

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

|                        |   |                             |
|------------------------|---|-----------------------------|
| IN RE:                 | § | (CHAPTER 11)                |
|                        | § |                             |
| DUNE ENERGY, INC.      | § | CASE NUMBER 15-10336        |
| DUNE OPERATING COMPANY | § | CASE NUMBER 15-10337        |
| DUNE PROPERTIES, INC.  | § | CASE NUMBER 15-10338        |
|                        | § |                             |
| DEBTORS.               | § | (JOINTLY ADMINISTERED UNDER |
|                        | § | CASE NUMBER 15-10336)       |

THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' APPLICATION FOR AN ORDER UNDER 11 U.S.C. §§ 330 AND 1103 AUTHORIZING THE EMPLOYMENT AND RETENTION AS FINANCIAL ADVISORS FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS NUNC PRO TUNC TO MARCH 27, 2015

A HEARING WILL BE CONDUCTED ON THIS MATTER ON MAY 18, 2015 AT 1:30 P.M. (CENTRAL TIME) IN COURTROOM NO. 2, 230 HOMER J. THORNBERRY FEDERAL JUDICIAL BUILDING, 903 SAN JACINTO BLVD, AUSTIN, TEXAS 78701.

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN 21 DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING. YOU MUST SERVE A COPY OF YOUR RESPONSE ON THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF.

TO THE HONORABLE H. CHRISTOPHER MOTT, U.S. BANKRUPTCY JUDGE:

The Official Committee of Unsecured Creditors for the above-captioned bankruptcy estates (the "Committee") hereby moves to employ Conway MacKenzie, Inc. ("CM") as Financial Advisor to the Committee, effective as of March 27, 2015. In support of this Application, the Committee relies upon and incorporates the Declaration of Bryan M. Gaston in Support of its Application (the "Gaston Declaration"), attached hereto as Exhibit A. The Committee respectfully represents as follows:

### **JURISDICTION**

1. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this Application is a core proceeding under 28 U.S.C. § 157(b) because it “arises under” the Bankruptcy Code, specifically 11 U.S.C. § 330 and 1103. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The Court has authority to enter final orders on this Application.

### **BACKGROUND**

2. On March 8, 2015, the Debtors commenced voluntary petitions for relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).

3. On March 20, 2015, the United States Trustee appointed the Committee, comprised of three creditors, to represent the interests of unsecured creditors of the Debtor pursuant to Section 1102 of the Bankruptcy Code.

4. On March 27, 2015, the Committee selected CM because its financial advisors have substantial experience and knowledge in the field of debtors’ and creditors’ rights and because its financial advisors have handled numerous bankruptcy cases. Accordingly, the Committee believes that CM is well qualified to represent it in these proceedings.

### **RELIEF REQUESTED**

5. By submission of this Application, the Committee requests that the Court enter an order authorizing the Committee to employ and retain CM, effective *nunc pro tunc* to March 27, 2015, the date of the Committee’s selection of CM to serve as its financial advisors, in accordance with the terms and conditions set forth in the engagement letter between the Committee and CM dated April \_\_, 2015 (the “Engagement Letter”), attached hereto as **Exhibit B**.

**BASIS FOR RELIEF**

6. The basis for the relief requested herein are Sections 330 and 1103 of the bankruptcy Code, Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2014 of the Local Rules of the United States Bankruptcy Court for the Western District of Texas (the “Local Rules”).

7. The Committee seeks approval of the employment and retention of CM as its financial advisor in this bankruptcy case, effective as of March 27, 2015.

8. Section 1103 of the Bankruptcy Code provides:

At a scheduled meeting of a committee appointed under section 1102 of this title, at which a majority of the members of such committee are present, and with the court’s approval, such committee may select and authorize the employment by such committee of one or more attorneys, accountants, or other agents, to represent or perform services for such committee.

11 U.S.C. § 1103(a).

9. Section 1103(b) further provides:

An attorney or accountant employed to represent a committee appointed under section 1102 of this title may not, while employed by such committee, represent any other entity having an adverse interest in connection with the case. Representation of one or more creditors of the same class as represented by the committee shall not per se constitute the representation of an adverse interest.

11 U.S.C. § 1103(b).

10. Pursuant to Local Rule 2014(c), the Application has been filed within thirty (30) days of March 27, 2015, and is deemed contemporaneous. Accordingly, CM’s retention should be granted *nunc pro tunc* to March 27, 2015.

11. CM has extensive experience in providing financial advisory services in connection with bankruptcy proceedings, and is particularly well qualified for the type of representation which is required by the Committee. CM is a financial advisory firm with a

broad-based practice, its members having substantial experience representing unsecured creditor committees. Accordingly, CM possesses the requisite expertise and background to handle matters that are likely to arise in this bankruptcy case.

12. CM will render financial advisory services within its expertise as requested by the Committee or its legal advisors McKool Smith, P.C.

13. The Committee requests that all fees and related costs incurred by the Committee on account of services rendered by CM in this case be paid as administrative expenses of the Debtors' estate in accordance with the Bankruptcy Code and applicable orders entered in this case.

14. Subject to the Court's approval, CM will seek approval of payment of compensation and reimbursement of actual, necessary expenses and other charges upon CM's filing of appropriate applications for the allowance of interim and final compensation and reimbursement of expenses pursuant to Sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and orders of this Court. The Committee requests that CM be compensated on an hourly basis and reimbursed for the actual, necessary expenses it incurs.

15. As required by Local Rule 20 14(b)(1)(B), the contact information for CM is:

Conway MacKenzie, Inc.  
Attn: Bryan Gaston  
1301 McKinney, Suite 2025  
Houston, Texas 77010  
Phone: 713.650.0500  
Email: bgaston@conwaymackenzie.com

16. Currently, hourly rates CM's professionals range from \$350 to \$675. However, for this case, the rates for professionals used in the case will be discounted as set forth in the Gaston Declaration.

