

BREITBURN ENERGY PARTNERS LP

FORM 8-K (Current report filing)

Filed 08/10/17 for the Period Ending 08/09/17

Address	707 WILSHIRE BOULEVARD 46TH FLOOR LOS ANGELES, CA 90017
Telephone	(213) 225-5900
CIK	0001357371
Symbol	BBEPQ
SIC Code	1311 - Crude Petroleum and Natural Gas
Industry	Oil & Gas Exploration and Production
Sector	Energy
Fiscal Year	12/31

**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)
August 10, 2017 (August 9, 2017)

BREITBURN ENERGY PARTNERS LP
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or jurisdiction)

001-33055
(Commission
File Number)

74-3169953
(IRS Employer
Identification No.)

707 Wilshire Boulevard, Suite 4600
Los Angeles, CA 90017
(Address of Principal Executive Offices)

(213) 225-5900
(Registrant's telephone number)

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))
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Item 1.01 Entry into a Material Definitive Agreement.

Fourth Amendment to DIP Credit Facility

As previously reported, on May 15, 2016, Breitburn Energy Partners LP (the “*Partnership*”) and certain of its affiliates (the “*Debtors*”) filed voluntary petitions for relief (and the cases commenced thereby, the “*Chapter 11 Cases*”) under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the “*Bankruptcy Court*”). The Chapter 11 Cases are being administered jointly under the caption “In re Breitburn Energy Partners LP, et al.,” Case No. 16-11390.

On May 23, 2016, in connection with the Chapter 11 Cases, a Debtor-in-Possession Credit Facility (“*DIP Credit Facility*”) was entered into among Breitburn Operating LP, a wholly owned subsidiary of the Partnership, as borrower (the “*DIP Borrower*”), the lenders from time to time party thereto (the “*DIP Lenders*”) and Wells Fargo, National Association, as administrative agent (the “*Administrative Agent*”).

On August 9, 2017, the Bankruptcy Court entered an order (the “*Order*”) authorizing the Debtors to enter into swap agreements (as defined in the Bankruptcy Code) with certain of the DIP Lenders and/or their affiliates, as counterparties (the “*Lender Derivative Providers*”), and to pledge collateral, grant superpriority administrative expense claims and honor obligations thereunder. The Order also approved that certain Fourth Amendment to Debtor-in-Possession Credit Agreement, dated effective as of July 17, 2017, by and among the DIP Borrower, the Partnership, the DIP Lenders and the Administrative Agent (the “*Fourth Amendment*”). The Fourth Amendment, among other things, modified the payment priorities in Section 9.02 of the DIP Credit Facility so as to provide that any obligations owed to Lender Derivative Providers under the swap agreements shall have the same priority as obligations under the DIP Credit Facility.

The foregoing description of the Fourth Amendment does not purport to be complete and is qualified in its entirety by reference to the Fourth Amendment, which is filed as Exhibit 10.1 hereto, and which is incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement.

The description of the Fourth Amendment set forth in Item 1.01 is also incorporated into this Item 2.03.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

- 10.1 Fourth Amendment to Debtor-in-Possession Credit Agreement, dated effective as of July 17, 2017, among Breitburn Operating LP, as borrower, Breitburn Energy Partners LP, as parent guarantor, the financial institutions from time to time party thereto and Wells Fargo Bank, National Association, as administrative agent, swing line lender and issuing lender.
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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 thereunto duly authorized.

BREITBURN ENERGY PARTNERS LP

By: BREITBURN GP LLC,
its general partner

Date: August 10, 2017

By: /s/ Halbert S. Washburn
Halbert S. Washburn
Chief Executive Officer

Exhibit Index

- 10.1 Fourth Amendment to Debtor-in-Possession Credit Agreement, dated effective as of July 17, 2017, among Breitburn Operating LP, as borrower, Breitburn Energy Partners LP, as parent guarantor, the financial institutions from time to time party thereto and Wells Fargo Bank, National Association, as administrative agent, swing line lender and issuing lender.

**FOURTH AMENDMENT TO
DEBTOR-IN-POSSESSION CREDIT AGREEMENT**

THIS FOURTH AMENDMENT TO DEBTOR-IN-POSSESSION CREDIT AGREEMENT (hereinafter called this “*Amendment*”) is dated effective as of July 17, 2017, by and among BREITBURN OPERATING LP, a Delaware limited partnership (the “*Company*”), BREITBURN ENERGY PARTNERS LP, a Delaware limited partnership (“*Parent*”), the other Guarantors, each Lender signatory hereto, and WELLS FARGO BANK, NATIONAL ASSOCIATION, as administrative agent for the Lenders (in such capacity, together with its successors in such capacity “*Administrative Agent*”).

