Blueknight Energy Partners, L.P.
Form PRE 14A
June 10, 2011
Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the

Securities Exchange Act of 1934

(Amendment No.)

Filed by the Registrant þ Filed by a Party other than the Registrant ¨

Check the appropriate box:

þ Preliminary Proxy Statement

¨ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

¨ Definitive Proxy Statement

¨ Definitive Additional Materials

¨ Soliciting Material Pursuant to §240.14a-12

BLUEKNIGHT ENERGY PARTNERS, L.P.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

þ No fee required.

¨ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

¨ Fee paid previously with preliminary materials.

¨ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Table of Contents

PRELIMINARY PROXY STATEMENT, SUBJECT TO CHANGE, DATED JUNE 10, 2011

, 2011

To our unitholders:

You are cordially invited to attend a special meeting of the unitholders of Blueknight Energy Partners, L.P. to be held at , on , 2011 at , local time.

Details regarding the business to be conducted at the special meeting are described in the accompanying notice of the special meeting and proxy statement. We encourage you to review carefully these materials.

Your vote is very important. Even if you plan to attend the special meeting, we urge you to mark, sign and date the enclosed proxy card and return it promptly or transmit your voting instructions by using the telephone or Internet procedures described on your proxy card. You will retain the right to revoke it at any time before the vote or to vote your units personally if you attend the special meeting.

On behalf of the board of directors of our general partner, Blueknight Energy Partners G.P., L.L.C., I would like to express our appreciation for your continued support. We look forward to seeing you at the special meeting.

Duke R. Ligon
Chairman of the Board of Directors
Blueknight Energy Partners G.P., L.L.C.

Table of Contents

NOTICE OF SPECIAL

MEETING OF UNITHOLDERS OF

BLUEKNIGHT ENERGY PARTNERS, L.P.

TO BE HELD

ON , 2011

To our unitholders:

A special meeting of the unitholders of Blueknight Energy Partners, L.P. (BKEP) will be held on , 2011 at , local time, at , for the following purposes:

1. to consider and vote upon a proposal, which we refer to as the Partnership Agreement Amendment Proposal, by which we would amend and restate our partnership agreement to:

   reset (1) the minimum quarterly distribution to $0.11 per unit per quarter from $0.3125 per unit per quarter, (2) the first target distribution to $0.1265 per unit per quarter from $0.3594 per unit per quarter, (3) the second target distribution to $0.1375 per unit per quarter from $0.3906 per unit per quarter and (4) the third target distribution to $0.1825 per unit per quarter from $0.4688 per unit per quarter;

   waive the cumulative common unit arrearage;

   remove provisions in our partnership agreement relating to the subordinated units, including concepts such as a subordination period (and any provisions that expressly apply only during the subordination period) and common unit arrearage, in connection with the transfer to us, and our subsequent cancellation, of all of our outstanding subordinated units;

   provide that distributions shall not accrue or be paid to the holders of our incentive distribution rights for an eight quarter period beginning with the quarter in which the special meeting occurs;

   provide that during the period beginning on the date of this special meeting and ending on June 30, 2015 (the Senior Security Restriction Period), we will not issue any class or series of partnership securities that, with respect to distributions on such partnership securities or distributions upon liquidation of our partnership, ranks senior to the common units during the Senior Security Restriction Period (Senior Securities) without the consent of the holders of at least a majority of the outstanding common units (excluding the common units held by our general partner and its affiliates and excluding any Senior Securities that are convertible into common units); *provided* that we may issue an unlimited number of Senior Securities during the Senior Security Restriction Period without obtaining such consent if (i) such issuances are made in connection with the conversion of our convertible debentures we issued to an affiliate of Vitol Holding B.V. (together with its affiliates other than our general partner, us and our subsidiaries, Vitol) and an affiliate of Charlesbank Capital Partners, LLC (together with its affiliates other than our general partner, us and our subsidiaries, Charlesbank) in the aggregate principal amount of $50 million (the Convertible Debentures) or the consummation of the rights offering and use of proceeds therefrom, (ii) such issuances are made upon conversion, redemption or exchange of Senior Securities into or for Senior Securities of equal or lesser rank, where the aggregate amount of distributions that would have been paid with respect to such newly issued Senior Securities, plus the related distributions to our general partner, in respect of the four-quarter period ending prior to the first day of the quarter in which the issuance is to be consummated (assuming such newly issued Senior Securities had been