17. CM maintains records of any actual and necessary costs incurred in connection with the aforementioned financial advisory services. CM intends to apply to the Court for compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, but, pending such applications, CM requests payment of its fees and expenses in accordance with any interim compensation procedures order approved by the Court.

18. The Engagement Letter provides that the Debtors will indemnify, hold harmless and pay the reasonable out-of-pocket legal or other expenses of CM or any of its affiliates, partners, officers, directors, shareholders, agents, employees or controlling persons (collectively, the "Indemnified Persons") under certain circumstances, as described more specifically in Schedule I to the Engagement Letter (the "Indemnification Provisions").

19. Financial advisors seek indemnification for a variety of reasons. The performance of CM's responsibilities requires the exercise of professional judgment regarding difficult business and financial issues, as to which many persons may have diverse financial interests. CM intends to rely on the accuracy and completeness of the financial information and other information to be provided by the Debtors. CM may also be involved in negotiations and transactions in which the Debtors and/or the Committee direct that certain actions be taken. CM therefore seeks indemnification from the Debtors for liabilities and losses that arise out CM's engagement or provision of financial advisory services referred to in this Application and the Engagement Letter. However, in the event an Indemnified Person acts with gross negligence or willful misconduct, the estate will be entitled to recover amounts paid pursuant to the Indemnification Provisions.

20. The Committee and CM believe that the proposed Indemnification Provisions are customary and reasonable for financial advisory engagements, both out-of-court and in chapter 11 proceedings. Similar indemnification arrangements have been approved and implemented in this case with respect to the Debtors' financial advisor, Deloitte Transactions and Business Analytics, as well as in other large chapter 11 cases. *See, e.g., In re Pilgrim's Pride Corporation*, et al., Case No. 08- 45664 (Bankr. N.D. Tex. Jan. 9, 2009); *In re New Century TRS Holdings, Inc.*, Case No. 07- 10416 (Bankr. D. Del. April 26, 2007); *In re Foamex Int'l, Inc.*, Case No. 05-12685 (PJW) (Bankr. D. Del. Oct. 15, 2005); *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); *In re Joan & David Halpern, Inc.*, 248 B.R. 43 (Bankr. S.D.N.Y. 2000), *aff'd*, 200 WL 1800690 (S.D.N.Y. Dec. 6, 2000).

21. The proposed Indemnification Provisions are also consistent with the standards that normally govern trustees and committees in chapter 11 cases. *See Sherr v. Winkler*, 552 F.2d 1367, 1375 (10th Cir. 1977) (holding that a trustee is "(a) not liable, in any manner, for mistake in judgment where discretion is allowed, (b) liable personally only for acts determined to be willful and deliberate in violation of his duties and (c) liable, in his official capacity, for acts of negligence."); *In re Chicago Pacific Corp.*, 773 F.2d 909, 915 (7th Cir. 1985) (bankruptcy trustee can be personally liable only "for a willful and deliberate violation of his fiduciary duties"); *In re Hutchinson*, 5 F.3d 750, 752-53 (4th Cir. 1993) (collecting cases). Members of creditors' committees are also protected from liability in the absence of gross negligence. *In re PWS Holding Corp.*, 228 F.3d 224, 246 (3d Cir. 2000). In fact, the Third Circuit has held that professional employed by creditors' committees similarly should be protected from liability in the absence of gross negligence. *Id.*

22. For these reasons, indemnification agreements are common market practice, both

inside and outside of bankruptcy cases, and it is the standard practice for firms like CM to obtain indemnities of the kind outlined in the Engagement Letter.

23. The Engagement Letter further provides that the Debtors agree to notify CM if they extends an offer of employment to an employee of CM working on this engagement ("CM engagement employee"). In recognition of the training, time, and other resources CM invests in the development of CM's employees, in the building of relationships between clients and CM employees, the loss of client billable time that is necessitated by the transition of client files from a departing employee to another employee, and the difficulty of placing a monetary value on these investments by CM, the Engagement Letter further provides that if the Debtors hire any CM engagement employee up to two years subsequent to the date of the final invoice rendered by CM for this engagement, the Debtors will pay CM a cash fee in the amount \$1 million. Such cash fee shall be paid upon the Debtors' hiring of such CM engagement employee. The Engagement Letter does not prohibit the Debtors from making general solicitations for employment or from soliciting for employment any individuals who have ceased to be employees or agents of CM prior to such solicitation.

24. Except as may be stated herein and in the Gaston Declaration, CM, to the best of the Committee's knowledge, (a) does not represent any other entity in connection with this case, (b) is "disinterested" as that term is defined in Section 101 of the Bankruptcy Code, and (c) does not represent or hold any interest adverse to the interest of the Debtors' bankruptcy estate with respect to the matters for which it is to be employed. In addition, neither CM nor its professionals have any connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, except as set forth in the Gaston Declaration.

25. CM will review its files periodically during the pendency of the case to ensure that no conflicts or other disqualifying circumstances exist or arise. If CM discovers any new relevant facts or relationships, it will use reasonable efforts to identify such further developments and will file promptly a supplemental declaration, as required by Bankruptcy Rule 2014(a).

26. CM has not entered into any agreements to share compensation as may be awarded to it for services rendered in this case, except as permitted under Section 504(b) of the Bankruptcy Code.

**PRAYER**

**WHEREFORE**, the Committee respectfully requests that this Court authorize the Committee, pursuant to Section 1103 of the Bankruptcy Code and Bankruptcy Rule 2014, to employ and retain Conway MacKenzie, Inc. in accordance with the terms hereof, effective as of March 27, 2015; and grant such other and further relief as the Court may deem just and proper.

