US ENERGY CORP
Form S-3/A
August 21, 2017

**As filed with the Securities and Exchange Commission on August 21, 2017**

**Registration No. 333-215887**

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, DC 20549**

**AMENDMENT NO. 1 TO**
**FORM S-3**
**ON FORM S-1**

**REGISTRATION STATEMENT**
***UNDER***
***THE SECURITIES ACT OF 1933***

**U.S. ENERGY CORP.**

*(Exact name of registrant as specified in its charter)*

| **Wyoming** | **1311** | **83-0205516** |
|---|---|---|
| *(State or other jurisdiction of incorporation or organization)* | *(Primary Standard Industrial Classification Code Number)* | *(I.R.S. Employer Identification Number)* |

**4643 S. Ulster Street, Suite 970**

**Denver, Colorado 80237**

**(303) 993-3200**

*(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)*

**David Veltri**

**President and Chief Executive Officer**

**4643 S. Ulster Street, Suite 970**

**Denver, Colorado 80237**

**(303) 993-3200**

*(Name, address, including zip code, and telephone number, including area code, of agent for service)*

***With copies to:***

**Kenneth S. Witt**

**Kutak Rock LLP**
**1801 California Street, Suite 3000**
**Denver, Colorado 80202**
**Phone: (303) 297-2400**
**Facsimile: (303) 292-7799**

**Approximate date of commencement of proposed sale to the public:** From time to time on or after the effective date of this registration statement, as determined by the selling stockholders.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company,” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

| | | | |
|---|---|---|---|
| Large accelerated filer | Accelerated filer | Non-accelerated filer (Do not check if a smaller reporting company) | Smaller reporting company |
| Emerging growth company | | | |

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

**CALCULATION OF REGISTRATION FEE**

| **Title of Each Class of Securities to be Registered** | **Amount to be Registered** | **Proposed Maximum Offering Price Per Unit** | **Proposed Maximum Aggregate Offering Price** | **Amount of Registration Fee** |
|---|---|---|---|---|
| Common Stock, $0.01 par value per share | 1,000,000 | $0.75 (1) | 750,000 (1) | $ 0(2) |

(1) Calculated solely for the purpose of determining the registration fee pursuant to Rule 457(i) of the Securities Act of 1933, based on the average of the high and low prices reported for the shares of common stock as reported on the Nasdaq Capital Market on July 31, 2017.

(2) Fees have already been paid during previous filing of registration statement on Form S-3 dated February 3, 2017, Registration No. 333-215887.

**THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT**

**SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE SECURITIES AND EXCHANGE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE**

**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any jurisdiction where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED AUGUST 21, 2017**

**PROSPECTUS**

**1,000,000 SHARES OF COMMON STOCK**

This prospectus relates to the resale of up to 1,000,000 shares of our common stock issuable upon the exercise of warrants (the "Warrants") by the selling stockholders identified in this prospectus. This prospectus also relates to an indeterminate number of additional shares of common stock: (i) issued or then issuable upon any stock split, dividend, or other distribution, recapitalization or similar event with respect to the foregoing, and (ii) issued or then issuable as a result of the operation of the anti-dilution provisions of the Warrants. The selling stockholders are identified in the section titled "Selling Stockholders," beginning on page 8 of this prospectus. We will not receive any proceeds from the sales of shares of our common stock by the selling stockholders. We will, however, receive up to $2.05 per share (subject to adjustment as provided therein) of proceeds from the exercise of the Warrants to purchase 1,000,000 shares of our common stock, or a total of up to $2,050,000.

No underwriter or other person has been engaged to facilitate the sale of shares of our common stock in this offering. Each selling stockholder may be deemed an underwriter of the shares of our common stock that such selling stockholder is offering within the meaning of the Securities Act of 1933. We will bear all costs, expenses and fees in connection with the registration of these shares.

The selling stockholders may sell all or a portion of these shares from time to time in market transactions through any market on which our common stock is then traded, in negotiated transactions or otherwise, and at prices and on terms that will be determined by the then prevailing market price or at negotiated prices directly or through a broker or brokers, who may act as agent or as principal, or by a combination of such methods of sale. The selling stockholders will receive all proceeds from the sale of the shares. We will receive proceeds from the exercise of the warrants, which proceeds will be used for working capital and other general corporate purposes. For additional information on the

methods of sale, you should refer to the section entitled “Plan of Distribution.”

Our common stock is currently listed on The Nasdaq Capital Market under the symbol “USEG.”