outstanding throughout such period) would not have exceeded the distributions actually paid during such period on the Senior Securities that are to be converted, redeemed or exchanged, plus the related distributions to our general partner, (iii) such issuances are made in connection with the combination or subdivision of any class of Senior Securities, (iv) such issuances are made in connection with an acquisition or expansion capital improvement that increases estimated pro forma Adjusted Operating Surplus (as defined in our partnership agreement) (less estimated pro forma distributions on our Series A Preferred Units (which we refer to as the Preferred Units) and on any other Senior Securities) on a per-common unit basis, as determined in good faith by our

Table of Contents

general partner, as compared to actual Adjusted Operating Surplus (as defined in our partnership agreement) (less actual distributions on the Preferred Units and on any other Senior Securities) on a per-common unit basis or (v) the net proceeds of such issuances are used to repay indebtedness of our partnership or its subsidiaries; *provided*, *however*, that in the case of subsection (v) such new securities may not be issued to an affiliate of our general partner unless the cost to service any new indebtedness that we determine that we could issue to retire existing indebtedness (with our general partner s determination being conclusive) is greater than the distribution obligations associated with the Senior Securities issued in connection with its retirement and one or more of the following conditions are also met: (A) the indebtedness that is being repaid matures within 12 months of such repayment, or (B) such indebtedness has experienced a default or event of default (even if the lenders of such indebtedness have agreed to forebear or waive such default or event of default) or (C) our general partner expects to experience a default or event of default under such indebtedness within six months of such repayment (with our general partner s determination being conclusive);

provide that in addition to our partnership s current rights to convert the Preferred Units into common units, the Preferred Units will also be convertible in whole or in part at our option at any time on or after October 25, 2015 if (i) the daily volume-weighted average trading price of the common units is greater than 130% of the Conversion Price (as defined in our partnership agreement) for twenty out of the trailing thirty trading days ending two trading days before we furnish notice of conversion and (ii) the average trading volume of common units has exceeded 20,000 common units for twenty out of the trailing thirty trading days ending two trading days before we furnish notice of conversion; and

provide that the conversion of Preferred Units shall become effective (i) in the case of Preferred Units that are being converted pursuant to Section 5.12(c)(i) of our partnership agreement (relating to conversions at the election of the holder of such units), as of the last day of the quarter in which the relevant notice of conversion is delivered by the applicable unitholder and (ii) in the case of Preferred Units that are being converted pursuant to Section 5.12(c)(ii) of our partnership agreement (relating to conversions at the election of our partnership), as of the date that the notice of conversion is delivered by us; and

2. to consider and vote upon a proposal, which we refer to as the LTIP Proposal, to approve the terms of an amendment and restatement of the Blueknight Energy Partners G.P., L.L.C. Long-Term Incentive Plan, which we refer to as the Proposed LTIP, to increase the number of common units issuable under such plan by 1,350,000 common units from 1,250,000 common units to 2,600,000 common units. As of June 6, 2011, 177,376 common units remained available for future awards to participants under the existing incentive plan. After the increase in the number of common units issuable pursuant to the Proposed LTIP, 1,527,376 common units will be available for future awards under the Proposed LTIP.

If the Partnership Agreement Amendment Proposal is approved, then (i) our general partner will adopt the Fourth Amended and Restated Agreement of Limited Partnership of Blueknight Energy Partners in the form attached as Annex A to this proxy statement (the Amended and Restated Partnership Agreement) to reflect the approval of the Partnership Agreement Amendment Proposal as well as other amendments that our general partner may make in accordance with the provisions of our partnership agreement as set forth therein, (ii) Vitol and Charlesbank will transfer all of our outstanding subordinated units to us and we will cancel such subordinated units and (iii) we will undertake to complete an approximately $77 million rights offering, the proceeds of which shall be used as follows: (a) first, to pay for any and all expenses relating to conducting the rights offering, (b) second, to redeem our Convertible Debentures for an amount equal to the principal amount of such Convertible Debentures plus any interest payable thereon, (c) third, to repurchase, on a pro rata basis, up to a maximum of $22 million of Preferred Units from Vitol and Charlesbank at a purchase price of $6.50 per unit plus any pro rata distribution for the quarter in which such units are repurchased and (d) thereafter, for general partnership purposes. Pursuant to the terms of the rights offering, we will distribute to our common unitholders 0.5412 rights for each outstanding common unit, with each whole right entitling the holder to acquire, for a subscription price of $6.50, a newly issued Preferred Unit.

