

**8-K/A - 2011-01-12**

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**8-K/A**

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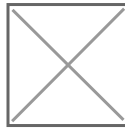
UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 8-K/A**  
(Amendment No. 1)

**CURRENT REPORT**

**Pursuant to Section 13 OR 15(d) of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported) December 26, 2010



**Lucas Energy, Inc.**

(Exact name of registrant as specified in its charter)

|  |                          |                                      |
|--|--------------------------|--------------------------------------|
| Nevada   | 001-32508                | 98-0417780                           |
| (State or other jurisdiction of incorporation)   | (Commission File Number) | (I.R.S. Employer Identification No.) |
| 3555 Timmons Lane, Suite 1550,<br>Houston, Texas |                          | 77027                                |
| (Address of principal executive offices)         |                          | (Zip Code)                           |

Registrant's telephone number, including area code (713) 528-1881

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

The Registrant is filing this Amended Report on Form 8-K to amend its Current Report on Form 8-K filed with the Commission on December 27, 2010, to include a legal opinion regarding the validity of and authorized and issued status of the securities sold in connection with the Registrant's Offering (as defined below).



## **ITEM 1.01. ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.**

Pursuant to terms of documents agreed to on December 26, 2010, and with a closing date of December 30, 2010 (the "Closing Date"), Lucas Energy, Inc. ("Lucas" or the "Company") sold an aggregate of 2,510,506 units pursuant to a Securities Purchase Agreement (the "Purchase Agreement") to certain institutional investors (the "Investors"), each consisting of (a) one share of common stock; (b) one Series B Warrant to purchase one share of common stock at an exercise price of \$2.86 per share (the "Series B Warrants"); and (c) one Series C Warrant to purchase one share of common stock at an exercise price of \$2.62 per share (the "Series C Warrants" and together with the Series B Warrants, the "Warrants", and collectively with the shares of common stock, the "Units"). Each Unit had a purchase price of \$2.38, and the Company received an aggregate of \$5,975,004 in gross funding in the transaction (the "Offering"). The Series B and Series C warrants, if exercised, will bring in gross proceeds of approximately \$14.7 million for a total potential capital raise of approximately \$20 million.

An investor in the Offering included Hall Phoenix Energy, LLC, who is a joint venture partner with Lucas in the Eagle Ford trend in South Texas.

The Purchase Agreement included a provision whereby the Company was prohibited from selling shares of common stock to the Investors representing more than 19.9% of the Company's common stock on the Closing Date.

Pursuant to the Purchase Agreement, the Company agreed that until the first anniversary of the Closing Date, the Company would not undertake any of the following, without the prior written consent of all of the Investors (as described in greater detail in the Purchase Agreement): (A), directly or indirectly, file any registration statement with the SEC (other than the Registration Statements in connection with the Offering), (B) directly or indirectly, offer, sell, grant any option to purchase, or otherwise dispose of (or announce any offer, sale, grant or any option to purchase or other disposition of) any of its equity securities, including without limitation any debt, preferred stock or other instrument or security (a "Subsequent Placement") or (C) be party to any solicitations or negotiations with regard to the foregoing. Additionally, the Company agreed that until the second anniversary of the Closing Date, the Company would not, directly or indirectly, effect any Subsequent Placement unless the Company first provides the Investors notice of such Subsequent Placement and provides such Investors an opportunity to purchase up to 25% of the securities offered in such Subsequent Placement pursuant to the terms and conditions described in greater detail in the Purchase Agreement.