WITNESSETH:

WHEREAS, the Company, Parent, Administrative Agent and the Lenders are parties to that certain Debtor-In-Possession Credit Agreement dated as of May 19, 2016 (as amended by the First Amendment to Debtor-In-Possession Credit Agreement effective as of December 15, 2016, the Second Amendment to Debtor-In-Possession Credit Agreement effective as of December 2016, and the Third Amendment to Debtor-In-Possession Credit Agreement effective as of May 11, 2017 the “*Credit Agreement*”, and as amended by this Amendment and as may be further amended, restated or modified from time to time, the “*Amended Credit Agreement*”), whereby upon the terms and conditions therein stated the Lenders have agreed to make certain loans to the Company and issue Letters of Credit on behalf of the Company and its Subsidiaries (capitalized terms used in this Amendment, and not otherwise defined in this Amendment, have the meanings assigned thereto in the Amended Credit Agreement);

WHEREAS, the Guarantors have agreed to guarantee the Obligations of the Company and the Company and the Guarantors have agreed to secure all of the Obligations by granting to the Administrative Agent, for the benefit of the Secured Parties, a Lien on substantially all of their respective assets, in each case, in accordance with the terms and provisions of the Amended Credit Agreement and the Final Order;

WHEREAS, the Company requests that the Administrative Agent and the Lenders amend the Credit Agreement as set forth in Section 1 below; and

WHEREAS, subject to the terms hereof, the Administrative Agent and the Lenders agree to the amendments to the Credit Agreement as set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the parties to this Amendment hereby agree as follows:

SECTION 1. **Amendments to Credit Agreement**. Effective as of the Amendment Effective Date, the Credit Agreement is hereby amended as follows:

(a) The definition of “Lender Derivative Provider” in Section 1.01 of the Credit Agreement is hereby amended and restated in its entirety as follows:

“*Lender Derivative Provider*” any Person that is a party to a Derivative Contract with any Loan Party or any Subsidiary, provided that such Person is or was a Lender hereunder or an Affiliate of a Lender hereunder at the time it entered into such Derivative Contract.

(b) The “waterfall” in Section 9.02(c) of the Credit Agreement is hereby amended and restated in its entirety as follows:

first, to the payment of that portion of the Obligations constituting reimbursement of fees, expenses, indemnities and other amounts (including fees and disbursements of counsel to the Administrative Agent) payable to the Administrative Agent in its capacity as such;

second, to the payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the Issuing Lender (including fees and expenses of counsel), ratably among them in proportion to the respective amounts described in this clause second payable to them;

third, to the payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Obligations, ratably among the Lenders and the Issuing Lender in proportion to the respective amounts described in this clause third payable to them;

fourth, (i) to the Administrative Agent for the account of the Issuing Lender, to cash collateralize Letters of Credit in an amount equal to 103% of the then outstanding LC Obligations (to the extent not otherwise cash collateralized in an amount equal to 103% of the then outstanding LC Obligations), (ii) to the payment of that portion of the Obligations constituting of unpaid principal of the Loans and unpaid drawings under Letters of Credit, (iii) to the payment of that portion of the Obligations owed to Lender Derivative Providers under any Lender Derivative Contracts and (iv) to the payment of that portion of the Obligations then owed to Banking Services Lenders under Banking Services Agreements, ratably among the Lenders, the Issuing Lenders, the Lender Derivative Providers and the Banking Services Lenders in proportion to the respective amounts described in this clause fourth; provided that, to the extent that any Excluded Swap Obligation exists, payments or the proceeds of any Collateral provided by a Loan Party that is not a Qualified ECP Guarantor may not be shared with a Lender Derivative Provider to the extent that doing so would violate the Commodity Exchange Act

fifth, to payment of other unpaid Obligations, ratably to the holders thereof in proportion to the respective amounts described in this clause fifth; and

sixth, any excess shall be paid to the Company and held subject to further order of the Bankruptcy Court or as otherwise required by law.

(c) Section 11.11(a) of the Credit Agreement is hereby amended by deleting the following words therefrom: “until such Person ceases to be a Lender or an Affiliate of a Lender”.

SECTION 2. Guarantor Confirmation.

(a) The Guarantors hereby consent and agree to this Amendment and the amendment to the Credit Agreement contemplated hereby.

(b) Each of the Company and the Guarantors ratifies and confirms as of the date hereof its applicable debts, duties, obligations, liabilities, pledge of its Collateral and grant of security interests and liens in its Collateral, in each case, existing by virtue of the Final Order and the terms and provisions of

the Loan Documents to which it is a party.

(c) Subject to the Chapter 11 Cases, each of the Company and the Guarantors agrees as of the date hereof that its applicable guarantee, pledge of its Collateral, grant of security interests and liens in its Collateral, and other obligations, and the terms of each of the Security Documents and Guaranties to which it is a party, are not impaired, released, diminished or reduced in any manner whatsoever and shall continue to be in full force and effect and shall continue to secure all Obligations in accordance with the terms of each of the Security Documents and Guaranties.