Table of Contents

The Conflicts Committee of our board of directors has unanimously approved the Partnership Agreement Amendment Proposal and determined that it is in the best interests of us and our unitholders. Our board of directors, after considering the determination and recommendation of our Conflicts Committee, unanimously approved the Partnership Agreement Amendment Proposal and determined that it is in the best interests of us and our unitholders. Our board of directors has unanimously approved the LTIP Proposal and determined that it is in the best interests of us and our unitholders.

Accordingly, our board of directors and our Conflicts Committee both unanimously recommend that you vote FOR the Partnership Agreement Amendment Proposal and our board of directors unanimously recommends that you vote FOR the LTIP Proposal.

In order to constitute a quorum to conduct the proposed business at the special meeting, holders of a majority of our outstanding common units (including common units deemed owned by our general partner), our outstanding subordinated units and our outstanding Preferred Units must be present in person or by proxy.

Under our partnership agreement, the Partnership Agreement Amendment Proposal requires approval by (i) our general partner, (ii) a majority of the outstanding common units (excluding common units owned by our general partner and its affiliates and excluding persons or groups beneficially owning 20% or more of our outstanding common units) and (iii) a majority of the outstanding subordinated units. The owners of all of our outstanding subordinated units, have agreed to vote all of their subordinated units in favor of the Partnership Agreement Amendment Proposal. The holders of our Preferred Units are not entitled to vote on the Partnership Agreement Amendment Proposal and their vote is not required for the approval of such proposal.

Our partnership agreement does not require that we present the LTIP Proposal to our unitholders for approval. However, under the rules of the Nasdaq Global Market, the LTIP Proposal requires the approval of a majority of the votes cast by our unitholders.

We have set the close of business on , 2011 as the record date for determining which unitholders are entitled to receive notice of, and to vote at, the special meeting and any adjournments thereof. A list of unitholders of record will be available for inspection by any unitholder during the meeting.

Your vote is very important. Even if you plan to attend the special meeting, we urge you to mark, sign and date the enclosed proxy card and return it promptly or transmit your voting instructions by using the telephone or Internet procedures described on your proxy card. You will retain the right to revoke it at any time before the vote or to vote your units personally if you attend the special meeting.

By Order of the Board of Directors of Blueknight Energy Partners G.P., L.L.C., the general partner of BKEP.

Alex G. Stallings
Chief Financial Officer and Secretary

Tulsa, Oklahoma

, 2011

Table of Contents

TABLE OF CONTENTS

Table of Contents

Table of Contents

Table of Contents

QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND VOTING

In the following questions and answers below, we highlight selected information from this proxy statement but have not included all of the information that may be important to you regarding the proposals. To better understand the Partnership Agreement Amendment Proposal and the LTIP Proposal you should carefully read this proxy statement in its entirety, including the annexes, as well as the documents we have incorporated by reference in this proxy statement. Please read Where You Can Find More Information beginning on page 136. This proxy statement and the accompanying form of proxy are first being mailed to our unitholders on or about , 2011.

Who is soliciting my proxy?

Blueknight Energy Partners G.P., L.L.C., our general partner, is sending you this proxy statement in connection with its solicitation of proxies for use at our special meeting of unitholders. Certain directors and officers of our general partner and its affiliates providing services to us, and MacKenzie Partners, Inc. (a proxy solicitor) may also solicit proxies on our behalf by mail, phone or fax or in person. Our executive offices are located at Two Warren Place, 6120 South Yale Avenue, Suite 500, Tulsa, Oklahoma 74136.

How will my proxy be voted?

Unless you give other instructions on your proxy card, the persons named as proxy holders on the proxy card will vote all executed proxy cards in accordance with the recommendations of the board of directors of our general partner (which we refer to as our board of directors), which is to vote FOR the proposals. With respect to any other matter that properly comes before the special meeting, the proxy holders will vote as recommended by our board of directors, or, if no recommendation is given, in their own discretion.