Dated: April 16, 2015.

Respectfully Submitted,

OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS

Crescent Energy Services, LLC, Chair

By: 

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 27, 2015, a true and correct copy of the foregoing was electronically filed with the Clerk of the United States Bankruptcy Court for the Western District of Texas, and was served upon the parties eligible to receive notice through the Court's ECF facilities by electronic mail, and was served on all parties listed on the Debtors most current Master Service List via U.S. first class mail, postage prepaid.

  
Basil A. Umari



# **EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| <b>IN RE:</b>                 | § | <b>(CHAPTER 11)</b>                |
|                               | § |                                    |
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| <b>DUNE PROPERTIES, INC.</b>  | § | <b>CASE NUMBER 15-10338</b>        |
|                               | § |                                    |
| <b>DEBTORS.</b>               | § | <b>(JOINTLY ADMINISTERED UNDER</b> |
|                               | § | <b>CASE NUMBER 15-10336)</b>       |

**DECLARATION OF BRYAN M. GASTON IN SUPPORT OF COMMITTEE  
APPLICATION UNDER 11 U.S.C. §§ 330 AND 1103 AND FED. R. BANKR. P. 2014, FOR  
ORDER AUTHORIZING *NUNC PRO TUNC* RETENTION AND EMPLOYMENT OF  
CONWAY MACKENZIE, INC. AS FINANCIAL ADVISORS**

I, BRYAN M. GASTON, hereby declare (the "Declaration"), under penalty of perjury as follows:

I am a Managing Director at Conway MacKenzie, Inc. ("CM"), a restructuring and financial advisory firm, which maintains offices at 1301 McKinney, Suite 2025, Houston, Texas 77010.

I submit this declaration in connection with the application (the "Application") of the Official Committee of Unsecured Creditors (the "Committee") to retain and employ CM as financial advisors for the Committee in the above-captioned cases, pursuant to Sections 330 and 1103(a) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "Bankruptcy Code") and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein. I will supplement this Declaration if additional information becomes available during the pendency of these cases.

**CM'S RELATIONSHIP WITH THE DEBTORS AND COMMITTEE**

1. I am not, nor is CM, an insider of any of the Debtors.<sup>1</sup> Neither CM nor I hold directly any claim, debt or other interest in any of the Debtors.

2. No member of CM has been, within two years from the Petition Date, a director, officer or employee of the Debtors as specified in subparagraph (C) of 11 U.S.C. § 101(14).

3. CM does not have an interest materially adverse to the interests of the Debtors' estate or of any class of creditors or equity security holders of the Debtors, by reason of any direct or in direct relationship to, connection with, or interest in, the Debtors.

**CM'S DISCLOSURE PROCEDURES**

4. CM has a large and diversified financial advisory practice that has encompassed the representation of numerous parties in complex chapter 11 cases, as disclosed in more detail on the website of [www.conwaymackenzie.com](http://www.conwaymackenzie.com).

5. In preparing this Declaration, CM has undertaken a detailed search to determine, and to disclose, whether it is providing or has provided, services to any significant creditor, investors, insider or other party in interest in such unrelated matters. This search was performed in an effort to ensure full compliance with the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Western District of Texas (the "Local Rules") regarding the retention of professionals by debtors under the Bankruptcy Code. I was personally involved in the detailed search referenced above, which involved the following actions to identify parties relevant to this Declaration and to ascertain CM's connection to such parties:

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<sup>1</sup> Dune Energy, Inc., Dune Operating Company, and Dune Properties, Inc. (collectively, "Debtors").

(a) Based on lists provided by the Debtors and other information that I am aware of, the Committee's counsel McKool Smith, P.C. compiled a list of (i) the Debtors; (ii) the Debtors' professionals; (iii) the Debtors' twenty (20) largest unsecured creditors; (iv) the pre-petition and proposed post-petition secured lenders; (v) the Debtors' officers and directors; (vi) the Debtors' utility/governmental entity creditors; and (vii) other potentially material adverse parties as of the Petition Date (the "Potential Party List"). A copy of the Potential Party List is attached hereto as **Schedule 1.**

(b) CM maintains a system for checking conflicts. CM's review, completed under my supervision, consisted of a query of current and former clients represented by CM. Based on the results of its review, CM (including its affiliates and employees) does not have a relationship with any of the parties.

(c) Utilizing this system and by making specific inquiries of CM personnel, I verified that CM did not and does not represent any entity in connection with the Committee, Debtors, or these chapter 11 cases except to the extent disclosed herein.

**CM'S CONNECTIONS WITH PARTIES IN INTEREST  
IN MATTERS UNRELATED TO THIS CHAPTER 11 CASE**

6. CM is a "disinterested person" as that term is defined in Section 101(14) of the Bankruptcy Code in that CM, its principals, counsel and associates: (a) are not creditors, equity security holders or insiders of the Debtors; (b) are not and were not, within two years before the Petition Date, a director, officer, or employee of the Debtors; and (c) do not have an interest materially adverse to the Debtors' estate or to any class of creditors by reason of any direct or indirect relationship to, connection with, or interest in the Debtors, or for any other reason, except as otherwise stated herein.

7. The Debtors, evidently in a complete computer data dump from its database, listed over two thousand (2,000) royalty owners and trade vendors (not necessarily creditors of the estate) in first day pleadings relating to its counsel's employment. No amounts are shown as owing and they simply appear to be listed as parties in the computer system without addresses sufficient to narrow down the identity of the parties. CM has not completed a search of those 2000 names as it is not clear if they are creditors in this proceeding. If they are creditors, they would appear to be unsecured. In any event, CM does not represent any of the royalty owners in this case.

8. After reviewing the conflicts check, it was determined that in respect of each connection between CM and such parties, CM does not hold or represent an interest that is adverse to the Debtors' estate.

