

# SECURITIES AND EXCHANGE COMMISSION

## FORM SC 13D

Schedule filed to report acquisition of beneficial ownership of 5% or more of a class of equity securities

Filing Date: **1996-08-26**  
SEC Accession No. 0000950109-96-005544

(HTML Version on [secdatabase.com](http://secdatabase.com))

### SUBJECT COMPANY

#### EVERGREEN RESOURCES INC

CIK: **353943** | IRS No.: **840834147** | State of Incorpor.: **CO** | Fiscal Year End: **0331**  
Type: **SC 13D** | Act: **34** | File No.: **005-34061** | Film No.: **96620821**  
SIC: **1311** Crude petroleum & natural gas

Business Address  
1000 WRITER SQ  
1512 LARIMER ST  
DENVER CO 80202  
3035340400

### FILED BY

#### FORSYTHE GERALD R

CIK: **1006020**  
Type: **SC 13D**

Mailing Address  
1130 LAKE GROVE ROAD  
BUFFALO GROVE IL 60089

Business Address  
1130 LAKE GROVE ROAD  
BUFFALO GROVE IL 60089  
8475203212

-----  
OMB APPROVAL  
-----

OMB Number: 3235-0145  
Expires: October 31, 1997  
Estimated average burden  
hours per response... 14.90  
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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

SCHEDULE 13D

UNDER THE SECURITIES EXCHANGE ACT OF 1934  
(AMENDMENT NO. )\*

-----  
EVERGREEN RESOURCES, INC.  
-----

(Name of Issuer)

COMMON STOCK, NO PAR VALUE  
-----

(Title of Class of Securities)

299900 30 8  
-----

(CUSIP Number)

Gerald DeNotto, EIF Acquisition L.L.C., 1075 North Noel Avenue  
Wheeling, IL 60090, Telephone (864) 520-3212  
-----

(Name, Address and Telephone Number of Person Authorized  
to Receive Notices and Communications)

August 14, 1996  
-----

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this schedule because of Rule 13d-1(b)(3) or (4), check the following box.

Check the following box if a fee is being paid with the statement . (A fee is not required only if the filing person: (1) has a previous statement on file reporting beneficial ownership of more than five percent of the class of securities described in Item 1; and (2) has filed no amendment subsequent thereto reporting beneficial ownership of five percent or less of such class.) (See Rule 13d-7.)

NOTE: Six copies of this statement, including all exhibits, should be filed with the Commission. See Rule 13d-1(a) for other parties to whom copies are to be sent.

\*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

SEC 1746 (12-91)

SCHEDULE 13D

1 NAME OF REPORTING PERSON  
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

Gerald R. Forsythe

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*  
(a)   
(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS\*  
WK, OO

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEMS 2(d) or 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION  
United States

		SOLE VOTING POWER
NUMBER OF	7	0
SHARES		

BENEFICIALLY	8	SHARED VOTING POWER
OWNED BY		1,389,638

EACH	9	SOLE DISPOSITIVE POWER
REPORTING		0
PERSON		

WITH	10	SHARED DISPOSITIVE POWER
		1,389,638

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  
1,389,638

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
SHARES\*

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
18.95%

14 TYPE OF REPORTING PERSON\*  
IN

\*SEE INSTRUCTIONS BEFORE FILLING OUT!  
INCLUDE BOTH SIDES OF THE COVER PAGE, RESPONSES TO ITEMS 1-7  
(INCLUDING EXHIBITS) OF THE SCHEDULE, AND THE SIGNATURE ATTESTATION.

-----  
 CUSIP NO. 299900 30 8  
 -----

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 PAGE 3 OF 54 PAGES  
 -----

-----  
 1 NAME OF REPORTING PERSON  
 S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON  
 Energy Investors Fund, L.P.  
 -----

-----  
 2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*  
 (a)   
 (b)   
 -----

-----  
 3 SEC USE ONLY  
 -----

-----  
 4 SOURCE OF FUNDS\*  
 WK, OO  
 -----

-----  
 5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
 TO ITEMS 2(d) or 2(e)   
 -----

-----  
 6 CITIZENSHIP OR PLACE OF ORGANIZATION  
 Delaware  
 -----

		SOLE VOTING POWER
NUMBER OF	7	0
SHARES	-----	
BENEFICIALLY	8	SHARED VOTING POWER
OWNED BY		364,500
EACH	9	SOLE DISPOSITIVE POWER
REPORTING		0
PERSON	-----	
WITH	10	SHARED DISPOSITIVE POWER
		364,500

-----  
 11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  
 364,500  
 -----

-----  
 12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
 SHARES\*   
 -----

-----  
 13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
 5.13%  
 -----

-----  
 14 TYPE OF REPORTING PERSON\*  
 PN  
 -----

SCHEDULE 13D

-----  
CUSIP NO. 299900 30 8  
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PAGE 4 OF 54 PAGES  
-----

-----  
NAME OF REPORTING PERSON  
1 S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON  
  
Energy Investors Fund II, L.P.  
-----

-----  
CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*  
2 (a)   
(b)

-----  
SEC USE ONLY  
3  
-----

-----  
SOURCE OF FUNDS\*  
4 WK, OO  
-----

-----  
CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
5 TO ITEMS 2(d) or 2(e)

-----  
CITIZENSHIP OR PLACE OF ORGANIZATION  
6 Delaware  
-----

-----  
SOLE VOTING POWER  
7  
NUMBER OF 0  
SHARES  
-----

BENEFICIALLY 8 SHARED VOTING POWER  
1,025,138  
OWNED BY  
-----

EACH 9 SOLE DISPOSITIVE POWER  
0  
REPORTING PERSON  
-----

WITH 10 SHARED DISPOSITIVE POWER  
1,025,138  
-----

-----  
AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  
11 1,025,138  
-----

-----  
CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
12 SHARES\*

-----  
PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
13 13.98%  
-----

14

PN

-----

\*SEE INSTRUCTIONS BEFORE FILLING OUT!  
INCLUDE BOTH SIDES OF THE COVER PAGE, RESPONSES TO ITEMS 1-7  
(INCLUDING EXHIBITS) OF THE SCHEDULE, AND THE SIGNATURE ATTESTATION.

## SCHEDULE 13D

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CUSIP NO. 299900 30 8-----  
PAGE 5 OF 54 PAGES  
----------  
NAME OF REPORTING PERSON

1 S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

Energy Investors Partners, L.P.

-----  
CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*2 (a)   
(b) -----  
SEC USE ONLY

3

-----  
SOURCE OF FUNDS\*

4 WK, OO

-----  
CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEMS 2 (d) or 2 (e) 

5

-----  
CITIZENSHIP OR PLACE OF ORGANIZATION

6 Delaware

-----  
SOLE VOTING POWER7  
NUMBER OF 0  
SHARES-----  
SHARED VOTING POWER8  
BENEFICIALLY 364,500  
OWNED BY-----  
SOLE DISPOSITIVE POWER9  
EACH 0  
REPORTING-----  
SHARED DISPOSITIVE POWER10  
PERSON 364,500  
WITH-----  
AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

11 364,500

-----  
CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
SHARES\* 

12

PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

13

5.13%

TYPE OF REPORTING PERSON\*

14

PN

\*SEE INSTRUCTIONS BEFORE FILLING OUT!

INCLUDE BOTH SIDES OF THE COVER PAGE, RESPONSES TO ITEMS 1-7 (INCLUDING EXHIBITS) OF THE SCHEDULE, AND THE SIGNATURE ATTESTATION.

SCHEDULE 13D

CUSIP NO. 299900 30 8

PAGE 6 OF 54 PAGES

NAME OF REPORTING PERSON

1 S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

Energy Investors Partners II, L.P.

CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*

2 (a) [ ]  
(b) [X]

SEC USE ONLY

3

SOURCE OF FUNDS\*

4

WK, OO

CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) or 2(e)

5 [ ]

CITIZENSHIP OR PLACE OF ORGANIZATION

6

Delaware

SOLE VOTING POWER

7 NUMBER OF SHARES 0

SHARED VOTING POWER

8 BENEFICIALLY OWNED BY 1,025,138

SOLE DISPOSITIVE POWER

9 EACH REPORTING PERSON 0

SHARED DISPOSITIVE POWER

10 WITH 1,025,138

AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

11

1,025,138

-----  
12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
SHARES\* [ ]

-----  
13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
13.98%

-----  
14 TYPE OF REPORTING PERSON\*  
PN

-----  
\*SEE INSTRUCTIONS BEFORE FILLING OUT!  
INCLUDE BOTH SIDES OF THE COVER PAGE, RESPONSES TO ITEMS 1-7  
(INCLUDING EXHIBITS) OF THE SCHEDULE, AND THE SIGNATURE ATTESTATION.

SCHEDULE 13D

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CUSIP NO. 299900 30 8 PAGE 7 OF 54 PAGES  
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-----  
1 NAME OF REPORTING PERSON  
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON  
EIF Investors, Inc.  
06-1224170

-----  
2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*  
(a) [ ]  
(b) [X]

-----  
3 SEC USE ONLY

-----  
4 SOURCE OF FUNDS\*  
WK, OO

-----  
5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEMS 2(d) or 2(e) [ ]

-----  
6 CITIZENSHIP OR PLACE OF ORGANIZATION  
Delaware

-----  
7 SOLE VOTING POWER  
NUMBER OF 0  
SHARES  
-----  
8 SHARED VOTING POWER  
BENEFICIALLY 1,389,638  
OWNED BY  
-----  
9 SOLE DISPOSITIVE POWER  
EACH 0  
REPORTING  
PERSON  
-----  
SHARED DISPOSITIVE POWER



WITH 10  
1,389,638

-----  
11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  
1,389,638

-----  
12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
SHARES\* [ ]

-----  
13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
18.95%

-----  
14 TYPE OF REPORTING PERSON\*  
CO

-----  
\*SEE INSTRUCTIONS BEFORE FILLING OUT!  
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SCHEDULE 13D

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CUSIP NO. 299900 30 8

-----  
PAGE 8 OF 54 PAGES

-----  
1 NAME OF REPORTING PERSON  
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON  
  
EIF Acquisition L.L.C.  
36-4085847

-----  
2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*  
(a) [ ]  
(b) [X]

-----  
3 SEC USE ONLY

-----  
4 SOURCE OF FUNDS\*  
WK, OO

-----  
5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEMS 2(d) or 2(e) [ ]

-----  
6 CITIZENSHIP OR PLACE OF ORGANIZATION  
Delaware

-----  
7 SOLE VOTING POWER  
NUMBER OF SHARES 0

-----  
8 SHARED VOTING POWER  
BENEFICIALLY OWNED BY 1,389,638

EACH 9 SOLE DISPOSITIVE POWER  
REPORTING 0

PERSON -----  
WITH 10 SHARED DISPOSITIVE POWER  
1,389,638

-----  
11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  
1,389,638

-----  
12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
SHARES\*

-----  
13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
18.95%

-----  
14 TYPE OF REPORTING PERSON\*  
OO

-----  
\*SEE INSTRUCTIONS BEFORE FILLING OUT!  
INCLUDE BOTH SIDES OF THE COVER PAGE, RESPONSES TO ITEMS 1-7  
(INCLUDING EXHIBITS) OF THE SCHEDULE, AND THE SIGNATURE ATTESTATION.

SCHEDULE 13D

-----  
CUSIP NO. 299900 30 8

-----  
PAGE 9 OF 54 PAGES

-----  
1 NAME OF REPORTING PERSON  
S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON

Indeck Capital, Inc.  
36-3960183

-----  
2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP\*  
(a)   
(b)

-----  
3 SEC USE ONLY

-----  
4 SOURCE OF FUNDS\*  
WK, OO

-----  
5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT  
TO ITEMS 2(d) or 2(e)

-----  
6 CITIZENSHIP OR PLACE OF ORGANIZATION  
Delaware

-----  
7 SOLE VOTING POWER  
NUMBER OF 0

SHARES	-----	
		SHARED VOTING POWER
BENEFICIALLY	8	1,389,638
OWNED BY		-----
		SOLE DISPOSITIVE POWER
EACH	9	0
REPORTING		-----
		SHARED DISPOSITIVE POWER
PERSON	10	1,389,638
WITH		-----

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON  
1,389,638

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN  
SHARES\*

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)  
18.95%

14 TYPE OF REPORTING PERSON\*  
CO

\*SEE INSTRUCTIONS BEFORE FILLING OUT!  
INCLUDE BOTH SIDES OF THE COVER PAGE, RESPONSES TO ITEMS 1-7  
(INCLUDING EXHIBITS) OF THE SCHEDULE, AND THE SIGNATURE ATTESTATION.

