

BRINKER INTERNATIONAL INC  
Form S-8  
May 30, 2003

As Filed With The Securities And Exchange Commission on May 30, 2003

Registration No. 333-\_\_\_\_\_

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM S-8  
REGISTRATION STATEMENT  
Under  
THE SECURITIES ACT OF 1933

Brinker International, Inc.

(Exact name of issuer as specified in its charter)

Delaware  
(State of incorporation)

75-1914582  
(I.R.S. employer identification no.)

6820 LBJ Freeway  
Dallas, Texas  
(Address of principal executive office)

75240  
(Zip code)

Stock Option and Incentive Plan  
Brinker International, Inc. 401(k) Savings Plan  
As Restated Effective January 1, 1999  
(Full title of the plans)

Roger F. Thomson  
Executive Vice President and General Counsel  
Brinker International, Inc.  
6820 LBJ Freeway  
Dallas, Texas 75240  
(972) 980-9917

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

APPROXIMATE DATE OF PROPOSED COMMENCEMENT OF SALES PURSUANT TO THE PLAN: Sales to the purchasers of securities proposed to be registered hereunder will occur from time to time after the effective date of this Registration Statement.

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## CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee*
Common Stock, \$0.10 par value				
Stock Option and Incentive Plan	4,500,000	\$34.08	\$153,360,000	\$12,422.16
Brinker International, Inc. 401(k) Savings Plan As Restated Effective January 1, 1999	500,000 (1)	\$24.08	\$17,040,000	\$1,380.24
Total	5,000,000	\$34.08	\$170,400,000	\$13,802.40

\* Estimated solely for purposes of calculating the registration fee, which has been computed in accordance with Rule 457(h).

(1) Pursuant to Rule 416(c) under the Securities Act of 1933, as amended, this Registration Statement also covers an indeterminate amount of interests to be offered or sold pursuant to the Brinker International, Inc. 401(k) Savings Plan as Restated Effective January 1, 1999.

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**Item 3. Incorporation of Documents by Reference.**

The documents listed (i) through (iii) below are hereby incorporated by reference into this Registration Statement. All documents subsequently filed by the registrant pursuant to Section 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934 (the "1934 Act") prior to filing of a post effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents.

(i) The registrant's latest annual report filed pursuant to Section 13(a) or 15(d) of the 1934 Act or the latest prospectus filed pursuant to Rule 424(b) under the Securities Act of 1933, as amended, (the "1933 Act"), which contains, either directly or by incorporation by reference, certified financial statements for the registrant's latest fiscal year for which such statements have been filed.

(ii) All other reports filed pursuant to Section 13(a) and 15(d) of the 1934 Act since the end of the fiscal year covered by the annual reports or the prospectus referred to in (i) above.

(iii) The description of the registrant's Common Stock, \$.10 par value ("Common Stock"), which is contained in the Company's latest registration statement filed under the 1934 Act, including any amendments or reports filed for the purpose of updating such description.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Officers and Directors.**

Section 145 of the General Corporation Law of the State of Delaware provides generally and in pertinent part that a Delaware corporation may indemnify its directors and officers against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with any suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) if, in connection with the matters in issue, they acted in good faith and in a manner they reasonably believed to be in, or not opposed to, the best interests of the corporation, and, in connection with any criminal suit or proceeding, if in connection with the matters in issue, they had no reasonable cause to believe their conduct was unlawful. Section 145 further provides that in connection with the defense or settlement of any action by or in the right of the corporation, a Delaware corporation may indemnify its directors and officers against expenses actually and reasonably incurred by them if, in connection with the matters in issue, they acted in good faith, in a manner they reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper. Section 145 permits a Delaware corporation to grant its directors and officers additional rights of indemnification through bylaw provisions and otherwise and to purchase indemnity insurance on behalf of its directors and officers.

Article Ninth of the registrant's Certificate of Incorporation provides that no director shall be liable to the registrant or its stockholders for monetary damages for breach of fiduciary duty, provided that the liability of a director is not

limited (i) for any breach of the director's duty of loyalty to the registrant or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law or (iv) any transaction from which such director derived an improper personal benefit.

Article VI of the registrant's bylaws provides, in general, that the registrant shall indemnify its directors and officers under the circumstances defined in Section 145. The Company has obtained an insurance policy insuring the directors and officers of the Company against certain liabilities, if any, that arise in connection with the performance of their duties on behalf of the Company and its subsidiaries.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

5 Opinion of Hallett & Perrin, P.C. \*

23(a) Consent of KPMG LLP. \*

23(b) Consent of Hallett & Perrin, P.C. (included as part of Exhibit 5).

24 Power of Attorney (see signature page of this Registration Statement).

99(a) Registrant's Stock Option and Incentive Plan. (1)

99(b) Brinker International, Inc. 401(k) Savings Plan as Restated Effective January 1, 1999. (2)

99(c) Amendments No. 1, 2, and 3 to Brinker International, Inc. 401(k) Savings Plan as Restated Effective January 1, 1999. \*

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\* Filed herewith.

(1) Filed as an exhibit to annual report on Form 10-K for the year ended June 30, 1999 and incorporated herein by reference.

(2) Filed as an exhibit to registration statement on Form S-8 filed July 25, 2000, SEC File No. 333-42224, and incorporated herein by reference.

**Item 9. Undertakings.**

(1) The undersigned registrant hereby undertakes:

(a) To file, during any period in which offers or sales are being made, a post effective amendment to this registration statement to:

(i) Include any prospectus required by Section 10(a)(3) of the 1933 Act.;

(ii) Reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement;

(iii) Include any material information on the plan of distribution not previously disclosed in this registration statement or any material change to such information in this registration statement;

provided, however, that (i) and (ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the registrant pursuant to Section 13 or Section 15(d) of the 1934 Act that are incorporated by reference in this registration statement.