9. No material connections with parties to this case merit discussion, except as follows. CM retained Haynes and Boone, LLP, counsel to the Debtors, to represent CM in its capacity as Disbursing Agent under the Third Amended Chapter 11 Plan of Reorganization Dated October 29, 2014 In Respect of Houston Regional Sports Network, L.P. (dated October 29, 2014 in respect to Houston Regional Sports Network, LP and the Conway MacKenzie, Inc. Disbursement Trust established pursuant to the Liquidating Trust Agreement dated November 14, 2014. The matter is wholly unrelated to the Debtors.

10. In addition to the foregoing, CM, from time to time, may work with, engage, and receive referrals from several of the attorneys and financial advisors or consultants retained by the Debtors, the prepetition secured lenders, or expected to be retained by the Debtors. However, I have discovered no connections with this case.

11. Because distressed debt is actively traded in the commercial markets, CM may be unaware of the actual holder of such debt at any given moment. CM represents numerous entities

that may buy and/or sell distressed debt of chapter 11 debtors. Such representations are transactional in nature and such representations will not involve the representation of the holder of such claim(s) in this case.

12. CM does not, and will not represent any entity or any respective affiliates or subsidiaries thereof, in matters related to the Debtors or their chapter 11 cases. CM may in the future represent entities that are claimants of, or interest holders in, the Debtors in matters unrelated to the Debtors.

13. CM has no connections with the United States Trustee or the attorneys for the United States Trustee in this case. CM's only connection with the Debtor's taxing authorities is in the normal context of representing entities who may owe taxes. Likewise, no connections between CM and EOS Petro, Inc. was found.

14. As set forth above, CM may be currently adverse to entities asserting claims against the Debtors in matters unrelated to the Debtors or this case. However, CM has searched performed a detailed search and determined that it is not presently adverse to the Debtors.

15. As a matter of retention and disclosure policy, I will continue to review CM's relationships for connections periodically as additional information concerning entities having a connection to the Debtors develops and will file appropriately supplemental disclosures with this Court, as necessary.

#### **CM'S RATES AND BILLING PRACTICES**

16. If the Application is granted, subject to Court approval, compensation would be payable to CM on an hourly basis, plus reimbursement of actual, necessary expenses and other charges incurred by CM. As is the case with respect to work for all of its clients, CM's rates are

subject to periodic adjustments to reflect economic and other market conditions. Currently, hourly rates of CM professionals range as follows:

|                          |           |           |
|--------------------------|-----------|-----------|
| Senior Managing Director | \$ 585.00 | \$ 695.00 |
| Managing Director        | \$ 525.00 | \$ 585.00 |
| Director                 | \$ 450.00 | \$ 525.00 |
| Senior Associate         | \$ 350.00 | \$ 450.00 |

17. However, for this case, the rates for services provided in the case will be discounted approximately fifteen percent (15%).

18. CM's disbursement policies pass through all out-of-pocket expenses at actual cost or at estimated cost when the actual cost is difficult to determine. These expenses include facsimiles, toll calls, overtime meals, computerized research, deliveries, court costs, transcript fees, travel, clerk fees, certain secretarial and other overtime expenses, and other expenses.

19. No promises have been received by CM, or any director or associate thereof, as to payment or compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code. CM has no agreement with any other entity to share with such entity any compensation received by CM or by any such entity.

20. The Application requests approval of its retention of CM as financial advisor to the Committee on rates, terms and conditions consistent with what CM charges in non-bankruptcy matters, namely, prompt payment of its hourly rates as adjusted from time to time and reimbursement of out-of-pocket disbursements at cost or based on formulas that approximate the actual cost where the actual cost is not easily ascertainable. Subject to these terms and conditions, and consistent with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, order of the Court, and the U.S. Trustee guidelines, CM intends to apply for compensation for professional services rendered in this chapter 11 case at its customary hourly rates and for reimbursement of expenses incurred in connection therewith.

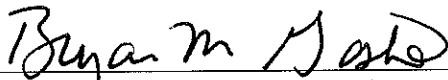
21. The foregoing constitutes the statement of CM pursuant to Bankruptcy Rule 2014.



22. The foregoing statements are true and correct to the best of my knowledge,  
information and belief.

April 27, 2015.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the above facts are true and  
correct.

  
\_\_\_\_\_  
Bryan M. Gaston, Managing Director

**SCHEDULE 1: POTENTIAL PARTY-IN-INTEREST LIST**

**Debtors**

Dune Energy, Inc.  
Dune Operating Company  
Dune Properties, Inc.

**Judge and U.S. Trustee**

Christopher Mott  
Henry G Hobbs Assistant US Trustee  
Deborah Bynum Trial Attorney  
Valerie Wenger Trial Attorney

**Secured Lenders and Banks**

Bank of Montreal  
BMO Capital Markets  
BMO Harris Financing  
CIT Bank  
CIT Capital Securities LLC  
BBVA Compass Bank  
Morgan Stanley Capital Partners V, LP  
Ms Capital Partners Adviser Inc  
Bank Of Montreal  
BMO Capital Markets Corp  
BMO Harris Financing, Inc  
CIT Bank  
CIT Capital Securities, Llc  
US Bank National Association

**Noteholders**

AEIS INC.  
BANK OF NEW YORK  
BNP/PPBC  
CHARLES SCHWAB  
E TRADE  
FID SSB  
FIRST CLEAR  
GOLDMAN SACHS  
JEFFRIES  
JPMC CLEAR  
JPMCB/CTC  
LPL FIN CO  
ML SFKPG  
MSSB  
NFS LLC  
NORTHERN TRUST

