any such interest shall be payable and the regular record date for any interest payable on any interest payment date;

the place or places where the principal of and any premium and interest on Offered Debt Securities shall be payable;

the period or periods within which, the price or prices at which and the terms and conditions upon which Offered Debt Securities may be redeemed, in whole or in part, at our option, if we have that option;

our obligation, if any, and our option, if any, to redeem, purchase or repay Offered Debt Securities pursuant to any sinking fund or analogous provisions or at the option of a holder thereof and the period or periods within which, the price or prices at which and the terms

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and conditions upon which Offered Debt Securities shall be redeemed, purchased or repaid in whole or in part, pursuant to such obligation or option;

whether the Offered Debt Securities are to be issued upon original issuance in whole or in part in the form of one or more global securities and, if so, the identity of the depositary for such global securities;

any trustees, paying agents, transfer agents or registrars with respect to Offered Debt Securities; and

any other term of the Offered Debt Securities not inconsistent with the provisions of the indenture. (*Section 301.*)

We will maintain in each place we specify for payment of any series of Offered Debt Securities an office or agency where Offered Debt Securities of that series may be presented or surrendered for payment, where Offered Debt Securities of that series may be surrendered for registration of transfer or exchange and where notices and demands to or on us in respect of the Offered Debt Securities of that series and the indenture may be served.

Unless otherwise indicated in the prospectus supplement relating to the Offered Debt Securities, the Offered Debt Securities will be issued only in fully registered form, without coupons, in denominations of \$2,000 or any integral multiple of \$1,000. (*Section 302.*) No service charge will be made for any registration of transfer or exchange of such Offered Debt Securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge payable in relation thereto, other than with respect to certain exchanges not involving any transfer. (*Section 305.*)

Debt securities may be issued under the indenture as original issue discount securities to be offered and sold at a substantial discount below their principal amount. Special U.S. federal income tax, accounting and other considerations applicable to any such original issue discount securities will be described in any prospectus supplement relating to such securities. Original issue discount securities means any security that provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration of maturity during the existence and continuation of an event of default. (*Section 101.*)

Unless otherwise indicated in a prospectus supplement, the covenants contained in the indenture and the debt securities would not necessarily afford holders of the debt securities protection in the event of a highly leveraged or other transaction involving us that may adversely affect holders thereof.

*Global Debt Securities.* If any Offered Debt Securities are issuable in global form, the applicable prospectus supplement will describe the circumstances, if any, under which beneficial owners of interests in any such global debt security may exchange such interests for debt securities of the same series and of like tenor and aggregate principal amount in any authorized form and denomination. (*Section 305.*) Principal of and any premium and interest on a global debt security will be payable in the manner described in the applicable prospectus supplement.

*Modification of the Indenture.* With certain exceptions and under certain circumstances, the indenture provides that, with the consent of the holders of more than 50% in principal amount of all outstanding securities issued under the indenture, referred to in this prospectus as the Indenture Securities, including, where applicable, the debt securities affected thereby, we and the trustee may enter into a supplemental indenture for the purpose of adding to, changing or



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eliminating any of the provisions of the indenture or modifying in any manner the rights of the holders of Indenture Securities. Notwithstanding the above, the consent of the holder of each outstanding Indenture Security affected by the modification will be required to:

(a) change the stated maturity of the principal of, or any installment of principal of or interest on, any Indenture Security, or reduce the principal amount thereof or the rate of interest thereon or any premium payable upon the redemption thereof, or change any place of payment where, or reduce the amount of the principal of an original issue discount security that would be due and payable upon a declaration of acceleration of maturity during the existence and continuation of an event of default or the amount thereof provable in bankruptcy, or change any place of payment where, or the coin or currency in which, any Indenture Security or any premium or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the stated maturity thereof (or, in the case of redemption, on or after the redemption date);

(b) reduce the percentage in principal amount of the outstanding Indenture Securities of any series, the consent of whose holders is required for any supplemental indenture or for any waiver (of compliance with certain provisions of the indenture or certain defaults thereunder and their consequences) provided for in the indenture; or

(c) with certain exceptions, modify any of the provisions of the section of the indenture which concern waiver of past defaults, waiver of certain covenants or consent to supplemental indentures, except to increase the percentage of principal amount of Indenture Securities of any series, the holders of which are required to effect such waiver or consent or to provide that certain other provisions of the indenture cannot be modified or waived without the consent of the holder of each outstanding Indenture Security affected thereby. The indenture provides that a supplemental indenture which changes or eliminates any covenant or other provision of the indenture which has expressly been included solely for the benefit of one or more particular series of Indenture Securities, or which modifies the rights of the holders of Indenture Securities of such series with respect to such covenant or other provision shall be deemed not to affect the rights under the indenture of the holder of Indenture Securities of any other series. (*Section 902.*)

*Events of Default and Rights Upon Default.* Under the indenture, the term *Event of Default* with respect to any series of Indenture Securities, means any one of the following events which shall have occurred and is continuing:

