

GASTAR EXPLORATION INC.

FORM 8-K (Current report filing)

Filed 04/06/17 for the Period Ending 04/06/17

Address	1331 LAMAR STREET SUITE 650 HOUSTON, TX 77010
Telephone	7137391800
CIK	0001431372
Symbol	GST
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): April 6, 2017

GASTAR EXPLORATION INC.

(Exact Name of Registrant as Specified in its Charter)

DELAWARE
(State or other jurisdiction
of incorporation)

001-35211
(Commission File Number)

38-3531640
(IRS Employer
Identification No.)

1331 LAMAR STREET, SUITE 650
HOUSTON, TEXAS 77010

(Address of principal executive offices)

(713) 739-1800
(Registrant's telephone number, including area code)

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 (see General Instruction A.2. below):

- 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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SECTION 1 – REGISTRANT’S BUSINESS AND OPERATIONS

Item 1.01 Entry into a Material Definitive Agreement.

On April 6, 2017, Gastar Exploration Inc. (the “Company”) entered into Amendment No. 1 (the “Amendment”) to the Rights Agreement, dated as of January 27, 2017, between Gastar Exploration Inc. and American Stock & Transfer Trust Company, LLC, as rights agent.

The Amendment accelerates the expiration of the Company’s preferred share purchase rights (the “Rights”) from 5:00 P.M., New York City time on January 27, 2020 to 5:00 P.M., New York City time on April 6, 2017, and has the effect of terminating the Rights Agreement on that date. At the time of the termination of the Rights Agreement, all of the Rights distributed to holders of the Company’s common stock pursuant to the Rights Agreement will expire.

The Company has determined that, as a result of the recent equity and convertible debt transactions with funds managed by affiliates of Ares Management, L.P., the value of the U.S. federal income tax benefits in the form of net operating losses would likely be substantially diminished by reason of an “ownership change,” as defined under Section 382 of the Internal Revenue Code, occurring in 2017. As a result, the Company decided to terminate the Rights.

The foregoing is a summary of the terms of the Amendment. The summary does not purport to be complete and is qualified in its entirety by reference to the Amendment, a copy of which is attached as Exhibit 4.1 and incorporated herein by reference.

Item 1.02 Termination of a Material Definitive Agreement.

The information set forth under Item 1.01 is incorporated herein by reference.

SECTION 3 – SECURITIES AND TRADING MARKETS

Item 3.03 Material Modification to Rights of Security Holders.

The information set forth under Item 1.01 is incorporated herein by reference.

SECTION 5 – CORPORATE GOVERNANCE AND MANAGEMENT

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

In connection with the adoption of the Rights Agreement, on January 27, 2017, the Company filed a Certificate of Amendment to Certificate of Designations of Series C Junior Participating Preferred Stock with the Secretary of State of the State of Delaware setting forth the rights, powers and preferences of the Series C Junior Participating Preferred Stock issuable upon exercise of the Rights (the “Preferred Shares”).

Promptly following the expiration of the Rights and the termination of the Rights Agreement, the Company will file a Certificate of Elimination (the “Certificate of Elimination”) with the Secretary of State of the State of Delaware eliminating the Preferred Shares and returning them to authorized but undesignated shares of the Company’s preferred stock.

The foregoing is a summary of the terms of the Certificate of Elimination. The summary does not purport to be complete and is qualified in its entirety by reference to the Certificate of Elimination, a copy of which is attached as Exhibit 3.1 and incorporated herein by reference.

SECTION 7 – REGULATION FD

Item 7.01 Regulation FD Disclosure.

On April 6, 2017, the Company issued a press release announcing the Amendment. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

In accordance with General Instruction B.2 of Form 8-K, the foregoing information, including Exhibit 99.1, shall not be deemed “filed” for the purposes of Section 18 of the Securities Exchange Act of 1934 (the “Exchange Act”) or otherwise subject to the liabilities of that section, nor shall such information, including Exhibit 99.1, be deemed incorporated by reference into any filing under the Securities Act of 1933 or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

SECTION 9 – FINANCIAL STATEMENTS AND EXHIBITS

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

The following is a list of exhibits furnished as part of this Form 8-K:

Exhibit No.	Description of Document
3.1	Certificate of Elimination of Series C Junior Participating Preferred Stock of Gastar Exploration Inc.
4.1	Amendment No. 1 to the Rights Agreement, dated as of April 6, 2017, between Gastar Exploration Inc. and American Stock Transfer & Trust Company, LLC, as Rights Agent.
99.1	Press Release of Gastar Exploration Inc. dated April 6, 2017.