PERSHING  
RBCCAPMKTS  
SOUTHWEST  
SSB&T CO  
UBS FINAN  
VANGUARD  
ADP PROXY SERVICES (ISSUER SERVICES)

**Debtor's Professionals**

Haynes & Boone, LLP  
Perella Weinberg Partners, LP  
FTI Consulting, Inc.  
Deloitte Financial Advisory Services, LLP

**20 Largest Unsecured Creditors**

Shoreline Southeast LLC  
Crescent Energy Services, LLC  
Island Operating Company, Inc.  
Exterran Energy Solutions, LP  
Terrebonne Wireline Services, Inc.  
Nalco Company  
T. Baker Smith  
CDM Resource Mgmt Ltd  
Oil Mop LLC  
Premier Industries, LLC  
Basic Energy Services, LP  
Performance Wellhead & Frac  
C F & S Tank & Equipment Co.  
FA S Environmental Svcs  
Coastal Crewboats, Inc.  
Travelers  
Stokes & Spiehler Onshore, Inc.  
Dnow, L.P.  
Zedi US Inc.

**Other Potential Parties**

Internal Revenue Service  
Texas Comptroller Of Public Accounts  
Texas Employment Commission  
Department of Justice – US Attorney  
Department of Justice – Attorney General  
Securities and Exchange Commission  
Brazoria County, Texas  
Colorado County, Texas  
Harris County, Texas  
Karnes County, Texas

Calcasieu Parish, Louisiana  
East Baton Rouge Parish, Louisiana  
Iberia Parish, Louisiana  
Jefferson Davis Parish, Louisiana  
Lafourche Parish, Louisiana  
Plaquemines Parish, Louisiana  
St. Martin Parish, Louisiana  
St. Mary Parish, Louisiana  
Vermilion Parish, Louisiana

**Utilities and County Authorities**

A T & T  
AT&T Mobility  
AT&T Teleconference Services  
Britain Electric Company  
Cleco Power LLC  
Demco  
Dish Network  
Entergy  
Gulf Coast Broadband, LLC  
Hughes Network Systems,  
Kaplan Telephone Company  
Let Us Answer  
Reliant Energy  
San Bernard Electric Coop Inc  
Slemco  
Town Of Berwick  
Verizon Wireless  
Waste Management  
Waste Management Of SE Texas

# **EXHIBIT B**

## CONWAYMACKENZIE

1301 McKinney, Suite 2025  
Houston, Texas 77010  
713.650.0500 | 713.650.0502 FAX  
www.ConwayMacKenzie.com

March 29, 2015

**Private & Confidential**  
**Via E-mail**

Mr. Paul McKim  
Crescent Energy Services, Chair of the Official Committee of Unsecured Creditors  
1304 Engineers Road  
Belle Chase, LA 70037

**Re:     *Engagement of Conway MacKenzie, Inc. to Provide Professional Services to the  
Committee of Unsecured Creditors of Dune Energy, Inc. and Affiliated Debtors***

Dear Mr. McKim:

This letter confirms the terms and conditions of the engagement by the Official Committee of Unsecured Creditors (the "Committee") of Dune Energy, Inc., et al. ("Dune", "Debtors" or the "Company") of Conway MacKenzie, Inc. ("CM") to provide professional services in connection with the Committee's efforts to maximize the value and recovery of the claims of unsecured creditors of Dune.

**Scope of Engagement**

Our services will include those within our expertise specifically requested by the Committee or its legal advisors, McKool Smith PC ("McKool Smith")

**Engagement Fees**

Fees for our services will be based upon the actual number of hours incurred at hourly rates discounted approximately fifteen percent from the following:

|                          |           |           |
|--------------------------|-----------|-----------|
| Senior Managing Director | \$ 585.00 | \$ 695.00 |
| Managing Director        | \$ 525.00 | \$ 585.00 |
| Director                 | \$ 450.00 | \$ 525.00 |
| Senior Associate         | \$ 350.00 | \$ 450.00 |

CM will submit invoices to the Debtors on a monthly basis and file interim and final fee applications in accordance with the Court's *Order Establishing Procedures for Monthly and Interim Compensation and Reimbursement of Expenses for Professionals* (docket no. 141) and Sections 330 and 331 of the

ATLANTA | CHICAGO | DALLAS | DAYTON | DETROIT | FRANKFURT | HOUSTON | LONDON | LOS ANGELES | NEW YORK

TURNAROUND & CRISIS MANAGEMENT | TRANSACTION ADVISORY | LITIGATION SUPPORT | VALUATION & FORENSIC ANALYSIS

**Mr. Paul McKim**

**March 29, 2015**

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Bankruptcy Code, 11 U.S.C. § 101, et seq.. Aggregate cumulative fees paid by the Company to CM and McKool Smith shall not exceed the amount allocated to Committee professionals in the DIP budget (Docket No. 162 at pp. 53-54) (the "Committee Allocation"). In the event that the fees and expenses of McKool Smith and CM together exceed the Committee Allocation, McKool Smith and CM will agree upon an appropriate sharing of the Committee Allocation; provided, however that if no agreement can be reached, the Committee will determine the allocation. Payment of any fees in excess of amounts paid in accordance with the DIP budget as set forth herein will be authorized and made only through separate order of the Bankruptcy Court unless otherwise agreed by the Committee, Debtors and DIP Lender. Bryan M. Gaston, Managing Director, will provide oversight and engagement management with a billing rate of \$500 per hour. The Committee agrees to support and facilitate an expedited process to approve our retention. We understand that the Debtors will pay our invoices, upon receipt, subject to applicable bankruptcy law, rules and local orders.

#### **Access to Records**

In order for us to perform our services, it will be necessary for our personnel to have access to certain books, records and reports of the Company, and to have discussions with Company personnel. Accordingly, we understand that the Company has agreed to cooperate with our personnel, and to make available its personnel and fully disclose any books, records and other sources from which data can be obtained and that the books, records and reports of the Company are of reasonable organization and quality.

