

AVIRAGEN THERAPEUTICS, INC.

FORM 8-K (Current report filing)

Filed 01/05/18 for the Period Ending 01/03/18

Telephone	301-770-3099
CIK	0000072444
Symbol	AVIR
SIC Code	2836 - Biological Products, (No Diagnostic Substances)
Industry	Biotechnology & Medical Research
Sector	Healthcare
Fiscal Year	06/30

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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of The Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): January 3 , 2018

Aviragen Therapeutics, Inc.
(Exact name of registrant as specified in its charter)

DELAWARE
(State or other jurisdiction
of incorporation)

001- 35285
(Commission
File Number)

59-1212264
(I.R.S. Employer
Identification No.)

2500 Northwinds Parkway, Suite 100
Alpharetta, GA
(Address of principal executive offices)

30009
(Zip Code)

Registrant 's telephone number, including area code (678) 221-3350

Not Applicable
(Former name or former address, if changed since last report)

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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 or Rule 12b-2 of the Securities Exchange Act of 1934.

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 8.01 Other Events.

On January 3, 2018, Digirad Corporation filed a verified complaint with the Court of Chancery of the State of Delaware under 8 Del. C. § 211 seeking to compel Aviragen Therapeutics, Inc. (the “Company”) to hold an annual meeting of its stockholders for the purpose of electing directors because the Company has not held an annual meeting for more than thirteen months.

On January 4, 2018, the Board of Directors of the Company scheduled an annual meeting for the election of directors to take place on April 11, 2018. Nasdaq requires the Company to hold its annual meeting by June 30, 2018. In order to comply with this requirement, the Company had planned to set a date for the annual meeting following the Company’s previously announced Special Shareholders Meeting, scheduled for February 6, 2018, to vote on its proposed merger with Vaxart, Inc., which was announced on October 30, 2017. At their meeting today, the Board also selected February 14, 2018 as the record date for the annual meeting.

Forward-Looking Statements

This communication contains forward-looking statements (including within the meaning of Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended) concerning the Company, Vaxart, the merger of Merger Sub with and into Vaxart, with Vaxart becoming a wholly-owned subsidiary of Aviragen and the surviving corporation of the merger (the “Merger”) and other matters. These statements may discuss goals, intentions and expectations as to future plans, trends, events, results of operations or financial condition, or otherwise, based on current beliefs of the management of Aviragen, as well as assumptions made by, and information currently available to, management. Forward-looking statements generally include statements that are predictive in nature and depend upon or refer to future events or conditions, and include words such as “may,” “will,” “should,” “would,” “expect,” “anticipate,” “plan,” “likely,” “believe,” “estimate,” “project,” “intend,” and other similar expressions among others. Statements that are not historical facts are forward-looking statements. Forward-looking statements are based on current beliefs and assumptions that are subject to risks and uncertainties and are not guarantees of future performance. Actual results could differ materially from those contained in any forward-looking statement as a result of various factors, including, without limitation: the risk that the conditions to the closing of the Merger are not satisfied, including the failure to timely or at all obtain stockholder approval for the Merger; uncertainties as to the timing of the consummation of the Merger and the ability of each of Aviragen and Vaxart to consummate the Merger; risks related to Aviragen’s ability to correctly estimate its operating expenses and its expenses associated with the Merger; risks related to the market price of Aviragen’s common stock relative to the exchange ratio; the ability of Aviragen or Vaxart to protect their respective intellectual property rights; competitive responses to the Merger; unexpected costs, charges or expenses resulting from the Merger; potential adverse reactions or changes to business relationships resulting from the announcement or completion of the Merger; provisions in certificate of incorporation, bylaws and laws of Delaware containing provisions that could delay or discourage a change in control of the Company; and legislative, regulatory, political and economic developments. The foregoing review of important factors that could cause actual events to differ from expectations should not be construed as exhaustive and should be read in conjunction with statements that are included herein and elsewhere, including the risk factors included in Aviragen’s most recent proxy/prospectus/information statement on Form S-4 filed with the SEC. Aviragen can give no assurance that the conditions to the Merger will be satisfied. Except as required by applicable law, Aviragen undertakes no obligation to revise or update any forward-looking statement, or to make any other forward-looking statements, whether as a result of new information, future events or otherwise.

SIGNATURES

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.

Aviragen Therapeutics , Inc.

Date: January 5, 2018

/s/ Mark P. Colonnese

Name: Mark P. Colonnese
Title: Chief Financial Officer
(Duly Authorized Officer)