

Enservco Corp  
Form DEF 14C  
June 08, 2012

**SCHEDULE 14C**

**INFORMATION STATEMENT PURSUANT TO SECTION 14(c)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

Check the appropriate box:

☐ Preliminary Information Statement

☐ Confidential, for use of the Commission only as permitted by  
Rule 14c-6(e)(2)

☒ Definitive Information Statement

**Enservco Corporation**

(Name of Registrant as Specified in Its Charter)

Payment of filing fee (Check the appropriate box):

☒ No fee required.

☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.

1) Title of each class of securities to which transaction applies:

2) Aggregate number of securities to which transaction applies:

3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

4) Proposed maximum aggregate value of transaction:

5) Total fee paid:

☐ Fee paid with preliminary materials.

☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, of the Form or Schedule and the date of its filing.

1) Amount Previously Paid:

2) Form, Schedule or Registration Statement No.:

3) Filing Party:

4) Date Filed:

**Enservco Corporation**

501 South Cherry Street, Suite 320  
Denver, CO 80246

**NOTICE OF ANNUAL MEETING OF STOCKHOLDERS**

**On July 25, 2012**

To our Stockholders:

You are cordially invited to attend the Annual Meeting of Stockholders of Enservco Corporation (“Enservco”) on July 25, 2012, at 1:00 p.m., local time, at Suite 1000, 6400 South Fiddlers Green Circle, Greenwood Village, CO 80111 (the “Annual Meeting”). At the Annual Meeting the Company will submit the following two proposals to its stockholders for approval:

1. To elect four directors for the ensuing year.
2. To ratify and approve the appointment of Ehrhardt Keefe Steiner & Hottman PC as Enservco’s independent registered accounting firm for the year ended December 31, 2012.
3. To transact any other business that may properly come before the meeting.

The discussion of the proposals set forth above is intended only as a summary and is qualified in its entirety by the information contained in the accompanying Information Statement. Only holders of record of our common stock on June 11, 2012 (“the Record Date”) will be entitled to notice of and to vote at this Annual Meeting, and any postponements or adjournments thereof.

The accompanying Information Statement is being furnished to our stockholders for informational purposes only, pursuant to Section 14(c) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and the rules and regulations prescribed thereunder. The Board is not soliciting your proxy or consent in connection with the matters discussed above. Stockholders who wish to vote on the proposals must attend the Annual Meeting and vote in person at the meeting or otherwise designate a proxy to attend the Annual Meeting and vote on their behalf.

Pursuant to 14a-16(a) (and as required by Rule 14c-2) of the regulations of the Securities and Exchange Commission (the “Commission”) and since the Company is making information available through the Internet rather than utilizing the full-set delivery option, this Information Statement must be sent to stockholders at least 40 calendar days prior to the earliest date on which the matters discussed above may take effect.

STOCKHOLDERS ARE CORDIALLY INVITED TO ATTEND THE MEETING IN PERSON AND THE MANAGEMENT OF THE COMPANY HOPES THAT YOU WILL FIND IT CONVENIENT TO ATTEND.

HOWEVER, WE ARE NOT ASKING YOU FOR A PROXY AND YOU ARE REQUESTED NOT TO SEND US A PROXY.

Sincerely,

/s/ Michael D. Herman

Chairman of the Board and

Chief Executive Officer

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF THE COMPANY'S INFORMATION STATEMENT**

The Company's Information Statement, Annual Report on Form 10-K, and the other meeting materials are available on the Internet at: **<http://www.ir-site.com/enservco/annual-meeting-material.asp>**

**Enservco Corporation**

501 South Cherry Street, Suite 320  
Denver, CO 80246

**INFORMATION STATEMENT**

**FOR THE ANNUAL MEETING OF STOCKHOLDERS**

To Be Held on July 25, 2012

**We Are Not Asking You for a Proxy and**

**You are Requested Not To Send Us a Proxy**

June 15, 2012

We are furnishing this Information Statement to stockholders of ENSERVCO CORPORATION (“We” or “Enservco” or the “Company”) in connection with the Annual Meeting of Stockholders (the “Annual Meeting”) and at any adjournments or postponements thereof. We will hold the Annual Meeting on July 25, 2012, at 1:00 p.m. (local time), at Suite 1000, 6400 South Fiddlers Green Circle, Greenwood Village, CO 80111

