

BERRY PETROLEUM COMPANY, LLC

FORM 8-K (Current report filing)

Filed 10/11/16 for the Period Ending 10/07/16

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Industry	Oil & Gas Exploration and Production
Sector	Energy
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**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): October 11, 2016 (October 7, 2016)

BERRY PETROLEUM COMPANY, LLC
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

1-9735
(Commission File Number)

77-0079387
(I.R.S. Employer
Identification No.)

600 Travis, Suite 5100
Houston, Texas
(Address of principal executive offices)

77002
(Zip Code)

(281) 840-4000
(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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Item 1.01 Entry into a Material Definitive Agreement.

On May 11, 2016 (the “Petition Date”), Linn Energy, LLC (“LINN Energy”), LinnCo, LLC, an affiliate of the LINN Energy (“LinnCo”), certain of LINN Energy’s direct and indirect subsidiaries (collectively with LINN Energy, the “LINN Debtors”), and Berry Petroleum Company, LLC (the “Company” and, collectively with the LINN Debtors and LinnCo, the “Debtors”), filed voluntary petitions (the “Bankruptcy Petitions”) for reorganization under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of Texas (the “Court”). The Debtors’ Chapter 11 cases are being administered jointly under the caption *In re Linn Energy, LLC, et al.*, Case No. 16-60040 (the “Chapter 11 Cases”).

Prior to the filing of the Bankruptcy Petitions, on May 10, 2016, the Debtors entered into a restructuring support agreement (the “Restructuring Support Agreement”) with certain holders (the “Consenting Creditors”) collectively holding or controlling at least 66.67% by aggregate outstanding principal amounts under (i) LINN Energy’s Sixth Amended and Restated Credit Agreement, dated as of April 24, 2013 (the “Linn Credit Agreement”) and (ii) the Company’s Second Amended and Restated Credit Agreement, dated as of November 15, 2010 (the “Berry Credit Agreement”).

The Restructuring Support Agreement sets forth, subject to certain conditions, the commitment of the Debtors and the Consenting Creditors to support a comprehensive restructuring of the Debtors’ long-term debt, which will be effectuated through one or more plans of reorganization (the “Plan”) to be filed in the Chapter 11 Cases.

On October 7, 2016, the Debtors and certain of the Consenting Creditors entered into the Third Amendment to Restructuring Support Agreement (the “Third Amendment”), which extended the date by which the Debtors must file with the Court the Plan (or Plans, if separate), the Plan Solicitation Materials (as defined in the Restructuring Support Agreement) for the Plan (or Plans, if separate), and the motion or motions to approve the Disclosure Statement (or Disclosure Statements, if separate, and as defined in the Restructuring Support Agreement) from 149 days to 156 days following the Petition Date. The Third Amendment provides further that the administrative agent for the LINN Credit Agreement and the Berry Credit Agreement and the Debtors may agree to further extend such preceding deadline to 163 days without the consent of the Required Consenting Creditors (as defined in the Restructuring Support Agreement).

The foregoing description of the Third Amendment is only a summary, does not purport to be complete and is qualified in its entirety by reference to the Third Amendment attached as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits.*

<u>Exhibit</u>	<u>Description</u>
10.1	Third Amendment to Restructuring Support Agreement, dated as of October 7, 2016, by and among the Debtors and the supporting parties thereto.

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.

October 11, 2016

BERRY PETROLEUM COMPANY, LLC

By: /s/ Candice J. Wells

Candice J. Wells

Senior Vice President, General Counsel and Corporate Secretary

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
10.1	Third Amendment to Restructuring Support Agreement, dated as of October 7, 2016, by and among the Debtors and the supporting parties thereto.

THIRD AMENDMENT TO RESTRUCTURING SUPPORT AGREEMENT

This **THIRD AMENDMENT TO RESTRUCTURING SUPPORT AGREEMENT**, dated as of October 7, 2016 (this “*Third Amendment*”), is made and entered into by and among: (i) LinnCo, LLC and Linn Energy, LLC, on behalf of itself and its direct and indirect subsidiaries other than Berry Petroleum Company, LLC (“Berry”) and Linn Acquisition Company, LLC (“LAC”) (together with its direct and indirect subsidiaries other than Berry and LAC, “LINN”); (ii) Berry and LAC (together with LINN, the “Company”); (iii) the undersigned holders (together with their permitted successors and assigns, each a “Consenting LINN Lender”) of claims pursuant to that certain Sixth Amended and Restated Credit Agreement, dated as of April 24, 2013, as amended (the “LINN Credit Agreement”); (iv) the undersigned holders (together with their permitted successors and assigns, each a “Consenting Berry Lender,” and together with the Consenting LINN Lenders, the “Consenting Creditors”) of claims pursuant to that certain Second Amended and Restated Credit Agreement, dated as of November 15, 2010, as amended (the “Berry Credit Agreement”), and amends that certain Restructuring Support Agreement, dated as of May 10, 2016, by and among the Company and the Consenting Creditors parties thereto from time to time (as amended, restated, supplemented or otherwise modified from time to time, the “Restructuring Support Agreement”). Each of the Company and the Consenting Lenders shall be referred to individually as a “Party” and, collectively, as the “Parties.” Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Restructuring Support Agreement.