**Investing in our securities involves a high degree of risk. You should review carefully the risks and uncertainties described in the section titled “Risk Factors” on page 2 of this prospectus and the documents incorporated by reference herein.**

**Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

The date of this prospectus is August 21, 2017

TABLE OF CONTENTS



**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we have filed with the Securities and Exchange Commission (the “SEC” or the “Commission”). By using such registration statement, the selling stockholders may, from time to time, offer and sell shares of our common stock pursuant to this prospectus. It is important for you to read and consider all of the information contained in this prospectus before making any decision whether to invest in the common stock. You should also read and consider the information contained in the documents that we have incorporated by reference as described in “Where You Can Find More Information, and “Incorporation of Certain Information by Reference” in this prospectus.

This prospectus and any prospectus supplement do not constitute an offer to sell, or a solicitation of an offer to purchase, the securities offered by this prospectus in any jurisdiction to or from any person to whom or from whom it is unlawful to make such offer or solicitation of an offer in such jurisdiction. The information contained in this prospectus or any prospectus supplement, or incorporated by reference herein or therein is accurate only as of the respective dates thereof, regardless of the time of delivery of this prospectus or prospectus supplement or of any sale of our common stock.

Unless the context otherwise requires, all references to “U.S. Energy,” “we,” “us,” “our,” “company,” or “Company” in this prospectus refer to U.S. Energy Corp., a Wyoming corporation, and its subsidiaries, and their respective predecessor entities for the applicable periods, considered as a single enterprise.

**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus and the documents incorporated by reference into this prospectus contain "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Forward-looking statements can be identified by words such as "anticipate," "expect," "intend," "plan," "believe," "seek," "estimate," "project," "goal," "strategy," "future," "should," "will" and variations of these words and similar references to future periods, although not all forward-looking statements contain these identifying words. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based on our current beliefs, expectations and assumptions regarding the future of our business, future plans and strategies, projections, anticipated events and trends, the economy and other future conditions. Because forward-looking statements relate to the future, they are subject to inherent risks, uncertainties, and changes in circumstances, including but not limited to risk factors incorporated by reference under "Item 1A. Risk Factors" to Part I of our Annual Report on Form 10-K as of and for the fiscal year ended December 31, 2016 and other factors described elsewhere in this prospectus or in our current and future filings with the Commission. As a result, our actual results may differ materially from those expressed or forecasted in the forward-looking statements, and you should not rely on such forward-looking statements. You should carefully read this prospectus, together with the information incorporated by reference in this prospectus as described under the sections titled "Where You Can Find More Information," with the understanding that our actual future results may be materially different from what we expect. We can give no assurances that any of the events anticipated by the forward-looking statements will occur or, if any of them do, what impact they will have on our results of operations and financial condition.

Any forward-looking statement made by us in this prospectus and the documents incorporated by reference into this prospectus is based only on information currently available to us and speaks only as of the date on which it is made. We undertake no obligation to publicly update any forward-looking statement, whether as a result of new information, future developments or otherwise. However, you should carefully review the risk factors set forth in other reports or documents we file from time to time with the SEC.

OUR COMPANY

U.S. Energy Corp. is a Wyoming corporation organized in 1966. We are an independent energy company focused on the acquisition and development of oil and gas producing properties in the continental United States. Our business activities are currently focused in South Texas and the Williston Basin in North Dakota. However, we do not intend to limit our focus to these geographic areas. We continue to focus on increasing production, reserves, revenues and cash flow from operations while managing our level of debt.

We have historically explored for and produced oil and gas through a non-operator business model. As a non-operator, we rely on our operating partners to propose, permit, drill and complete oil and gas wells. Before a well is drilled, the operator provides all oil and gas interest owners in the designated well the opportunity to participate in the drilling and completion costs and revenues of the well on a pro-rata basis. Our operating partners also produce, transport, market and account for all oil and gas production. We are currently developing our capability to operate properties and evolve into an operator business model, most notably with the appointment of David Veltri as President in December 2014. Mr. Veltri who, in addition to his position as President, became our Chief Executive Officer in September 2015, has over 30 years of oil and gas operating experience.

We believe that additional value can be generated if we have the ability to operate oil and gas properties because operatorship will allow us to control drilling and production timing, capital costs and future planning of operations. We plan to look for opportunities to operate our own wells in the near future through acquisition of new oil and gas properties and/or by consolidating ownership in and around the areas in which we currently participate. We believe the current oil and gas price climate will make opportunities available for us to acquire and/or develop operated properties, and our objective is to eventually operate the properties which comprise over 50% of our production.