Item 1. Security and Issuer.  
-----

The class of equity securities to which this statement (this "Statement") relates is the common shares without par value (the "Common Stock") of Evergreen Resources, Inc., a Colorado corporation ("Evergreen"). The principal executive offices of Evergreen are located at 1000 Writers Square, 1512 Larimer Street, Suite 1000, Denver, Colorado 80202.

Item 2. Identity and Background.  
-----

This Statement is filed by Gerald R. Forsythe ("Forsythe"), a United States citizen, on behalf of himself and the following entities:

- Energy Investors Fund, L.P., a Delaware limited partnership ("Fund I");
- Energy Investors Partners, L.P., a Delaware limited partnership ("Partners I");
- Energy Investors Fund II, L.P., a Delaware limited partnership ("Fund II" and, together with Fund I, the "Funds");
- Energy Investors Partners II, L.P., a Delaware limited partnership ("Partners II");
- EIF Investors, Inc., a Delaware corporation ("Investors");
- EIF Acquisition L.L.C., a Delaware limited liability company ("Acquisition"); and
- Indeck Capital, Inc., a Delaware corporation ("Capital")

(collectively, the "Reporting Persons"). The Reporting Persons are making this joint filing because they may be deemed to constitute a "group" within the meaning of Rule 13d-5 under the Securities Exchange Act of 1934, as amended, although neither the fact of this filing nor anything contained herein shall be deemed to be an admission by the Reporting Persons that such a group exists.

Fund I is the direct beneficial owner of 364,500 shares of Common Stock. Fund II is the direct beneficial owner of 794,369 shares of the Common Stock and 1,500,000 shares of the 8% Convertible Preferred Stock of Evergreen (the "Preferred Stock"), which are convertible into 230,769 shares of Common Stock.

Fund I is controlled by its general partner, Partners I, which in turn is 50% controlled by each of John Hancock Energy Resources Management, Inc., a Delaware corporation ("Hancock") and Investors. Partners I has an additional general partner with no direct ownership interest; this additional general partner is owned by Hancock and Investors.

Fund II is controlled by its general partner, Partners II, which in turn is 50% controlled by each of Hancock and Investors. Partners II has an additional general partner with no direct ownership interest; this additional general partner is owned by Hancock and Investors.

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Investors is 100% owned by Acquisition, which is 99% owned by Capital and 1% owned by North American Funding, L.L.C., a Delaware limited liability company. Capital is 80% owned by Forsythe. Hancock is filing separately with respect to its beneficial ownership of Evergreen securities.

Forsythe and Investors, Acquisition and Capital (collectively, the "Forsythe Companies") are engaged in the energy services businesses. Forsythe serves in various capacities (such as director, officer or manager) for the Forsythe Companies and other affiliated companies. The address of Forsythe and the Forsythe Companies is 1075 North Noel Avenue, Wheeling, Illinois, 60090.

Fund I, Partners I, Fund II and Partners II (collectively, the "Fund Companies") are engaged in the business of investing in independent power projects and other non-regulated, non-utility power production and related facilities. The address of the Fund Companies is 200 Berkeley Street, 20th Floor, Boston, Massachusetts, 02116.

The name, citizenship, business address, position and present principal occupation of Forsythe and of each of the executive officers and directors of Investors, Acquisition and Capital are as set forth in Schedule I to this

Statement.

During the last five years, neither Forsythe nor, to the best knowledge of Forsythe, any of the Forsythe Companies or the Fund Companies, or any of the persons named in Schedule I hereto, has been (i) convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) or (ii) a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, United States federal or state securities laws or finding any violations with respect to such laws.

Item 3. Source and Amount of Funds or Other Consideration.

The aggregate purchase price for the shares of Common Stock owned by Fund I is \$2,441,063. Of that amount, \$547,810 was furnished from the working capital of Fund I. The remainder, \$1,899,253, represents the deemed value of certain partnership interests formerly held by Fund I and transferred to Evergreen in exchange for Common Stock.

The aggregate purchase price for the shares of Common Stock (including the Common Stock issuable upon conversion of the Preferred Stock) owned by Fund II is \$6,788,944. Of that amount, \$2,132,192 was furnished from the working capital of Fund II. The remainder, \$4,656,752, represents the deemed value of certain partnership interests formerly held by Fund II and transferred to Evergreen in exchange for Common Stock.

Item 4. Purpose of Transaction.

The Common Stock and Preferred Stock were acquired by the Funds for investment in the ordinary course of business. If Fund II converts the Preferred Stock into Common Stock, such

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Common Stock issued upon conversion will be held for investment by Fund II. In

addition, Fund II holds certain warrants to purchase shares of Common Stock, but the right to exercise the warrants has not vested as of the date of this Statement, and the determination of when the warrants will become exercisable is dependent upon the occurrence of certain events not in the control of Fund II. The Reporting Persons do not believe that it is possible for the warrants to become exercisable within 60 days of the date of this Statement. Upon the vesting of the warrants, if Fund II exercises the warrants to purchase additional Common Stock, such shares will be held for investment.

The Funds and Evergreen are parties to a Registration Rights Agreement (the "Registration Rights Agreement"), dated as of August 14, 1996, relating to the circumstances under which Evergreen will agree to register certain Common Stock held by the Funds. The Funds may demand a registration of such Common Stock held by the Funds, or any portion of it, as early as January 1, 1997.

In addition, pursuant to that certain Stock Purchase Agreement, dated as of August 1, 1994, by and among the Funds and Evergreen, the Funds were granted certain piggyback registration rights with respect to the aggregate 140,000 shares of Common Stock issued to the Funds pursuant to such agreement.

Item 5. Interest in Securities of the Issuer.  
-----

(a) As of the date of this Statement, Forsythe, through Capital, Acquisition, Investors, Partners I (as to Fund I) and Partners II (as to Fund II), is the indirect beneficial owner of 1,389,638 shares of Common Stock, or 18.95% of such class of securities. The Common Stock is owned directly by Fund I and Fund II.

Fund I is the direct beneficial owner of 364,500 shares of Common Stock, which represent 5.13% of the outstanding Common Stock.

Fund II is the direct beneficial owner of 1,025,138 shares of Common Stock, which represent 13.98% of the outstanding Common Stock.

The number of outstanding shares of Common Stock and the aggregate beneficial ownership percentages of Forsythe and each of the Funds is calculated based on public information disseminated by Evergreen.

(b) Each of Fund I and Fund II has the power to vote with respect to the Common Stock, but no power to direct the disposition of the Common Stock without authorization of Partners I (as to Fund I) or Partners II (as to Fund II), each of which is controlled, indirectly, by Hancock's ultimate controlling entity and Forsythe. Accordingly, (i) Forsythe and the Forsythe Companies have shared voting and dispositive power with respect to 1,389,638 shares (18.95%) of the Common Stock, (ii) Fund I and Partners I have shared voting and dispositive power with respect to 364,500 shares (5.13%) of the Common Stock, and (iii) Fund II and Partners II have shared voting and dispositive power with respect to 1,025,138 shares (13.97%) of the Common Stock.

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(c) Pursuant to an Agreement for Acquisition of Limited Partnership Interests, dated as of August 14, 1996, by and among Fund I, Fund II and Evergreen (the "Acquisition Agreement"), Fund I purchased 285,774 shares of Common Stock from Evergreen in exchange for certain limited partnership interests in a partnership engaged in the business of coal-bed methane gas exploration, drilling and transportation for ultimate commercial sale. The price per share of Common Stock was \$6.625. Pursuant to the Acquisition Agreement, Fund I purchased an additional 8,726 shares of Common Stock in exchange for a cash payment of \$57,810. The price per share of Common Stock was \$6.625. All other shares of Common Stock owned by Fund I were acquired for cash in August 1994.

Pursuant to the Acquisition Agreement, Fund II purchased 702,906 shares of Common Stock from Evergreen in exchange for certain limited partnership interests in the same partnership described in the above paragraph. The deemed price per share of Common Stock was \$6.625. Also pursuant to the Acquisition Agreement, Fund II purchased an additional 21,463 shares of Common Stock in exchange for a cash payment of \$142,190. The price per share of the Common Stock was \$6.625. All other shares of Common Stock owned by Fund II were acquired for cash in August 1994, and the Preferred Stock was acquired for cash in two equal installments, in December 1994 and July 1995.

Other than the transactions described above, none of Forsythe, or, to the best knowledge of Forsythe, the Forsythe Companies or the Fund Companies, have effected any transactions in the Common Stock within the past 60 days.

(d) No other person is known by Forsythe, the Forsythe Companies or the Fund Companies to have the right to receive or the power to direct the receipt

of dividends from, or the proceeds from the sale of, the Common Stock held by the Funds, except for Hancock, with respect to which a separate filing is being made.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect  
-----  
to Securities of the Issuer.  
-----

Evergreen, Fund I and Fund II entered into the Registration Rights Agreement in connection with the acquisition of Common Stock by the Funds on August 14, 1996. Under the Registration Rights Agreement, either of the Funds may demand registration of its shares of Common Stock acquired pursuant to the Acquisition Agreement as early as January 1, 1997, but in any case not later than April 1, 1997. Under the August 1, 1994 Stock Purchase Agreement, the Funds have certain piggyback registration rights with respect to an aggregate 140,000 shares of Common Stock.

Fund II may convert the Preferred Stock at a conversion price of \$6.50, in exchange for 230,769 shares of Common Stock. A percentage of the Preferred Stock is subject to mandatory redemption annually beginning on December 31, 1999 and continuing through December 31, 2004, when all of the Preferred Stock acquired pursuant to the Acquisition Agreement must be converted by Fund II or redeemed by Evergreen.

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Fund II also holds certain Class B Warrants of Evergreen to purchase shares of Common Stock. The warrants will vest upon the occurrence of certain objectively determinable events relating to the redemption of the Preferred Stock. Evergreen has no obligation to vest the warrants until such events have occurred. The warrants will terminate if Fund II converts all of the Preferred Stock. Neither Fund II nor Partners II or the Forsythe Companies has made any determination as to whether Fund II will exercise such warrants if and when the warrants vest.

Item 7. Material to Be Filed as Exhibits.  
-----

Schedule I, listing the name, citizenship, business address, position and present principal occupation of Forsythe and the executive officers and directors of Investors, Acquisition and Capital.

Joint Filing Agreement, dated as of August 22, 1996, among Forsythe, the Forsythe Companies and the Fund Companies.

Power of Attorney relating to Gerald F. DeNotto.

Registration Rights Agreement, dated as of August 14, 1996, by and among Evergreen, Fund I and Fund II.

Form of Class B Warrant.

Page 14 of 54

After reasonable inquiry and to the best of my knowledge and belief, the undersigned certifies that the information contained in this Statement is true, complete and correct.

Date: August 26, 1996                    /s/ Gerald F. DeNotto  
-----  
Gerald F. DeNotto, Authorized Representative  
for Gerald R. Forsythe

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SCHEDULES AND EXHIBITS  
-----

Page Number  
-----

Schedule I: Schedule I, listing the name, citizenship, business

address, position and present principal occupation of Forsythe and the executive officers and directors of Investors, Acquisition and Capital

Exhibit 1: Joint Filing Agreement, dated as of August 22, 1996, among Forsythe, the Forsythe Companies and the Fund Companies

Exhibit 2: Power of Attorney relating to Gerald F. DeNotto

Exhibit 3: Registration Rights Agreement, dated as of August 14, 1996, by and among Evergreen, Fund I and Fund II.

Exhibit 4: Form of Class B Warrant

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SCHEDULE I  
-----

EIF Investors, Inc.  
-----

<TABLE>

<CAPTION>

Executive Officers  
-----

Principal Occupation  
-----

<S>

<C>

Gerald R. Forsythe, Chairman & CEO

Chairman of Indeck Energy Services, Inc.

John W. Salyer, President & COO

President of Indeck Capital, Inc.

William L. Felts, Senior Vice President and Assistant Secretary

Senior Vice President of Indeck Capital, Inc.

Michael J. Dubois, Vice President

Vice President of Indeck Capital, Inc.

William K. Wasnak, Vice President

Vice President of Indeck Capital, Inc.

Lawrence A. Lagowski, Treasurer

Chief Financial Officer and Senior Vice President, Indeck Energy Services, Inc.

Gerald F. DeNotto, Secretary

Vice President and General Counsel, Indeck Energy Services, Inc.

</TABLE>

Citizenship of Executive Officers: United States (all officers)

Directors: Gerald R. Forsythe, Chairman  
John W. Salyer

Citizenship of Directors: United States (all directors)

Business address for all Executive Officers and Directors: 1075 No. Noel Avenue, Wheeling, Illinois, 60090.

Controlling Shareholder: EIF Acquisition L.L.C.