The Annual Meeting is being held for the purposes set forth in the accompanying Notice of Annual Meeting of Stockholders. This information statement (including the Notice of Annual Meeting of Stockholders) and the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2011 (“Annual Report”), including financial statements (collectively the “Meeting Materials”) are first being made available to stockholders beginning on or about June 15, 2012. A notice of the Internet Availability of the Meeting Materials (“Notice”) will be mailed to certain stockholders on or about June 15, 2012. If you received a Notice by mail, you will not receive a printed copy of the Meeting Materials. Instead, the Notice will instruct you as to how you may access and review all of the information contained in the Meeting Materials.

**Voting Securities and Vote Required.**

Holders of record of our common stock at the close of business on June 11, 2012 (the “Record Date”) will be entitled to vote on all matters. On the Record Date, we had 21,778,866 shares of common stock issued and outstanding, which represented our only class of voting securities outstanding. The holders of shares of our common stock are each entitled to one vote per share. Cumulative voting shall not be allowed in the election of directors or any of the proposals being submitted to the stockholders at the meeting.

For the transaction of business at the Annual Meeting a quorum must be present. A quorum consists of a majority of the shares entitled to vote at the meeting. In the event there are not sufficient votes for a quorum or to approve any proposals at the time of the Annual Meeting, the meeting may be adjourned to a future time and date.

Michael and Debra Herman, Rick Kasch, and R.V. Bailey, owners of approximately 72% of the voting shares of Enservco’s common stock have advised Enservco that they intend to vote FOR the proposals presented to the meeting; consequently the proposals will be adopted regardless of the votes cast by any other person. They also constitute a quorum for the conduct of the meeting.

As to the election of directors under Proposal No. 1, at the Annual Meeting stockholders will be entitled to vote for the election of each of the nominees proposed by the Board, or to withhold authority to vote for one or more of the nominees being proposed. Directors will be elected by a plurality of votes at the meeting.

With respect to Proposal No. 2 (ratification of the appointment of our independent registered accounting firm), such proposal will be approved if a majority of the votes cast at the Annual Meeting vote in favor of such proposal.

Proposal No. 2 is advisory in nature and non-binding on the Company. However, our Board of Directors values the opinions of all of our stockholders and will consider the outcome of this vote when making future decisions on the Company's independent auditor selection.

#### **No Dissenters Rights**

The proposed corporate actions on which the stockholders are being asked to vote are not corporate actions for which stockholders of a Delaware corporation have the right to dissent under the Delaware General Corporation Law (the "DGCL").

#### **Proposals by Security Holders**

No stockholder has requested that we include any additional proposals in this Information Statement or otherwise requested that any proposals be submitted to the stockholders at the Annual Meeting.

#### **Meeting Materials**

In accordance with the rules and regulations of the Securities and Exchange Commission (the "SEC"), instead of mailing a printed copy of this Information Statement and the Meeting Materials to each stockholder of record, the Company will furnish Meeting Materials to our stockholders on the Internet. If you received a Notice by mail, you will not receive a printed copy of the Meeting Materials. Instead, the Notice will instruct you as to how you may access and review all of the information contained in the Meeting Materials. If you would like to receive a printed copy of the Meeting Materials, and have not previously requested a paper copy of these materials, you should follow the instructions for requesting such materials included in the Notice.



As noted above, the Company is not soliciting proxies for the Annual Meeting of Stockholders. Stockholders who wish to vote must either attend the meeting or on their own accord designate a proxy to attend the Annual Meeting and vote on their behalf. If you are a stockholder of record, you may vote in person at the Annual Meeting and ballots will be distributed at the meeting.

### **Forward Looking Statements**

This Information Statement may contain certain “forward-looking” statements, as defined in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, in connection with the Private Securities Litigation Reform Act of 1995 that involve risks and uncertainties, as well as assumptions that, if they never materialize or prove incorrect, could cause our results to differ materially and adversely from those expressed or implied by such forward-looking statements.