When and where is the special meeting?

The special meeting will be held on , 2011 at local time at .

The special meeting may be adjourned by our general partner to another date and/or place for any purpose (including, without limitation, for the purpose of soliciting additional proxies). However, our partnership agreement also provides that, in the absence of a quorum, the special meeting may be adjourned from time to time by the affirmative vote of a majority of the outstanding units entitled to vote at the meeting represented either in person or by proxy.

What is the purpose of the special meeting?

At the special meeting, our unitholders will act upon the Partnership Agreement Amendment Proposal and the LTIP Proposal as described in more detail herein.

What are the federal income tax consequences of the proposals to unitholders?

Under current law, it is anticipated that no income or gain for U.S. federal income tax purposes will be recognized by common unitholders solely as a result of the effectiveness of the Partnership Agreement Amendment Proposal. The LTIP Proposal may have an impact on participants in the Proposed LTIP. Participants should consult their own tax advisor concerning the particular tax consequences resulting from the LTIP Proposal.

What is the recommendation of our board of directors?

The Conflicts Committee, consisting exclusively of directors who meet the independence requirements of our partnership agreement, has unanimously approved the Partnership Agreement Amendment Proposal and determined that it is in the best interests of our unitholders and our partnership. The Conflicts Committee recommends that you vote FOR the Partnership Agreement Amendment Proposal.

Table of Contents

Our board of directors has unanimously approved the Partnership Agreement Amendment Proposal, has determined that it is in the best interests of our unitholders and our partnership and recommends that the unitholders approve the Partnership Agreement Amendment Proposal. Our board of directors recommends that you vote FOR the Partnership Agreement Amendment Proposal.

Our board of directors has unanimously approved the LTIP Proposal, has determined that it is in the best interests of our unitholders and our partnership and recommends that the unitholders approve the LTIP Proposal. Our board of directors recommends that you vote FOR the LTIP Proposal.

Who is entitled to vote at the special meeting?

All holders of our common units, subordinated units and Preferred Units who owned such units at the close of business on the record date, , 2011, are entitled to receive notice of the special meeting and to vote the units that they held on the record date at the special meeting or any adjournments of the special meeting, except that holders of our Preferred Units are not entitled to vote on the Partnership Agreement Amendment Proposal. Each unitholder may be asked to present valid picture identification, such as a driver s license or passport. Cameras, recording devices and other electronic devices will not be permitted at the special meeting.

How do I vote?

Mail your completed, signed and dated proxy card in the enclosed postage-paid return envelope, or vote by telephone or through the Internet, as soon as possible so that your units may be represented at the special meeting. You may also attend the special meeting and vote your units in person. Holders whose units are held in street name through brokers or other nominees who wish to vote at the special meeting will need to obtain a legal proxy from the institution that holds their units. Even if you plan to attend the special meeting, your plans may change, so it is a good idea to complete, sign and return your proxy card in advance of the special meeting.

How do I vote by telephone or electronically?

If you are a registered unitholder (that is, you hold your units in certificate form), you may vote by telephone or through the Internet by following the instructions included with your proxy card. If your units are held in street name, you will receive instructions from your broker or other nominee describing how to vote your units. Certain of these institutions may offer telephone and Internet voting. Please refer to the information forwarded by your broker or other nominee to see which options are available to you. The deadline for voting by telephone or through the Internet is 11:59 p.m. Eastern Time on , 2011, the night before the special meeting.

If my units are held in street name by my broker or other nominee, will my broker or other nominee vote my units for me?

If you own your units in street name through a broker or nominee, your broker or nominee will not be permitted to exercise voting discretion with respect to the matters to be acted upon at the special meeting. Thus, if you do not give your broker or nominee specific instructions, your units will not be voted on the proposals. Please make certain to return your proxy card, or otherwise give your broker or nominee specific instructions, for each separate account you maintain to ensure that all of your units are voted.

What if I want to change my vote?

To change your vote after you have submitted your proxy card, send in a later-dated, signed proxy card to us or attend the special meeting and vote in person. You may also revoke your proxy by sending a notice of revocation to us at the address set forth in the notice. Please note that attendance at the special meeting will not by itself revoke a previously granted proxy. If you have instructed your broker or other nominee to vote your units, you must follow the procedure your broker or nominee provides to change those instructions.