#### **Non-Audit**

Because of the time and scope limitations implicit in our engagement, the depth of our analysis and verification of data is significantly limited. We understand that we are not being requested to perform an audit nor apply generally accepted auditing standards or procedures. We understand that we are entitled, in general, to rely on the accuracy and validity of the data disclosed to us or supplied to us by employees and representatives of the Company and the Committee. We will not, nor are we under any obligation to update data submitted to us or review any areas unless you specifically request us to do so in writing.

#### **Confidentiality**

It is agreed that all professional services will be performed on a confidential basis. Any information that CM requests of the Company or the Committee will be for the sole purpose of accomplishing the services as described above, and such information shall be used for no other purposes. Such information will be held in confidence and not used, disclosed to others, or in any way used by CM for any purposes other than as specifically provided for by the terms of this engagement letter. CM will restrict dissemination of any information provided or disclosed to us or to our employees and agents who have an actual need to know, and are informed by us of the

Mr. Paul McKim  
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confidential nature of the information and the obligations herein. All such information shall remain the sole property of the Company and CM shall obtain no right of any kind to any of the information. Upon written notice, CM will promptly return all writings, records, documents and copies containing and/or referencing any of the confidential information.

#### **Disclosure of Pre-existing Relationships**

At the present time, CM knows of no facts or circumstances that would represent a conflict of interest for it with regard to its engagement by the Committee in connection with the aforementioned services.

#### **Covenant Regarding Hiring of CM Employees**

The Company agrees to notify CM if it extends an offer of employment to an employee of CM working on this engagement ("CM engagement employee"). In recognition of the training, time, and other resources CM invests in the development of CM's employees, in the building of relationships between clients and CM employees, the loss of client billable time that is necessitated by the transition of client files from a departing employee to another employee, and the difficulty of placing a monetary value on these investments by CM, the Company further agrees that if it hires any CM engagement employee up to two years subsequent to the date of the final invoice rendered by CM for this engagement, the Company will pay CM a cash fee in the amount \$1 million. Such cash fee shall be paid upon the Company's hiring of such CM engagement employee. This agreement does not prohibit the Company from making general solicitations for employment or from soliciting for employment any individuals who have ceased to be employees or agents of CM prior to such solicitation.

#### **Indemnification**

In consideration of our agreement to act on the Committee's behalf in connection with this engagement, the Company agrees to indemnify, hold harmless, and defend CM and certain other entities and persons as set forth on the attached Schedule 1.

#### **Limitation of Liability**

CM and any of its partners, employees, agents, officers, directors, affiliates, subsidiaries, shareholders, successors, heirs or assigns shall not be liable to the Committee, Company or any of its equity holders for any loss or damage except such as is a direct result of CM's gross negligence or willful misconduct. CM will in no case be liable for special, incidental, consequential, punitive or indirect loss or damage, including lost profits or lost savings, whether or not such are foreseeable or CM has been advised of the possibility of such damage. CM's liability, if any, under or in relation to this agreement shall be limited in amount to fees paid to CM by the Company for services rendered.

#### **Termination**



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Either the Committee or CM may terminate this engagement at any time and for any reason whatsoever provided that, if terminated by either party, all professional fees and expenses due, both billed and unbilled, up through the time and date of termination shall become immediately due and payable, subject to orders of the court and court approval. The confidentiality, covenant regarding hiring of CM employees, indemnification, limitation of liability and dispute resolution provisions of this agreement shall survive termination of CM's engagement by the Committee.

#### **Dispute Resolution**

In the event of a dispute, each of the parties agrees to submit to binding arbitration exclusively to resolve any and all differences and disputes which may arise between them (and their heirs, successors, assigns, employees, officers, directors, affiliates, subsidiaries, or shareholders) related to this agreement, any other agreement between the parties, or otherwise arising between the parties. Prior to initiating arbitration, the parties shall first meet face-to-face to affect a resolution of the differences. Any differences, which the parties are unable to resolve in said face-to-face meeting, shall be heard and finally settled in Oakland County, Michigan, or in any other location mutually agreed upon by the parties, by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Such arbitration shall be initiated in the Southfield, Michigan, office of the American Arbitration Association. Any award entered in any such arbitration shall be final, binding, and may be entered and enforced in any court of competent jurisdiction.

#### **Governing Law**

This agreement letter shall be governed by and construed in accordance with the laws of the State of Michigan without regard to such state's rules concerning conflict of laws.

#### **Severability**

If any term, provision or portion of this agreement letter shall be determined to be invalid, void or unenforceable, the remainder of the terms, provisions and portions of this agreement letter shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

#### **Complete Understanding**

This agreement letter sets forth the entire understanding of the parties concerning the matters contained herein and supersedes all prior agreements, arrangements and communications, whether oral or written, with respect to the matters contained herein.

#### **Modification**

This agreement letter may not be altered, modified or changed in any manner except by a writing duly executed by the parties hereto.

#### **Notices**

**Mr. Paul McKim**  
**March 29, 2015**  
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All notices required or permitted to be delivered under this letter agreement shall be sent, if to CM, to the address set forth at the head of this letter, to the attention of Mr. Van E. Conway, and if to the Company, to the address set forth above to the attention of the Company's General Counsel, or to such other name or address as may be given in writing to the other party. All notices under this agreement letter shall be sufficient if delivered by facsimile or overnight mail. Any notice shall be deemed to be given only upon actual receipt.

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March 29, 2015  
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**Acceptance of Terms and Conditions**

If you are in agreement with the foregoing terms of our engagement, please sign and date in acknowledgment in the space provided below and return via facsimile and via overnight mail one executed original of this letter. Upon receipt of the executed engagement letter we will commence work immediately.