(b) That, for the purpose of determining any liability under the 1933 Act, each such post effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at the time shall be deemed to be the initial bona fide offering thereof; and

(c) To remove from registration by means of a post effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(2) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the 1933 Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the 1934 Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the 1934 Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) Insofar as indemnification for liabilities arising under the 1933 Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the certificate of incorporation or bylaws of the registrant or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

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Pursuant to the requirements of the 1933 Act, this registration statement has been signed below by the following persons in the capacities and on May 30, 2003.

Signature

Title

/s/ Ronald A. McDougall

Ronald A. McDougall

Chairman of the Board and Chief Executive Officer  
(Principal Executive Officer)

/s/ Charles M. Sonstebly

Charles M. Sonstebly

Executive Vice President and Chief Financial Officer  
(Principal Financial and Accounting Officer)

/s/ Douglas H. Brooks

Douglas H. Brooks

President, Chief Operating Officer and Director

/s/ Dan W. Cook, III

Dan W. Cook, III

Director

/s/ Marvin J. Girouard

Marvin J. Girouard

Director

/s/ Ronald Kirk

Ronald Kirk

Director

/s/ Jeffrey A. Marcus

Jeffrey A. Marcus

Director

/s/ Erle Nye

Erle Nye

Director

/s/James E. Oesterreicher

James E. Oesterreicher

Director

/s/ Cece Smith

Cece Smith

Director

/s/Roger T. Staubach

Roger T. Staubach

Director

## INDEX TO EXHIBITS

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(in thousands)	Year Ended December 31, 2007				
	Swift Energy Co. (Parent and Co-obligor)	Swift Energy Operating, LLC (Co-obligor)	Other Subsidiaries	Eliminations	Swift Energy Co. Consolidated
Cash flow from operations	\$---	\$ 442,282	\$ 25,620	\$ ---	\$ 467,902
Cash flow from investing activities	---	(636,501 )	(7,827 )	(13,358 )	(657,686 )
Cash flow from financing activities	---	194,349	(13,358 )	13,358	194,349
Net increase in cash	---	130	4,435	---	4,565
Cash, beginning of period	---	50	1,008	---	1,058
Cash, end of period	\$---	\$ 180	\$ 5,443	\$ ---	\$ 5,623

## Supplementary Information

Swift Energy Company and Subsidiaries  
Oil and Gas Operations (Unaudited)

Capitalized Costs. The following table presents our aggregate capitalized costs relating to oil and natural gas producing activities and the related depreciation, depletion, and amortization (in thousands):

	Total	Domestic	Discontinued Operations
December 31, 2009:			
Proved oil and gas properties	\$3,421,340	\$3,421,340	\$ ---
Unproved oil and gas properties	71,640	71,640	---
	3,492,980	3,492,980	---
Accumulated depreciation, depletion, and amortization	(2,196,444)	(2,196,444)	---
Net capitalized costs	\$1,296,536	\$1,296,536	\$ ---
December 31, 2008:			
Proved oil and gas properties	\$3,270,159	\$3,270,159	\$ ---
Unproved oil and gas properties	91,252	91,252	---
	3,361,411	3,361,411	---
Accumulated depreciation, depletion, and amortization	(1,954,222)	(1,954,222)	---
Net capitalized costs	\$1,407,189	\$1,407,189	\$ ---

Of the \$71.6 million of domestic unproved property costs (primarily seismic and lease acquisition costs) at December 31, 2009, excluded from the amortizable base, \$13.3 million was incurred in 2009, \$37.6 million was incurred in 2008, \$4.1 million was incurred in 2007, and \$16.6 million was incurred in prior years. We evaluate the majority of these unproved costs within a two to four year time frame.

Capitalized asset retirement obligations have been included in the Proved properties as of December 31, 2009, 2008, and 2007.

Costs Incurred. The following table sets forth costs incurred related to our oil and natural gas operations (in thousands):

	Year Ended December 31, 2009		
	Total	Domestic	Discontinued Operations
Acquisition of proved and unproved properties	\$---	\$---	\$ ---
Lease acquisitions and prospect costs <sup>1</sup>	61,105	61,105	---
Exploration	2,866	2,866	---
Development <sup>2</sup>	111,095	111,095	---
Total acquisition, exploration, and development <sup>3, 4</sup>	\$175,066	\$175,066	\$ ---

	Year Ended December 31, 2008		
	Total	Domestic	Discontinued Operations
Acquisition of proved and unproved properties	\$47,245	\$47,245	\$ --
Lease acquisitions and prospect costs <sup>1</sup>	72,513	71,240	1,273

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Exploration	47,832	47,832	---
Development 2	477,982	477,982	---
Total acquisition, exploration, and development 3, 4	\$645,572	\$644,299	\$ 1,273

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	Year Ended December 31, 2007		
	Total	Domestic	Discontinued Operations
Acquisition of proved and unproved properties	\$253,573	\$253,573	\$ --
Lease acquisitions and prospect costs <sup>1</sup>	62,380	56,901	5,479
Exploration	65,815	65,815	---
Development <sup>2</sup>	330,866	326,879	3,987
Total acquisition, exploration, and development <sup>3, 4</sup>	\$712,634	\$703,168	\$ 9,466

1 These are actual amounts as incurred by year, including both proved and unproved lease costs. The annual lease acquisition amounts added to proved oil and gas properties in 2009, 2008, and 2007 were \$56.8 million, \$56.7 million, and \$50.2 million, respectively. Domestic costs for seismic data acquisition, included above, were \$4.4 million, 12.4 million, and \$11.6 million in 2009, 2008, and 2007, respectively. New Zealand costs for seismic data acquisition, included above were \$0.5 million in 2007.