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.

Date: April 6, 2017

GASTAR EXPLORATION INC.

By: /s/ Michael A. Gerlich
Name: Michael A. Gerlich
Senior Vice President, Chief Financial Officer and
Title: Corporate Secretary

EXHIBIT INDEX

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US 4961819

CERTIFICATE OF ELIMINATION
OF
SERIES C JUNIOR PARTICIPATING PREFERRED STOCK
OF GASTAR EXPLORATION INC.

(Pursuant to Section 151(g) of the General Corporation Law of the State of Delaware)

Gastar Exploration Inc., a Delaware corporation (the “**Company**”), certifies as follows:

1. Pursuant to Section 151 of the General Corporation Law of the State of Delaware (the “**DGCL**”) and the authority granted in the Amended and Restated Certificate of Incorporation (as amended, the “**Charter**”) of the Company, the Board of Directors of the Company, by resolutions duly adopted, authorized the issuance of 550,000 shares of preferred stock, par value \$0.01 per share, of the Company designated as Series C Junior Participating Preferred Stock (the “**Series C Preferred Stock**”).
 2. Pursuant to the provisions of Section 151(g) of the DGCL, the Board of Directors of the Company adopted the following resolutions:

RESOLVED FURTHER, that none of the authorized shares of preferred stock, par value \$0.01, of the Company designated as Series C Junior Participating Preferred Stock (the “**Series C Preferred Stock**”), are outstanding, and none of the authorized shares of Series C Preferred Stock will be issued subject to the certificate of designations therefor;

RESOLVED FURTHER, that the Company be, and hereby is, authorized and directed to file with the Secretary of State of the State of Delaware a certificate (the “**Certificate of Elimination**”) containing these resolutions, with the effect under the General Corporation Law of the State of Delaware of eliminating from the Company’s Amended and Restated Certificate of Incorporation, as amended, all matters set forth in the Certificate of Designations of Series C Preferred Stock filed with the Secretary of State of the State of Delaware on January 19, 2016, as amended on January 27, 2017 by the Certificate of Amendment; and

RESOLVED FURTHER, that the Authorized Officers are, and each of them hereby is, authorized and directed, for and on behalf of the Company and in its name, to execute and file the Certificate of Elimination and such time as they deem appropriate, and to take such further actions as they may deem necessary or appropriate to carry out the intent of the foregoing resolutions in accordance with the applicable provisions of the General Corporation Law of the State of Delaware.
 3. Pursuant to the provisions of Section 151(g) of the DGCL, all references to the Series C Preferred Stock in the Charter are hereby eliminated, and the shares that were designated to such series are hereby returned to the status of authorized but unissued shares of preferred stock of the Company.
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IN WITNESS WHEREOF, the Company has caused this Certificate of Elimination to be signed on its behalf by its duly authorized officer on this 6th day of April, 2017.

GASTAR EXPLORATION INC.

/s/ Michael A. Gerlich

Michael A. Gerlich

Senior Vice President, Chief Financial Officer and Corporate Secretary

AMENDMENT NO. 1 TO RIGHTS AGREEMENT

This AMENDMENT NO. 1 TO THE RIGHTS AGREEMENT (this “**Amendment**”) is dated as of April 6, 2017 (the “**Effective Date**”) and amends the Rights Agreement, dated as of January 27, 2017 (the “**Rights Agreement**”), by and between Gastar Exploration Inc., a Delaware corporation (the “**Company**”), and American Stock Transfer & Trust Company, LLC, as Rights Agent (the “**Rights Agent**”). Capitalized terms used in this Amendment and not otherwise defined have the meaning given to them in the Rights Agreement.