(d) Each of the Company and the Guarantors acknowledges and agrees as of the date hereof that all terms, provisions, and conditions of the Loan Documents to which it is a party (as amended by this Amendment) shall continue in full force and effect and shall remain enforceable and binding against such Person in accordance with their respective terms, subject to applicable bankruptcy, insolvency, or similar laws affecting creditors' rights generally and general equitable principles.

SECTION 3. Conditions of Effectiveness. This Amendment and the amendments hereunder shall become effective as of the date first set forth above (the "***Amendment Effective Date***"), provided that the following conditions shall have been satisfied:

(a) **Amendment.** The Administrative Agent shall have received a counterpart of this Amendment which shall have been executed by the Administrative Agent, the Issuing Lender, each Lender, the Company, and the Guarantors (which may be by telecopy or PDF transmission as set forth in Section 8).

(b) **No Default; Representations and Warranties.** At the time of the Amendment Effective Date and immediately after giving effect to this Amendment:

(i) the representations and warranties of the Company and the Guarantors in *Article VI* of the Amended Credit Agreement and in the other Loan Documents as amended hereby shall be true and correct in all material respects (except to the extent such representations and warranties expressly refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, and except that the representations and warranties contained in subsections (a) and (b) of Section 6.14 of the Amended Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b) of Section 7.01 of the Amended Credit Agreement); and

(ii) no Default or Event of Default shall exist.

(c) **Bankruptcy Court Approval.** The Bankruptcy Court shall have approved this Amendment pursuant to an order in form and substance satisfactory to the Administrative Agent.

SECTION 4. Representations and Warranties. Each of the Company and the Guarantors represent and warrant to Administrative Agent and the Lenders, with full knowledge that such Persons are relying on the following representations and warranties in executing this Amendment, as follows:

(a) Subject to the Final Order and subject to any restrictions arising on account of any Loan Party's status as a "debtor" under the Bankruptcy Code, such Loan Party has the organizational power and authority to execute, deliver and perform this Amendment, and all organizational action on the part of such Loan Party requisite for the due execution, delivery and performance of this Amendment has been duly and effectively taken.

(b) Subject to the Final Order, the Amended Credit Agreement, the Loan Documents and each and every other Loan Document executed and delivered by such Loan Party in connection with this Amendment constitute the legal, valid and binding obligations of such Loan Party, to the extent such Loan Party is a party thereto, enforceable against such Loan Party in accordance with their respective terms except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(c) This Amendment does not and will not violate any provisions of any of such Loan Party's Organization Documents.

(d) Subject to the entry of an order of the Bankruptcy Court in connection herewith, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Amendment other than routine filings related to the Loan Parties and the operation of their business and other than filings with the Bankruptcy Court and such other filings as may be necessary in connection with Lenders' exercise of its remedies hereunder.

(e) Immediately after giving effect to this Amendment, no Default or Event of Default will exist, and all of the representations and warranties contained in the Amended Credit Agreement and in the other Loan Documents are true and correct in all material respects on and as of this date (except to the extent such representations and warranties expressly refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, and except that the representations and warranties contained in subsections (a) and (b) of Section 6.14 of the Amended Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to subsections (a) and (b) of Section 7.01 of the Amended Credit Agreement).

SECTION 5. Reference to and Effect on the Credit Agreement.

(a) Upon the effectiveness hereof, on and after the date hereof, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof," "herein," or words of like import, shall mean and be a reference to the Credit Agreement as amended hereby.

(b) Except as specifically amended by this Amendment, the Amended Credit Agreement shall remain in full force and effect and is hereby ratified and confirmed.

SECTION 6. Extent of Amendments. Except as amended hereby, the Credit Agreement and the other Loan Documents are not amended, modified or affected by this Amendment. Each of the Company and the Guarantors hereby ratifies and confirms that (i) except as expressly amended hereby and subject to the Chapter 11 Cases, all of the terms, conditions, covenants, representations, warranties and all other provisions of the Credit Agreement remain in full force and effect, (ii) each of the other Loan Documents are and remain in full force and effect in accordance with their respective terms, and (iii) the Collateral and the Liens on the Collateral securing the Obligations are unimpaired by this Amendment and remain in full force and effect.

SECTION 7. Loan Documents. The Loan Documents, as such may be amended in accordance herewith, are and remain legal, valid and binding obligations of the parties thereto, enforceable in accordance with their respective terms. This Amendment is a Loan Document.

SECTION 8. Execution and Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of this Amendment by facsimile or pdf shall be equally as effective as delivery of a manually executed counterpart.

SECTION 9. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of New York and applicable federal laws of the United States of America.