Such forward-looking statements include statements about our expectations, beliefs or intentions regarding actions contemplated by this Information Statement, our potential business, financial condition, results of operations, strategies or prospects. You can identify forward-looking statements by the fact that these statements do not relate strictly to historical or current matters. Rather, forward-looking statements relate to anticipated or expected events, activities, trends or results as of the date they are made and are often identified by the use of words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” or “will,” and similar expressions or variations. Because forward-looking statements relate to matters that have not yet occurred, these statements are inherently subject to risks and uncertainties that could cause our actual results to differ materially from any future results expressed or implied by the forward-looking statements. Many factors could cause our actual activities or results to differ materially from the activities and results anticipated in forward-looking statements. These factors include those described under the caption “Risk Factors” included in our other filings with the Securities and Exchange Commission (“SEC”), including the disclosures set forth in Item 1A of our Form 10-K for the year ended December 31, 2011. Furthermore, such forward-looking statements speak only as of the date of this Information Statement. We undertake no obligation to update any forward-looking statements to reflect events or circumstances occurring after the date of such statements.

## Questions and Answers About This Information Statement

*The following responses to certain questions does not purport to be a complete statement of the information in this Information Statement, and are qualified by the more complete information set forth hereinafter.*

1. *When and where will the Annual Meeting be held?*

As described in the notice, we will hold the Annual Meeting at Suite 1000, 6400 South Fiddlers Green Circle, Greenwood Village, CO 80111. The Annual Meeting is scheduled for July 25, 2012 at 1:00 p.m., local time. If you expect to attend the Annual Meeting in person, please call Enservco at (866) 998-8731 to ensure that sufficient accommodations are prepared.

2. *Why is the Annual Meeting being held?*

The Annual Meeting is being held so that the Company’s stockholders can consider two proposals for their approval, each of which are more completely described elsewhere in this Information Statement (collectively, the “Proposals”):

**Proposal No. 1** asks our stockholders to elect four directors to serve until re-elected at an annual meeting of stockholders, and until their successors have been elected and qualified.

***Proposal No. 2*** asks our stockholders to ratify and approve the appointment of Ehrhardt Keefe Steiner & Hottman PC as the Company's independent registered accounting firm for the year ending December 31, 2012.

In each case, stockholders holding more than a majority of the outstanding common stock have advised us that they intend to vote for Proposals 1 and 2 and, therefore, each of the proposals will be approved regardless of the vote of any other stockholders.

3. *Why are you not soliciting proxies on these matters?*

We are not soliciting proxies on the proposals being submitted for stockholder approval because we anticipate that four persons holding the voting authority over approximately 72% of the Company's voting power will be present at the meeting and will vote FOR each of the proposals. However, the Company wanted to give stockholders an opportunity to attend a meeting to have an opportunity to vote on matters affecting the Company as a whole, to learn more about the Company, and to have an opportunity to ask questions to the Company's officers and directors.

4. *Who is eligible to vote?*

Stockholders of record who own shares of our common stock at the close of business on the Record Date are eligible to vote. Stockholders must be present in person at the Meeting to vote their shares and the Company must be able to verify that each such person is entitled to vote at the Meeting. Each share of common stock is entitled to one vote.

5. *Why is the Company seeking stockholder approval for the appointment of Ehrhardt Keefe Steiner & Hottman PC for its 2012 fiscal year?*

The Company is not required to seek stockholder approval of the independent accounting firm selected by the Board and retained by the Company. The Company believes Ehrhardt Keefe Steiner & Hottman PC ("EKSH") is well qualified to serve as the Company's independent registered accounting firm. The Company believes it is good corporate governance to permit the Company's stockholders to also consider and be given the chance to express their approval or disapproval of the appointment of EKSH. As such, the Company has elected to seek stockholder approval of the Board's selection of EKSH for fiscal year 2012.