Table of Contents

What constitutes a quorum?

A majority of our outstanding common units (including common units deemed owned by our general partner), a majority of our outstanding subordinated units and a majority of our outstanding Preferred Units present in person or by proxy at the special meeting will constitute a quorum and will permit us to conduct the proposed business at the special meeting. Your units will be counted as present at the special meeting if you:

- are present and vote in person at the meeting; or
- have submitted a properly executed proxy card, including a properly executed proxy card without voting instructions.

Proxies received but marked as abstentions will be counted as units that are present and entitled to vote for purposes of determining the presence of a quorum. If an executed proxy is returned by a broker or other nominee holding units in street name indicating that the broker or nominee does not have discretionary authority as to certain units to vote on the proposals (a broker non-vote), such units will be considered present at the meeting for purposes of determining the presence of a quorum but will not be considered entitled to vote.

What vote is required to approve the proposals?

Under our partnership agreement, the Partnership Agreement Amendment Proposal requires approval by (i) our general partner, (ii) a majority of the outstanding common units (excluding common units owned by our general partner and its affiliates and excluding persons or groups beneficially owning 20% or more of our outstanding common units) and (iii) a majority of the outstanding subordinated units. Holders of our Preferred Units are not entitled to vote on the Partnership Agreement Amendment Proposal. An abstention, a broker non-vote, or the failure to vote at all will have the effect of a negative vote for the purposes of votes required to approve the Partnership Agreement Amendment Proposal. The owners of all of our outstanding subordinated units, have agreed to vote all of their subordinated units in favor of the Partnership Agreement Amendment Proposal.

The LTIP Proposal requires the approval of a majority of the votes cast by our unitholders.

A properly executed proxy submitted without voting instructions will be voted (except to the extent that the authority to vote has been withheld) FOR the Partnership Agreement Amendment Proposal and FOR the LTIP Proposal.

Who can I contact for further information?

If you have any questions or need any assistance in voting your units, please contact MacKenzie Partners, Inc.:

MacKenzie Partners, Inc.

105 Madison Avenue

New York, NY 10016

(800) 322-2885

or

(212) 929-5500 (Collect)

Table of Contents

SUMMARY

This brief summary highlights selected information from this proxy statement. It does not contain all of the information that may be important to you. To understand the Partnership Agreement Amendment Proposal and the LTIP Proposal fully and for a complete description related transactions and related matters, you should read carefully this proxy statement, the documents incorporated by reference and the full text of the annexes to this proxy statement. Please read Where You Can Find More Information.

Overview

We are a publicly traded master limited partnership with operations in twenty-two states. We provide integrated terminalling, storage, processing, gathering and transportation services for companies engaged in the production, distribution and marketing of crude oil and asphalt product. We were formed in 2007 as an indirect subsidiary of SemGroup Corporation and its predecessors (SemCorp). On July 22, 2008, and thereafter, SemCorp and certain of its subsidiaries filed voluntary petitions for reorganization under Chapter 11 of the Bankruptcy Code. In connection with SemCorp s liquidity issues, in July 2008, Manchester Securities Corp. (Manchester) and Alerian Finance Partners, LP (Alerian) exercised certain rights under loan documents with SemGroup Holdings, L.P., a subsidiary of SemCorp that at such time was the owner of our general partner, to vote the membership interests of our general partner in order to reconstitute our general partner s board of directors. In November 2009, Vitol acquired from Manchester all of our outstanding subordinated units and 100% of the membership interests in our general partner, which owns our incentive distribution rights. In connection with the refinancing discussed below, Charlesbank acquired 50% of our outstanding subordinated units and one-half of the interest in the entity that owns our general partner.

From our formation until the settlement of certain matters between SemCorp and us in the first quarter of 2009, we relied on SemCorp for a substantial portion of our revenues, which were derived from services provided to the finished asphalt product processing and marketing operations of SemCorp and from services provided to the crude oil purchasing, marketing and distribution operations of SemCorp. After SemCorp s bankruptcy filings, we have worked to stabilize our business and currently derive a substantial majority of our revenues from services provided to third parties.