Corporate Information

U.S. Energy Corp. (collectively with its subsidiaries referred to as the “Company”) was incorporated in the State of Wyoming on January 26, 1966. The Company’s principal business activities are focused in the acquisition, exploration and development of oil and gas properties in the United States. Our oil and gas business is currently focused in South Texas and the Williston Basin in North Dakota. Our principal offices are located at 4643 S. Ulster Street, Suite 970, Denver, Colorado 80237. Our telephone number is (303) 993-3200. Our Internet address is www.usnrg.com. None of the information on our website forms a part of, or is incorporated by reference into, this prospectus.

RISK FACTORS

An investment in our company involves a high degree of risk. Before you make a decision to invest in our securities, you should consider carefully the risks described below, as well as the risks described in or incorporated by reference in this prospectus, including the risks and uncertainties discussed under the section titled “Risk Factors” in our most recent annual report on Form 10-K and any subsequent quarterly reports on Form 10-Q or current reports on Form 8-K, and all other documents incorporated by reference into this prospectus, as updated by our subsequent filings under the Exchange Act.

Any of these risks could have a material adverse effect on our business, prospects, financial condition and results of operations. In any such case, the trading price of our securities could decline and you could lose all or part of your investment. Additional risks not presently known to us or that we currently deem immaterial may also adversely affect our business operations.

***Our stock price likely will continue to be volatile.***

Our stock is traded on the Nasdaq Capital Market. In the two years ended December 31, 2016, our common stock has traded as high as $2.84 per share and as low as $0.11 per share. We expect our common stock will continue to be subject to fluctuations as a result of a variety of factors, including factors beyond our control. These factors include:

- price volatility in the oil and gas commodities markets;
- variations in our drilling, recompletion and operating activity;
- relatively small amounts of our common stock trading on any given day;
- additions or departures of key personnel;
- legislative and regulatory changes; and
- changes in the national and global economic outlook.

The stock market has recently experienced significant price and volume fluctuations, and oil and gas prices have declined significantly. These fluctuations have particularly affected the market prices of securities of oil and gas companies like ours.

There may be future sales of our securities or other dilution of our equity, which may adversely affect the market price of our common stock.

From time to time, we have sold common stock, warrants, convertible preferred stock and convertible debt to investors in private placements and public offerings. These transactions caused dilution to existing shareholders. Also, from time to time, we issue options and warrants to employees, directors and third parties as incentives, with exercise prices equal to the market price at the date of issuance. During 2016, we granted shares of restricted common stock that are subject to issuance upon future vesting events. Vesting of restricted common stock and exercise of options and warrants would result in dilution to existing shareholders. Future issuances of equity securities, or securities convertible into equity securities, would also have a dilutive effect on existing shareholders. In addition, the perception that such issuances may occur could adversely affect the market price of our common stock.

***We have issued shares of Series A Preferred Stock with rights superior to those of our common stock.***

Our articles of incorporation authorize the issuance of up to 100,000 shares of preferred stock, $0.01 par value. Shares of preferred stock may be issued with such dividend, liquidation, voting and conversion features as may be determined by the Board of Directors without shareholder approval. Pursuant to this authority, in February 2016 we approved the designation of 50,000 shares of Series A Convertible Preferred Stock ("Series A Preferred") in connection with the disposition of our mining segment.

The Series A Preferred accrues dividends at a rate of 12.25% per annum of the Adjusted Liquidation Preference; such dividends are not payable in cash but are accrued and compounded quarterly in arrears. The "Adjusted Liquidation Preference" is initially $40 per share of Series A Preferred for an aggregate of $2.0 million, with increases each quarter by the accrued quarterly dividend. The Series A Preferred is senior to other classes or series of shares of the Company with respect to dividend rights and rights upon liquidation. No dividend or distribution will be declared or paid on our common stock, (i) unless approved by the holders of Series A Preferred and (ii) unless and until a like dividend has been declared and paid on the Series A Preferred on an as-converted basis.

At the option of the holder, each share of Series A Preferred may initially be converted into 13.33 shares of our common stock (the "Conversion Rate") for an aggregate of 666,667 shares. The Conversion Rate is subject to anti-dilution adjustments for stock splits, stock dividends and certain reorganization events and to price-based anti-dilution protections. Each share of Series A Preferred will be convertible into a number of shares of common stock equal to the ratio of the initial conversion value to the conversion value as adjusted for accumulated dividends multiplied by the Conversion Rate. In no event will the aggregate number of shares of common stock issued upon conversion be greater than 793,349 shares. The Series A Preferred will generally not vote with our common stock on an as-converted basis on matters put before our shareholders. The holders of the Series A Preferred have the right to require us to repurchase the Series A Preferred in connection with a change of control. The dividend, liquidation and other rights provided to holders of the Series A Preferred will make it more difficult for holders of common stock to realize value from their investment.