## RECORD DATE AND SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

### Security Ownership of Management

As of the Record Date the Company had 21,778,866 shares of its common stock issued and outstanding. The following table sets forth the beneficial ownership of the Company's common stock as of Record Date by each person who serves as a director and/or an executive officer of the Company on that date, and the number of shares beneficially owned by all of the Company's directors and named executive officers as a group:

Name and Address of Beneficial Owner	Position	Amount and Nature of Beneficial Ownership (1)	Percent of Common Stock
Michael D. Herman 501 South Cherry Street Suite 320 Denver, CO 80246	Chief Executive Officer and Chairman	(2) 13,067,320	60%
R.V. Bailey 501 South Cherry Street Suite 320 Denver, CO 80246	Director	(3) 1,367,275	6.3%
Gerard Laheney 501 South Cherry Street Suite 320 Denver, CO 80246	Director	(4) 338,700	1.6%
Rick D. Kasch 501 South Cherry Street Suite 320 Denver, CO 80246	President, Treasurer, and Chief Financial Officer	(5) 2,101,924	9.7%
All current directors, executive officers and named executive officers as a group (4 persons)		16,875,219	77.5%

(1) Calculated in accordance with 1934 Act Rule 13d-3.

(2) Consists of:

- (i) 6,533,660 shares acquired by Mr. Herman at the closing of the Merger Transaction; and
- (ii) 6,533,660 shares held by Mr. Herman's spouse acquired at the closing of the Merger Transaction.

(3) Consists of:

- (i) 1,215,676 shares of stock held of record in the name of R. V. Bailey;
- (ii) 3,959 shares of stock held jointly with Mr. Bailey's spouse;  
11,220 shares of record in the name of Mieko Nakamura Bailey, his spouse (For the purposes of Section 16b
- (iii) of the Securities Exchange Act of 1934 Mr. Bailey disclaims beneficial ownership of the shares held by his spouse);
- (iv) stock options to purchase 36,420 shares of common stock at \$2.14 per share; and
- (v) stock options to purchase 100,000 shares of common stock at \$0.4125 per share that vested on July 27, 2010.

(4) Consists of:

- (i) options to acquire 200,000 shares of common stock that were granted on July 30, 2010 and are exercisable for a five-year term; and
- (ii) 138,700 shares acquired by Mr. Laheney from Hermanco, LLC (an affiliate of Mr. Herman).

(5) Consists of:

- (i) 1,451,924 shares acquired upon the closing of the Merger Transaction;
- (ii) Options to acquire 200,000 shares of common stock granted on July 30, 2010 and that are exercisable for a five-year term at \$0.49 per share;
- (iii) Options to acquire 300,000 shares of common stock granted on July 19, 2011 and that are exercisable for a five-year term at \$1.10 per share; and
- (iii) Options to acquire 150,000 shares of common stock granted on June 6, 2012 and that are exercisable for a five-year term at \$0.46 per share.

Does not include the unvested portion of the stock options granted to Mr. Kasch on July 30, 2010 (100,000 shares), on July 19, 2011 (300,000 shares), on February 10, 2012\* (400,000 shares), and on June 5, 2012\* (275,000 shares).

*\*On June 5, 2012, the Board of Directors determined that the February 2012 options (400,000 shares) had expired because the conditions precedent to their vesting would not be met. On June 5, 2012, the Board of Directors approved the granting of options for Mr. Kasch to purchase 425,000 shares, which were priced at the closing price on June 6, 2012.*

## **Security Ownership of Certain Beneficial Owners**

As of the Record Date, the Company is not aware of any persons that beneficially own more than 5% of its outstanding common stock who does not serve as an executive officer or director of the Company, except for Mr. Herman's spouse whose shares are included in Mr. Herman's beneficial ownership reported in the table above.

## **PROPOSAL NO. 1**

## **ELECTION OF DIRECTORS**



The following persons have been nominated by the Board of Directors for election to the Company's Board of Directors:

- ◆ Michael D. Herman;
- ◆ R.V. Bailey;
- ◆ Gerard Laheney; and
- ◆ Rick D. Kasch

Each of Messrs. Herman, Bailey and Laheney are current members of the Board of Directors.

The Company's Board of Directors seeks to ensure that it is composed of members whose particular experience, qualifications, attributes, and skills, when taken together, will allow the Board of Directors to satisfy its oversight obligations effectively. The Company does not currently have a separate nominating (or similar) committee as given the Company's small size the Company does not yet believe such a committee is necessary. However, as the Company grows and considers trying to position itself for a potential listing on a stock exchange, it may consider establishing a separate nominating committee. Currently the Board of Directors as a whole is in charge of identifying and appointing appropriate persons to add to the Board of Directors when necessary. In identifying Board candidates it is the Board's goal to identify persons who it believes have appropriate expertise and experience to contribute to the oversight of a company of the Company's nature while also reviewing other appropriate factors.