EIF Acquisition L.L.C.  
-----

Members: Indeck Capital, Inc., a Delaware corporation  
North American Funding L.L.C., a Delaware limited liability company

Business address for all Members: 1075 No. Noel Avenue, Wheeling, Illinois, 60090.

Controlling Member: Indeck Capital, Inc.

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Indeck Capital, Inc.  
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<TABLE>

<CAPTION>

Executive Officers  
-----

Principal Occupation  
-----

<S>

<C>

Gerald R. Forsythe, Chairman & CEO

Chairman of Indeck Energy Services, Inc.

John W. Salyer, President & COO

President of Indeck Capital, Inc.

William L. Felts, Senior Vice President and Assistant Secretary

Senior Vice President of Indeck Capital, Inc.

Michael J. Dubois, Vice President

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Chief Financial Officer and Senior Vice President, Indeck Energy Services, Inc.

Gerald F. DeNotto, Secretary

Vice President and General Counsel, Indeck Energy Services, Inc.

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Citizenship of Executive Officers: United States (all officers)

Directors: Gerald R. Forsythe, Chairman  
John W. Salyer

Citizenship of Directors: United States (all directors)

Business address for all Executive Officers and Directors: 1075 No. Noel  
Avenue, Wheeling, Illinois, 60090.

Controlling Shareholder: Gerald R. Forsythe

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AGREEMENT PURSUANT TO RULE 13d-1(f) (1)

The undersigned, in accordance with Rule 13d-1(f) (1) promulgated by the Securities and Exchange Commission (the "Commission") under the Securities Exchange Act of 1934, hereby agree and consent that the Schedule 13D to which this Agreement is an exhibit and any amendments thereto signed by each of the undersigned, shall be filed with the Commission on behalf of each of the undersigned.

Dated: August 22, 1996

GERALD R. FORSYTHE

/s/ Gerald F. DeNotto

-----  
Attorney-in-Fact

ENERGY INVESTORS FUND, L.P., a Delaware  
limited partnership

By: Energy Investors Management, Inc., its  
Authorized Agent

/s/ Elizabeth F. Fugate

-----  
Elizabeth F. Fugate, Managing Director

ENERGY INVESTORS PARTNERS, L.P., a Delaware  
limited partnership

By: Energy Investors Management, Inc., its  
General Partner

/s/ Elizabeth F. Fugate

-----  
Elizabeth F. Fugate, Managing Director

EXECUTIONS CONTINUED

ENERGY INVESTORS FUND II, L.P., a Delaware limited partnership

By: Energy Investors Management Company,  
its Authorized Agent

/s/ Elizabeth F. Fugate

-----  
Elizabeth F. Fugate, Managing Director

ENERGY INVESTORS PARTNERS II, L.P., a Delaware limited partnership

By: Energy Investors Management Company,  
its General Partner

/s/ Elizabeth F. Fugate

-----  
Elizabeth F. Fugate, Managing Director

EIF INVESTORS, INC., a Delaware corporation

/s/ Gerald F. DeNotto

-----  
Gerald F. DeNotto  
Secretary

EIF ACQUISITION L.L.C., a Delaware limited liability company

By: Indeck Capital, Inc., a Member

/s/ Gerald F. DeNotto

-----  
Gerald F. DeNotto  
Secretary

INDECK CAPITAL, INC., a Delaware corporation

/s/ Gerald F. DeNotto

-----  
Gerald F. DeNotto  
Secretary

POWER OF ATTORNEY  
-----

Know all by these presents, that the undersigned hereby constitutes and appoints Gerald F. DeNotto, signing singly, the undersigned's true and lawful attorney-in-fact to:

- (1) execute for and on behalf of the undersigned Forms 3, 4, and 5 and Schedule 13D or Schedule 13G, as applicable (including any amendments thereto) in accordance with the Securities Exchange Act of 1934 and the rules thereunder;
- (2) do and perform any and all acts for and on behalf of the undersigned that may be necessary or desirable to complete and execute any such Forms or such Schedules and timely file such forms or schedules with the U.S. Securities and Exchange Commission and any stock exchange or similar authority; and
- (3) take any other action of any type whatsoever in connection with the foregoing which, in the opinion of such attorney-in-fact, may be of benefit to, in the best interest of, or legally required by, the undersigned, it being understood that the documents executed by such attorney-in-fact on behalf of the undersigned pursuant to this Power of Attorney shall be in such form and shall contain such terms and conditions as such attorney-in-fact may approve in such attorney-in-fact's discretion.

The undersigned hereby grants to such attorney-in-fact full power and authority to do and perform any and every act and thing whatsoever requisite, necessary, or proper to be done in the exercise of any of the rights and powers herein granted, as fully to all intents and purposes as the undersigned might or could do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that such attorney-in-fact, or such attorney-in-fact's substitute or substitutes, shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers herein granted. The undersigned acknowledges that the foregoing attorney-in-fact, in serving in such capacity at the request of the undersigned, are not assuming, nor is the Company assuming, any of the undersigned's responsibilities to comply with Section 13 or Section 16 of the Securities Exchange Act of 1934.

This Power of Attorney shall remain in full force and effect until the undersigned is no longer required to file Forms 3, 4, and 5 or Schedule 13D (or Schedule 13G, if applicable) with respect to the undersigned's holdings of and transactions in securities by the Company, unless earlier revoked by the undersigned in a signed writing delivered to the foregoing attorney-in-fact.

IN WITNESS WHEREOF, the undersigned has caused this Power of Attorney to be executed as of this 22nd day of August, 1996.

/s/ Gerald R. Forsythe

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Gerald R. Forsythe

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REGISTRATION RIGHTS AGREEMENT  
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THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement") is entered into as of this 14th day of August, 1996 by and between Evergreen Resources, Inc. ("ERI") and Energy Investors Fund I, L.P. and Energy Investors Fund II, L.P. (each a "Fund," collectively, the "Funds").

WHEREAS the Funds, on the date hereof, have received 1,018,868 of ERI's no par value common stock, all as contemplated in that certain Agreement for Acquisition of Limited Partnership Interests dated the date hereof and entered into between the parties hereto (the "Acquisition Agreement");

WHEREAS ERI desires to grant to the Funds the registration rights set forth herein;

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. Definitions. For purposes of this Agreement, except as otherwise  
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specifically provided herein, the following capitalized terms (in their singular and plural forms as applicable) shall have the meanings set forth below:

"Commission" means the Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any similar federal statute and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"Lock-up Period" means the 90 day period following the effectiveness of the Pending Offering.

"Majority in Interest" means the Funds, their successors and assigns holding a majority of the then outstanding Registrable Securities, determined on the basis of the aggregate number of shares of Registrable Securities held by the Funds.

"Pending Offering" means the secondary offering of securities currently contemplated by ERI. The Pending Offering shall be deemed terminated if the initial filing of the registration statement to be filed with the Commission has not been made by December 31, 1996.

The terms "register," "registered," and "registration" refer to a registration effected by preparing the filing of a registration statement in compliance with the Securities Act, and the declaration or order by the

Commission of the effectiveness of such registration statement.

"Registrable Securities" means the shares of ERI Common Stock issued pursuant to the Acquisition Agreement.

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"Securities Act" means the Securities Act of 1933, as amended, or any similar federal statute and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

"Underwritten Public Offering" means a public offering of Common Stock for cash which is offered and sold in a registered transaction pursuant to an agreement between ERI and one or more underwriters.

Section 2. Registration Rights. (a) Selling Shareholder Registration. After

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the expiration of the Lock-Up Period and upon the request of a Majority in Interest, ERI shall use its best efforts to file a Registration Statement on Form S-3 (or, if Form S-3 is not available, on Form S-1 or Form S-2) which registers all or at least 30% of the Registrable Securities outstanding and then held by the Funds. The Funds shall be entitled to demand registration under this Section 2(a) on three occasions. Upon receipt of notice of such demand (and, as applicable, a determination that the proposed offering may reasonably meet such minimum criteria), ERI agrees to:

(i) promptly give written notice of the proposed registration to the non-requesting Fund, if any; and

(ii) use its best efforts to effect, as soon as practicable, such registration (including, without limitation, the execution of an undertaking to file post-effective amendments, appropriate qualifications under the applicable blue sky or other state securities laws and appropriate compliance with exemptive regulations issued under the Securities Act and any other governmental requirements or regulations) as may be so requested and as would permit or facilitate the sale and distribution of all or such portion of such requesting Fund's or Funds' Registrable Securities as is specified in the request by such Fund to ERI, together with all or such portion of the Registrable Securities of the non-requesting Fund, if any, joining in such request as is specified in further requests received by ERI within thirty (30) days after such written notice is given.

(b) [Reserved]

(c) Piggyback Registration. If ERI shall register any shares of

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Common Stock, other than in connection with the Pending Offering, pursuant to Section 2(a), or pursuant to a registration statement on Form S-4 or S-8 (or similar form), it shall promptly give to each Fund written notice thereof

(which shall include, to the extent available, a list of the jurisdictions in which ERI intends to attempt to qualify the offer and sale of such securities under the applicable blue sky or other state securities laws) and shall use its reasonable efforts to include in such registration (and any related qualification under blue sky laws or other compliance), and in any Underwritten Public Offering associated therewith, all the Registrable Securities specified in any written request or requests by either Fund (or both) received by ERI within thirty (30) days after such written notice is given, except as and to the extent that, in the opinion of the managing underwriter or underwriters (if such method of disposition shall be an Underwritten Public Offering), such inclusion would result in more than fifty percent (50%) of the Common Stock proposed to be sold

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by ERI being excluded from the offering or would materially adversely affect the marketing of such Common Stock proposed to be sold (as reasonably determined by ERI or its investment advisors).

(d) Registration Expenses. All expenses of any registrations permitted

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pursuant to this Agreement and of all other offerings by ERI (including, but not limited to, the expenses of any interim audit required by any underwriters in the event of an offering requested pursuant to Section 2(a) or 2(c) hereof, any qualifications under the blue sky or other state securities laws, compliance with governmental requirements of preparing and filing any post-effective amendments required for the lawful distribution of any securities to the public in connection with registration, of supplying prospectuses, offering circular or other documents but excluding fees of any special counsel retained by the Funds and underwriting fees and discounts and selling commissions applicable to the sale of the Registrable Securities) will be paid by ERI.

(e) Registration Procedures. In the case of such registration,

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qualification or compliance effected by ERI pursuant to this Agreement in which any Fund's Registrable Securities are included pursuant to this Agreement, ERI will, at its expense:

(i) prepare and file with the Commission a registration statement with respect to such Registrable Securities and use its best efforts to cause such registration statement to become and remain effective for such period as may be reasonably necessary to effect the sale of the Registrable Securities, not to exceed nine (9) months;

(ii) prepare and file with the Commission such amendments to such registration statement and supplements to the prospectus contained therein as may be necessary to keep such registration statement effective for such period as may be reasonably necessary to effect the sale of such Registrable Securities, not to exceed nine (9) months;

(iii) furnish to the Funds participating in such registration and to the underwriters of Registrable Securities being registered such reasonable number of copies of the registration statement, preliminary prospectus, final prospectus and such other documents as such underwriters may reasonably request in order to facilitate the public offering of such Registrable Securities;

(iv) use its diligent good faith efforts to register or qualify the Registrable Securities covered by such registration statement under such state securities or blue sky laws of such jurisdictions as such participating Funds may reasonably request in writing within twenty (20) days following the original filing of such registration statement; provided, however, that in the case of an Underwritten Public Offering, the managing underwriter or underwriters shall advise ERI with respect to blue sky qualification and related matters;

(v) notify counsel for the Funds participating in such registration, promptly after it shall receive notice thereof, of the time when such registration statement has become effective or a supplement to any prospectus forming a part of such registration statement has been filed;

(vi) notify counsel for such Funds promptly of any request by the Commission for the amending or supplementing of such registration statement or prospectus or for additional information;

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(vii) prepare and file with the Commission, promptly upon the request of any Funds, any amendments or supplements to such registration statement or prospectus which, in the opinion of counsel for such Funds (and concurred in by counsel for ERI), is required under the Securities Act or the rules and regulations thereunder in connection with the distribution of the Common Stock other than an amendment or supplement required solely as a result of a change by such Fund in the method of distribution of the Registrable Securities; and

(viii) prepare and promptly file with the Commission and promptly notify counsel for such Funds of the filing of such amendment or supplement to such registration statement or prospectus as may be necessary to correct any statements or omissions if, at the time when a prospectus relating to such Registrable Securities is required to be delivered under the Securities Act, any event other than a change in the method of distribution of the Registrable Securities selected by the Funds shall have occurred as the result of which any such prospectus or any other prospectus as then in effect would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(f) Related Registration Matters. If the Funds secure an underwriter,  
-----  
ERI will enter into an underwriting agreement in connection with any



registration subject to the provisions of Section 2(a) in which any Registrable Securities are included, which agreement shall be reasonably acceptable to ERI and contain such terms, provisions and agreements which are customary and appropriate for such registration. In connection with any Underwritten Public Offering in which any Registrable Securities are included, to the extent not provided in the underwriting agreement related to such offering, ERI shall use its reasonable efforts to:

(i) list the shares of Common Stock included in such offering on any national securities exchange on which the Common Stock has previously been approved for listing;

(ii) engage a bank or other company to act as transfer agent and registrar for the Common Stock, unless ERI has already engaged a transfer agent and registrar;

(iii) cause customary opinions of counsel, comfort letters of accountants and other appropriate documents to be delivered by representatives of ERI; and

(iv) as soon as practicable after the effective date of the registration statement, and, in any event, within sixteen (16) months thereafter, make "generally available to its securities holders" (within the meaning of Rule 158 under the Securities Act) an earnings statement (which need not be audited) complying with Section 11(a) of the Securities Act and covering a period of at least twelve (12) consecutive months beginning after the effective date of the registration statement.