2 Facility construction costs and capital costs have been included in development costs, and totaled \$18.4 million, \$48.2 million, and \$71.3 million for the years ended December 31, 2009, 2008, and 2007, respectively.

3 Includes capitalized general and administrative costs directly associated with the acquisition, exploration, and development efforts of approximately \$24.5 million, \$30.1 million, and \$30.6 million in 2009, 2008, and 2007, respectively. In addition, the total includes \$6.1 million, \$8.0 million, and \$9.5 million in 2009, 2008, and 2007, respectively, of capitalized interest on unproved properties.

4 Asset retirement obligations incurred have been included in exploration, development and acquisition costs as applicable for the years ended December 31, 2009, 2008, and 2007.

Results of Operations (in thousands).

	Year Ended December 31, 2009		
	Total	Domestic	Discontinued Operations
Oil and gas sales	\$371,749	\$371,749	\$ ---
Lease operating cost	(76,744 )	(76,740 )	(4 )
Severance and other taxes	(41,326 )	(41,326 )	---
Depreciation, depletion, and amortization	(162,908 )	(162,908 )	---
Accretion of asset retirement obligation	(2,906 )	(2,906 )	---
Write-down of oil and gas properties	(79,312 )	(79,312 )	---
	8,553	8,557	(4 )
(Provision) Benefit for income taxes	(3,380 )	(3,380 )	---
Results of producing activities	\$5,173	\$5,177	\$ (4 )
Amortization per physical unit of production (equivalent Bbl of oil)	\$17.99	\$17.99	\$ ---

	Year Ended December 31, 2008		
	Total	Domestic	Discontinued Operations

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Oil and gas sales	\$808,534	\$793,859	\$ 14,675
Lease operating cost	(111,220 )	(104,874 )	(6,346 )
Severance and other taxes	(81,376 )	(80,403 )	(973 )
Depreciation, depletion, and amortization	(224,201 )	(219,344 )	(4,857 )
Accretion of asset retirement obligation	(2,019 )	(1,958 )	(61 )
Write-down of oil and gas properties	(757,870 )	(754,298 )	(3,572 )
	(368,152 )	(367,018 )	(1,134 )
(Provision) benefit for income taxes	138,444	138,366	78
Results of producing activities	\$(229,708 )	\$(228,652 )	\$ (1,056 )
Amortization per physical unit of production (equivalent Bbl of oil)	\$21.43	\$21.83	\$ 11.71

	Year Ended December 31, 2007		
	Total	Domestic	Discontinued Operations
Oil and gas sales	\$695,250	\$652,856	\$ 42,394
Lease operating cost	(84,670 )	(70,893 )	(13,777 )
Severance and other taxes	(76,647 )	(73,813 )	(2,834 )
Depreciation, depletion, and amortization	(208,757 )	(186,086 )	(22,671 )
Accretion of asset retirement obligation	(1,625 )	(1,437 )	(188 )
Write-down of oil and gas properties	(143,152 )	---	(143,152 )
	180,399	320,627	(140,228 )
(Provision) benefit for income taxes	(108,056 )	(121,518 )	13,462
Results of producing activities	\$72,343	\$199,109	\$ (126,766 )
Amortization per physical unit of production (equivalent Bbl of oil)	\$17.39	\$17.53	\$ 16.34

These results of operations do not include the gains (losses) from our hedging activities of (\$1.4) million, \$26.1 million and 0.2 million for 2009, 2008 and 2007, respectively. Our lease operating costs per Boe produced were \$8.47 in 2009, \$10.44 in 2008, and \$6.68 in 2007.

We used our effective tax rate in each country to compute the provision (benefit) for income taxes in each year presented.

Supplementary Reserves Information. The following information presents estimates of our proved oil and natural gas reserves. Reserves were determined by us, and our domestic reserves were audited by H. J. Gruy and Associates, Inc. ("Gruy"), independent petroleum consultants. Gruy has audited 96% of our 2009 domestic proved reserves, 97% of our 2008 domestic proved reserves and 100% of our domestic proved reserves for 2007. The audit by H.J. Gruy and Associates, Inc. conformed to the meaning of the term "reserves audit" as presented in Regulation S-K, Item 1202. Gruy's audit was based upon review of production histories and other geological, economic, and engineering data provided by us. Gruy's report dated February 23, 2010, is set forth as an exhibit to the Form 10-K Report for the year ended December 31, 2009, and includes assumptions and references to the definitions that serve as the basis for the audit of proved reserves and future net cash flows.

Estimates of Proved Reserves	Total		Domestic		Discontinued Operations	
	Oil, NGL, and		Oil, NGL, and		Oil, NGL, and	
	Natural Gas (Mcf)	Condensate (Bbls)	Natural Gas (Mcf)	Condensate (Bbls)	Natural Gas (Mcf)	Condensate (Bbls)
Proved reserves as of December 31, 2006	324,131,417	82,119,084	269,660,791	73,464,531	54,470,626	8,654,552
Revisions of previous estimates <sup>1</sup>	14,512,097	(2,227,517 )	12,851,831	(1,947,699 )	1,660,266	(279,818 )
Purchases of minerals in place	37,748,518	6,571,426	37,748,518	6,571,426	---	---
Sales of minerals in place	---	---	---	---	---	---
Extensions, discoveries, and other additions	40,319,284	6,212,888	40,319,284	6,212,889	---	---