The Company believes that each of the persons nominated for reelection to the Board have the experience, qualifications, attributes and skills when taken as a whole will enable the Board of Directors to satisfy its oversight responsibilities effectively. With regard to the nominees (each of whom is currently a member of our Board) the following factors were among those considered that led to the Board's conclusion that each would make valuable contributions to the Board:

- ◆ *Michael Herman*: Mr. Herman has been actively involved with the Company's business operations and strategy for several years and has a significant amount of knowledge regarding its current and contemplated business operations. Further, he has been active in the oil and natural gas producing and servicing business since the mid-1980's and has a broad range of experience in business outside of the oil and natural gas industry that the Board believes is valuable in forming the Company's business strategy and identifying new business opportunities.
- ◆ *R. V. Bailey*: Mr. Bailey has a significant amount of experience in the natural resource exploration and development arena, including his experience in the oil and natural gas sectors. Additionally, Mr. Bailey was a founding member of Aspen Exploration Corporation (being the predecessor company which now operates as Enservco) and gained a significant amount of experience with respect to the stockholder relations and the administration of companies subject to the reporting requirements of the Securities Exchange Act of 1934. Mr. Bailey is also familiar with a significant number of the Company's legacy stockholders.
- ◆ *Gerard P. Laheney*: Mr. Laheney has a significant amount of experience within the asset management industry and with the capital markets. The Board believes Mr. Laheney's experience and knowledge with the capital markets are valuable to the Board of Directors as a whole.
- *Rick D. Kasch*: Mr. Kasch has served as the President, Treasurer, and Chief Financial Officer of the Company, and he was reappointed to those positions at the July 28, 2011 board meeting. Mr. Kasch served as the principal financial officer of the Company's predecessor (Enservco LLC) since its inception in May 2007. Additionally, Mr. Kasch has served as the Chief Financial Officer for various other companies, including software development companies and internet based companies.

## Identification of Directors and Executive Officers

As of the Record Date, the names, titles, and ages of the members of the Company's Board of Directors and its executive officers are as set forth in the below table.

Name	Age	Position
Michael D. Herman*	54	Chief Executive Officer, & Chairman of the Board of Directors
Rick D. Kasch	61	President; Chief Financial Officer, Principal Financial Officer and Treasurer
R.V. Bailey*	78	Director
Gerard Laheney*	74	Director

\* Since holders of approximately 72% of our voting stock have advised us that they intend to vote for the nominated directors, they will be reelected regardless of the votes of any other stockholder.

**Michael D. Herman.** Mr. Herman was appointed as the Company's Chief Executive Officer, President and as Chairman of the Board of Directors on July 27, 2010. On August 23, 2010 he ceased serving as President, but continues to serve as the Company's Chief Executive Officer and Chairman of the Board of Directors. Mr. Herman has served as the Chairman and control person of Dillco since December 2007 and Heat Waves since March 2006. Since 2005, Mr. Herman has served as the Chairman of Pyramid Oil Company (NYSE Amex: PDO), a California corporation involved in acquiring and developing oil and natural gas wells. Mr. Herman was the Chairman and owner of Key Food Ingredients LLC ("Key Food") from January 1, 2005 until October, 2007. Key Food supplies dehydrated vegetables from its factory in Qingdao, China to customers worldwide. Mr. Herman was Chairman and owner of Telematrix, Inc. from October 1992 until December 1998, when that company was sold to a major hospitality company, and he repurchased a majority ownership interest in December 2004 and held that majority ownership interest until April 2006. Telematrix, Inc. designs and distributes communications products and telephones to hospitality and business customers globally.