However, the above requirements do not apply to the Company's issuance or grant of any common stock issued or issuable: (i) in connection with any employee benefit plan approved by the Board (subject to a maximum of 150,000 shares to be issued to consultants in any calendar year); (ii) upon exercise of the Warrants; (iii) upon exercise of any options or convertible securities which are outstanding on the day immediately preceding the Closing Date; and (iv) in connection with mergers, acquisitions, strategic business transactions or joint ventures with a strategic partner who is not in the business of making financial investments, in each case with non-affiliated third parties and otherwise on an arm's-length basis, the primary purpose of which is not to raise additional capital (collectively (i) through (iv), "Excluded Securities"); provided that any shares issued or issuable in connection with any transaction contemplated by this clause (iv) that is either primarily (A) attributable to capital raising for the Company (other than nominal amounts of capital) or (B) to raise capital for the Company, directly or indirectly, in connection with any transaction contemplated by this clause (iv), including, without limitation, securities issued in one or more related transactions or that result in similar economic consequences, shall not be deemed to be Excluded Securities.

Each Series B Warrant has an exercise price of \$2.86. The Series B Warrants are exercisable at any time for five years following the 185th day following the Closing Date.

Each Series C Warrant has an exercise price of \$2.62 per share. The Series C Warrants are exercisable for a 10 trading day period ending on the 216th day following the Closing Date, provided that the Company has the right to force the Investors to exercise the Series C Warrants if (a) the VWAP of the Company's common stock on the NYSE Amex exceeds \$3.28 during the 11th through the 20th trading days immediately prior to the 216th day following the Closing Date; or (b) if on the 216th day following the Closing Date, the exercise price of \$2.62 per share is less than the lower of (x) the VWAP for the ten days immediately preceding such date, and (y) the closing bid price on such date, subject in each case to the Company meeting certain requirements and maintaining certain conditions as set forth in such Series C Warrant. The Class C Warrants expire automatically if not exercised by the 216th day following the Closing Date (unless such date falls on a holiday or weekend, in which case the next non-holiday or weekend date).

The Warrants have cashless exercise rights if the registration statement pursuant to which the Warrants were issued is not effective and available for use at the time of any proposed exercise. The Warrants also include a provision whereby the Investors are not eligible to exercise any portion of the Warrants that would result in them becoming a beneficial owner of more than 9.99% of the Company's common stock.

The Company previously engaged TriPoint Global Equities (the "Agent") as placement agent in connection with the sale of securities in the Offering and agreed to pay the Agent a cash fee of 6% of the offering proceeds, \$358,500, and to grant the Agent warrants to purchase up to 150,630 shares of common stock (equal to 2% of the total shares of common stock issuable in connection with the Offering) which warrants will have three year terms and an exercise price of \$2.98 per share (the "Agent Warrants"). The Company also agreed to pay fees to counsel for the lead Investor in connection with the Offering for due diligence and legal fees, which fees are not to exceed \$35,000.

The Units are being offered through a prospectus supplement and accompanying base prospectus pursuant to the Company's effective shelf registration statement, previously filed and declared effective by the Securities and Exchange Commission, the filing of which prospectus supplement is a required term of the closing of the Offering.

The description of the Purchase Agreement and Warrants described above are qualified in all respects by the actual terms and conditions of the Purchase Agreement and Warrants as incorporated by reference herein.

#### **ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.**

##### **EXHIBIT NO. DESCRIPTION**

|         |  |
|---------|--|
| 5.1*    | Opinion of Woodburn and Wedge  |
| 10.1(1) | Securities Purchase Agreement  |
| 10.2(1) | Form of Series B and C Warrant   |
| 23.1*   | Consent of Woodburn and Wedge (included in the opinion filed as Exhibit 5.1) |
| 99.1(1) | Press Release  |

\* Filed herewith.

(1) Filed as an exhibit to the Company's Current Report on Form 8-K, filed with the Commission on December 27, 2010, and incorporated by reference herein.