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Production	(22,697,180 )	(8,221,082 )	(16,782,312 )	(7,819,536 )	(5,914,868 )	(401,546 )
Proved reserves as of December 31, 2007	394,014,136	84,454,799	343,798,112	76,481,611	50,216,024	7,973,188
Revisions of previous estimates <sup>1</sup>	(42,734,480 )	(6,868,451 )	(42,734,480 )	(6,868,451 )	---	---
Purchases of minerals in place	3,193,519	458,942	3,193,519	458,942	---	---
Sales of minerals in place	(48,382,504 )	(7,863,827 )	---	---	(48,382,504 )	(7,863,827 )
Extensions, discoveries, and other additions	8,626,050	4,269,906	8,626,050	4,269,906	---	---
Production	(22,336,764 )	(6,740,904 )	(20,503,244 )	(6,631,543 )	(1,833,520 )	(109,361 )
Proved reserves as of December 31, 2008	292,379,957	67,710,465	292,379,957	67,710,465	---	---
Revisions of previous estimates <sup>1</sup>	(13,544,236 )	(747,811 )	(13,544,236 )	(747,811 )	---	---
Purchases of minerals in place	---	---	---	---	---	---
Sales of minerals in place	---	---	---	---	---	---
Extensions, discoveries, and other additions	32,874,203	3,069,361	32,874,203	3,069,361	---	---
Production	(21,157,002 )	(5,529,059 )	(21,157,002 )	(5,529,059 )	---	---
Proved reserves as of December 31, 2009	290,552,922	64,502,956	290,552,922	64,502,956	---	---
Proved developed reserves: <sup>2</sup>						
December 31, 2006	151,276,834	34,956,469	133,815,108	33,345,567	17,461,726	1,610,902
December 31, 2007	187,152,308	36,752,529	172,973,952	35,547,583	14,178,356	1,204,946
December 31, 2008	172,214,540	33,411,083	172,214,540	33,411,083	---	---
December 31, 2009	155,404,822	30,896,549	155,404,822	30,896,549	---	---



Revisions of previous estimates are related to upward or downward variations based on current engineering information for production rates, volumetrics, and reservoir pressure. Additionally, changes in quantity estimates are affected by the increase or decrease in crude oil, NGL, and natural gas prices at each year-end. Proved reserves, as of December 31, 2009 were based upon the preceding 12-months' average price based on closing prices on the first business day of each month, or prices defined by existing contractual arrangements are held constant, for that year's reserves calculation. Our hedges at year-end 2009 consisted of natural gas collars and price floors with strike price ranges outside the current period-end price and did not affect prices used in these calculations. At December 31, 2009 and 2008, we did not have any reserves in New Zealand. The 12-month average 2009 prices used in our calculations for domestic operations were \$3.78 per Mcf of natural gas, \$59.76 per barrel of oil, and \$30.00 per barrel of NGL. The year-end 2008 prices used for domestic operations were \$4.96 per Mcf of natural gas, \$44.09 per barrel of oil, and \$25.39 per barrel of NGL compared to \$6.65 per Mcf of natural gas, \$93.24 per barrel of oil, and \$56.28 per barrel of NGL at year-end 2007 for domestic operations. The year-end 2007 prices for New Zealand were \$3.08 per Mcf of natural gas, \$93.20 per barrel of oil, and \$36.98 per barrel of NGL. The year-end 2007 prices for all our reserves, both domestically and in New Zealand, were \$6.19 per Mcf of natural gas, \$93.24 per barrel of oil, and \$54.63 per barrel of NGL.

<sup>2</sup> At December 31, 2009, 50% of our domestic reserves were proved developed, compared to 53% at December 31, 2008, and 48% at December 31, 2007. At December 31, 2007, 22% of our New Zealand reserves were proved developed.

Standardized Measure of Discounted Future Net Cash Flows. The standardized measure of discounted future net cash flows relating to proved oil and natural gas reserves is as follows (in thousands):

	Year Ended December 31, 2009		
	Total	Domestic	Discontinued Operations
Future gross revenues	\$4,358,412	\$4,358,412	\$ ---
Future production costs	(1,289,556)	(1,289,556)	---
Future development costs	(1,034,443)	(1,034,443)	---
Future net cash flows before income taxes	2,034,413	2,034,413	---
Future income taxes	(478,876 )	(478,876 )	---
Future net cash flows after income taxes	1,555,537	1,555,537	---
Discount at 10% per annum	(535,080 )	(535,080 )	---
Standardized measure of discounted future net cash flows relating to proved oil and natural gas reserves	\$1,020,457	\$1,020,457	\$ ---

	Year Ended December 31, 2008		
	Total	Domestic	Discontinued Operations
Future gross revenues	\$4,099,878	\$4,099,878	\$ ---
Future production costs	(1,115,986)	(1,115,986)	---
Future development costs	(933,197 )	(933,197 )	---
Future net cash flows before income taxes	2,050,694	2,050,694	---
Future income taxes	(454,675 )	(454,675 )	---
Future net cash flows after income taxes	1,596,019	1,596,019	---
Discount at 10% per annum	(563,015 )	(563,015 )	---
	\$1,033,004	\$1,033,004	\$ ---

## Standardized measure of discounted future net cash flows relating to proved oil and natural gas reserves

	Year Ended December 31, 2007		
	Total	Domestic	Discontinued Operations
Future gross revenues	\$9,547,840	\$8,745,424	\$ 802,416
Future production costs	(2,184,206)	(1,814,660)	(369,546 )
Future development costs	(1,220,492)	(1,111,864)	(108,628 )
Future net cash flows before income taxes	6,143,142	5,818,900	324,242
Future income taxes	(1,867,588)	(1,856,143)	(11,445 )
Future net cash flows after income taxes	4,275,554	3,962,757	312,797
Discount at 10% per annum	(1,639,111)	(1,422,677)	(216,434 )
Standardized measure of discounted future net cash flows relating to proved oil and natural gas reserves	\$2,636,443	\$2,540,080	\$ 96,363