RECITALS

WHEREAS, in accordance with Section 28 of the Rights Agreement, for so long as the Rights are redeemable, the Company may in its sole and absolute discretion, and the Rights Agent shall if the Company so directs, supplement or amend any provision of the Rights Agreement in any respect without the approval of any holders of the Rights; and

WHEREAS, the Rights Agent is hereby directed to join in this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual agreements set forth herein, the parties hereby agree as follows:

1. *Amendment of the Rights Agreement* . Clause (i) Section 7(a) of the Rights Agreement is hereby amended and restated in its entirety as follows:
 - (i) the Close of Business on April 6, 2017 (the “**Final Expiration Date**”),
 2. *Amendment of Exhibits* . The exhibits to the Rights Agreement shall be deemed to be restated to reflect this Amendment, including all conforming changes.
 3. *Other Amendment; Effect of Amendment* . Except as and to the extent expressly modified by this Amendment, the Rights Agreement and the exhibits thereto remain in full force and effect in all respects without any modification. This Amendment will be deemed an amendment to the Rights Agreement and will become effective on the Effective Date. In the event of a conflict or inconsistency between this Amendment and the Rights Agreement and the exhibits thereto, the provisions of this Amendment will govern.
 4. *Counterparts* . This Amendment may be executed in any number of counterparts and each of such counterparts will for all purposes be deemed to be an original, and all such counterparts will together constitute one and the same instrument, it being understood that all parties need not sign the same counterpart. A signature to this Amendment transmitted electronically (including by fax and .pdf) will have the same authority, effect and enforceability as an original signature. No party hereto may raise the use of such electronic transmission to deliver a signature, or the fact that any signature or agreement or instrument was transmitted or communicated through such electronic transmission, as a defense to the formation of a contract, and each party forever waives any such defense, except to the extent such defense relates to lack of authenticity.
 5. *Severability* . If any term, provision, covenant or restriction of this Amendment is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the
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remainder of the terms, provisions, covenants and restrictions of this Amendment will remain in full force and effect and will in no way be affected, impaired or invalidated.

6. *Descriptive Headings* . The descriptive headings of the several Sections of this Amendment are inserted for convenience only and will not control or affect the meaning or construction of any of the provisions hereof.
7. *Further Assurances* . Each of the parties to this Amendment will cooperate and take such action as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Amendment, the Rights Agreement and the transactions contemplated hereunder and thereunder.
8. *Governing Law* . This Amendment will be deemed to be a contract made pursuant to the laws of the State of New York and for all purposes shall be governed by and construed in accordance with the laws of such State applicable to contracts to be made and performed entirely within such State.

[Signature page follows.]

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

GASTAR EXPLORATION INC.

/s/ Michael A. Gerlich

Michael A. Gerlich

Senior Vice President, Chief Financial Officer and Corporate Secretary

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC

By: /s/ Paula Caroppi
Name: Paula Caroppi
Title: Senior Vice President

For Immediate Release



NEWS RELEASE

Contacts:
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GASTAR EXPLORATION INC. TERMINATES NOL SHAREHOLDER RIGHTS PLAN

HOUSTON, TEXAS, April 6, 2017 — Gastar Exploration Inc., (the “Company”) (NYSE MKT: GST) today announced that its Net Operating Loss (“NOL”) Shareholder Rights Plan (the “Rights Plan”) has been amended to accelerate the expiration date of the related preferred share purchase rights to April 6, 2017, effectively terminating the Rights Plan as of today. Stockholders are not required to take any action as a result of this expiration.

Gastar has determined that, as a result of the recent equity and convertible debt transactions with funds managed by affiliates of Ares Management, L.P., the value of the tax benefits in the form of NOLs would likely be substantially diminished by reason of an “ownership change,” as defined under Section 382 of the Internal Revenue Code, occurring in 2017. As a result, the Company decided to terminate the Rights Plan.

In connection with the expiration of the Rights Plan, the Company will be taking routine actions to voluntarily deregister the related preferred share purchase rights under the Securities Exchange Act of 1934, and to delist the preferred share purchase rights from the NYSE MKT. These actions are administrative in nature and will have no effect on the Company’s common stock, which continues to be listed on the NYSE MKT.

About Gastar Exploration

Gastar Exploration Inc. is a pure play Mid-Continent independent energy company engaged in the exploration, development and production of oil, condensate, natural gas and natural gas liquids. Gastar’s principal business activities include the identification, acquisition, and subsequent exploration and development of oil and natural gas properties with an emphasis on unconventional reserves, such as shale resource plays. Gastar holds a concentrated acreage position in what is believed to be the core of the STACK Play, an area of central Oklahoma which is home to multiple oil and natural gas-rich reservoirs including the Meramec, Oswego, Osage, Woodford and Hunton formations.

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