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**LUCAS ENERGY, INC.**

By: / s / William A. Sawyer

Name: William A. Sawyer

Title: President & CEO

Date: January 11, 2011



**EX-5.1**

EX-5.1 2 ex5-1.htm

**EXHIBIT 5.1**

GORDON H. DEPAOLI  
JOHN P. FOWLER  
JOHN F. MURTHA  
NICHOLAS F. FREY  
W. CHRIS WICKER  
SHAWN B MEADOR  
R. BLAIN ANDRUS  
DON L. ROSS  
GREGG P. BARNARD  
DALE E. FERGUSON  
SHAWN G. PEARSON  
DANE W. ANDERSON  
MICHAEL W. KEANE

WOODBURN AND WEDGE  
ATTORNEYS AND COUNSELORS AT LAW  
  
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RENO, NEVADA 89511  
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JOHN F. KEUSCHER  
SHARON M. PARKER  
JESSICA H. ANDERSON  
BRENOCH R. WIRTHLIN  
BENJAMIN R. JOHNSON  
JASON C. MORRIS  
JOSHUA M. WOODBURY  
NICO D. R. DEPAOLI  
----  
WILLIAM K. WOODBURN (1910-1989)  
VIRGIL H. WEDGE (1912-2000)  
CASEY W. VLAUTIN (1938-2001)  
JAMES J. HALLEY (1937-2007)

January 11, 2011

Lucas Energy, Inc.  
6800 West Loop South, Suite 415  
Bellaire, Texas 77401

Re: **Sale of Shares Pursuant to Registration Statement on Form S-3 and  
Prospectus Supplement No. 2**

Ladies and Gentlemen:

We have acted as counsel to Lucas Energy, Inc., a Nevada corporation (the "Company"), in connection with the Registration Statement on Form S-3 (Registration Number 333-164099) (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"), and a related Prospectus Supplement No. 2 filed with the Securities and Exchange Commission pursuant to Rule 424b(5) on December 30, 2010 (the "Prospectus Supplement"), which registers the sale of Units comprised of 2,510,506 shares (the "Shares") of the Company's Common Stock par value \$0.01 per share (the "Common Stock") and warrants to purchase up to 5,021,012 shares of Common Stock (the "Sales Warrants") pursuant to that certain Securities Purchase Agreement (the "Agreement") dated December 26, 2010, by and among the Company, Empery Asset Master Ltd., Hartz Capital Investments, LLC, Hall Phoenix/Inwood, Ltd., Capital Ventures International and Young Capital Partners, LP (collectively, the "Buyers"). The Company will also issue warrants to the Company's placement agent for the transaction, Tripoint Global Equities, LLC, to purchase an additional 150,630 shares of Common Stock (the "Agent Warrants"). The Sales Warrants and the Agent Warrants are hereinafter referred to as the "Warrants". The shares of the Company's Common Stock to be issued pursuant to the Warrants are hereinafter referred to as the "Warrant Shares".

In connection with the opinions rendered in this letter, we have examined only the following documents:

- a. Copies of the following documents concerning the Company filed with the Nevada Secretary of State:
  - (i) Articles of Incorporation of Panorama Investments Corp. filed December 16, 2003;
  - (ii) Certificate of Amendment changing the Company's name to Lucas Energy, Inc. and splitting the Company's stock filed June 1, 2006;
  - (iii) Certificate of Change pursuant to NRS 78.209 filed January 17, 2008;
  - (iv) Articles of Exchange filed December 11, 2009; and.
  - (v) Amendment to Articles of Incorporation increasing the Company's authorized capital filed April 13, 2010.
- b. The Bylaws of the Company as filed with Form 10SB12B Registration Statement filed with the SEC on May 20, 2005;
- c. Certificate of Existence With Status In Good Standing with respect to the Company issued by the Nevada Secretary of State on January 7, 2011;
- d. Consent to Action Without meeting of the Board of Directors of the Company dated December 28, 2010, relating to the sale of the Shares and the Warrants pursuant to the Agreement;
- e. The Prospectus Supplement;
- f. The Agreement as filed with the SEC on December 26, 2010, attached to a Form 8-K, Current Report of the Company, on December 26, 2010 (the "Form 8-K");
- g. A Certificate of John O'Keefe, Chief Financial Officer, Treasurer and Corporate Secretary of the Company dated December 28, 2010, with all exhibits thereto (the "Certificate"); and
- h. Officer's Certificate of John O'Keefe dated January 7, 2011, allowing this firm to rely on the Certificate.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of the originals of the documents submitted to us, the conformity to the authentic original of any documents submitted to us as copies, the authenticity of the originals of such latter documents and that the Prospectus Supplement and any amendments thereto (including all necessary post-effective amendments) will have become effective and comply with all applicable laws. We have assumed that a definitive purchase, underwriting or similar agreement with respect to any offered securities will have been duly authorized, validly executed and delivered by the Company and the other parties thereto. We have assumed that the Agreement has been duly executed and delivered by all parties thereto. In making our examination of executed documents and documents to be executed, we have assumed that the parties thereto have or will have the corporate or other power to enter into and perform all obligations thereunder, and have also assumed the due authorization by all requisite corporate or limited liability company or other action and the due execution and delivery by such parties of such documents. As to any facts material to the opinions expressed herein which were not independently established or verified by us, we have relied upon oral or written statements and representations in the Certificate.