The standardized measure of discounted future net cash flows from production of proved reserves at year-end 2009 was developed as follows:

1. Estimates are made of quantities of proved reserves and the future periods during which they are expected to be produced based on year-end economic conditions.
2. The estimated future gross revenues of proved reserves are based on the preceding 12-months' average price based on closing prices on the first day of each month, or prices defined by existing contractual arrangements.
3. The future gross revenue streams are reduced by estimated future costs to develop and to produce the proved reserves, as well as asset retirement obligation costs, net of salvage value, based on year-end cost estimates and the estimated effect of future income taxes.
4. Future income taxes are computed by applying the statutory tax rate to future net cash flows reduced by the tax basis of the properties, the estimated permanent differences applicable to future oil and natural gas producing activities, and tax carry forwards.

The estimates of cash flows and reserves quantities shown above are based on the preceding 12-months' average price based on closing prices on the first day of each month, or prices defined by existing contractual arrangements. Our hedges at year-end 2009 consisted of natural gas collars and price floors with strike price ranges outside the current period-end price and did not affect prices used in these calculations. Subsequent changes to such oil and natural gas prices could have a significant impact on discounted future net cash flows. Under Securities and Exchange Commission rules, companies that follow the full-cost accounting method are required to make quarterly Ceiling Test calculations using hedge adjusted prices in effect as of the period end date presented (see Note 1 to the consolidated financial statements). Application of these rules during periods of relatively low oil and natural gas prices, even if of short-term seasonal duration, may result in non-cash write-downs.

The standardized measure of discounted future net cash flows is not intended to present the fair market value of our oil and natural gas property reserves. An estimate of fair value would also take into account, among other things, the recovery of reserves in excess of proved reserves, anticipated future changes in prices and costs, an allowance for return on investment, and the risks inherent in reserves estimates.

The standardized measure of discounted future net cash flows for 2008 and 2007 were computed using rules in effect for those periods.

The following are the principal sources of change in the standardized measure of discounted future net cash flows (in thousands):

	Year Ended December 31,		
	2009	2008	2007
Beginning balance	\$1,033,004	\$2,636,443	\$1,868,660
Revisions to reserves proved in prior years--			
Net changes in prices, net of production costs	149,000	(2,020,645)	1,259,492
Net changes in future development costs	(51,501 )	(36,286 )	(227,032 )
Net changes due to revisions in quantity estimates	(53,094 )	(229,290 )	7,013
Accretion of discount	131,313	384,847	266,852
Other	(17,335 )	(321,458 )	(337,698 )
Total revisions	158,383	(2,222,831)	968,627
	40,447	91,414	305,843

New field discoveries and extensions, net of future production and development costs

Purchases of minerals in place	---	12,160	209,369
Sales of minerals in place	---	(90,148 )	---
Sales of oil and gas produced, net of production costs	(253,683 )	(616,272 )	(533,934 )
Previously estimated development costs incurred	64,033	290,337	230,046
Net change in income taxes	(21,727 )	931,901	(412,168 )
Net change in standardized measure of discounted future net cash flows	(12,547 )	(1,603,439)	767,783
Ending balance	\$1,020,457	\$1,033,004	\$2,636,443

Selected Quarterly Financial Data (Unaudited). The following table presents summarized quarterly financial information for the years ended December 31, 2009 and 2008 (in thousands, except per share data):

	Revenues	Income (Loss) from Continuing Operations Before Taxes	Income (Loss) from Continuing Operations	Loss from Discontinued Operations	Basic EPS from Continuing Operations	Diluted EPS from Continuing Operations
2009:						
First	\$76,359	\$(91,969 )	\$(59,003 )	\$ (126 )	\$(1.90 )	\$(1.90 )
Second	82,921	(2,281 )	(2,210 )	(57 )	(0.07 )	(0.07 )
Third	96,263	8,144	7,558	(32 )	0.21	0.21
Fourth	114,902	21,489	14,579	(39 )	0.38	0.38
Total	\$370,445	\$(64,617 )	\$(39,076 )	\$ (254 )	\$(1.16 )	\$(1.16 )
2008:						
First	\$198,960	\$78,842	\$49,835	\$ (1,474 )	\$1.64	\$1.61
Second	262,681	130,972	83,245	(1,326 )	2.72	2.66
Third	213,767	98,879	62,271	(348 )	2.02	1.98
Fourth	145,407	(721,451 )	(452,481 )	(212 )	(14.66 )	(14.66 )
Total	\$820,815	\$(412,758 )	\$(257,130 )	\$ (3,360 )	\$(8.39 )	\$(8.39 )

There were no extraordinary items in 2009 or 2008. Our New Zealand operations are accounted for as discontinued operations. In the fourth quarter of 2008 and first quarter of 2009, as a result of low oil and natural gas prices at December 31, 2008 and March 31, 2009, we reported non-cash write-downs on a before-tax basis of \$754.3 million (\$473.1 million after tax) and \$79.3 million (\$50.0 million after tax) on our oil and natural gas properties, respectively.

The sum of the individual quarterly net income (loss) per common share amounts may not agree with year-to-date net income (loss) per common share as each quarterly computation is based on the weighted average number of common shares outstanding during that period. In addition, certain potentially dilutive securities were not included in certain of the quarterly computations of diluted net income (loss) per common share because to do so would have been antidilutive.

#### Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

#### Item 9A. Controls and Procedures

We maintain disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, consisting of controls and other procedures designed to give reasonable assurance that information we are required to disclose in the reports we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and that such information is accumulated and communicated to management, including our chief executive officer and our chief financial officer, to allow timely decisions regarding such required disclosure. The Company's chief executive officer and chief financial officer have evaluated such disclosure controls and procedures as of the end of the period covered by this annual report on Form 10-K and have determined that such disclosure controls and procedures are effective.

There was no change in our internal control over financial reporting during the quarter ended December 31, 2009 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Management's Report On Internal Control Over Financial Reporting as of December 31, 2009 is included in Item 8. Financial Statements and Supplementary Data. The Report of Independent Registered Public Accounting Firm on Internal Control Over Financial Reporting is also included in Item 8.

Item 9B. Other Information

None.

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PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required under Item 10 which will be set forth in our definitive proxy statement to be filed within 120 days after the close of the fiscal year end in connection with our May 11, 2010, annual shareholders' meeting is incorporated herein by reference.

Item 11. Executive Compensation

The information required under Item 11 which will be set forth in our definitive proxy statement to be filed within 120 days after the close of the fiscal year end in connection with our May 11, 2010, annual shareholders' meeting is incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required under Item 12 which will be set forth in our definitive proxy statement to be filed within 120 days after the close of the fiscal year end in connection with our May 11, 2010, annual shareholders' meeting is incorporated herein by reference.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required under Item 13 which will be set forth in our definitive proxy statement to be filed within 120 days after the close of the fiscal year end in connection with our May 11, 2010, annual shareholders' meeting is incorporated herein by reference.

Item 14. Principal Accountant Fees and Services

The information required under Item 14 which will be set forth in our definitive proxy statement to be filed within 120 days after the close of the fiscal year end in connection with our May 11, 2010, annual shareholders' meeting is incorporated by reference.



## PART IV

## Item 15. Exhibits and Financial Statement Schedules.

1. The following consolidated financial statements of Swift Energy Company together with the report thereon of Ernst & Young LLP dated February 26, 2010, and the data contained therein are included in Item 8 hereof:

Management's Report on Internal Control Over Financial Reporting	46
Report of Independent Registered Public Accounting Firm on Internal Control Over Financial Reporting	47
Report of Independent Registered Public Accounting Firm	48
Consolidated Balance Sheets	50
Consolidated Statements of Operations	49
Consolidated Statements of Stockholders' Equity	51
Consolidated Statements of Cash Flows	52
Notes to Consolidated Financial Statements	53

## 2. Financial Statement Schedules

[None]

## 3. Exhibits

- 3.1 Certificate of Formation of Swift Energy Company (incorporated by reference as Exhibit 3.1 to Swift Energy Company's Form 8-K filed November 3, 2009, File No. 1-08754).
- 3.2 Second Amended and Restated Bylaws of Swift Energy Company, effective October 30, 2009 (incorporated by reference as Exhibit 3.2 to Swift Energy Company's Form 8-K filed November 3, 2009, File No. 1-08754).
- 3.3 Certificate of Designation of Series A Junior Participating Preferred Stock of Swift Energy Company (incorporated by reference as Exhibit 3.4 to Swift Energy Company's Form 8-K filed December 29, 2005, File No. 1-08754).
- 4.1 Indenture dated as of May 19, 2009, between Swift Energy Company and Wells Fargo Bank, National Association, as Trustee (incorporated by reference as Exhibit 4.1 to Swift Energy Company's Form S-3 filed May 19, 2009, and amended June 17 and June 26, 2009, File No. 1-08754).
- 4.2 First Supplemental Indenture dated as of November 25, 2009, between Swift Energy Company, Swift Energy Operating, LLC, and Wells Fargo Bank, National Association, as Trustee, including the form of 8 7/8% Senior Notes (incorporated by reference as Exhibit 4.1 to Swift Energy Company's Form 8-K filed December 2, 2009, File No. 1-08754).

4.3

Amended and Restated Rights Agreement between Swift Energy Company and American Stock Transfer & Trust Company, dated March 31, 1999 (incorporated by reference to Swift Energy Company's Amendment No. 1 to Form 8-A filed April 7, 1999, File No. 1-08754).