Limitation on Liability and Indemnification of Officers and Directors

Our directors and officers are indemnified as provided by the Wyoming Business Corporation Act ("WBCA") and our Bylaws.

Our Bylaws provide that we will indemnify our officers and directors, including the advancement of expenses, to the fullest extent permitted by and in the manner permissible under the WBCA, and that we may maintain insurance, at

our expense, to protect against any expense, liability or loss on our behalf or on behalf of our officers, directors, employees or agents, whether or not we would have the power to indemnify such person against such expense, liability or loss under the WBCA.

The WBCA provides that a corporation shall indemnify any director or officer of a corporation against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense of any proceeding to which he or she was a party because he or she was a director or officer of the corporation to the extent that such director or officer has been wholly successful on the merits or otherwise.

The WBCA provides that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, except an action by or in the right of the corporation, by reason of the fact that he is or was a director or officer of the corporation against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if he: (a) is not liable pursuant to the WBCA; or (b) acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Indemnification may not be made for any claim, issue or matter as to which such a person has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals there from, to be liable to the corporation or for amounts paid in settlement to the corporation, unless and only to the extent that the court in which the action or suit was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

Anti-Takeover Effects of Provisions of Our Articles of Incorporation, Our Bylaws and Wyoming Law

Some provisions of Wyoming law and our articles of incorporation and our bylaws contain provisions that could have the effect of delaying, deterring or preventing another party from acquiring or seeking to acquire control of us. These provisions are intended to discourage certain types of coercive takeover practices and inadequate takeover bids and to encourage anyone seeking to acquire control of us to negotiate first with our Board of Directors. However, these provisions may also delay, deter or prevent a change in control or other takeover of our company that our stockholders might consider to be in their best interests, including transactions that might result in a premium being paid over the market price of our common stock and also may limit the price that investors are willing to pay in the future for our common stock. These provisions may also have the effect of preventing changes in our management.

Our articles of incorporation and bylaws include anti-takeover provisions that:

authorize our Board of Directors, without further action by the stockholders, to issue shares of preferred stock in one or more series, and with respect to each series, to fix the number of shares constituting that series and establish the rights and other terms of that series;

establish advance notice procedures for stockholders to submit nominations of candidates for election to our Board of Directors and other proposals to be brought before a stockholders meeting;

provide that our bylaws may be amended by our Board of Directors without stockholder approval;

allow our directors to establish the size of the board of directors by action of the Board, subject to a minimum of three members; and

provide that vacancies on our Board of Directors or newly created directorships resulting from an increase in the number of our directors may be filled only by a majority of directors then in office.

Business Combinations

Section 104 of the Wyoming Management Stability Act provides that we may not engage in certain “business combinations” with any “interested stockholder” for a three-year period following the time that the person became an interested stockholder, unless:

prior to the time the stockholder became an interested stockholder, the board of directors of the corporation approved either the business combination or the transaction which resulted in the stockholder becoming an interested

stockholder; or

4

on or after the time the stockholder became an interested stockholder, the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least two-thirds (2/3) of the outstanding voting stock which is not owned by the interested stockholder.

Generally, a business combination includes a merger, consolidation, asset or stock sale or other transaction resulting in a financial benefit to the interested stockholder. Subject to certain exceptions, an interested stockholder is a person who, together with that person's affiliates and associates, owns, or within the previous three years owned, 15% or more of our voting stock. The statute could prohibit or delay mergers or other takeover or change in control attempts with respect to us and, accordingly, may discourage attempts to acquire us.

***The agreement governing our debt contains various covenants that limit our discretion in the operation of our business, could prohibit us from engaging in transactions we believe to be beneficial, and could lead to the accelerated repayment of our debt.***

On May 2, 2017, the credit facility between U.S. Energy Corp.'s wholly-owned subsidiary, Energy One and Wells Fargo was sold, assigned and transferred to APEG Energy II, L.P. ("APEG"). APEG purchased and assumed all of Wells Fargo's rights and obligations as the lender to Energy One under the credit facility. Concurrently, U.S. Energy Corp., Energy One and APEG entered into a Limited Forbearance Agreement dated May 2, 2017. On June 28, 2017, U.S. Energy Corp., Energy One and APEG entered into a Fifth Amendment to the credit facility providing for, among other things, an extension of the maturity date to July 19, 2019, new financial coverage ratio covenants and a waiver with respect to any historical Company non-compliance with any and all financial covenants. As of August 21, 2017, the Company was in compliance with all financial covenants and fully conforming with all requirements under its credit agreement. Additional information regarding the credit facility, amendments thereto, and the Company's non-compliance with its terms are available in the Company's Forms 10-Q, for the quarterly periods ending June 30, 2017 filed on August 14, 2017 and March 31, 2017 filed on May 19, 2017, the Company's 8-K reports filed on May 8, 2017, and July 3, 2017, and the Company's Form 10-K for the fiscal year ending December 31, 2016 filed on April 17, 2017.