(a) default in the payment of any interest upon any Indenture Security of that series when such interest becomes due and payable or default in the payment of any mandatory sinking fund payment provided for by the terms of any series of Indenture Securities, and continuance of such default for a period of 30 days;

(b) default in the payment of the principal of (or premium, if any, on) any Indenture Security of that series at its maturity;

(c) default in the performance, or breach, of any of our covenants or warranties in the indenture (other than a covenant or warranty a default in whose performance or whose breach is otherwise specifically dealt with in the indenture or which has been expressly included in the indenture solely for the benefit of one or more series of Indenture Securities other than that series), and continuance of such default or breach for 60 days after we have been given by the trustee, or the holders of at least 25% in principal amount of all

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outstanding Indenture Securities have given to us and the trustee, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a Notice of Default under the indenture; or

(d) certain events involving us in bankruptcy, receivership or other insolvency proceedings or an assignment for the benefit of creditors. (*Section 501.*)

If an Event of Default described in clause (a) or (b) in the foregoing paragraph has occurred and is continuing with respect to Indenture Securities of any series, the indenture provides that the trustee or the holders of not less than 25% in principal amount of the outstanding Indenture Securities of that series may declare the principal amount (or, if the Indenture Securities are original issue discount securities, such portion of the principal amount as may be specified in the terms of that series) of all of the Indenture Securities of that series to be due and payable immediately, and upon any such declaration such principal amount shall become immediately due and payable. If an Event of Default described in clause (c) or (d) of the foregoing paragraph has occurred and is continuing, the trustee or the holders of not less than 25% in principal amount of all of the Indenture Securities then outstanding may declare the principal amount (or, if the Indenture Securities are original issue discount securities, such portion of the principal amount as may be specified in the terms of that series) of all of the Indenture Securities to be due and payable immediately, and upon any such declaration such principal amount shall become immediately due and payable. (*Section 502.*)

A default under our other indebtedness is not necessarily an Event of Default under the indenture, and an Event of Default under one series of Indenture Securities will not necessarily be an Event of Default under another series issued under the indenture.

At any time after a declaration of acceleration with respect to Indenture Securities of any series (or of all series, as the case may be) has been made and before a judgment or decree for payment of the money due has been obtained by the trustee, the holders of a majority in principal amount of the outstanding Indenture Securities of that series (or of all series, as the case may be) may rescind and annul such declaration and its consequences, if, subject to certain conditions, all Events of Default with respect to Indenture Securities of that series (or of all series, as the case may be), other than the non-payment of the principal of the Indenture Securities of that series (or of all series, as the case may be) due solely by such declaration of acceleration, have been cured or waived and all payments due (other than by such declaration of acceleration) have been paid or deposited with the trustee. (*Section 502.*) With certain exceptions, the holders of not less than a majority in principal amount of the outstanding Indenture Securities of any series, on behalf of the holders of all the Indenture Securities of such series, may waive any past default described in clause (a) or (b) of the first paragraph of this heading Events of Default and Rights Upon Default (or, in the case of a default described in clause (c) or (d) of such paragraph, the holders of a majority in principal amount of all outstanding Indenture Securities may waive any such past default), and its consequences, except a default (a) in the payment of the principal of (or premium, if any) or interest on any Indenture Security, or (b) in respect of a covenant or provision of the indenture which, pursuant to the terms of the indenture, cannot be modified or amended without the consent of the holder of each outstanding Indenture Security of such series affected. (*Section 513.*)

The holders of not less than a majority in principal amount of the Indenture Securities of any series at the time outstanding are empowered under the terms of the indenture to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee relating to or arising under any past

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default described in clause (a) or (b) of the first paragraph of this heading Events of Default and Rights Upon Default. Subject to certain limitations, the holders of not less than a majority in principal amount of all outstanding Indenture Securities are empowered under the terms of the indenture to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee not relating to or arising under any past default described in clause (a) or (b) of the first paragraph of this heading Events of Default and Rights Upon Default. (*Section 512.*)

The indenture further provides that no holder of an Indenture Security of any series may enforce the indenture unless (a) such holder shall have given written notice to the trustee of a continuing Event of Default with respect to the Indenture Securities of that series, (b) the holders of not less than 25% in principal amount of the outstanding Indenture Securities of that series, in the case of any Event of Default described in clause (a) or (b) of the first paragraph of this heading Events of Default and Rights Upon Default (or, in the case of a default described in clause (c) or (d) of such paragraph, the holders of a majority in principal amount of all outstanding Indenture Securities), shall have made written request to the trustee to institute proceedings in respect of such Event of Default in its own name as trustee under the indenture, (c) such holder or holders have offered to the trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request, (d) the trustee, for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding and (e) no direction inconsistent with such written request has been given to the trustee during such 60-day period by the relevant holders thereof. However, this provision will not prevent a holder of any Indenture Security from enforcing the payment of the principal of and any premium, and interest on, such holder's Indenture Security on the stated maturity date or maturities expressed in such Indenture Security (or, in the case of redemption, on the redemption date). (*Sections 507 and 508.*)