- 4.4 Amendment No. 1 to the Rights Agreement dated December 12, 2005 between Swift Energy Company and American Stock Transfer & Trust Company, as Rights Agent (incorporated by reference as Exhibit 4.3 to Swift Energy Company's Form 8-K filed December 29, 2005, File No. 1-08754).
- 4.5 Assignment, Assumption, Amendment and Novation Agreement between Swift Energy Company, New Swift Energy Company and American Stock Transfer & Trust Company, as Rights Agent effective at 9:00 a.m. local time in Austin, Texas on December 28, 2005 (incorporated by reference as Exhibit 4.4 to Swift Energy Company's Form 8-K filed December 29, 2005, File No. 1-08754).
- 4.6 Amendment No. 2 to the Rights Agreement dated December 21, 2006 between Swift Energy Company and American Stock Transfer & Trust Company, as Rights Agent (incorporated by reference as Exhibit 4.1 to Swift Energy Company's Form 8-K filed December 22, 2006, File No. 1-08754).
- 4.7 Form of indenture dated as of May 16, 2007 between Swift Energy Company and Wells Fargo Bank, National Association (incorporated by reference as Exhibit 4.1 to Swift Energy Company's Registration Statement on Form S-3 filed May 17, 2007, File No. 333-143034).
- 4.8 First Supplemental Indenture dated as of June 1, 2007, between Swift Energy Company, Swift Energy Operating, LLC and Wells Fargo Bank, National Association relating to the 7-1/8% Senior Notes due 2017 (incorporated by reference as Exhibit 4.1 to Swift Energy Company's Form 8-K filed June 7, 2007, File No. 1-08754).
- 10.1+ Amended and Restated Swift Energy Company 1990 Nonqualified Stock Option Plan, as of May 13, 1997 (incorporated by reference from Swift Energy Company's definitive proxy statement for the annual shareholders meeting filed April 14, 1997, File No. 1-08754).
- 10.2+ Amendment to the Swift Energy Company 1990 Stock Compensation Plan, as of May 9, 2000 (incorporated by reference as Exhibit 4.2 to the Swift Energy Company registration statement No. 333-67242 on Form S-8 filed August 10, 2001, File No. 1-08754).
- 10.3+ Swift Energy Company 2001 Omnibus Stock Compensation Plan, as of January 1, 2001 (incorporated by reference as Exhibit 4.3 to the Swift Energy Company registration statement no. 333-67242 on Form S-8 filed August 10, 2001, File No. 1-08754).
- 10.4 Form of Indemnity Agreement for Swift Energy Company officers (incorporated by reference as Exhibit 10.12 to Swift Energy Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2000, File No. 1-08754).
- 10.5 Form of Indemnity Agreement for Swift Energy Company directors (incorporated by reference as Exhibit 10.12 to Swift Energy Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2000, File No. 1-08754).
- 10.6+ Consulting Agreement between Swift Energy Company and Virgil N. Swift effective as of July 1, 2006 (incorporated by reference as Exhibit 10.1 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2006, File No. 1-08754).
- 10.7+ Forms of agreements for grant of incentive stock options and forms of agreement for grant of restricted stock under Swift Energy Company 2005 Stock Compensation Plan (incorporated by

reference as Exhibit 10.19 to Swift Energy Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2005, File No. 1-08754).

- 10.8 First Amended and Restated Credit Agreement effective as of June 29, 2004, among Swift Energy Company and Bank One, NA as Administrative Agent, Wells Fargo Bank, National Association as Syndication Agent, BNP Paribas, as Syndication Agent, Caylor, as Documentation agent, Societe Generale, as Documentation Agent and the Lenders Signatory Hereto and Banc One Capital Markets, Inc., as Sole Lead Arranger and Sole Book Runner (incorporated by reference as Exhibit 10.2 to the Swift Energy Company Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2004, File No. 1-08754).

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- 10.9 First Amendment to First Amended and Restated Credit Agreement effective as of November 1, 2005 by and among Swift Energy Company, JP Morgan Chase Bank, N.A. as Administrative Agent, J.P. Morgan Securities, Inc. as Sole Lead Arranger and Sole Book Runner, Wells Fargo Bank, National Association, as Sydication Agent, BNP Paribas, as Syndication Agent, Cylon, as Documentation Agent, and Societe Generale, as Documentation Agent. (incorporated by reference as Exhibit 10.1 to the Swift Energy Company Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2005, File No. 1-08754).
- 10.10 Second Amendment to First Amended and Restated Credit Agreement effective as of December 28, 2005, by and among Swift Energy Company and Swift Energy Operating, LLC, and, J.P. Morgan Chase Bank, N.A., as Administrative Agent, J.P. Morgan Securities, Inc. as Sole Lead Arranger and Sole Book Runner, Wells Fargo Bank, National Association, as Syndication Agent, BNP PARIBAS, as Syndication Agent, Calyon as Documentation Agent and Societe Generale as Documentation Agent (incorporated by reference as Exhibit 10.23 to Swift Energy Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2005, File No. 1-08754).
- 10.11 Third Amendment to First Amended and Restated Credit Agreement effective as of October 2, 2006, by and among Swift Energy Company and Swift Energy Operating, LLC, and, J.P. Morgan Chase Bank, N.A., as Administrative Agent, J.P. Morgan Securities, Inc. as Sole Lead Arranger and Sole Book Runner, Wells Fargo Bank, National Association, as Syndication Agent, BNP PARIBAS, as Syndication Agent, Calyon as Documentation Agent and Societe Generale as Documentation Agent (incorporated by reference to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006, File No. 1-08754).
- 10.12 Eighth Amendment to Lease Agreement between Swift Energy Company and Greenspoint Plaza Limited Partnership dated as of June 30, 2004 (incorporated by reference as Exhibit 10.1 to the Swift Energy Company Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2004, File No. 1-08754).
- 10.13 Purchase and Sale Agreement dated as of August 24, 2006 but effective as of April 1, 2006, between Swift Energy Operating, LLC and BP America Production Company.
- 10.14+ Amendment No. 1 to the Swift Energy Company First Amended and Restated 2005 Stock Compensation Plan (incorporated by reference as Exhibit 10.1 to Swift Energy Company's Form 8-K filed April 1, 2009, File No. 1-08745).
- 10.15+ Amendment No. 2 to the Swift Energy Company First Amended and Restated 2005 Stock Compensation Plan (incorporated by reference as Exhibit 10.2 to Swift Energy Company's Form 8-K filed May 14, 2009, File No. 1-08754).
- 10.16 Asset Purchase and Sale Agreement between Escondido Resources LP and Swift Energy Operating, LLC dated as of September 4, 2007 but effective as of July 1, 2007 (incorporated by reference as Exhibit 99.1 to the Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2007 filed May 4, 2007).
- 10.17 Agreement for Sale and Purchase of Assets between Swift Energy New Zealand Limited, Swift Energy New Zealand Holdings Limited, Southern Petroleum (New Zealand) Exploration Limited, Origin Energy Recourses NZ (SPV1) Limited, Origin Energy Resources NZ (SPV2) Limited and Origin Energy Limited effective December 1, 2007.