**Rick D. Kasch.** Mr. Kasch was appointed as the Company's Executive Vice President and Chief Financial Officer on July 27, 2010. On July 19, 2011 he was appointed as the President, Treasurer, Principal Financial Officer and Chief Financial Officer of the Company, and he was reappointed to those positions at the March 27, 2012 board meeting. Mr. Kasch served as the principal financial officer of the Company's predecessor (Enservco LLC) since its inception in May 2007. Mr. Kasch also served as the principal financial officer, Secretary and Treasurer of Dillco since December 2007. Further, he has served as a manager and the principal financial officer for Heat Waves since March 2006. Since 2004, Mr. Kasch has also served as the Chief Financial Officer of Key Food Ingredients LLC, a company that distributes dehydrated vegetables. Additionally, Mr. Kasch has served as the Chief Financial Officer for various other

companies, including software development companies and internet based companies. Mr. Kasch does not serve as a director of any public companies. Mr. Kasch received a BBA - Accounting degree from the University of South Dakota. Mr. Kasch is a CPA but does not hold an active license.

R. V. Bailey. Mr. Bailey has served as a Company director since 1980 and has continued to serve as a director since the completion of the Merger Transaction on July 27, 2010. Additionally, he previously served as an officer and director of Aspen from its inception, including as Aspen's Chief Executive Officer from January 2008 until July 27, 2010. Mr. Bailey obtained a Bachelor of Science degree in Geology from the University of Wyoming in 1956. He has more than 45 years' experience in exploration and development of mineral deposits, primarily gold, uranium, coal, and oil and natural gas. His experience includes basic conception and execution of mineral exploration projects. Mr. Bailey is a member of several professional societies, including the Society for Mining and Exploration, the Society of Economic Geologists and the American Association of Petroleum Geologists, and has written a number of papers concerning mineral deposits in the United States. He is the co-author of a 542-page text published in 1977 concerning applied exploration for mineral deposits. Mr. Bailey is not a director of any other public companies.

Gerard P. Laheney. Mr. Laheney was appointed to the Company's Board of Directors on July 27, 2010 and continues to serve as a director. Mr. Laheney has approximately twenty-seven years of experience in the financial industry as he has long served as a financial adviser and asset manager. Since 1993, Mr. Laheney has served as the President of Aegis Investment Management Company, an investment advisory firm specializing in global investment portfolio management. Mr. Laheney previously served in other positions in the financial industry, including serving as a Vice President of Dean Witter Reynolds from April 1990 to December 1993. Mr. Laheney currently serves on the Board of Directors of Reading International, Inc. (NASDAQ: RDI).

### **Change Of Control Transactions**

On July 27, 2010, the Company issued 14,519,244 shares of its common stock to three persons to effect the Merger Transaction. As a result of that issuance of those shares the former shareholders of Dillco now directly and indirectly own or control approximately two-thirds of the outstanding common stock of the Company. As such the Merger Transaction constituted a change of control of the Company.

### **Significant Employees**

Although not an executive officer or director of the Company, Austin Peitz has been and is expected to be, a significant employee of the Company. Mr. Peitz has worked for Heat Waves since October 1999 and has been involved in nearly all aspects of operations since that time. Currently, Mr. Peitz is the Director of Operations for Heat Waves and is in charge of overseeing and coordinating field operations.

### **Transactions with Related Persons**

The following sets forth information regarding transactions between the Company (and its subsidiaries) and its officers, directors and significant stockholders since January 1, 2011 or otherwise outstanding as of January 1, 2011.

*Employment Agreements*

See the Executive Compensation section of this Information Statement for a discussion of the employment agreements between the Company and each of Messrs. Herman and Kasch.

*Loan Transactions:*

1. On November 21, 2009 Mr. Herman loaned \$500,000 to Heat Waves pursuant to the terms of a promissory note (the “Heat Waves Note”). The Heat Waves Note accrues interest at 3% per annum and is due in full by December 31, 2018. As part of loan agreements with Great Western Bank, Mr. Herman agreed to subordinate the debt represented by this note to all obligations to the bank. Interest is to be paid annually in arrears, but due to the subordination interest is being accrued to the loan balance. On October 4, 2011, upon management approval, Mr. Herman received an interest payment in the amount of \$27,456 on this loan. As of December 31, 2011 the accrued interest balance on this loan was \$1,393.

2. On March 31, 2010, Mr. Herman loaned an additional \$1,200,000 to Heat Waves pursuant to the terms of a promissory note (the “Heat Waves Note II”). The Heat Waves Note II accrues interest at 3% per annum and is due in full by December 31, 2018. As part of the loan agreements with Great Western Bank, Mr. Herman agreed to subordinate the debt represented by this note to all obligations to the bank. Interest is to be paid annually in arrears, but due to the subordination interest is being accrued to the loan balance. On October 4, 2011 upon management approval Mr. Herman received an interest payment in the amount of \$49,544 on this loan. As of December 31, 2011 the accrued interest balance on this loan was \$13,580.