We appreciate this opportunity to be of assistance to the Committee and look forward to working with you in this important matter.

Very truly yours,

CONWAY MACKENZIE, INC.

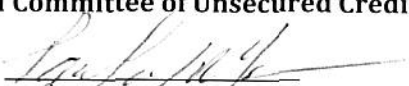


John T. Young, Jr.

**Above Terms Agreed to and Accepted:**

Official Committee of Unsecured Creditors of Dune Energy, Inc., et al

By:



Date:

4-26-15

Name:

Paul McKim

Its:

Chairman

Mr. Paul McKim  
March 29, 2015  
Page 7

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**WIRE TRANSFER INSTRUCTIONS  
TO CONWAY MACKENZIE HOUSTON, LLC**

**Federal Tax ID: 26-3336358**

**Any Billings Thereafter:**

Comerica Bank  
188 North Old Woodward  
Birmingham, MI 48009  
ABA Routing #072000096  
(248) 644-2601

Conway MacKenzie Houston, LLC  
Account # 1852-78840-3

Mr. Paul McKim  
March 29, 2015  
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#### Schedule I

In the event that Conway MacKenzie, Inc. ("CM") or any of its affiliates, partners, officers, directors, shareholders, agents, employees or controlling persons (collectively, the "Indemnified Persons") and each, an "Indemnified Person") becomes involved in any capacity in any claim, action, proceeding or investigation (collectively, "Actions") brought by or against any person, including equity holders of the Company, in connection with or as a result of either CM's engagement or any matter referred to in this Agreement, the Company periodically will advance to the Indemnified Persons amounts necessary to pay their reasonable out-of-pocket legal and other expenses (including the cost of any investigation and preparation) incurred in connection therewith; provided, however, that if it is finally found (in a non-appealable judgment) by a court of competent jurisdiction that any loss, claim, judgment, damage or liability of an Indemnified Person has resulted primarily from the gross negligence or willful misconduct of such Indemnified Person in performing the services that are the subject of this Agreement, such Indemnified Person shall repay such portion of the advanced amounts that is attributable to expenses incurred in relation to the act or omission of such Indemnified Person that is the subject of such non-appealable judgment. The Company also will indemnify and hold the Indemnified Persons harmless from and against any and all losses, claims, judgments, damages or liabilities to which such Indemnified Person may become subject under any applicable law, or otherwise, that is related to, arising out of, or in connection with either CM's engagement or any matter referred to in this Agreement and without regard to the exclusive or contributory negligence of any Indemnified Person except to the extent that it is finally found (in a non-appealable judgment) that any such loss, claim, damage or liability resulted primarily from the gross negligence or willful misconduct bad faith of the Indemnified Persons in performing the services that are the subject of this Agreement.

Upon receipt by an Indemnified Person of actual notice of an Action against such Indemnified Person with respect to which indemnity may be sought under this Agreement, such Indemnified Person shall promptly notify the Company in writing; provided that failure to so notify the Company shall not relieve the Company from any liability that the Company may have on account of this indemnity or otherwise, except to the extent the Company shall have been materially prejudiced by such failure. The Company shall, if requested by the Indemnified Person, assume the defense of any such Action, including the employment of counsel reasonably satisfactory to the Indemnified Person. An Indemnified Person may retain separate counsel to represent it in the defense of any Action, which shall be at the expense of the Company if (i) the Indemnified Party does not request the Company to assume the defense of any such Action or the Company does not assume the defense of the Action within a reasonable period of time after being requested to assume the defense of the Action, or (ii) the Indemnified Person is advised by counsel in writing that there is an actual or potential conflict in the Company's and the Indemnified Person's respective interests or additional defenses are available to the Indemnified Person, which makes representation by the same counsel inappropriate; provided that in no event shall the Company be obligated to pay expenses for more than one counsel in any one jurisdiction for all Indemnified Persons in connection with any Action.

No Indemnified Person shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company or its equity holders or creditors related to, arising out of, or in connection with, advise or services rendered or to be rendered by any Indemnified Person

**Mr. Paul McKim**  
**March 29, 2015**  
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pursuant to this Agreement, the transactions contemplated in this Agreement or any Indemnified Person's actions or inactions in connection with any such advise, services or transactions except to the extent any loss, claim, judgment, damage or liability is finally found (in a non-appealable judgment) by a court of competent jurisdiction to have resulted from the Indemnified Person's gross negligence or willful misconduct.

If for any reason the foregoing indemnification is unavailable to an Indemnified Person or insufficient to hold it harmless, then the Company shall contribute to the amount paid or payable by the Indemnified Person as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect (i) the relative economic benefits to the Company and its equity holders, on the one hand, and to the Indemnified Persons, on the other hand, of the matters covered by this engagement; or (ii) if the allocation provided by the immediately preceding clause is not permitted by applicable law, not only such relative economic benefits but also the relative fault of the Company, on the one hand, and the Indemnified Persons, on the other hand, with respect to such loss, claim, damage or liability and any other relevant equitable considerations. For purposes of this paragraph, the relative economic benefits to the Indemnified Persons of the matters contemplated in this Agreement, shall be deemed to be the fees paid or to be paid to CM under this Agreement; provided, however, that, to the extent permitted by applicable law, in no event shall the Indemnified Persons be required to contribute an aggregate amount in excess of the aggregate fees actually paid to CM under this Agreement.

The reimbursement, indemnity and contribution obligations of the Company in this Schedule I shall be in addition to any liability which the Company may otherwise have, shall extend upon the same terms and conditions to any affiliate of the Indemnified Persons, and shall be binding upon and inure to the benefit of any successors, heirs and personal representatives of the Company, the Indemnified Persons, any such affiliate and any such person.