(g) Information by Funds. Each Fund requesting to be included in any -----  
registration shall furnish to ERI such information regarding such Fund and the distribution proposed by such Fund as ERI may reasonably require in connection with any registration, qualification or compliance referred to in Section 2.

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(h) Assignment. The rights to cause ERI to register Registrable -----  
Securities under this Section 2 relate solely to the Funds and may not be assigned, except that either or both Funds may assign its interests hereunder to its partners in connection with a distribution to its partners of the Registrable Securities (it being acknowledged the further assignment of the registration rights referenced herein by such partners is prohibited).

(i) Notice Requirements. Any notice from a holder of Registrable -----  
Securities requesting registration of some or all of such Registrable Securities pursuant to Sections 2(a) and 2(c) shall (A) specify the number of shares of Registrable Securities intended to be included in such registration; (B) describe the nature and method of the proposed offering and sale; (D) include an

undertaking to provide all information and materials concerning such holder and the method of distribution and to take any other actions reasonably requested by ERI to enable ERI to comply with the Securities Act, any state securities law and/or the applicable requirements of the Commission or any state securities commissioner or similar agency or official.

Section 3. Implementation. (a) Effect of Sale. Any Fund that sells all of  
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its Registrable Securities pursuant to the terms of this Agreement (or otherwise) shall cease to have any further rights under this Agreement.

(b) Priority. Nothing herein shall preclude ERI from granting  
-----  
registration rights on parity with the registration rights set forth in Section 2(c) hereof. The parties acknowledge the existence of the registration rights agreement between ERI and the former Powerbridge Inc. shareholders (dated the date hereof) and that such agreement is on parity with this Agreement. In the event that a "cutback" is required by the underwriters as contemplated in Section 2(c) hereof, such cutback will be pro rata based on the respective parties' ownership of Registrable Securities (under their respective agreements).

(c) Amendment and Waiver. The provisions of this Agreement may be  
-----  
amended from time to time by an instrument in writing signed by ERI and a Majority in Interest. Any receipt of benefit of the Funds hereunder may be waived by a Majority in Interest.

(d) Adjustments. In the event ERI shall declare a stock split, stock  
-----  
dividend or other distribution of capital stock in respect of, or issue capital stock in replacement of or exchange for, any Registrable Securities, such Registrable Securities shall be subject to this Agreement and the provisions of this Agreement providing for calculations based on the number of shares of Registrable Securities shall be adjusted accordingly to account for the shares issued in respect of the Registrable Securities.

(e) Indemnification. In the event any Registrable Securities are  
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included in a registration statement pursuant to Section 2 hereof:

(i) To the extent permitted by law, ERI will indemnify and hold harmless each Fund, the partners, officers, agents, employees and managers of each Fund, any person, if any, who controls such Fund or underwriter within the meaning of the Securities Act or the Exchange Act against any losses, claims, damages or liabilities (joint or several) to which they may become subject under the Securities Act or the Exchange Act or other federal or state law, insofar as such losses,

claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any of the following statements, omissions or violations (collectively, a "Violation"): (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by ERI of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law; and ERI will reimburse each such Fund, partner, officer, agent, employee or manager, underwriter or controlling person for any legal or other expenses reasonably incurred, as incurred, by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the indemnity agreement contained in this section shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of ERI, which consent shall not be unreasonably withheld, nor shall ERI be liable in any such case for any such loss, claim, damage, liability or action to the extent that it arises out of or is based upon a Violation that occurs in reliance upon and in conformity with written information furnished expressly for use in connection with such registration by any such Fund, underwriter or controlling person.

(ii) To the extent permitted by law, each selling Fund will indemnify and hold harmless ERI, each of its officers, directors, agents or employees, each person, if any, who controls ERI within the meaning of the Securities Act, any underwriter and any other Fund selling securities in such registration statement or any of its partners, agents, employees, managers or officers or any person who controls such Fund, against any losses, claims, damages or liabilities (joint or several) (to which ERI or any such director, agent, employee, officer, controlling person, or underwriter, or other such Fund or manager, officer, partner, agent, employee or controlling person of such other Fund may become subject, under the Securities Act, the Exchange Act or other federal or state law, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any of the following Violations: (i) any untrue statement or alleged untrue statement of a material fact contained in such registration statement, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading, or (iii) any violation or alleged violation by such Fund of the Securities Act, the Exchange Act, any state securities law or any rule or regulation promulgated under the Securities Act, the Exchange Act or any state securities law (in the cases of (A) and (B) only to the extent that such Violation occurs in reliance upon with written information furnished by such Fund expressly for use in connection with such registration, and in the case of (C), only to the extent that such Violation arises from the action or inaction of such Selling Fund); and each such Fund will reimburse any legal or other expenses reasonably incurred, as incurred, by

ERI or any such agent, employee, director, officer, controlling person, underwriter or other Fund or manager, officer, partner, agent, employee or controlling person of such other Fund, in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the indemnity agreement contained in this section shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of the Fund, which consent shall not be unreasonably withheld; and

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provided, further, that each selling Fund shall be liable under this section for only that amount of losses, claims, damages and liabilities as does not exceed the proceeds to such selling Fund as a result of such registration.

(iii) Promptly after receipt by an indemnified party under this section of notice of the commencement of any action (including any governmental action), such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this section, deliver to the indemnifying party a written notice of the commencement thereof and the indemnifying party shall have the right to participate in, and, to the extent that the indemnifying party so desires, jointly with any other indemnifying party similarly notified, to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party shall have the right to retain its own counsel, with the fees and expenses to be paid by the indemnifying party, if, in the opinion of counsel for the indemnifying party, representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such proceeding. The failure to deliver written notice to the indemnifying party within a reasonable period of time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this section to the extent materially prejudicial to its ability to defend such action, but the omission so to deliver written notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this section.

(e) Reports under the Exchange Act. With a view to making available to -----  
the Funds the benefits of Commission Rule 144 promulgated under the Securities Act and any other rule or regulation of the SEC that may at any time permit a Fund to sell securities of ERI to the public without registration or pursuant to a registration on Form S-3, ERI agrees as follows:

(i) to make and keep public information available, as those terms are understood and defined in Commission Rule 144, at all times while the Funds hold any securities of ERI;

(ii) to take such action as is necessary to enable the Funds to utilize Form S-3 for the sale of their Registrable Securities;

(iii) to file with the SEC in a timely manner all reports and other documents required of ERI under the Securities Act and the Exchange Act; and

(iv) to furnish to any Fund, so long as the Fund owns any Registrable Securities, forthwith upon request (i) a written statement by ERI that it has complied with the reporting requirements of Commission Rule 144 (at all times while the Funds hold any securities of ERI), the Securities Act and the Exchange Act, or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after it so qualifies), (ii) a copy of the most recent annual or quarterly report of ERI and such other reports and documents so filed by ERI, and (iii) such other information as may be reasonably requested in availing any Fund of any rule or regulation of the SEC that permits the selling of any such securities without registration or pursuant to such form.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Evergreen Resources, Inc.

By: /s/ Mark S. Sexton  
-----  
Mark S. Sexton, President

Energy Investors Fund, L.P.,  
a Delaware limited partnership

Energy Investors Fund II, L.P., a  
Delaware limited partnership

By: Energy Investors Management, Inc.,  
its Authorized Agent

By: Energy Investors Management Company  
its Authorized Agent

By: /s/ Mark A. Tarini  
-----  
Mark A. Tarini, Managing Director

By: /s/ Mark A. Tarini  
-----  
Mark A. Tarini, Managing Director

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CLASS B WARRANT

To Purchase \_\_\_\_\_ Shares of Common Stock,  
no par value, of

EVERGREEN RESOURCES, INC.

Dated as of August 23, 1996

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THIS WARRANT HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN THE ABSENCE OF REGISTRATION THEREUNDER OR AN EXEMPTION THEREFROM.

CLASS B WARRANT

To Purchase \_\_\_\_\_ Shares of Common Stock, no par value, of

EVERGREEN RESOURCES, INC.

No. BRW- \_\_\_\_\_ ,  
-----

THIS IS TO CERTIFY that, for value received, \_\_\_\_\_ ,  
-----

or registered assigns, is entitled upon the due exercise hereof at any time during the Exercise Period to purchase the lesser of (i) (x) multiplied

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by (y) a fraction the numerator of which is \$1.00 (which amount shall be subject to equitable adjustment in the event of any stock dividend, stock split, combination, reorganization, recapitalization, reclassification or other similar event involving a change in the 8% Preferred Stock after the Original Issue Date and on or prior to the Warrant Trigger Date), and the denominator of which is \$1.00, and (ii) the Adjusted Initial Number of shares of Common Stock of Evergreen Resources, Inc., a Colorado corporation (the "Company"), at an Exercise Price of \$8.34 per share (such Exercise Price and the number of shares of Common Stock purchasable hereunder being subject to adjustment as provided herein), and to exercise the other rights, powers and privileges hereinafter provided, all on the terms and subject to the conditions hereinafter set forth.

This Warrant is one of the Company's Class B Warrants to Purchase Shares of Common Stock (herein, together with any warrants issued in exchange therefor or replacement thereof, all as amended or supplemented from time to time, called the "Warrants") issued originally for an aggregate of 899,280.58 shares of Common Stock pursuant to the separate, but identical, Securities Purchase Agreements, dated the Original Issue Date by and between the Company and the institutional investors named therein (such agreements collectively, as amended, modified and supplemented from time to time, the "Securities Purchase Agreement"). Reference is hereby made to the Securities Purchase Agreement for a description of, among other things, certain rights of the holders of the Warrants and Warrant Shares. Holders of Warrants and/or Warrant Shares are entitled to the applicable benefits of the Securities Purchase Agreement and may enforce the applicable agreements contained therein, all in accordance with and subject to the terms thereof, notwithstanding any redemption or acquisition of any of the other securities issued pursuant to the Securities Purchase Agreement.

Page 31 of 54

This Warrant shall expire in the event that no shares of 8% Preferred Stock which constitute a portion of the Applicable Redemption Multiple are redeemed by the Company from the holder of this Warrant on the Warrant Trigger Date pursuant to section 4.2 of the Resolution.

1. Definitions.

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1.1. Definitions of Terms.

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"Adjusted Initial Number" shall mean a number of shares of Common Stock,

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calculated as of the Warrant Trigger Date, equal to (i) the product of (x)

- - - - -

\$1.00 (which amount shall be subject to equitable adjustment in the event of

any stock dividend, stock split, combination, reorganization, recapitalization, reclassification or other similar event involving a change in the 8% Preferred Stock after the Original Issue Date and on or prior to the Warrant Trigger Date) multiplied by (y) the number of shares of 8% Preferred Stock, if any,

redeemed by the Company from the holder of this Warrant on the Warrant Trigger Date pursuant to section 4.2 of the Resolution, but only to the extent such shares constitute a portion of the Applicable Redemption Multiple, divided by (ii) the Exercise Price in effect on the Warrant Trigger Date. The holder of

this Warrant shall insert the Adjusted Initial Number on Schedule I to this Warrant on or after the Warrant Trigger Date, and such Adjusted Initial Number, as so inserted, shall be deemed the Adjusted Initial Number for all purposes of this Warrant.

"Affiliate" shall have the meaning specified in the Resolution.