Based upon the foregoing and subject to the qualifications and limitations set forth herein, we are of the opinion that:

1. The Company is a corporation validly existing and in good standing under the laws of the state of Nevada.
2. With respect to the Shares being registered under the Prospectus Supplement, when the Shares have been delivered by the Company upon payment therefore pursuant to the Agreement and the Prospectus Supplement, the Shares will be validly issued, fully paid and non-assessable.
3. With respect to the Warrants being issued under the Prospectus Supplement, when the Warrants have been issued in a form included as an exhibit to the Agreement and have been duly executed, countersigned and delivered upon the purchase and payment in full therefor as contemplated by the Agreement and the Prospectus Supplement, the Warrants will be validly issued, fully paid and non-assessable.
4. The Warrant Shares have been duly and validly authorized and, when issued upon the exercise of the Warrants pursuant to the Agreement and fully paid for, will be validly issued, fully paid and non-assessable.

The opinions expressed above are limited by and subject to the following qualifications:

- (a) We express no opinion other than as to the federal laws of the United States of America and the state of Nevada.
- (b) In rendering the opinions expressed herein, we have assumed that no action that has been taken by the Company in connection with the matters described or referred to herein will be modified, rescinded or withdrawn after the date hereof. We have also assumed that (i) the effectiveness of the Prospectus Supplement, and any amendments thereto (including post-effective amendments) have not been terminated or rescinded, (ii) all Shares sold will have been issued and sold in compliance with applicable United States federal and state securities laws, (iii) at the time of the issuance of the Shares (A) the Company validly exists and is duly qualified and in good standing under the laws of the State of Nevada, (B) the Company has the necessary corporate power and due authorization, and (C) the organizational or charter documents of the Company are in full force and effect and have not been amended, restated, supplemented or otherwise altered, and there has been no authorization of any such amendment, restatement, supplement or other alteration, since the date hereof.

(c) In rendering the opinions above, we have assumed that the necessary number of shares are authorized and available for issuance pursuant to the Company's Articles of Incorporation.

(d) This opinion letter is limited to the matters expressly stated herein, and no opinions may be inferred or implied beyond the matters expressly stated herein. The opinions expressed herein are rendered and speak only as of the date hereof and we specifically disclaim any responsibility to update such opinions subsequent to the date hereof or to advise you of subsequent developments affecting such opinions.

We hereby consent to the filing of this opinion with the Commission as an exhibit to or as incorporated by reference in (a) the Prospectus Supplement (and any amendment thereto); and (b) any amendments to the Form 8-K. We also consent to the reference to our firm under the caption "Legal Matters" in the Prospectus Supplement (or any amendment thereto). In giving this consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 and Section 17 of the Securities Act or the Rules and Regulations of the Commission promulgated thereunder. This opinion is expressed as of the date hereof unless otherwise expressly stated and we disclaim any undertaking to advise you of any subsequent changes of the facts stated or assumed herein or any subsequent changes in applicable law.

Very truly yours,

WOODBURN AND WEDGE

By: /s/ John P. Fowler  
John P. Fowler

JPF:jan