In connection with the events related to the bankruptcy filings, certain events of default occurred under our prior credit agreement. Subsequently, we entered into various amendments to our prior credit agreement, but from the time of the bankruptcy filings until the refinancing discussed below, substantially all of our cash generated from operations was used to service our debt. In addition, our prior credit facility was scheduled to mature on June 30, 2011, and all then outstanding borrowings would have been due and payable at that time. As of October 25, 2010 (immediately prior to the refinancing discussed below), we had $424.7 million in outstanding borrowings under our prior credit facility at an average annual interest rate of 11.0%. In addition, we were obligated to pay (i) $10.1 million in deferred interest on June 30, 2011 if the prior credit facility was not refinanced prior to January 6, 2011, (ii) an additional interest payment that was going to be due in the amount of $4.2 million on April 6, 2011 and (iii) minimum quarterly amortization payments that were going to be due in the amount of $2.5 million on each of December 31, 2010 and March 31, 2011.

Pursuant to restrictions in our prior credit facility, we were prohibited from making distributions to our unitholders. We did not make a distribution to our common unitholders or subordinated unitholders for the quarters ended June 30, 2008 through March 31, 2011 due, in part, to restrictions under our prior credit agreement and the uncertainty of our future cash flows relating to SemCorp s bankruptcy filings. After giving effect to the nonpayment of distributions for the quarters ended June 30, 2008 through March 31, 2011, each common unit was entitled to an arrearage of $3.75, or total arrearages for all common units of $82.1 million based upon 21,890,224 common units outstanding as of March 31, 2011, before any distribution of operating surplus would be paid to the holders of the subordinated units. Pursuant to our credit facility, we are permitted to make quarterly distributions of available cash to unitholders so long as: (i) no default or event of default exists

Table of Contents

under our credit agreement, (ii) we have, on a pro forma basis after giving effect to such distribution, at least $10.0 million of availability under our revolving loan facility, and (iii) our consolidated total leverage ratio, on a pro forma basis, would not be greater than (x) 4.50 to 1.00 for any fiscal quarter on or prior to the fiscal quarter ending June 30, 2011, (y) 4.25 to 1.00 for the fiscal quarters ending September 30, 2011 and December 31, 2011, or (z) 4.00 to 1.00 for any fiscal quarter ending on or after March 31, 2012. Our consolidated total leverage ratio (calculated in accordance with our credit agreement) as of March 31, 2011 was 4.05 to 1.00.

On October 25, 2010 we entered into a Global Transaction Agreement with our general partner, Blueknight Energy Holding, Inc. (a subsidiary of Vitol) and CB-Blueknight, LLC (a subsidiary of Charlesbank). In connection with the execution of the Global Transaction Agreement, Vitol sold Charlesbank one-half of the interest in the entity that owns our general partner and 50% of our outstanding subordinated units (such sale was consummated on November 12, 2010). The Global Transaction Agreement outlined a series of transactions related to the refinancing of our prior debt and the recapitalization of our securities. Generally, these transactions were separated into three types of transactions: (i) Phase I Transactions (which were consummated on October 25, 2010), (ii) Unitholder Vote Transactions and (iii) Phase II Transactions. Such transactions as set forth in the Global Transaction Agreement are described in more detail in Proposal One: The Partnership Agreement Amendment Proposal Special Factors Background of the Refinancing and Related Transactions.

On May 12, 2011, we entered into the First Amendment to the Global Transaction Agreement (the Amendment) pursuant to which the Unitholder Vote Transactions and the Phase II Transactions contemplated in the Global Transaction Agreement were modified as described in more detail herein. The Unitholder Vote Transactions were modified to reflect the Partnership Agreement Amendment Proposal. In addition, the Phase II Transactions were modified such that if the Partnership Agreement Amendment Proposal is approved, then (i) our general partner will adopt the Amended and Restated Partnership Agreement to reflect the approval of the Partnership Agreement Amendment Proposal as discussed below under Proposal One: The Partnership Agreement Amendment Proposal as well as other amendments that our general partner may make in accordance with the provisions of our partnership agreement as set forth therein, (ii) our capital structure will be simplified through the transfer, and corresponding cancellation, of all outstanding subordinated units as discussed below under Proposal One: The Partnership Agreement Amendment Proposal Cancellation of Subordinated Units, and (iii) we will undertake a rights offering discussed below under Proposal One: The Partnership Agreement Amendment Proposal Rights Offering. Unless the context requires otherwise, references herein to the Global Transaction Agreement include such agreement as amended by the Amendment.