"Applicable Redemption Multiple" shall mean the [first] [second] [third]

[fourth] [fifth] multiple of 1,500,000 shares of 8% Preferred Stock, or portion thereof, specified to be redeemed at the option of the Company pursuant to section 4.2 of the Resolution in a notice delivered pursuant to section 4.3 of the Resolution. [At the Initial Closing, each Purchaser shall be issued five

Class B Warrants, one for each multiple of 1,500,000 shares which may be redeemed.]

"Assignment" shall mean the form of Assignment appearing at the end of

this Warrant.

"Common Stock" shall mean the shares of Common Stock, no par value, of

the Company as constituted on the Original Issue Date and any shares into which such Common Stock shall have been changed or any shares resulting from any reclassification of such Common Stock.

"Company" shall mean Evergreen Resources, Inc., a Colorado corporation,

and any successor corporation.

"Convertible Securities" shall mean evidences of indebtedness, shares

(including, without limitation, shares of Preferred Stock) of stock or other securities which are convertible into or exchangeable or exercisable for, with or without payment of additional consideration, shares of Common Stock, either immediately or upon the arrival of a specified date or the happening of a specified event.



"Current Market Price" of any security as of any date herein specified  
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shall mean the average of the daily closing prices for the 30 consecutive trading days commencing 45 trading days before the day in question (or in the event that a security has been traded for less than 45 days, each of the trading days on which such security has been traded). The closing price for each day shall be (a) if such security is listed or admitted for trading on any national

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securities exchange, the last sale price of such security, regular way, or the average of the closing bid and asked prices thereof if no such sale occurred, in each case as officially reported on the principal securities exchange on which such security is listed, or (b) if not reported as described in clause (a), the

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average of the closing bid and asked prices of such security in the over-the-counter market as shown by the National Association of Securities Dealers, Inc. Automated Quotation System, or any similar system of automated dissemination of quotations of securities prices then in common use, if so quoted, as reported by any member firm of the New York Stock Exchange selected by the Company, or (c)

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if not quoted as described in clause (b), the average of the closing bid and asked prices for such security as reported by the National Quotation Bureau Incorporated or any similar successor organization, as reported by any member firm of the New York Stock Exchange selected by the Company. If such security is quoted on a national securities or central market system in lieu of a market or quotation system described above, the closing price shall be determined in the manner set forth in clause (a) of the preceding sentence if actual transactions are reported and in the manner set forth in clause (b) of the preceding sentence if bid and asked prices are reported but actual transactions are not.

"Daily Market Price" of the Common Stock as of any date herein specified  
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shall mean the closing price of the Common Stock on such date. The closing price for any date shall be (a) if the Common Stock is listed or admitted for trading

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on any national securities exchange, the last sale price of the Common Stock, regular way, or the closing bid price thereof if no such sale occurred, in each case as officially reported on the principal securities exchange on which the Common Stock is listed, or (b) if not reported as described in clause (a), the

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closing bid price of the Common Stock in the over-the-counter market as shown by the National Association of Securities Dealers, Inc. Automated Quotation System, or any similar system of automated dissemination of quotations of securities prices then in common use, if so quoted, as reported by any member firm of the New York Stock Exchange selected by the Company, or (c) if not quoted as described in clause (b), the closing bid price for the Common Stock as reported by the National Quotation Bureau Incorporated or any similar successor organization, as reported by any member firm of the New York Stock Exchange

selected by the Company. If the Common Stock is quoted on a national securities or central market system in lieu of a market or quotation system described above, the closing price shall be determined in the manner set forth in clause (a) of the preceding sentence if actual transactions are reported and in the manner set forth in clause (b) of the preceding sentence if bid price are reported but actual transactions are not.

"8% Preferred Stock" shall mean the 8% Preferred Stock, \$1.00 par value,  
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of the Company established pursuant to the Resolution.

"Exercise Price" shall mean the price per share of Common Stock set forth  
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in the preamble to this Warrant, as such price may be adjusted pursuant to section 4.

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"Exercise Period" shall mean the period commencing on the Warrant Trigger  
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Date and terminating at 5:00 p.m. Boston time on the tenth anniversary of the Warrant Trigger Date.

"Fair Value" shall mean the fair value of the appropriate security,  
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property, assets, business or entity as determined by an independent appraiser of recognized national standing (selected by the Company and reasonably satisfactory to the Required Holders of the Warrants), in each case in accordance with generally accepted financial practice. Such determination shall be set forth in writing, and the Company shall, immediately following such determination, deliver a copy thereof to each holder or holders of Warrants then outstanding. The determination so made shall be conclusive and binding on the Company and on such holder or holders. The Company shall pay all of the expenses incurred in connection with any such determination, including, without limitation, the expenses of the independent appraiser engaged to make such determination. If the Company shall not have selected such appraiser within 20 days after the occurrence of the event giving rise to the need therefor, then the Required Holders of the Warrants at the time outstanding may select such appraiser. Notwithstanding the foregoing, in the case of any security, if clauses (a), (b) or (c) of the definition of Current Market Price are applicable to such security, then the Fair Value of such security shall be the Current Market Price of such security.

"Notice of Exercise" shall mean the form of Notice of Exercise appearing  
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at the end of this Warrant.

"Officers' Certificate" shall mean a certificate signed on behalf of the  
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Company by its President or one of its Vice Presidents and its Treasurer or one

of its Assistant Treasurers.

"Operative Documents" shall mean the Securities Purchase Agreement, the  
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securities issued pursuant thereto, the Warrants, the Warrant Shares, the  
Resolution and each of the other agreements, documents and instruments executed  
in connection therewith, each as it may from time to time be amended, modified  
or supplemented.

"Original Issue Date" shall mean December 8, 1994.  
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"Other Securities" shall mean with reference to the exercise privilege of  
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the holders of the Warrants, any shares (other than shares of Common Stock) and  
any other securities of the Company (including, without limitation, shares of  
Preferred Stock) or of any other Person which the holders of the Warrants at any  
time shall be entitled to receive, or shall have received, upon the exercise or  
partial exercise of the Warrants, in lieu of or in addition to shares of Common  
Stock, or which at any time shall be issuable or shall have been issued in  
exchange for or in replacement of shares of Common Stock (or Other Securities)  
pursuant to the terms of the Warrants or otherwise.

"Person" shall mean an individual, a corporation, an association, a  
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joint-stock company, a business trust or other similar organization, a  
partnership, a joint venture, a trust, an unincorporated organization or a  
government or any agency, instrumentality or political subdivision thereof.

"Preferred Stock" shall mean the Preferred Stock, \$1.00 par value, of the  
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Company, including the 8% Preferred Stock.

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"Required Holders" shall mean, as of any date, the holder or holders of  
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66-2/3% or more in interest of the Warrants then outstanding (excluding all such  
Warrants at the time owned by the Company or any Affiliate of the Company).

"Resolution" shall mean the Resolution of the Board of Directors of the  
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Company establishing the 8% Convertible Preferred Stock, \$1.00 par value, of the  
Company and set forth in Articles of Amendment to State Series Shares filed with  
the Secretary of State of the State of Colorado.

"Securities Act" shall mean the Securities Act of 1933, as amended, or  
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any successor federal statute, and the rules and regulations promulgated  
thereunder, all as amended, modified or supplemented from time to time.

"Securities Purchase Agreement" shall have the meaning specified in the  
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preamble to this Warrant.

"Stock Purchase Rights" shall mean any warrants, options or other rights  
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to subscribe for, purchase or otherwise acquire any shares of Common Stock or  
any Convertible Securities, either immediately or upon the arrival of a  
specified date or the happening of a specified event.

"Subsidiary" of any Person at any date shall mean (a) any other Person  
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50% or more (by number of votes) of the Voting Stock of which is owned by such  
first-mentioned Person and/or by one or more other Subsidiaries of such first-  
mentioned Person; (b) any other Person of which such first-mentioned Person or  
any of its other Subsidiaries is a general partner; and (c) any other Person  
with respect to which such first-mentioned Person and/or any one or more other  
Subsidiaries of such first-mentioned Person (i) is entitled to 50% or more of  
such Person's profits or losses or 50% or more of such Person's assets on  
liquidation or (ii) holds an equity interest in such Person of 50% or more. As  
used herein, unless the context clearly requires otherwise, the term  
"Subsidiary" refers to a Subsidiary of the Company.

"Voting Stock", when used with reference to any Person, shall mean shares  
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(however designated) of such Person having ordinary voting power for the  
election of a majority of the members of the board of directors (or other  
governing body) of such Person, other than shares having such power only by  
reason of the happening of a contingency.

"Warrant Shares" shall mean the shares of Common Stock (and/or Other  
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Securities) issued or issuable, as the case may be, from time to time upon  
exercise of the Warrants, including, without limitation, any shares of Common  
Stock (and/or Other Securities) issued or issuable with respect thereto by way  
of stock dividend or stock split or in connection with a combination of shares,  
recapitalization, merger, consolidation, other reorganization or otherwise.

"Warrants" shall have the meaning specified in the preamble to this  
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Warrant.

"Warrant Trigger Date" shall mean the date on which the Applicable  
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Redemption Multiple, or any portion thereof, is redeemed pursuant to section 4.2  
of the Resolution. The holder of this Warrant shall insert the actual date of  
the Warrant Trigger Date on Schedule I to this Warrant on or after the  
occurrence of the Warrant Trigger Date, and such date, as so inserted, shall be  
deemed

the Warrant Trigger Date for all purposes of this Warrant, and any Warrant issued in exchange or replacement hereof.

1.2. Other Definitions. The terms defined in this section 1.2, whenever  
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used in this Warrant, shall, unless the context otherwise requires, have the following respective meanings:

"this Warrant" (and similar references to any of the other Operative  
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Documents) shall mean, and the words "herein" (and "therein"), "hereof" (and  
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"thereof"), "hereunder" (and "thereunder") and words of similar import shall,  
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unless the context clearly requires otherwise, refer to, such instruments as they may from time to time be amended, modified or supplemented.

"corporation" shall include an association, joint stock company, business  
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trust or other similar organization.

"shares" of any Person shall include any and all shares of capital stock of  
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such Person of any class or other shares, interests, participations or other equivalents (however designated) in the capital of such Person.

## 2. Exercise of Warrant -----

2.1. Right to Exercise; Notice. On the terms and subject to the  
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conditions of this section 2, the holder hereof shall have the right, at its option, to exercise this Warrant in whole or in part at any time or from time to time during the Exercise Period, all as more fully specified below, provided  
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that a partial exercise of this Warrant for less than the entire remaining amount of Warrant Shares issuable under this Warrant shall be made only for a whole number of shares.

2.2. Manner of Exercise; Issuance of Shares of Common Stock. To exercise  
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this Warrant, the holder hereof shall deliver to the Company (a) a Notice of  
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Exercise duly executed by the holder hereof (or its attorney) specifying the number of Warrant Shares to be purchased, (b) an amount equal to the aggregate

Exercise Price then in effect for all Warrant Shares as to which this Warrant is then being exercised and (c) this Warrant. At the option of the holder hereof, -  
payment of the Exercise Price shall be made (w) by wire transfer of funds to an -  
account in a bank located in the United States designated by the Company for such purpose, (x) by check payable to the order of the Company, (y) by -  
application of any Warrant Shares as provided below, or (z) by any combination -  
of such methods.

Upon the exercise of this Warrant in whole or in part, the holder hereof may, at its option, submit to the Company written instructions from such holder to apply any specified portion of the Warrant Shares issuable upon such exercise in payment of the Exercise Price required upon such exercise, in which case the Company will accept such specified portion of the Warrant Shares (at a value per share equal to the Current Market Price of such share, if applicable, or the then Fair Value of such share less, in each case, the Exercise Price then in effect), in lieu of a like amount of such cash payment. ----

Upon receipt of the items referred to in section 2.3, the Company shall, as promptly as practicable, and in any event within five days thereafter, cause to be issued and delivered to the

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holder hereof (or its nominee) or the transferee designated in the Notice of Exercise, a certificate or certificates representing the number of Warrant Shares specified in the Notice of Exercise (but not exceeding the maximum number of shares then issuable upon exercise of this Warrant) minus the number of -----  
Warrant Shares, if any, applied in payment of the Exercise Price. Such certificates shall be registered in the name of the holder hereof (or its nominee) or in the name of such transferee, as the case may be.

If this Warrant is exercised in part, the Company shall, at the time of delivery of such certificate or certificates, issue and deliver to the holder hereof or the transferee so designated in the Notice of Exercise, a new Warrant evidencing the right of the holder hereof or such transferee to purchase at the Exercise Price then in effect the aggregate number of Warrant Shares for which this Warrant shall not have been exercised and this Warrant shall be canceled.

