SMF ENERGY CORP
Form 4
June 10, 2009

# FORM 4

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

**STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES**

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

OMB APPROVAL

| | |
|---|---|
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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

(Print or Type Responses)

1. Name and Address of Reporting Person *
FUNDAMENTAL MANAGEMENT CORP

(Last) (First) (Middle)

8567 CORAL WAY, SUITE 138

(Street)

MIAMI, FL 33155

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
SMF ENERGY CORP [FUEL]

3. Date of Earliest Transaction (Month/Day/Year)
06/08/2009

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

_____ Director
__X__ 10% Owner
_____ Officer (give title below)
_____ Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ Form filed by One Reporting Person
___ Form filed by More than One Reporting Person

**Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned**

| 1.Title of Security (Instr. 3) | 2. Transaction Date (Month/Day/Year) | 2A. Deemed Execution Date, if any (Month/Day/Year) | 3. Transaction Code (Instr. 8) | | 4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5) | | | 5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4) | 6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4) | 7. Nature of Indirect Beneficial Ownership (Instr. 4) |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Code | V | Amount | (A) or (D) | Price | | | |
| Common Stock | 06/08/2009[1][2] | | J[1][2] | | 262,706 [1] [2] | A | $ 0.23 [1] [2] | 1,089,828 | I | See Footnote [3] |

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

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SEC 1474 (9-02)

**Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned**
**(*e.g.*, puts, calls, warrants, options, convertible securities)**

| 1. Title of Derivative Security (Instr. 3) | 2. Conversion or Exercise Price of Derivative Security | 3. Transaction Date (Month/Day/Year) | 3A. Deemed Execution Date, if any (Month/Day/Year) | 4. Transaction Code (Instr. 8) | | 5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5) | | 6. Date Exercisable and Expiration Date (Month/Day/Year) | | 7. Title and Amount of Underlying Securities (Instr. 3 and 4) | | 8. Price of Derivative Security (Instr. 5) | 9. Nu Deriv Secur Bene Owne Follo Repo Trans (Instr |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Code | V | (A) | (D) | Date Exercisable | Expiration Date | Title | Amount or Number of Shares | | |

# Reporting Owners

| Reporting Owner Name / Address | Relationships | | | |
|---|---|---|---|---|
| | Director | 10% Owner | Officer | Other |
| FUNDAMENTAL MANAGEMENT CORP<br>8567 CORAL WAY<br>SUITE 138<br>MIAMI, FL 33155 | | X | | |

# Signatures

| /s/ Damarie Cano, Secretary and Treasurer | 06/10/2009 |
|---|---|
| **Signature of Reporting Person | Date |

# Explanation of Responses:

***** If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

****** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

**(1)** On May 5, 2009, SMF Energy Corporation (the "Company") accepted a series of Payment in Kind Agreements (the "PIK Agreements") effective as of April 27, 2009, tendered by each of the various stockholders (the "Preferred Stockholders") of the Company's Series A, B and C Convertible Preferred Stock. The PIK Agreements permit the Company to pay the cash dividends due to the Preferred Stockholders in unregistered shares of the Company's common stock (the "Shares").

**(2)** In accordance with the PIK Agreements, on June 8, 2009, Active Investors II, Ltd. ("Active II") and Active Investors III, Ltd. ("Active III") were each issued 131,353 Shares, for a combined total of 262,706 Shares. Fundamental Management Corporation ("Fundamental"), in its capacity as the sole general partner of Active II and Active III, may therefore be deemed to beneficially own the 262,706 Shares. The Shares were valued at $0.23 per share, the official closing price on the Nasdaq Stock Market on April 24, 2009, the trading day immediately preceding the effective date of the PIK Agreements.

**(3)** Fundamental is the sole general partner of Active II and Active III. Active II owns 542,733 shares of the Company's common stock and Active III owns 547,095 shares of the Company's common stock. Fundamental, in its capacity as the sole general partner of Active II and Active III, may therefore be deemed to beneficially own a total of 1,089,828 shares of the Company's common stock.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
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