The Global Transaction Agreement requires our general partner to take all action necessary to call, hold and convene a special meeting of our unitholders to consider the Partnership Agreement Amendment Proposal discussed below under Proposal One: The Partnership Agreement Amendment Proposal. The transactions contemplated by the Global Transaction Agreement, including the new credit facility, the issuance of Preferred Units and Convertible Debentures, the Partnership Agreement Amendment Proposal, the cancellation of the subordinated units and the rights offering, are collectively referred to as the refinancing and related transactions.

Proposal One: The Partnership Agreement Amendment Proposal

Pursuant to the terms of the Global Transaction Agreement, our general partner has agreed to call the special meeting of our unitholders to act on the following proposal, which we refer to as the Partnership Agreement Amendment Proposal, by which we would amend and restate our partnership agreement to:

reset (1) the minimum quarterly distribution to $0.11 per unit per quarter from $0.3125 per unit per quarter, (2) the first target distribution to $0.1265 per unit per quarter from $0.3594 per unit per quarter, (3) the second target distribution to $0.1375 per unit per quarter from $0.3906 per unit per quarter and (4) the third target distribution to $0.1825 per unit per quarter from $0.4688 per unit per quarter;

Table of Contents

waive the cumulative common unit arrearage;

remove provisions in our partnership agreement relating to the subordinated units, including concepts such as a subordination period (and any provisions that expressly apply only during the subordination period) and common unit arrearage, in connection with the transfer to us, and our subsequent cancellation, of all of our outstanding subordinated units;

provide that distributions shall not accrue or be paid to the holders of our incentive distribution rights for an eight quarter period beginning with the quarter in which the special meeting occurs;

provide that during Senior Security Restriction Period, we will not issue any Senior Securities without the consent of the holders of at least a majority of the outstanding common units (excluding the common units held by our general partner and its affiliates and excluding any Senior Securities that are convertible into common units); *provided* that we may issue an unlimited number of Senior Securities during the Senior Security Restriction Period without obtaining such consent if (i) such issuances are made in connection with the conversion of our Convertible Debentures or the consummation of the rights offering and use of proceeds therefrom, (ii) issuances are made upon conversion, redemption or exchange of Senior Securities into or for Senior Securities of equal or lesser rank, where the aggregate amount of distributions that would have been paid with respect to such newly issued Senior Securities, plus the related distributions to our general partner, in respect of the four-quarter period ending prior to the first day of the quarter in which the issuance is to be consummated (assuming such newly issued Senior Securities had been outstanding throughout such period) would not have exceeded the distributions actually paid during such period on the Senior Securities that are to be converted, redeemed or exchanged, plus the related distributions to our general partner, (iii) such issuances are made in connection with the combination or subdivision of any class of Senior Securities, (iv) such issuances are made in connection with an acquisition or expansion capital improvement that increases estimated pro forma Adjusted Operating Surplus (as defined in our partnership agreement) (less estimated pro forma distributions on the Preferred Units and on any other Senior Securities) on a per-common unit basis, as determined in good faith by our general partner, as compared to actual Adjusted Operating Surplus (as defined in our partnership agreement) (less actual distributions on the Preferred Units and on any other Senior Securities) on a per-common unit basis or (v) the net proceeds of such issuances are used to repay indebtedness of our partnership or its subsidiaries; *provided*, *however*, that in the case of subsection (v) such new securities may not be issued to an affiliate of our general partner unless the cost to service any new indebtedness that we determine that we could issue to retire existing indebtedness (with our general partner s determination being conclusive) is greater than the distribution obligations associated with the Senior Securities issued in connection with its retirement and one or more of the following conditions are also met: (A) the indebtedness that is being repaid matures within 12 months of such repayment, or (B) such indebtedness has experienced a default or event of default (even if the lenders of such indebtedness have agreed to forebear or waive such default or event of default) or (C) our general partner expects to experience a default or event of default under such indebtedness within six months of such repayment (with our general partner s determination being conclusive);