2.3. Effectiveness of Exercise. Unless otherwise requested by the holder -----  
hereof, this Warrant shall be deemed to have been exercised and such certificate or certificates representing Warrant Shares shall be deemed to have been issued, and the holder or transferee so designated in the Notice of Exercise shall be deemed to have become the holder of record of such Warrant Shares for all

purposes, as of the close of business on the date on which the Notice of Exercise, the Exercise Price and this Warrant shall have been received by the Company.

2.4. Fractional Shares. The Company shall not issue fractional Warrant  
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Shares or scrip representing fractional Warrant Shares upon any exercise of this Warrant. As to any fractional Warrant Shares which the holder hereof would otherwise be entitled to purchase from the Company upon such exercise, the Company shall issue one share which the holder hereof shall be entitled to purchase from the Company at a price equal to the Exercise Price calculated as of the date of the Notice of Exercise. Payment of such amount shall be made in any manner permitted under section 2.2 at the time of delivery of any certificate or certificates deliverable upon such exercise.

2.5. Continued Validity. A holder of Warrant Shares issued upon the  
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exercise of this Warrant, in whole or in part, shall continue to be entitled to all rights to which a holder of this Warrant is entitled pursuant to the provisions of this Warrant except such rights as by their terms apply solely to the holder of a Warrant, notwithstanding that this Warrant is canceled following such exercise. The Company will, at the time of any exercise of this Warrant, upon the request of the holder of the Warrant Shares issued upon the exercise hereof, acknowledge in writing, in form reasonably satisfactory to such holder, its continuing obligation to afford to such holder all rights to which such holder shall continue to be entitled after such exercise in accordance with the provisions of this Warrant, including, without limitation, those set forth in sections 7.1, 7.2, 7.4 and 7.5 of this Warrant; provided that if such holder shall fail to make any such request, such failure shall not affect the continuing obligation of the Company to afford to such holder all such rights.

3. Registration, Transfer, Exchange and Replacement of Securities; Legends.  
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3.1. Registration, Transfer, Exchange and Replacement of Securities.  
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Reference is hereby made to sections 13 and 14 of the Securities Purchase Agreement for certain provisions

relating to the registration, transfer, exchange and replacement of the Warrants and Warrant Shares. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN OR IN THE SECURITIES PURCHASE AGREEMENT, THIS WARRANT MAY NOT BE TRANSFERRED, IN WHOLE OR IN PART, PRIOR TO THE WARRANT TRIGGER DATE EXCEPT TOGETHER WITH A PROPORTIONATE PERCENTAGE OF THE SHARES OF 8% PREFERRED STOCK OWNED BY THE HOLDER HEREOF WHICH WERE INITIALLY ISSUED PURSUANT TO THE SECURITIES PURCHASE AGREEMENT. Warrants issued after the Warrant Trigger Date in exchange or replacement of another Warrant shall specify in the preamble the aggregate

number of Warrant Shares then issuable upon exercise of such new Warrant and the Exercise Price then in effect, and shall not contain the definition of Adjusted Initial Number, the last paragraph of the preamble to this Warrant, clause (a) of section 4.1 or the reference to Adjusted Initial Number in Schedule I.

3.2. Legends. Neither this Warrant nor any Warrant Shares may be  
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transferred or assigned unless registered under the Securities Act or unless an exemption from such registration is available. Until the date on which a registration statement covering the Warrants becomes effective under the Securities Act, each Warrant shall bear a legend in substantially the following form:

"THIS WARRANT HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN THE ABSENCE OF REGISTRATION THEREUNDER OR AN EXEMPTION THEREFROM."

Until the date on which a registration statement covering the Warrant Shares becomes effective under the Securities Act, each certificate evidencing Warrant Shares shall bear a legend in substantially the following form:

"THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN THE ABSENCE OF REGISTRATION THEREUNDER OR AN EXEMPTION THEREFROM."

4. Anti-Dilution Provisions.  
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4.1. Adjustment of Number of Shares Purchasable.  
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(a) On the Warrant Trigger Date, the number of shares of Common Stock which the holder hereof shall thereafter be entitled to purchase, at the Exercise Price then in effect, shall equal the number of shares of Common Stock (calculated to the nearest 1/100th of a share) obtained by multiplying (i) \$8.34 by (ii) the Adjusted Initial Number and dividing the product thereof by the Exercise Price in effect on the Warrant Trigger Date, provided that the number  
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of shares which such holder shall thereafter be entitled to purchase shall be subject to further adjustment, as provided in section 4.1(b), upon any subsequent adjustment to the Exercise Price pursuant to section 4.2, and provided, further, that the Exercise Price at which this Warrant shall be  
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exercisable shall be subject to further adjustment pursuant to section 4.2.

(b) Upon any adjustment of the Exercise Price as provided in section 4.2 occurring on or after the Warrant Trigger Date, the number of shares of Common



Stock which the holder hereof shall thereafter be entitled to purchase, at the Exercise Price resulting from such adjustment, shall be adjusted to equal the number of shares of Common Stock (calculated to the nearest 1/100th of a share) obtained by multiplying (i) the Exercise Price in effect immediately prior to such adjustment to the Exercise Price by (ii) the number of shares of Common Stock purchasable hereunder immediately prior to such adjustment, and dividing the product thereof by the Exercise Price resulting from such adjustment, provided that the number of shares which such holder shall thereafter be

entitled to purchase shall be subject to further adjustment upon any subsequent adjustment to the Exercise Price pursuant to section 4.2 and provided, further, that the Exercise Price at which this Warrant shall be exercisable shall be subject to further adjustment pursuant to section 4.2.

4.2. Adjustment of Exercise Price. Except as otherwise provided in section 4.2(n) below, the Exercise Price shall be subject to adjustment from time to time as set forth in this section 4.2.

(a) Stock Dividends, Subdivisions and Combinations. If and whenever the Company subsequent to the date hereof:

(i) declares a dividend upon, or makes any distribution in respect of, any of its capital stock, payable in shares of Common Stock, Convertible Securities or Stock Purchase Rights, or

(ii) subdivides its outstanding shares of Common Stock into a larger number of shares of Common Stock, or

(iii) combines its outstanding shares of Common Stock into a smaller number of shares of Common Stock,

then the Exercise Price shall be adjusted to that price determined by multiplying the Exercise Price in effect immediately prior to such event by a fraction (A) the numerator of which shall be the total number of outstanding shares of Common Stock immediately prior to such event, and (B) the denominator of which shall be the total number of outstanding shares of Common Stock immediately after such event, treating as outstanding all shares of Common Stock issuable upon conversions or exchanges of such Convertible Securities and exercises of such Stock Purchase Rights.

(b) Issuance of Additional Shares of Common Stock. If and whenever the Company subsequent to the date hereof shall issue or sell any shares of Common Stock (except as otherwise provided in the last paragraph of this section 4.2(b)), for a consideration per share less than the greater of (x) the Fair

Value per of Common Stock and (y) the Exercise Price then in effect (determined, -  
in each case, as of the date specified in the next succeeding paragraph), the Exercise Price upon each such issuance or sale shall be adjusted as of the date specified in the next succeeding paragraph to the lower of the prices calculated pursuant to the following clauses (i) and (ii) of this section 4.2(b) and shall be determined by:

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(i) multiplying the Exercise Price in effect as of the date  
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specified in the next succeeding paragraph by a fraction the numerator of which is (A) the sum of (1) the number of shares of Common Stock

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outstanding immediately prior to such issue or sale multiplied by the Fair Value per share of Common Stock immediately prior to such issue or sale plus (2) the aggregate consideration, if any, received by the Company upon

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such issue or sale, divided by (B) the total number of shares of Common

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Stock outstanding immediately after such issue or sale, and the denominator of which is the Fair Value per share of Common Stock immediately prior to such issue or sale; and

(ii) dividing (A) the sum of (1) the number of shares of Common  
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Stock outstanding immediately prior to such issue or sale multiplied by the Exercise Price in effect immediately prior to such issue or sale plus (2)

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the aggregate consideration, if any, received by the Company upon such issue or sale, by (B) the total number of shares of Common Stock

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outstanding immediately after such issue or sale.

For purposes of this section 4.2(b), the date as of which the Exercise Price shall be adjusted and the date as of which the Fair Value and the Exercise Price then in effect shall be determined shall be the earlier of (i) the date on

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which the Company shall enter into a firm contract for the issuance of such shares of Common Stock and (ii) immediately prior to the date of actual issuance

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of such shares of Common Stock.

No adjustment of the Exercise Price shall be made under this section 4.2(b) upon the issuance of any shares of Common Stock which are (i) distributed to

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holders of shares of Common Stock pursuant to a stock dividend or subdivision for which an adjustment shall previously have been made under section 4.2(a) or (ii) issued pursuant to the exercise of any Stock Purchase Rights or pursuant to

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the conversion or exchange of any Convertible Securities to the extent that an adjustment shall previously have been made upon the issuance of such Stock Purchase Rights or Convertible Securities pursuant to sections 4.2(a), (c) or (d).

(c) Issuance of Stock Purchase Rights. If and whenever the Company  
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subsequent to the date hereof shall issue or sell any Stock Purchase Rights (except as otherwise provided in the last paragraph of this section 4.2(c)) and the consideration per share for which shares of Common Stock may at any time thereafter be issuable upon exercise thereof (or, in the case of Stock Purchase Rights exercisable for the purchase of Convertible Securities, upon the subsequent conversion or exchange of such Convertible Securities) shall be less than the greater of (x) the Fair Value per share of Common Stock and (y) the

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Exercise Price then in effect (determined, in each case, as of the date specified in the next succeeding paragraph), the Exercise Price upon each such issuance or sale shall be adjusted as provided in section 4.2(b) as of the date specified in the next succeeding paragraph on the basis that the maximum number of shares of Common Stock ever issuable upon exercise of such Stock Purchase Rights (or upon conversion or exchange of such Convertible Securities following such exercise) shall be deemed to have been issued as of the date of the determination of the Fair Value and the Exercise Price then in effect specified in the next succeeding paragraph.

For the purposes of this section 4.2(c), the date as of which the Exercise Price shall be adjusted and the date as of which the Fair Value and the Exercise Price then in effect shall be

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determined shall be the earlier of (i) the date on which the Company shall enter  
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into a firm contract for the issuance of such Stock Purchase Rights and (ii)  
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immediately prior to the date of actual issuance of such Stock Purchase Rights.

No adjustment of the Exercise Price shall be made under this section 4.2(c) upon the issuance of any Stock Purchase Rights to the extent that an adjustment shall previously have been made upon the issuance of such Stock Purchase Rights pursuant to section 4.2(a).

(d) Issuance of Convertible Securities. If and whenever the Company  
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subsequent to the date hereof shall issue or sell any Convertible Securities (except as otherwise provided in the last paragraph of this section 4.2(d)) and the consideration per share for which shares of Common Stock may at any time thereafter be issuable pursuant to the terms of such Convertible Securities shall be less than the greater of (x) the Fair Value per share of Common Stock

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and (y) the Exercise Price then in effect (determined, in each case, as of the  
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date specified in the next succeeding paragraph), the Exercise Price upon each  
such issuance or sale shall be adjusted as provided in section 4.2(b) as of the  
date specified in the next succeeding paragraph on the basis that the maximum  
number of shares of Common Stock ever necessary to effect the conversion or  
exchange of all such Convertible Securities shall be deemed to have been issued  
as of the date of the determination of the Fair Value and Exercise Price then in  
effect specified in the next succeeding paragraph.

For the purposes of this section 4.2(d), the date as of which the Exercise  
Price shall be adjusted and the date as of which the Fair Value and the Exercise  
Price then in effect shall be determined shall be the earlier of (i) the date on  
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which the Company shall enter into a firm contract for the issuance of such  
Convertible Securities and (ii) immediately prior to the date of actual issuance  
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of such Convertible Securities.

No adjustment of the Exercise Price shall be made under this section 4.2(d)  
upon the issuance of any Convertible Securities which are (i) distributed to  
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holders of shares of Common Stock pursuant to a stock dividend to the extent  
that an adjustment shall previously have been made pursuant to section 4.2(a) or  
(ii) issued pursuant to the exercise of any Stock Purchase Rights to the extent  
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that an adjustment shall previously have been made upon the issuance of such  
Stock Purchase Rights pursuant to section 4.2(a) or (c).

(e) Minimum Adjustment. If any adjustment of the Exercise Price pursuant  
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to this section 4.2 shall result in an adjustment of less than \$.0001, no such  
adjustment shall be made, but any such lesser adjustment shall be carried  
forward and shall be made at the time and together with the next subsequent  
adjustment which, together with any adjustments so carried forward, shall amount  
to \$.0001; provided that upon any adjustment of the Exercise Price resulting  
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from (i) the declaration of a dividend upon, or the making of any distribution  
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in respect of, any stock of the Company payable in shares of Common Stock, Stock  
Purchase Rights or Convertible Securities or (ii) the reclassification by  
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subdivision, combination or otherwise, of the shares of Common Stock into a  
greater or smaller number of shares, the foregoing figure of \$.0001 per share  
(or such figure as last adjusted) shall be proportionately adjusted, and  
provided, further, that upon the exercise of this Warrant, the Company shall  
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make all necessary adjustments (to the nearest .0001 of a cent) not

theretofore made to the Exercise Price up to and including the date upon which this Warrant is exercised.