- 10.18 Fourth Amendment to First Amended and Restated Credit Agreement effective as of May 1, 2008, by and among Swift Energy Company and Swift Energy Operating, LLC, and J.P. Morgan Chase Bank, N.A., as Administrative Agent, J.P. Morgan Securities, Inc. as Sole Lead Arranger and Sole Book Runner, Wells Fargo Bank, N.A., as Syndication Agent, BNP PARIBAS, as Syndication Agent, Calyon as Documentation Agent and Societe Generale as Document Agent (incorporated by reference as Exhibit 10.1 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2008 filed August 8, 2008).

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- 10.19+ First Amended and Restated 2005 Stock Compensation Plan dated November 4, 2008 (incorporated by reference as Exhibit 10.1 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008 filed November 6, 2008).
- 10.20+ Swift Energy Company Change of Control Severance Plan dated November 4, 2008 (incorporated by reference as Exhibit 10.2 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008 filed November 6, 2008).
- 10.21+ Second Amended and Restated Executive Employment Agreement between Swift Energy Company and Terry E. Swift dated November 4, 2008 (incorporated by reference as Exhibit 10.3 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008 filed November 6, 2008).
- 10.22+ Second Amended and Restated Executive Employment Agreement between Swift Energy Company and Bruce H. Vincent dated November 4, 2008 (incorporated by reference as Exhibit 10.4 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008 filed November 6, 2008).
- 10.23+ Second Amended and Restated Executive Employment Agreement between Swift Energy Company and Alton D. Heckaman dated November 4, 2008 (incorporated by reference as Exhibit 10.5 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008 filed November 6, 2008).
- 10.24+ Executive Employment Agreement between Swift Energy Company and Robert J. Banks dated November 4, 2008 (incorporated by reference as Exhibit 10.6 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008 filed November 6, 2008).
- 10.25+ Amended and Restated Executive Employment Agreement between Swift Energy Company and James P. Mitchell dated November 4, 2008 (incorporated by reference as Exhibit 10.7 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2008 filed November 6, 2008).
- 10.26 Fifth Amendment to First Amended and Restated Credit Agreement effective as of May 1, 2009, by and among Swift Energy Company and Swift Energy Operating, LLC, and J.P. Morgan Chase Bank, N.A., as Administrative Agent, J.P. Morgan Securities, Inc. as Sole Lead Arranger and Sole Book Runner, Wells Fargo Bank, N.A., as Syndication Agent, BNP PARIBAS, as Syndication Agent, Calyon as Documentation Agent and Societe Generale as Document Agent (incorporated by reference as Exhibit 10.1 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2009 filed May 7, 2009).
- 10.27\* Sixth Amendment to First Amended and Restated Credit Agreement effective as of November 10, 2009, by and among Swift Energy Company and Swift Energy Operating, LLC, and J.P. Morgan Chase Bank, N.A., as Administrative Agent, J.P. Morgan Securities, Inc. as Sole Lead Arranger and Sole Book Runner, Wells Fargo Bank, N.A., as Syndication Agent, BNP PARIBAS, as Syndication Agent, Calyon as Documentation Agent and Societe Generale as Document Agent .
- 10.28+ Second Amended and Restated Executive Employment Agreement between Swift Energy Company and James M. Kitterman dated November 4, 2008 (incorporated by reference as Exhibit 10.8 to Swift Energy Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30,

2008 filed November 6, 2008).

10.29+ Employee Stock Purchase Plan, Generally Amended and Restated as of January 1, 2009.

12 \* Swift Energy Company Ratio of Earnings to Fixed Charges.

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- 21 \* List of Subsidiaries of Swift Energy Company.
- 23.1 \* Consent of H.J. Gruy and Associates, Inc.
- 23.2 \* Consent of Ernst & Young LLP as to incorporation by reference regarding Forms S-8 and S-3 Registration Statements.
- 31.1 \* Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2\* Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32 \* Certification of Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 99.1\* The summary of H.J. Gruy and Associates, Inc. reported February 23, 2010.

\* Filed herewith.

+ Management contract or compensatory plan or arrangement.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant, Swift Energy Company, has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

SWIFT ENERGY COMPANY

By: /s/ Terry E. Swift  
Terry E. Swift  
Chairman of the Board

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant, Swift Energy Company, and in the capacities and on the dates indicated:

Signatures	Title	Date
/s/ Terry E. Swift Terry E. Swift	Director Chief Executive Officer	February 25, 2010
/s/ Alton D. Heckaman, Jr. Alton D. Heckaman, Jr.	Executive Vice-President Principal Financial Officer	February 25, 2010
/s/ Barry S. Turcotte Barry S. Turcotte	Vice-President Controller Principal Accounting Officer	February 25, 2010
/s/ Deanna L. Cannon Deanna L. Cannon	Director	February 25, 2010
/s/ Raymond E. Galvin Raymond E. Galvin	Director	February 25, 2010



/s/ Douglas J. Lanier Douglas J. Lanier	Director	February 25, 2010
/s/Greg Matiuk Greg Matiuk	Director	February 25, 2010
/s/ Henry C. Montgomery Henry C. Montgomery	Director	February 25, 2010
/s/ Clyde W. Smith, Jr. Clyde W. Smith, Jr.	Director	February 25, 2010
/s/ Charles J. Swindells Charles J. Swindells	Director	February 25, 2010
/s/ Bruce H. Vincent Bruce H. Vincent	Director	February 25, 2010