RECITALS

WHEREAS, Section 10 of the Restructuring Support Agreement permits modifications and amendments of the Restructuring Support Agreement by written agreement executed by the Company and the Required Consenting Creditors;

WHEREAS, the Company and the Consenting Creditors have previously amended the Restructuring Support Agreement pursuant to that certain First Amendment to Restructuring Support Agreement, dated as of September 8, 2016, by and among the Company and the Consenting Lenders party thereto (the “First Amendment”);

WHEREAS, the Company and the Consenting Creditors have previously amended the Restructuring Support Agreement pursuant to that certain Second Amendment to Restructuring Support Agreement, dated as of September 23, 2016, by and among the Company and the Consenting Lenders party thereto (the “Second Amendment”); and

WHEREAS, pursuant to Section 10 of the Restructuring Support Agreement, the Parties desire to amend the Restructuring Support Agreement as set forth in this Third Amendment.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Party, intending to be legally bound hereby, agrees as follows:

AGREEMENT

Section 1. Amendment to the Restructuring Agreement

The initial introduction to Section 5.03 and clause (a) of Section 5.03 of the Restructuring Support Agreement is hereby amended and restated in its entirety to read as follows:

“5.03 Commitments of the Company. Except as set forth in Section 8 hereof, subject to compliance in all material respects by the other Parties with the terms of this Agreement, and without limiting the mutual commitments set forth in Section 5.01 hereof in any respect, the Company hereby covenants and agrees to:

(a) file the Plan (or Plans, if separate), the Plan Solicitation Materials for the Plan (or Plans, if separate), and the motion or motions to approve the Disclosure Statement (or Disclosure Statements, if separate) on or before 156 days following the Petition Date; provided, that the administrative agent for the LINN Credit Agreement and the Berry Credit Agreement and the Company may agree in writing to further extend such preceding deadline to 163 days (and for the avoidance of doubt, the consent of the Required Consenting Creditors shall not be required for such further extension).”

Section 2. Ratification

Except as specifically provided for in this Third Amendment, the Second Amendment, or the First Amendment, no waivers, releases, changes, amendments, or other modifications have been made on or prior to the date hereof or are being made to the terms of the Restructuring Support Agreement or the rights and obligations of the parties thereunder, all of which such terms are hereby ratified and confirmed and remain in full force and effect.

Section 3. Effectiveness

This Third Amendment shall become effective and binding on the Parties on the date counterpart signatures to this Third Amendment shall have been executed by (a) the Company, and (b) the Required Consenting Creditors.

Section 4. Headings

Titles and headings in this Third Amendment are inserted for convenience of reference only and are not intended to affect the interpretation or construction of the Third Amendment.

Section 5. Execution of Agreement

This Third Amendment may be executed in counterparts, and by the different Parties hereto on separate counterparts, each of which when executed and delivered shall constitute an original. Delivery of an executed counterpart by facsimile or electronic mail shall be equally as effective as delivery of an original executed counterpart.

Section 6. Governing Law; Jurisdiction; Selection of Forum; Waiver of Trial By Jury

THIS THIRD AMENDMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN SUCH STATE, WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF. Each Party hereto agrees that it shall bring any action or proceeding in respect of any claim arising out of or related to this Third Amendment in the Bankruptcy Court, and solely in connection with claims arising under this Third Amendment (a) irrevocably submits to the exclusive jurisdiction of the Bankruptcy Court, (b) waives any objection to laying venue in any such action or proceeding in the Bankruptcy Court, and (c) waives any objection that the Bankruptcy Court are an inconvenient forum or do not have jurisdiction over any Party hereto. Each Party hereto irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Third Amendment or the transactions contemplated hereby.

[Signature pages follow]

IN WITNESS WHEREOF, the Parties have caused this Third Amendment to be executed and delivered by their respective duly authorized officers or other agents, solely in their respective capacity as officers or other agents of the undersigned and not in any other capacity, as of the date first set forth above.

LINNCO, LLC

By: /s/ Candice Wells
Name: Candice Wells
Title: Senior Vice President and General Counsel

LINN ENERGY, LLC, on behalf of itself and its subsidiaries other than Linn Acquisition Company, LLC and Berry Petroleum Company, LLC

By: /s/ Candice Wells
Name: Candice Wells
Title: Senior Vice President and General Counsel

LINN ACQUISITION COMPANY, LLC

By: /s/ Candice Wells
Name: Candice Wells
Title: Senior Vice President and General Counsel

BERRY PETROLEUM COMPANY, LLC

By: /s/ Candice Wells
Name: Candice Wells
Title: Senior Vice President and General Counsel

[*Signature Page to Third Amendment to Restructuring Support Agreement*]

[Creditor Signature Pages Redacted]