(f) Readjustment of Exercise Price. Upon each change in (i) the

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consideration, if any, payable for any Stock Purchase Rights or Convertible Securities referred to in section 4.2(a), (c) or (d), (ii) the consideration, if

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any, payable upon exercise of such Stock Purchase Rights or upon the conversion or exchange of such Convertible Securities or (iii) the number of shares of

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Common Stock issuable upon the exercise of such Stock Purchase Rights or the rate at which such Convertible Securities are convertible into or exchangeable for shares of Common Stock, the Exercise Price in effect at the time of such event shall forthwith be readjusted to the Exercise Price which would have been in effect at such time had such Stock Purchase Rights or Convertible Securities provided for such changed consideration, number of shares of Common Stock so issuable or conversion rate, as the case may be, at the time initially granted, issued or sold. On the expiration of any Stock Purchase Rights not exercised or of any right to convert or exchange under any Convertible Securities not exercised, the Exercise Price then in effect shall forthwith be increased to the Exercise Price which would have been in effect at the time of such expiration had such Stock Purchase Rights or Convertible Securities never been issued. No readjustment of the Exercise Price pursuant to this section 4.2(f) shall (i)

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increase the Exercise Price by an amount in excess of the adjustment originally made to the Exercise Price in respect of the issue, sale or grant of the applicable Stock Purchase Rights or Convertible Securities or (ii) require any

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adjustment to the amount paid or number of Warrant Shares received by any Person upon any exercise of this Warrant prior to the date upon which such readjustment to the Exercise Price shall occur.

(g) Reorganization, Reclassification or Recapitalization of the Company.

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If and whenever subsequent to the date hereof the Company shall effect (i) any

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reorganization or reclassification or recapitalization of the capital stock of the Company (other than in the cases referred to in section 4.2(a)), (ii) any

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consolidation or merger of the Company with or into another Person, (iii) the

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sale, transfer or other disposition of the property, assets or business of the Company as an entirety or substantially as an entirety or (iv) any other

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transaction (or any other event shall occur) as a result of which holders of Common Stock become entitled to receive any shares of stock or other securities and/or property (including, without limitation, cash) with respect to or in exchange for the shares of Common Stock, there shall thereafter be deliverable upon the exercise of this Warrant or any portion thereof (in lieu of or in

addition to the Warrant Shares theretofore deliverable, as appropriate) the highest number of shares of stock or other securities and/or the greatest amount of property (including, without limitation, cash) to which the holder of the number of Warrant Shares which would otherwise have been deliverable upon the exercise of this Warrant or any portion thereof at the time would have been entitled upon such reorganization or reclassification or recapitalization of capital stock, consolidation, merger, sale, transfer, disposition or other transaction or upon the occurrence of such other event, and at the same aggregate Exercise Price.

Prior to and as a condition of the consummation of any transaction or event described in the preceding sentence, the Company shall make equitable, written adjustments in the application of the provisions herein set forth satisfactory to the Required Holders of the Warrants so that the provisions set forth herein shall thereafter be applicable, as nearly as possible, in relation to any shares of stock or other securities or other property thereafter deliverable upon exercise of the

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Warrants. Any such adjustment shall be made by and set forth in a supplemental agreement of the Company and/or the successor entity, as applicable, for the benefit of and in form and substance acceptable to the Required Holders of the Warrants, which agreement shall bind the Company and/or the successor entity, as applicable, and all holders of Warrants then outstanding and shall be accompanied by a favorable opinion of the regular outside counsel to the Company or the successor entity, as applicable (or such other firm as is reasonably acceptable to the Required Holders of the Warrants), as to the enforceability of such agreement and as to such other matters as the Required Holders of the Warrants may reasonably request.

(h) Other Dilutive Events. If any other transaction or event (other than

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those explicitly referred to in this section 4.2), including, without limitation, any issuance, repurchase, redemption, or other distribution in respect of any shares of stock or securities of the Company (other than the 8% Preferred Stock) or of any other Person, including any Person referred to in section 4.2(g), shall occur as to which the other provisions of this section 4 are not strictly applicable but the failure to make any adjustment to the Exercise Price or to any of the other terms of this Warrant would not fairly protect the purchase rights and other rights represented by this Warrant in accordance with the essential intent and principles hereof, then, and as a condition to the consummation of any such transaction or event, and in each such case, the Company shall appoint a firm of independent public accountants of recognized national standing (which may be the regular auditors of the Company), which shall give its opinion as to the adjustment, if any, on a basis consistent with the essential intent and principles established in this section 4, necessary to preserve, without dilution, the rights represented by this Warrant. The certificate of any such firm of accountants shall be conclusive evidence of the correctness of any computation made under this section 4. The Company shall

pay the fees and expenses of such firm of accountants in connection with any such opinion. Upon receipt of such opinion, the Company will promptly deliver a copy thereof to the holder of this Warrant and shall make the adjustments described therein.

(i) Determination of Consideration. For purposes of this section 4, the

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consideration received or receivable by the Company for the issuance, sale or grant of shares of Common Stock, Stock Purchase Rights or Convertible Securities, irrespective of the accounting treatment of such consideration, shall be valued and determined as follows:

(i) Cash Payment. In the case of cash, the gross amount paid by

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the purchasers without deduction of any accrued interest or dividends, any reasonable expenses paid or incurred and any reasonable underwriting commissions or concessions paid or allowed by the Company in connection with such issue or sale.

(ii) Non-Cash Payment. In the case of consideration other than

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cash, the Fair Value thereof (in any case as of the date immediately preceding the issuance, sale or grant in question).

(iii) Certain Allocations. If shares of Common Stock, Stock

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Purchase Rights and/or Convertible Securities are issued or sold together with other securities or other assets of the Company for a consideration which covers more than one of the foregoing categories of securities and assets, the consideration received or receivable (computed as provided in clauses (i) and (ii) of this section 4.2 (i)) shall be allocable to such shares of

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Common Stock, Stock Purchase Rights and/or Convertible Securities as reasonably determined in good faith by the Board of Directors of the Company (provided such allocation is set forth in a written resolution and

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a certified copy thereof is furnished to the holder of this Warrant promptly (but in any event within 10 days) following its adoption).

(iv) Dividends in Securities. If the Company shall declare a

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dividend or make any other distribution upon any stock of the Company payable in shares of Common Stock, Convertible Securities or Stock Purchase Rights, such shares of Common Stock, Convertible Securities or Stock Purchase Rights, as the case may be, issuable in payment of such dividend or distribution shall be deemed to have been issued or sold without consideration.

(v) Stock Purchase Rights and Convertible Securities. The  
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consideration for which each share of Common Stock shall be deemed to be issued upon the issuance or sale of any Stock Purchase Rights or Convertible Securities shall be determined by dividing (A) the total

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consideration, if any, received by the Company as consideration for the Stock Purchase Rights or the Convertible Securities, as the case may be, plus the minimum aggregate amount of additional consideration, if any, ever payable to the Company upon the exercise of such Stock Purchase Rights and/or upon the conversion or exchange of such Convertible Securities, as the case may be, but without deduction of any accrued interest or dividends, any reasonable expenses paid or incurred and any reasonable underwriting commissions or concessions paid or allowed by the Company in connection with such issue or sale; by (B) the maximum number of shares of

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Common Stock ever issuable upon the exercise of such Stock Purchase Rights or upon the conversion or exchange of such Convertible Securities.

(vi) Merger, Consolidation or Sale of Assets. If any shares of  
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Common Stock, Convertible Securities or Stock Purchase Rights are issued in connection with any merger or consolidation of which the Company is the surviving corporation, the amount of consideration therefor shall be deemed to be the Fair Value of such portion of the assets and business of the non-surviving corporation as shall be attributable to such shares of Common Stock, Convertible Securities or Stock Purchase Rights, as the case may be. In the event of (A) any merger or consolidation of which the Company is not

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the surviving corporation or (B) the sale, transfer or other disposition of

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the property, assets or business of the Company as an entirety or substantially as an entirety for stock or other securities of any other Person, the Company shall be deemed to have issued the number of shares of Common Stock for stock or securities of the surviving corporation or such other Person computed on the basis of the actual exchange ratio on which the transaction was predicated and for a consideration equal to the Fair Value on the date of such transaction of such stock or securities of the surviving corporation or such other Person, and if any such calculation results in adjustment of the Exercise Price, the determination of the number of Warrant Shares issuable upon exercise of this Warrant immediately prior to such merger, consolidation or sale, for the purposes of section 4.2(g), shall be made after giving effect to such adjustment of the Exercise Price.

(j) Record Date. If the Company shall take a record of the holders of  
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the shares of Common Stock for the purpose of entitling them (i) to receive a  
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dividend or other distribution payable in shares of Common Stock, Convertible  
Securities or Stock Purchase Rights or (ii) to subscribe for or purchase shares  
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of Common Stock, Convertible Securities or Stock Purchase Rights, then all  
references in this section 4 to the date of the issue or sale of the shares of  
Common Stock deemed to have been issued or sold upon the declaration of such  
dividend or the making of such other distribution or the date of the granting of  
such right of subscription or purchase, as the case may be, shall be deemed to  
be references to such record date.

(k) Shares Outstanding. The number of shares of Common Stock deemed to  
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be outstanding at any given time shall not include shares of Common Stock held  
by the Company or any Subsidiary of the Company.

(l) Maximum Exercise Price. At no time shall the Exercise Price exceed  
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the amount set forth in the first paragraph of the Preamble of this Warrant  
except as a result of an adjustment thereto pursuant to section 4.2(a)(iii) or  
4.2(g).

(m) Application. All subdivisions of this section 4.2 are intended to  
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operate independently of one another. If a transaction or an event occurs that  
requires the application of more than one subdivision, all applicable  
subdivisions shall be given independent effect.

(n) No Adjustments under Certain Circumstances. Anything herein to the  
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contrary notwithstanding, no adjustment to the Exercise Price shall be made:

(i) in the case of any issuance of shares of Common Stock (or  
Other Securities) upon the exercise, in whole or in part, of any Warrant or  
upon the issuance of any Warrant;

(ii) in the case of any issuance of shares of Common Stock upon the  
conversion, in whole or in part, of any shares of 8% Preferred Stock or  
upon the issuance of any shares of 8% Preferred Stock;

(iii) in the case of any issuance of shares of Common Stock sold to  
the public in a firm commitment underwritten public offering registered  
under the Securities Act of 1933, as amended, where the price at which such  
shares of Common Stock are sold to the public is not less than 95% of the  
Daily Market Price of the Common Stock on the date of pricing of such  
public offering;

(iv) in the case of issuances in any fiscal year of the Company to  
employees of the Company of either shares of Common Stock or options or  
warrants to acquire shares of Common Stock, but only to the extent that the

aggregate number of shares of Common Stock so issued to employees in such fiscal year plus the aggregate maximum number of shares of Common Stock ever issuable upon exercise of options or warrants so issued to employees in such fiscal year does not exceed 1.5% of the aggregate number of outstanding shares of Common Stock as of the end of the immediately preceding fiscal year of the Company;

(v) in the case of any issuance of shares of Common Stock upon the exercise of options or warrants, upon issuance of which options or warrants no adjustment to the Conversion Price was made by virtue of subsection (n)(iv) of this section 4.2; or

(vi) in the case of any issuance of shares of Common Stock upon the exercise of options or warrants held on the Original Issue Date by employees of the Company, but only to the extent that the aggregate number of shares of Common Stock so issued upon exercise of such options or warrants held on the Original Issue Date by such employees does not exceed 497,300 in the aggregate.

4.3. Rights Offering; Special Dividends.

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(a) If during the Exercise Period the Company shall effect an offering of securities pro rata among the holders of its Common Stock, the holder hereof shall be entitled, at its option, to elect to participate in each and every such offering as if this Warrant had been exercised and such holder were, at the time of any such rights offering, then a holder of that number of Warrant Shares to which such holder is then entitled on the exercise hereof.