The indenture requires that we deliver to the trustee, within 120 days after the end of each fiscal year, an officers certificate stating whether to the best knowledge of the signers thereof we are in default in the performance and observance of any of the terms, provisions and conditions of the indenture, and, if so, specifying each such default and the nature and status thereof of which such signers may have knowledge. (*Section 1008.*)

*Discharge of Indenture.* With certain exceptions, we may discharge our obligations under the indenture with respect to any series of Indenture Securities by:

- (a) paying or causing to be paid the principal of (and premium, if any) and interest on all the Indenture Securities of such series outstanding, as and when the same shall become due and payable;
- (b) delivering to the trustee for cancellation all outstanding Indenture Securities (other than with respect to certain Indenture Securities which have been apparently destroyed, lost or stolen and which have been replaced or paid as provided pursuant to the terms of the indenture) of such series; or
- (c) entering into an agreement with the trustee in form and substance satisfactory to us and the trustee providing for the creation of an escrow fund and irrevocably depositing or causing to be deposited in trust with the trustee, as escrow agent of such fund, sufficient funds in cash and/or Eligible Obligations and/or certain U.S. government obligations, maturing as to principal and interest in such amounts and at such times, as will be sufficient without consideration of any reinvestment of such interest, and as further expressed in the

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opinion of a nationally recognized firm of independent public accountants in a written certification thereof delivered to the trustee, to pay at the stated maturity or redemption date all such Indenture Securities of such series not previously delivered to the trustee for cancellation, including principal (and premium, if any) and interest to the stated maturity or redemption date. (*Section 401.*)

The indenture defines Eligible Obligations to mean interest bearing obligations as a result of the deposit of which the Indenture Securities are rated in the highest generic long-term debt rating category assigned to legally defeased debt by one or more nationally recognized rating agencies. (*Section 101.*)

For U.S. federal income tax purposes, there is a substantial risk that a legal defeasance of a series of Indenture Securities by the deposit of cash or such Eligible Obligations or U.S. government obligations in a trust would be characterized by the Internal Revenue Service or a court as a taxable exchange by the holders of the Indenture Securities of that series for either:

- (a) an issue of obligations of the defeasance trust; or
- (b) a direct interest in the cash and/or such Eligible Obligations and/or such U.S. government obligations held in the defeasance trust.

If the defeasance were so characterized, then a holder of an Indenture Security of the series defeased would be:

- (a) required to recognize gain or loss (which would be capital gain or loss if the Indenture Securities were held as a capital asset) at the time of the defeasance as if the Indenture Security had been sold at such time for an amount equal to the amount of cash and the fair market value of such Eligible Obligations and/or such U.S. government obligations held in the defeasance trust;
- (b) required to include in income in each taxable year the interest and any original issue discount or gain or loss attributable to either such defeasance trust obligations or such securities, as the case may be; and
- (c) subject to the market discount provisions of the Internal Revenue Code of 1986, as amended, as they may pertain to such defeasance trust obligations or such securities.

As a result, a holder of an Indenture Security may be required to pay taxes on any such gain or income even though such holder may not have received any cash. Prospective investors are urged to consult their own tax advisors as to the tax consequences of an actual or legal defeasance, including the applicability and effect of tax laws other than U.S. federal income tax law.

*Concerning the Trustee.* The trustee may from time to time also act as a depository of funds for, make loans to, and perform other services for, us in the normal course of business.

The indenture provides that if an Event of Default occurs (and is not cured), the trustee will be required, in the exercise of its power, to use the degree of care of a prudent person in the conduct of such person's own affairs. Subject to such provisions, the trustee will be under no obligation to exercise any of its rights or powers vested in it by the indenture at the request or direction of any holder of securities issued under the indenture, unless such holder shall have offered to the trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction. (*Section 603.*) The

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trustee may resign at any time with respect to the Indenture Securities of one or more series, or may be removed by the holders of a majority in principal amount of the outstanding Indenture Securities of such series or, under certain circumstances, by us. If the trustee resigns, is removed or becomes incapable of acting as trustee or if a vacancy occurs in the office of the trustee for any cause, a successor trustee shall be appointed in accordance with the provisions of the indenture. (*Section 610.*)

If the trustee shall have or acquire any conflicting interest within the meaning of the Trust Indenture Act, the trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and the indenture. (*Section 608.*) The Trust Indenture Act also contains certain limitations on the right of the trustee, as our creditor, to obtain payment of claims in certain cases, or to realize on certain property received by it in respect of such claims, as security or otherwise. (*Section 613.*)

*Limitations on Liens.* Subject to certain limitations described below, the indenture provides that so long as any of the securities issued under the indenture (including the debt securities) are outstanding, we will not, and will not permit any of our subsidiaries to, create or suffer to exist, except in favor of us or any of our subsidiaries, any lien on any principal property at any time owned by it, to secure any of our or any of our subsidiaries' funded debt, unless effective provision is made whereby outstanding Indenture Securities (including the debt securities) will be equally and ratably secured with any and all such funded debt and with any other indebtedness similarly entitled to be equally and ratably secured. This restriction does not apply to prevent the creation