

CIMAREX ENERGY CO
Form 8-K
July 17, 2009

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): **July 17, 2009**

Cimarex Energy Co.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-31446
(Commission
File Number)

45-0466694
(IRS Employer
Identification No.)

1700 Lincoln Street, Suite 1800
Denver, Colorado 80203

(Address and Zip Code of principal executive offices)

(303) 295-3995

(Registrant's telephone number, including area code)

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N/A

(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))
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Item 8.01 Other Events.

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During the first quarter of 2009, Cimarex Energy Co. adopted the provisions of Financial Accounting Standards Board (FASB) Staff Position APB 14-1 (APB 14-1), *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)* and FASB Staff Position EITF 03-6-1 (EITF 03-6-1), *Determining Whether Instruments Granted in Share Based Payment Transactions Are Participating Securities*. The requirements of these provisions are applied retrospectively to our financial statements.

APB 14-1 requires that the debt and equity components of convertible debt instruments that can be settled wholly or partly in cash upon conversion (including instruments issued prior to adoption, such as our floating rate convertible senior notes due 2023) are to be accounted for separately. EITF 03-6-1 provides that unvested share based payment awards that contain non forfeitable rights to dividends or dividend equivalents (such as our unvested restricted stock and restricted stock units) are participating securities (as defined by EITF 03-6 as securities that may participate in undistributed earnings with common stock, whether that participation is conditioned upon the occurrence of a specified event or not, regardless of the form of participation), and therefore should be included in computing earnings per share using the two-class earnings allocation method.

In this Current Report on Form 8-K, we are filing our audited consolidated financial statements as of December 31, 2008 and 2007 and for each of the years in the three-year period ended December 31, 2008, which have been recast to give effect to the retrospective application of the adoption of APB 14-1 and EITF 03-06-1. We also are filing in this Current Report on Form 8-K the following sections: Business (including Forward-Looking Statements and Certain Risks), Selected Financial Data, Management's Discussion and Analysis of Financial Condition and Results of Operations and Qualitative and Quantitative Disclosures About Market Risk, which give effect to the retrospective application of these standards. The following table reflects a summary comparison of certain financial statement line items affected by the retrospective application of these standards.

Summary of the Retrospective Application of Changes

(Amounts in thousands except per share data)

| | For the Years Ended December 31, | | |
|---|----------------------------------|------------|------------|
| | 2008 | 2007 | 2006 |
| Changes to the Consolidated Statements of Operations and Earnings Per Share: | | | |
| As previously reported | | | |
| Interest Expense | \$ 32,064 | \$ 37,966 | \$ 29,940 |
| Amortization of fair value of debt | \$ (709) | \$ (1,908) | \$ (3,784) |
| Gain on early extinguishment of debt | \$ (9,569) | \$ (5,099) | |
| Income (loss) before taxes | \$ (1,430,298) | \$ 544,625 | \$ 544,324 |
| Income tax expense (benefit) | \$ (528,613) | \$ 198,156 | \$ 198,605 |
| Net income (loss) | \$ (901,685) | \$ 346,469 | \$ 345,719 |
| Earnings (loss) per share: | | | |
| Basic | \$ (11.07) | \$ 4.23 | \$ 4.21 |
| Diluted | \$ (11.07) | \$ 4.09 | \$ 4.11 |

Summary of the Retrospective Application of Changes

(Amounts in thousands except per share data)

| | For the Years Ended December 31, | | |
|--|----------------------------------|--------------|------------|
| | 2008 | 2007 | 2006 |
| After retrospective application: | | | |
| Interest Expense | \$ 33,079 | \$ 39,105 | \$ 31,130 |
| Amortization of fair value of debt | | \$ (1,146) | \$ (3,024) |
| (Gain) loss on early extinguishment of debt | \$ 10,058 | \$ (5,099) | |
| Income (loss) before taxes | \$ (1,451,649) | \$ 542,724 | \$ 542,374 |
| Income tax expense (benefit) | \$ (536,404) | \$ 197,462 | \$ 197,893 |
| Net income (loss) | \$ (915,245) | \$ 345,262 | \$ 344,481 |
| Earnings (loss) per share to common shareholders: | | | |
| Basic | | | |
| Distributed | \$ 0.24 | \$ 0.18 | \$ 0.16 |
| Undistributed | (11.46) | 3.97 | 3.96 |
| | \$ (11.22) | \$ 4.15 | \$ 4.12 |
| Diluted | | | |
| Distributed | \$ 0.24 | \$ 0.18 | \$ 0.16 |
| Undistributed | (11.46) | 3.87 | 3.89 |
| | \$ (11.22) | \$ 4.05 | \$ 4.05 |
| | December 31, | | |
| | 2008 | 2007 | |
| Changes to the Consolidated Balance Sheets: | | | |
| As previously reported | | | |
| Long-term debt | \$ 591,223 | \$ 487,159 | |
| Deferred income taxes | \$ 499,634 | \$ 1,076,223 | |
| Paid-in capital | \$ 1,855,825 | \$ 1,842,690 | |
| Retained earnings | \$ 526,998 | \$ 1,448,763 | |
| After retrospective application: | | | |
| Long-term debt | \$ 587,630 | \$ 462,216 | |
| Deferred income taxes | \$ 500,945 | \$ 1,085,325 | |
| Paid-in capital | \$ 1,874,834 | \$ 1,861,699 | |
| Retained earnings | \$ 510,271 | \$ 1,445,595 | |

The information in this Current Report on Form 8-K should be read in conjunction with our Annual Report on Form 10-K for the fiscal year ended December 31, 2008, our Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2009 and our other filings with the U.S. Securities and Exchange Commission.

Item 9.01 Financial Statements and Exhibits.

| Exhibit Number | Description |
|-----------------------|---|
| 23.1 | Consent of KPMG LLP. |
| 23.2 | Consent of DeGolyer and MacNaughton. |
| 99.1 | Item 1 Business (including Forward-Looking Statements and Certain Risks), Item 6 Selected Financial Data, Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations, Item 7A Qualitative and Quantitative Disclosures About Market Risk and Item 8 Consolidated Financial Statements of Cimarex Energy Co. |

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.

CIMAREX ENERGY CO.

| | |
|--------|--|
| By: | /s/ Paul Korus |
| Name: | Paul Korus |
| Title: | Vice President, Chief Financial Officer and Treasurer (Principal Financial Officer) |

Dated: July 17, 2009

EXHIBIT INDEX

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