(b) In the event during the Exercise Period the Company shall make or issue, or shall fix a record date for the determination of holders of Common Stock entitled to receive a dividend or other distribution (other than a distribution in liquidation, dissolution or winding up or other distribution otherwise provided for herein) with respect to the Common Stock payable in (i) securities of the Company other than shares of Common Stock, or (ii) other

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assets (excluding cash dividends or distributions), then and in each such event, provision shall be made so that the holder of this Warrant shall receive upon exercise hereof in addition to the number of shares of Common Stock receivable thereupon, the number of securities or such other assets of the Company which such holder would have received had this Warrant been exercised for such shares of Common Stock on the date of such event.

4.4. Certificates and Notices.

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(a) Adjustments to Exercise Price. As promptly as practicable (but in

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any event not later than five days) after the occurrence of any event requiring any adjustment under this section 4 to the Exercise Price (or to the number or kind of securities or other property deliverable upon the exercise of this Warrant), the Company shall, at its expense, deliver to the holder of this Warrant either (i) an Officers' Certificate or (ii) a certificate signed by a

firm of independent public accountants of recognized national standing (which may be the regular auditors of the Company), setting forth in reasonable detail the events requiring the adjustment and the method by which such adjustment was calculated and specifying the adjusted Exercise Price and the number of shares of Common Stock purchasable upon exercise of this Warrant after giving effect to such adjustment. The certificate of any such firm of accountants shall be conclusive evidence of the correctness of any computation made under this section 4.

(b) Extraordinary Corporate Events. If and whenever the Company  
subsequent to the date hereof shall propose to (i) pay any dividend to the  
holders of shares of Common Stock or to

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make any other distribution to the holders of shares of Common Stock (including, without limitation, any cash dividend), (ii) offer to the holders of shares of  
Common Stock rights to subscribe for or purchase any additional shares of any class of stock or any other rights or options, (iii) effect any reclassification  
of the shares of Common Stock (other than a reclassification involving merely the subdivision or combination of outstanding shares of Common Stock), (iv)  
engage in any reorganization or recapitalization or any consolidation or merger (other than a merger in which no distribution of securities or other property is to be made to holders of shares of Common Stock), (v) consummate any sale,  
transfer or other disposition of its property, assets and business as an entirety or substantially as an entirety, (vi) effect any other transaction  
which might require an adjustment to the Exercise Price (or to the number or kind of securities or other property deliverable upon the exercise of this Warrant), including, without limitation, any transaction of the kind described in section 4.2(g) or (vii) commence or effect the liquidation, dissolution or  
winding up of the Company, then, in each such case, the Company shall deliver to the holder of this Warrant an Officers' Certificate giving notice of such proposed action, specifying (A) the date on which the stock transfer books of  
the Company shall close, or a record shall be taken, for determining the holders of shares of Common Stock entitled to receive such dividend or other

distribution or such rights or options, or the date on which such reclassification, reorganization, recapitalization, consolidation, merger, sale, transfer, other disposition, transaction, liquidation, dissolution or winding up shall take place or commence, as the case may be, and (B) the date as of which

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it is expected that holders of shares of Common Stock of record shall be entitled to receive securities or other property deliverable upon such action, if any such date is to be fixed. Such Officers' Certificate shall be delivered in the case of any action covered by clause (i) or (ii) above, at least 30 days prior to the record date for determining holders of Common Stock for purposes of receiving such payment or offer, and, in any other case, at least 30 days prior to the date upon which such action takes place and 20 days prior to any record date to determine holders of shares of Common Stock entitled to receive such securities or other property.

(c) Effect of Failure. Failure to give any certificate or notice, or any  
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defect in any certificate or notice required under this section 4.4 shall not affect the legality or validity of the adjustment of the Exercise Price or the number of Warrant Shares purchasable upon exercise of this Warrant.

5. Registration Rights, etc. Reference is hereby made to section 9 of  
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the Securities Purchase Agreement for certain provisions relating to the registration rights of the holders of the Registrable Shares (as defined in the Securities Purchase Agreement).

6. Reservation of Common Stock. The Company will at all times reserve  
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and keep available, solely for issuance, sale and delivery upon the exercise of this Warrant, such number of shares of Common Stock (and/or Other Securities) equal to the number of shares of Common Stock (and/or Other Securities) issuable upon the exercise of this Warrant. All such shares of Common Stock (and/or Other Securities) shall be duly authorized and, when issued upon exercise of this Warrant in accordance with the terms hereof, will be validly issued and fully paid and nonassessable with no liability on the part of the holders thereof.

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7. Various Covenants of the Company.  
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7.1. No Impairment or Amendment. The Company shall not by any action  
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including, without limitation, amending its Articles of Incorporation, any reorganization, recapitalization, transfer of capital stock or assets, consolidation, merger, liquidation, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as

may be necessary or appropriate to protect the rights of the holder hereof against dilution or other impairment. Without limiting the generality of the foregoing, the Company (a) will not permit the par value of any Warrant Shares

issuable upon exercise of this Warrant to be greater than the amount payable therefor upon such exercise, (b) will take all such action as may be necessary

or appropriate in order that the Company may validly issue fully paid and nonassessable Warrant Shares, (c) will obtain and maintain all such

authorizations, exemptions or consents from any public regulatory body having jurisdiction as may be necessary to enable the Company to perform its obligations under this Warrant, (d) will not issue any capital stock or enter

into any agreement the terms of which would have the effect, directly or indirectly, of preventing the Company from honoring its obligations hereunder and (e) will not amend or modify any term, condition or provision of its

Articles of Incorporation or by-laws in a manner which is, or could reasonably be expected to be, materially adverse to the interests of any holder of Warrants and/or Warrant Shares.

So long as any Warrants or Warrant Shares are outstanding, the Company will acknowledge in writing, in form satisfactory to any holder of any such security, the continued validity of the Company's obligations hereunder.

7.2. Listing on Securities Exchanges, etc. At all times following the

exercise of this Warrant, the Company will maintain the listing of all Warrant Shares on each securities exchange or market or trading system on which the Common Stock (or Other Securities) are then or at any time thereafter listed or traded.

7.3. Anti-Dilution Provisions. If the Company issues any Stock Purchase

Rights or Convertible Securities or other securities containing provisions protecting the holder or holders thereof against dilution in any manner more favorable to such holder or holders thereof than those set forth in this Warrant, such provisions (or any more favorable portion thereof) shall be deemed to be incorporated herein as if fully set forth in this Warrant and, to the extent inconsistent with any provision of this Warrant, shall be deemed to be substituted therefor.

7.4. Indemnification. Without limiting the generality of any provision

of the Securities Purchase Agreement or any of the other Operative Documents, the Company shall indemnify, save and hold harmless the holder of this Warrant and the holder of any Warrant Shares from and against any and all liability, loss, cost, damage, reasonable attorneys' and accountants' fees and expenses, court costs and all other out-of-pocket expenses reasonably incurred by such holder in connection with preserving and/or enforcing any of the terms hereof.

7.5. Certain Expenses. The Company shall pay all expenses in connection  
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with, and all taxes (other than stock transfer taxes) and other governmental  
charges that may be imposed in respect of, the issue, sale and delivery of this  
Warrant and any Warrant Shares.

8. Miscellaneous.  
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8.1. Nonwaiver. No course of dealing or any delay or failure to exercise  
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any right, power or remedy hereunder on the part of the holder of this Warrant  
or of any Warrant Shares shall operate as a waiver of or otherwise prejudice  
such holder's rights, powers or remedies.

8.2. Amendment. Any term, covenant, agreement or condition of this  
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Warrant may, with the consent of the Company, be amended, or compliance  
therewith may be waived (either generally or in a particular instance and either  
retroactively or prospectively), in writing by the holder hereof, provided that  
no such amendment or waiver shall extend to or affect any obligation not  
expressly amended or waived or impair any right consequent thereon.

8.3. Communications. All communications provided for herein shall be  
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delivered, mailed or sent by facsimile transmission addressed in the manner and  
shall be effective as of the time specified in the Securities Purchase  
Agreement.

8.4. Like Tenor. All Warrants shall at all times be identical, except  
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as otherwise specified in section 3.1 and except as to the preamble to each  
Warrant, the definition of Applicable Redemption Multiple, and Schedule I.

8.5. Remedies. The Company stipulates that the remedies at law of the  
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holder or holders of this Warrant and/or of any Warrant Shares in the event of  
any default or threatened default by the Company in the performance of or  
compliance with any of the terms of this Warrant are not and will not be  
adequate and that, to the fullest extent permitted by law, such terms may be  
specifically enforced by a decree for the specific performance of any agreement  
contained herein or by an injunction against a violation of any of the terms  
hereof or otherwise. No remedy conferred in this Warrant on the holder of any  
Warrant or Warrant Shares is intended to be exclusive of any other remedy, and  
each and every such remedy shall be cumulative and shall be in addition to every  
other remedy given hereunder or under any other agreement, document or  
instrument or now or hereafter existing at law or in equity or by statute or  
otherwise.

8.6. Successors and Assigns. This Warrant and the rights evidenced

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hereby shall inure to the benefit of and be binding upon the successors and assigns of the Company, the holder or holders of this Warrant and, as applicable, of any Warrant Shares, to the extent provided herein, and shall be enforceable by such holder or holders.

8.7. Governing Law. This Warrant, including the validity hereof and the

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rights and obligations of the Company and of the holder hereof and all amendments and supplements hereof and all waivers and consents hereunder, shall be construed in accordance with and governed by the domestic substantive laws of The Commonwealth of Massachusetts without giving effect to any choice of law or conflicts of law provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

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8.8. Headings; Entire Agreement; Partial Invalidity, etc. The table of

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contents to and headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. This Warrant, together with the other Operative Documents, embodies the entire agreement and understanding between the holder hereof and the Company and supersedes all prior agreements and understandings relating to the subject matter hereof. In case any provision in this Warrant or any of the other Operative Documents shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

[The remainder of this page is left blank intentionally.]

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IN WITNESS WHEREOF, the Company has caused this Warrant to be executed as an instrument under seal and to be attested by its duly authorized officers as of the date first above written.

EVERGREEN RESOURCES, INC.

By:

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(Title)

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FORM OF NOTICE OF EXERCISE

(To be executed only upon partial or full exercise of the within Class B Warrant)

The undersigned registered holder of the within Class B Warrant irrevocably exercises the within Class B Warrant for and purchases \_\_\_\_\_ shares of

Common Stock (or Other Securities) [Specify applicable kind of securities] of \_\_\_\_\_

EVERGREEN RESOURCES, INC. and herewith makes payment therefor in the amount of \$ \_\_\_\_\_, all at the price, in the manner and on the terms and conditions

specified in the within Class B Warrant, and requests that a certificate (or certificates in denominations of \_\_\_\_\_ shares) for such shares hereby purchased be issued in the name of and delivered to (choose one) (a) the undersigned or

(b) \_\_\_\_\_, whose address is \_\_\_\_\_ and, if such

shares shall not include all the Warrant Shares issuable as provided in the within Class B Warrant, that a new Class B Warrant of like tenor for the number of Warrant Shares not being purchased hereunder be issued in the name of and delivered to (choose one) (a) the undersigned or (b) \_\_\_\_\_, whose address is \_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

[ \_\_\_\_\_ ]

By \_\_\_\_\_  
(Signature of Registered Holder)

NOTICE: The signature on this Notice of Exercise must correspond with the name as written upon the face of the within Class B Warrant in every particular, without alteration or enlargement or any change whatever.



(To be executed only upon the assignment  
of the within Class B Warrant)

FOR VALUE RECEIVED, the undersigned registered holder of the within Class B  
Warrant hereby sells, assigns and transfers unto \_\_\_\_\_,

whose address is \_\_\_\_\_,

all of the rights of the undersigned under the within Class B Warrant, with  
respect to \_\_\_\_\_ shares of Common Stock (or Other Securities) [Specify  
\_\_\_\_\_ applicable kind of securities] of EVERGREEN RESOURCES, INC. and, if such shares  
\_\_\_\_\_

shall not include all the Warrant Shares issuable as provided in the within  
Class B Warrant, that a new Class B Warrant of like tenor for the number of  
Warrant Shares not being transferred hereunder be issued in the name of and  
delivered to [choose one] (a) the undersigned or (b) \_\_\_\_\_,

whose address is \_\_\_\_\_,

and does hereby irrevocably constitute and appoint \_\_\_\_\_

Attorney to register such transfer on the books of EVERGREEN RESOURCES, INC.  
maintained for the purpose, with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_ .  
\_\_\_\_\_

[ \_\_\_\_\_ ]

By \_\_\_\_\_

(Signature of Registered Holder)

NOTICE: The signature on this Assignment must correspond with the name as  
written upon the face of the within Class B Warrant in every  
particular, without alteration or enlargement or any change whatever.

SCHEDULE I

[To be completed by the holder of this Warrant]

The Warrant Trigger Date is:

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The Adjusted Initial Number is:

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