3. On July 29, 2011, upon approval by the Board of Directors, Mr. Herman received a principal payment on the subordinated debt in the amount of \$222,240. The entire payment was applied to the principal paydown of the first \$500,000 subordinated loan entered into on November 21, 2009.

**Director Independence**

After the Annual Meeting it is expected that the Company’s Board will consist of Messrs. Herman, Bailey, Laheney, and Kasch. The Company utilizes the definition of “independent” as it is set forth in Section 803A of the NYSE Amex Company Guide. Further, the Board considers all relevant facts and circumstances in its determination of independence of all members of the board (including any relationships). Based on the foregoing criteria, only Mr. Laheney is considered an independent director.

**Involvement in Certain Legal Proceedings**

During the past ten years none of the persons serving as executive officers and/or directors of the Company has been the subject matter of any of the following legal proceedings that are required to be disclosed pursuant to Item 401(f) of

Regulation S-K including: (a) any bankruptcy petition filed by or against any business of which such person was a general partner or executive officer either at the time of the bankruptcy or within two years prior to that time; (b) any criminal convictions; (c) any order, judgment, or decree permanently or temporarily enjoining, barring, suspending or otherwise limiting his involvement in any type of business, securities or banking activities; (d) any finding by a court, the SEC or the CFTC to have violated a federal or state securities or commodities law, any law or regulation respecting financial institutions or insurance companies, or any law or regulation prohibiting mail or wire fraud; or (e) any sanction or order of any self-regulatory organization or registered entity or equivalent exchange, association or entity. Further, no such legal proceedings are believed to be contemplated by governmental authorities against any director or executive officer.



### **Section 16(a) Beneficial Ownership Reporting Compliance:**

Section 16(a) of the 1934 Act requires Enservco's directors and officers and any persons who own more than ten percent of Enservco's equity securities, to file reports of ownership and changes in ownership with the Securities and Exchange Commission (the "SEC"). All directors, officers and greater than ten-percent stockholders are required by SEC regulation to furnish the Company with copies of all Section 16(a) reports files. Based solely on our review of the copies of Forms 3, 4 and any amendments thereto furnished to us during the fiscal year completed December 31, 2011, and subsequently, we believe that during the Company's 2011 fiscal year all filing requirements applicable to our officers, directors and greater-than-ten-percent stockholders were complied with.

### **Code of Ethics**

On July 27, 2010, our Board of Directors adopted a Code of Business Conduct and Ethics Whistleblower Policy that applies to all of our officers and employees, including our principal executive officer, principal financial officer and principal accounting officer. Our Code of Ethics establishes standards and guidelines to assist our directors, officers, and employees in complying with both the Company's corporate policies and with the law and is posted at our website: [www.enservco.com](http://www.enservco.com). Additionally, a copy of our Code of Business Conduct and Ethics and Whistleblower Policy was filed as an exhibit to our Current Report on Form 8-K dated July 27, 2010.

### **Meetings of the Board and Committees; Attendance at the Annual Meeting**

The Board of Directors held three formal in person meetings during the fiscal year ended December 31, 2011. Each director attended all of the formal meetings either in person or by telephone. In addition, regular communications were maintained throughout the year among all of the officers and directors of the Company and the directors acted by unanimous consent at least four times during fiscal year 2011. The meetings and actions referenced herein include meetings, and actions taken, both prior and after to the completion of the Merger Transaction.

Board members are not required to attend the annual general meeting. The Company last held an annual meeting of stockholders in July 2011 and all Board members were in attendance.

### **Stockholder Communications to the Board**

Stockholders who are interested in communicating directly with members of the Board, or the Board as a group, may do so by writing directly to the individual Board member c/o Secretary, 501 South Cherry Street, Suite 320, Denver, CO 80246. The Company's Secretary will forward communications directly to the appropriate Board member. If the correspondence is not addressed to the particular member, the communication will be forwarded to a Board member to bring to the attention of the Board. The Company's Secretary will review all communications before forwarding them to the appropriate Board member.