SECTION 10. Headings. Section headings in this Amendment are included herein for convenience and reference only and shall not constitute a part of this Amendment for any other purpose.

SECTION 11. NO ORAL AGREEMENTS. **THIS WRITTEN AMENDMENT, TOGETHER WITH THE OTHER WRITTEN LOAN DOCUMENTS EXECUTED IN CONNECTION HERewith, REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN SUCH PARTIES.**

SECTION 12. No Waiver. Each of the Company and Guarantors hereby agrees that no Event of Default or Default has been waived or remedied by the execution of this Amendment by the Administrative Agent or any Lender. Nothing contained in this Amendment nor any past indulgence by the Administrative Agent, Issuing Lender or any Lender, nor any other action or inaction on behalf of the Administrative Agent, Issuing Lender or any Lender, (i) shall constitute or be deemed to constitute a waiver of any Defaults or Events of Default which may exist under the Amended Credit Agreement or the other Loan Documents, or (ii) shall constitute or be deemed to constitute an election of remedies by the Administrative Agent, Issuing Lender or any Lender, or a waiver of any of the rights or remedies of the Administrative Agent, Issuing Lender or any Lender provided in the Amended Credit Agreement, the other Loan Documents, or otherwise afforded at law or in equity.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

LOAN PARTIES:

BREITBURN OPERATING LP

By: **BREITBURN OPERATING GP LLC**, its general partner

By: /s/ James G. Jackson
Name: James G. Jackson
Title: Chief Financial Officer

BREITBURN ENERGY PARTNERS LP

By: **BREITBURN GP LLC**, its general partner

By: /s/ James G. Jackson
Name: James G. Jackson
Title: Chief Financial Officer

**BREITBURN GP LLC
BREITBURN OPERATING GP LLC
BREITBURN FINANCE CORPORATION
ALAMITOS COMPANY
BEAVER CREEK PIPELINE, L.L.C.
PHOENIX PRODUCTION COMPANY GTG PIPELINE LLC
MERCURY MICHIGAN COMPANY, LLC
TERRA ENERGY COMPANY LLC
TERRA PIPELINE COMPANY LLC**

By: /s/ James G. Jackson
Name: James G. Jackson
Title: Chief Financial Officer

BREITBURN MANAGEMENT COMPANY LLC

By: **BREITBURN ENERGY PARTNERS LP**, its sole member

By: **BREITBURN GP LLC**, its general partner

By: /s/ James G. Jackson

Name: James G. Jackson

Title: Chief Financial Officer

BREITBURN FLORIDA LLC

BREITBURN OKLAHOMA LLC

BREITBURN SAWTELLE LLC

BREITBURN TRANSPETCO GP LLC

BREITBURN TRANSPETCO LP LLC

By: **BREITBURN OPERATING LP**, its sole member

By: **BREITBURN OPERATING GP LLC**, its general partner

By: /s/ James G. Jackson

Name: James G. Jackson

Title: Chief Financial Officer

Signature Page to Fourth Amendment

TRANSPETCO PIPELINE COMPANY, L.P.

By: **BREITBURN TRANSPETCO GP LLC**, its general partner

By: **BREITBURN OPERATING LP**, its sole member

By: **BREITBURN OPERATING GP LLC**, its general partner

By: /s/ James G. Jackson

Name: James G. Jackson

Title: Chief Financial Officer

By: **BREITBURN OPERATING LP**, its sole member

By: **BREITBURN OPERATING GP LLC**, its general partner

By: /s/ James G. Jackson

Name: James G. Jackson

Title: Chief Financial Officer

QR ENERGY, LP

By: **QRE GP, LLC**, its general partner

By: /s/ James G. Jackson

Name: James G. Jackson

Title: Chief Financial Officer

QRE GP, LLC

By: **BREITBURN GP LLC**, its manager

By: /s/ James G. Jackson

Name: James G. Jackson

Title: Chief Financial Officer

QRE OPERATING, LLC

By: **QR ENERGY, LP**, its sole member

By: **QRE GP, LLC**, its general partner

By: /s/ James G. Jackson

Name: James G. Jackson

Title: Chief Financial Officer

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent, Swing Line Lender, Issuing Lender and as a Lender

By: /s/ Michael A. Tribolet
Name: Michael A. Tribolet
Title: Managing Director

Signature Page to Fourth Amendment

CITIBANK, N.A.,
as a Lender

By: /s/ Brendan Mackay
Name: Brendan Mackay
Title: Vice President and Director

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JP MORGAN CHASE BANK, N.A.

as a Lender

By: /s/ Matthew H. Massie

Name: Matthew H. Massie

Title: Managing Director

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CAPITAL ONE NATIONAL ASSOCIATION
as a Lender

By: /s/ Stephen Hartman
Name: Stephen Hartman
Title: Assistant Vice President

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