provide that in addition to our partnership s current rights to convert the Preferred Units into common units, the Preferred Units will also be convertible in whole or in part at our option at any time on or after October 25, 2015 if (i) the daily volume-weighted average trading price of the common units is greater than 130% of the Conversion Price (as defined in our partnership agreement) for twenty out of the trailing thirty trading days ending two trading days before we furnish notice of conversion and (ii) the average trading volume of common units has exceeded 20,000 common units for twenty out of the trailing thirty trading days ending two trading days before we furnish notice of conversion; and

provide that the conversion of Preferred Units shall become effective (i) in the case of Preferred Units that are being converted pursuant to Section 5.12(c)(i) of our partnership agreement (relating to conversions at the election of the holder of such units), as of the last day of the quarter in which the relevant notice of conversion is delivered by the applicable unitholder and (ii) in the case of Preferred

Table of Contents

Units that are being converted pursuant to Section 5.12(c)(ii) of our partnership agreement (relating to conversions at the election of our partnership), as of the date that the notice of conversion is delivered by us.

Cancellation of Subordinated Units

If the Partnership Agreement Amendment Proposal is approved by our unitholders, then Vitol and Charlesbank will transfer to our partnership all of our 12,570,504 outstanding subordinated units, and we will then cancel such subordinated units.

In connection with the transfer of the subordinated units and the approval of the Partnership Agreement Amendment Proposal, our general partner will execute and deliver the Amended and Restated Partnership Agreement. The Amended and Restated Partnership Agreement will provide for elimination of subordinated units in our partnership agreement, including the elimination of the concepts of a subordination period and arrearages on the common units.

Rights Offering

If the Partnership Agreement Amendment Proposal is approved by our unitholders, then we have agreed to undertake a rights offering. Pursuant to the rights offering, we will distribute to our existing common unitholders 0.5412 of a detachable, freely-tradable right for each outstanding common unit. Each whole right will entitle the holder to acquire, for an exercise price of $6.50, a newly-issued Preferred Unit and will remain outstanding and exercisable for approximately 30 days. In this proxy statement, we refer to the distribution of rights and the related offering of Preferred Units for which the rights are exercisable, and the issuance of those Preferred Units to the extent that the rights are exercised as the rights offering.

Each of our common unitholders who timely exercise their rights in full will be entitled to purchase any Preferred Units that our other common unitholders do not purchase pursuant to their basic subscription privileges (the undersubscribed units), subject to a pro rata allocation of any undersubscribed units among holders exercising their oversubscription privileges. The pro rata allocation will be based on the relative number of Preferred Units such common unitholder acquired upon the initial exercise of his or her rights.

The proceeds of the rights offering will be used in the following order until all such proceeds are exhausted: (a) first, to pay for any and all expenses relating to conducting the rights offering, (b) second, to redeem our Convertible Debentures for an amount equal to the principal amount of such Convertible Debentures plus any interest payable thereon (such redemption to be pro rata among Vitol and Charlesbank if the net proceeds from the rights offering are less than the amount required to redeem such Convertible Debentures in full), (c) third, to repurchase, on a pro rata basis, up to a maximum of $22 million of Preferred Units from Vitol and Charlesbank at a purchase price of $6.50 per unit plus any pro rata distribution for the quarter in which such units are repurchased and (d) thereafter, for general partnership purposes.

Unitholders who do not exercise their rights in full should expect that they will, at the completion of the rights offering, own a smaller proportional interest in us than would otherwise be the case had they exercised their rights in full. While we anticipate that the rights will be transferable and listed on the Nasdaq Stock Market, there will not be an established trading market for the rights and there can be no assurance that a market will develop for the rights. Even if a market for the rights does develop, the price of the rights may fluctuate and liquidity may be limited. As a result, holders of the rights may be unable to resell the rights or may only be able to sell them at an unfavorable price.

Recommendation of the Conflicts Committee Regarding the Partnership Agreement Amendment Proposal

After considering the various positive and negative factors more fully described in Proposal One: The Partnership Agreement Amendment Proposal Special Factors Recommendation of the Conflicts Committee

Table of Contents

and Its Reasons for the Refinancing and Related Transactions, the Conflicts Committee, which was delegated the authority to negotiate and evaluate the Global Transaction Agreement and the transactions contemplated thereby, has unanimously:

determined that the Global Transaction Agreement, including the Unitholder Vote Transactions and the Phase II