The Company shall not be required to indemnify an Indemnified Person for any amount paid or payable by the Indemnified Person in the settlement of any action, proceeding or investigation without the written consent of the Company, which consent shall not be unreasonably withheld. Prior to entering into any agreement or arrangement with respect to, or effecting, any proposed sale, exchange, dividend or other distribution or liquidation of all or a significant portion of its assets in one of a series of transactions or any significant recapitalization or reclassification of its outstanding securities that does not directly or indirectly provide for the assumption of the obligations of the Company set forth in this Schedule I, the Company will notify CM in writing thereof (if not previously so notified) and, if requested by CM, shall arrange in connection therewith alternative means of providing for the obligations of the Company set forth in this Schedule I, including the assumption of such obligations by another party, insurance, surety bonds or the creation of an escrow, in each case in an amount and upon terms and conditions reasonably satisfactory to CM.

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| <b>IN RE:</b>                 | § | <b>(CHAPTER 11)</b>                |
|                               | § |                                    |
| <b>DUNE ENERGY, INC.</b>      | § | <b>CASE NUMBER 15-10336</b>        |
| <b>DUNE OPERATING COMPANY</b> | § | <b>CASE NUMBER 15-10337</b>        |
| <b>DUNE PROPERTIES, INC.</b>  | § | <b>CASE NUMBER 15-10338</b>        |
|                               | § |                                    |
| <b>DEBTORS.</b>               | § | <b>(JOINTLY ADMINISTERED UNDER</b> |
|                               | § | <b>CASE NUMBER 15-10336)</b>       |

**ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS' APPLICATION FOR AN ORDER UNDER 11 U.S.C.  
§§ 330 AND 1103 AUTHORIZING THE EMPLOYMENT AND  
RETENTION AS FINANCIAL ADVISORS FOR THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS *NUNC PRO TUNC* TO MARCH 27, 2015**

This Court has considered the application to employ Conway MacKenzie, Inc. ("CM") as financial advisors pursuant to 11 U.S.C. §§ 330 and 1103, *nunc pro tunc* to March 27, 2015 (the "Application") filed by The Official Committee of Unsecured Creditors for the above-captioned bankruptcy estates (the "Committee"). The Court finds that (i) it has jurisdiction over the matters raised in the Application pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Application

is in the best interests of the Debtors, their estate and creditors; (iv) proper and adequate notice of the Application and the hearing thereon has been given and that no other or further notice is necessary; (v) CM (a) holds no interest adverse to the Debtors or their estates in the matters upon which it is sought to be engaged; (b) is a disinterested person as that term is defined pursuant to 11 U.S.C § 101(14) and as required by 11 U.S.C. § 327; and (c) has disclosed any connections with parties as required by Bankruptcy Rule 2014; (vi) none of the representations or engagements set out in the *Declaration of Bryan M. Gaston in Support of Committee Application for Entry of an Order Pursuant to 11 U.S.C. §§ 327 and Fed. R. Bankr. P. 2014 Authorizing Nunc Pro Tunc Retention and Employment of Conway MacKenzie, Inc. as Financial Advisors* constitute a conflict-of-interest or impair the disinterestedness of CM or otherwise preclude the Committee's retention of CM in this case; and (vii) upon the record herein after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein. Therefore,

IT IS HEREBY ORDERED THAT:

1. The Application is granted.
2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.
3. Pursuant to Section 1103 of the Bankruptcy Code, the Committee is hereby authorized to retain CM as its financial advisors in these Chapter 11 Cases *nunc pro tunc* to March 27, 2015, in accordance with (and on the terms described in) the Application, the Engagement Letter, and this Order, and CM is authorized to perform the services described therein.
4. The requirements of Section 329 of the Bankruptcy Code have been satisfied.



5. Compensation will be awarded upon application and a hearing consistent with the requirements of 11 U.S.C. §§ 330 and 331 and any further orders entered by this Court.

6. CM shall be compensated upon appropriate application in accordance with Bankruptcy Code Sections 330 and 331, the Bankruptcy Rules, the Local Bankruptcy Rules, including the Guidelines for Compensation and Expense Reimbursement of Professionals in Complex Chapter 11 Cases, the United States Trustee Fee Guidelines and any applicable procedures and orders of this Court.

7. Pursuant to Bankruptcy Local Rule 2014(b)(2), settlement funds shall not be disbursed without prior Court approval.

8. If any supplemental declarations or affidavits are filed and served after the entry of this Order, absent any objections filed within twenty (20) days after the filing and service of such supplemental declarations or affidavits, CM's employment shall continue as authorized pursuant to this Order.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

**Submitted by:**

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McKool Smith P.C.  
600 Travis, Suite 7000  
Houston, Texas 77002  
Tel: (713) 485-7300  
Fax: (713) 485-7344

###

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Houston, TX 77010

Haynes And Boone, LLP  
Ken Kattner  
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Houston, TX 77011

Haynes And Boone, LLP  
Kourtney Lyda  
1221 McKinney Ste 2100  
Houston, TX 77012

Haynes And Boone, LLP  
Kelli Stephenson  
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P O Box 4302  
Baton Rouge, LA 70821

Louisiana DEQ  
P O Box 4303  
Baton Rouge, LA 70821-4303

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Attn: Legal Division  
P O Box 94396  
Baton Rouge, LA 70804-4396

Louisiana Office Of Conservation  
P O Box 94275 Capital Station  
Baton Rouge, LA 70804-9275

Louisiana Dept of Revenue  
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Belle Chasse, LA 70037

Plaquemines Port Harbor  
& Terminal District  
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Belle Chasse, LA 70037

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Oil And Gas Division  
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Austin, TX 78711-2967

Railroad Commission of Texas  
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P O Box 60051  
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P O Box 149348  
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