**No Audit Committee**

The Company does not have a separately designated audit committee. Instead, the entire Board acts as the Company's audit committee. Consequently the Company does not currently have a designated audit committee financial expert.

The Company has not adopted an audit committee charter or a compensation committee charter because the Board does not believe that, given the small size of the Company and the limited transactions, such charters are warranted. However, as the Company grows and it continues to develop its operations it may consider adopting a charters or similar policy.

The entire Board of Directors serves as the Company's audit committee. As such the Board has communicated with the Company's independent auditors about their independence. Additionally, after review and discussion, the Board approved the inclusion of the audited financial statements in the Company's annual report on Form 10-K.

**No Nominating Committee; Procedures by which Security Holders May Recommend Nominees to the Board of Directors; Communications with Members of the Board of Directors**

The Company does not have a separately designated nominating committee. The Company does not have such a committee because we currently believe that given our small size, the fact that a majority of the members of our Board are not currently considered "independent", and because no Company securities are traded on a stock exchange, that such a committee is not currently necessary. Unless and until the Company establishes a separate nominating committee, when a board vacancy occurs, the remaining board members will participate in deliberations concerning director nominees. In the future the Company may determine that it is appropriate to designate a separate nominating committee of the board of directors comprised solely of independent directors.

To date, the Board of Directors has not adopted a formal procedure by which stockholders may recommend nominees to the board of directors. However, our bylaws set forth the procedure by which eligible stockholders may nominate a person to the Board of Directors, which in relevant part provides that Enservco will consider all recommendations from any person (or group) who has (or collectively if a group have) held more than 5% of Enservco's voting securities for longer than one year. Any stockholder who desires to submit a nomination of a person to stand for election of directors at the next annual or special meeting of the stockholders at which directors are to be elected must submit a notification of the stockholder's intention to make a nomination ("Notification") to Enservco by the date mentioned in the most recent proxy statement under the heading "*Proposal From Stockholders*" as such date may be amended in cases where the annual meeting has been changed as contemplated in SEC Rule 14a-8(e), Question 5, and in that notification must provide the following additional information to Enservco:

- Name, address, telephone number and other methods by which Enservco can contact the stockholder submitting
- (i) the Notification and the total number of shares beneficially owned by the stockholder (as the term "beneficial ownership" is defined in SEC Rule 13d-3);

- If the stockholder owns shares of Enservco's voting stock other than on the records of Enservco, the stockholder
- (ii) must provide evidence that he or she owns such shares (which evidence may include a current statement from a brokerage house or other appropriate documentation);

- Information from the stockholder regarding any intentions that he or she may have to attempt to make a change of control or to influence the direction of Enservco, and other information regarding the stockholder any other
- (iii) persons associated with the stockholder that would be required under Items 4 and 5 of SEC Schedule 14A were the stockholder or other persons associated with the stockholder making a solicitation subject to SEC Rule 14a-12(c);

- (iv) Name, address, telephone number and other contact information of the proposed nominee; and
- (iv) All information required by Item 7 of SEC Schedule 14A with respect to the proposed nominee, shall be in a form reasonably acceptable to Enservco.

### **Board Leadership Structure**

The Board does not have an express policy regarding the separation of the roles of Chief Executive Officer and Board Chairman as the Board believes it is in the best interests of the Company to make that determination based on the position and direction of the Company and the membership of the Board. Currently, Michael Herman serves as both the Company's Chief Executive Officer and Chairman of the Board. As Chief Executive Officer Mr. Herman is not involved in the day-to-day operations of the Company but instead serves as the Chief Executive Officer to provide strategic guidance on the Company's operations on an as needed basis. The Board believes Mr. Herman's experience, knowledge, and connections in the oil and gas industry are valuable in the oversight of both the Company's operations as well as with respect to the overall oversight of the Company at the Board level. The Board believes that this leadership structure is appropriate as Mr. Herman is intimately knowledgeable with the Company's current and planned operations and has a significant amount of experience in the oil and gas industry in general.

### **Board's Role in Risk Oversight**

The full Board has responsibility for general oversight of risks facing the Company. The Board is informed by senior management on areas of risk facing the Company and periodically conducts discussions regarding risk assessment and risk management.