

WHITING PETROLEUM CORP

Form SC TO-I/A

September 16, 2010

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**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**Amendment No. 2**

**to**

**SCHEDULE TO**

**(Rule 14d-100)**

**Tender Offer Statement under Section 14(d)(1) or 13(e)(1)  
of the Securities Exchange Act of 1934**

**Whiting Petroleum Corporation**

*(Name of Subject Company (Issuer) and Filing Person (Offeror))*

**6.25% Convertible Perpetual Preferred Stock**

*(Title of Class of Securities)*

**966387201**

*(CUSIP Number of Class of Securities)*

**James J. Volker**

**Chairman, President and Chief Executive Officer**

**1700 Broadway, Suite 2300**

**Denver, Colorado 80290-2300**

**(303) 837-1661**

*(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing person)*

*Copies to:*

**Benjamin F. Garmer, III, Esq.**

**John K. Wilson, Esq.**

**Foley & Lardner LLP**

**777 East Wisconsin Avenue**

**Milwaukee, Wisconsin 53202-5306**

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**1001 Fannin, Suite 2300**

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**CALCULATION OF FILING FEE**

**Transaction Valuation\***

\$642,488,325

**Amount of Filing Fee\*\***

\$45,809

\* Estimated solely for purpose of calculating the registration fee and based on (a) the product of (i) \$210.53, the average of the high and low price of Whiting Petroleum Corporation's 6.25% Convertible Perpetual Preferred Stock, par value \$0.001 per share (the Preferred Stock) on August 13, 2010, and (ii) 3,277,500, the number of shares of Preferred Stock Whiting Petroleum Corporation is offering to exchange, less (b) \$47,523,750, the maximum aggregate amount of cash to be paid by Whiting Petroleum Corporation pursuant to the exchange offer, assuming that the exchange offer is fully subscribed by holders of the Preferred Stock.

\*\* The amount of the filing fee calculated in accordance with Rule 0-11(a)(2) of the Securities Exchange Act of 1934, as amended.

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

Amount Previously Paid: \$45,809

Form or Registration No.: Form S-4

Filing Party: Whiting Petroleum Corporation

Date Filed: August 17, 2010

- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d-1.**
- issuer tender offer subject to Rule 13e-4.**
- going-private transaction subject to Rule 13e-3.**
- amendment to Schedule 13D under Rule 13d-2.**

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
  - Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)
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Item 4. Terms of the Transaction.

Item 12. Exhibits.

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**SCHEDULE TO**

This Amendment No. 2 amends and supplements the Tender Offer Statement on Schedule TO filed by Whiting Petroleum Corporation, a Delaware corporation (the Company), with the Securities and Exchange Commission on August 17, 2010 (as previously amended and supplemented, the Schedule TO), relating to an offer (the Exchange Offer) by the Company to exchange up to 3,277,500, or 95%, of the Company's outstanding 6.25% Convertible Perpetual Preferred Stock (the Preferred Stock) for the following consideration per share of Preferred Stock: (i) 2.3033 shares of the Company's common stock and (ii) a cash payment of \$14.50.

The Exchange Offer commenced on August 17, 2010 and expired at 5:00 p.m., New York City time, on September 15, 2010. The Exchange Offer was made upon the terms and subject to the conditions set forth in the prospectus, dated September 13, 2010 (the Prospectus), which forms a part of the Registration Statement on Form S-4 (Reg. No. 333-168900) filed with the Securities and Exchange Commission on August 17, 2010 (the Registration Statement), and in the related letter of transmittal, which are exhibits (a)(1)(i) and (a)(1)(ii) hereto.

This Schedule TO is hereby amended and supplement by this Amendment No. 2 to the Schedule TO as follows:

**Item 4. Terms of the Transaction.**

Item 4(a) of the Schedule TO is hereby amended and supplemented by adding the following:

The Exchange Offer expired at 5:00 p.m., New York City time, on September 15, 2010 (the Expiration Date). On September 16, 2010, the Company announced that 3,365,854 shares of Preferred Stock, representing approximately 97.56% of the outstanding Preferred Stock, were validly tendered in the Exchange Offer and not withdrawn as of the Expiration Date. Because the Exchange Offer was oversubscribed, the number of shares that the Company will accept from each tendering shareholder will be prorated. The Company estimates that the proration percentage will be approximately 97.37%, which is subject to verification by the Computershare Trust Company, N.A., as exchange agent for the Exchange Offer, and the Depository Trust Company. Based on the estimated proration percentage, the Company will exchange approximately 7.5 million shares of the Company's common stock and approximately \$47.5 million in cash for the Preferred Stock accepted in the Exchange Offer.

The full text of the Company's press release, relating to the announcement of the expiration and results of the Exchange Offer, is Exhibit (a)(5)(ii) hereto and is incorporated herein by reference.

**Item 12. Exhibits.**

Item 12 of the Schedule TO is hereby amended by inserting the following:

<b>Exhibit</b>	<b>Description</b>
(a)(5)(ii)	Press Release, dated September 16, 2010 [Incorporated by reference to Exhibit 99.1 to Whiting Petroleum Corporation's Current Report on Form 8-K dated September 16, 2010 (File No. 001-31899)].

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**SIGNATURES**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this amendment is true, complete and correct.

WHITING PETROLEUM CORPORATION

Date: September 16, 2010

By: /s/ James J. Volker  
Name: James J. Volker  
Chairman, President and Chief Executive  
Officer

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**EXHIBIT INDEX**

<b>Exhibit</b>	<b>Description</b>
(a)(1)(i)	Prospectus, dated September 13, 2010 [Incorporated by reference to Whiting Petroleum Corporation, filed on September 14, 2010, pursuant to Rule 424(b)(3) under the Securities Act of 1933].
(a)(1)(ii)	Form of Letter of Transmittal [Incorporated herein by reference to Exhibit 99.1 to the Registration Statement on Form S-4 (Reg. No. 333-168900) (the "Registration Statement")].
(a)(1)(iii)	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees [Incorporated by reference to Exhibit 99.2 to the Registration Statement].
(a)(1)(iv)	Form of Letter to Clients [Incorporated by reference to Exhibit 99.3 to the Registration Statement].
(a)(5)(i)	Press Release, dated August 17, 2010 [Incorporated by reference to Exhibit 99.1 to Whiting Petroleum Corporation's Current Report on Form 8-K dated August 17, 2010 (File No. 001-31899)].
(a)(5)(ii)	Press Release, dated September 16, 2010 [Incorporated by reference to Exhibit 99.1 to Whiting Petroleum Corporation's Current Report on Form 8-K dated September 16, 2010 (File No. 001-31899)].
(b)(i)	Fourth Amended and Restated Credit Agreement, dated as of April 28, 2009, among Whiting Petroleum Corporation, Whiting Oil and Gas Corporation, the lenders party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, and the various other agents party thereto [Incorporated by reference to Exhibit 4 to Whiting Petroleum Corporation's Current Report on Form 8-K dated April 28, 2009 (File No. 001-31899)].
(b)(ii)	First Amendment to Fourth Amended and Restated Credit Agreement, dated as of June 15, 2009, among Whiting Petroleum Corporation, Whiting Oil and Gas Corporation, JPMorgan Chase Bank, N.A., as Administrative Agent, and the other agents and lenders party thereto [Incorporated by reference to Exhibit 4.1 to Whiting Petroleum Corporation's Current Report on Form 8-K dated June 15, 2009 (File No. 001-31899)].
(b)(iii)	Second Amendment to Fourth Amended and Restated Credit Agreement, dated as of August 9, 2010, among Whiting Petroleum Corporation, Whiting Oil and Gas Corporation, JPMorgan Chase Bank, N.A., as Administrative Agent, and the other agents and lenders party thereto [Incorporated by reference to Exhibit 4.1 to Whiting Petroleum Corporation's Current Report on Form 8-K dated August 9, 2010 (File No. 001-31899)].
(b)(iv)	Third Amendment to Fourth Amended and Restated Credit Agreement, dated as of August 17, 2010, among Whiting Petroleum Corporation, Whiting Oil and Gas Corporation, JPMorgan Chase Bank, N.A., as Administrative Agent, and the other agents and lenders party thereto [Incorporated by reference to Exhibit 4.4 to the Registration Statement].
(h)	Tax Opinion of Foley & Lardner LLP [Incorporated by reference to Exhibit 8.1 to the Registration Statement].