***We may be unable to continue as a going concern.***

We have substantial debt obligations and our ongoing capital and operating expenditures will exceed the revenue we expect to receive from our oil and natural gas operations in the near future. If we are unable to raise substantial additional funding, refinance existing indebtedness or consummate significant asset sales on a timely basis and/or on acceptable terms, we may be required to significantly curtail our business and operations.

Our ability to continue as a going concern is subject to, among other factors, our ability to monetize assets, our ability to obtain financing or refinance existing indebtedness, our ability to continue our cost cutting efforts, oil and gas commodity prices, our ability to recognize, acquire and develop strategic interests and prospects, the speed and cost with which we can develop our prospects and the ability to adapt our business by integrating specific operations associated with operating companies. There can be no assurance that we will be able to obtain additional funding on a timely basis and on satisfactory terms, or at all. In addition, no assurance can be given that any such funding, if obtained, will be adequate to meet our capital needs and support our growth. If additional funding cannot be obtained on a timely basis and on satisfactory terms, then our operations would be materially negatively impacted and we may be unable to continue as a going concern. If we become unable to continue as a going concern, we may find it necessary to file a voluntary petition for reorganization under the Bankruptcy Code in order to provide us additional time to identify an appropriate solution to our financial situation and implement a plan of reorganization aimed at improving our capital structure.

***If our common stock is delisted from the NASDAQ Capital Market, its liquidity and value could be reduced.***

In order for us to maintain the listing of our shares of common stock on the NASDAQ Capital Market®, the common stock must maintain a minimum bid price of $1.00 as set forth in NASDAQ Marketplace Rule 5550(a)(2). If the closing bid price of the common stock is below $1.00 for 30 consecutive trading days, then the closing bid price of the common stock must be $1.00 or more for 10 consecutive trading days during a 180-day grace period to regain compliance with the rule. On March 27, 2017, we were given notice by the NASDAQ Capital Market that the closing price of our common stock has traded below $1.00 for 30 consecutive days. We have 180 calendar days to return to compliance. We cannot guarantee that we will be able to regain compliance with the minimum price requirement within the grace period or satisfy other continued listing requirements. If our common stock is delisted from trading on the NASDAQ Capital Market, it may be eligible for trading over the counter, but the delisting of our common stock from NASDAQ could adversely impact the liquidity and value of our common stock.

USE OF PROCEEDS

We will not receive any proceeds from the sale of the shares of common stock by the selling stockholders but will receive proceeds from the exercise of the Warrants if the Warrants are exercised, which proceeds will be used for working capital and for other general corporate purposes, including funding potential future acquisitions.

From time to time, we engage in preliminary discussions and negotiations with various businesses, including but not limited to oil and gas operating and non-operating businesses, in order to explore the possibility of an acquisition or investment. However, as of the date of this prospectus, we have not entered into any agreements or arrangements which would make an acquisition or investment probable under Rule 3-05(a) of Regulation S-X.

SELLING STOCKHOLDERS

The following table provides information about the selling stockholders, listing how many shares of our common stock the selling stockholders own on the date of this prospectus, how many shares and how many may be issued upon the exercise of warrants covered by this prospectus, and the number and percentage of outstanding shares the selling stockholders will own after the offering, assuming all shares covered by this prospectus are sold. The information concerning beneficial ownership has been provided by the selling stockholders. Information concerning the selling stockholders may change from time to time, and any changed information will be set forth if and when required in prospectus supplements or other appropriate forms permitted to be used by the SEC.

This prospectus covers the offering for resale from time to time, in one or more offerings, of 1,000,000 shares of Company common stock issuable upon exercise of the Warrants. In addition, this prospectus covers an undetermined number of shares of Company common stock that may be offered from time to time hereunder by the selling stockholders (i) issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing and (ii) issued or then issuable as a result of the operation of the anti-dilution provisions of the Warrants. The Warrants were issued to the selling stockholders in private placement pursuant to a Securities Purchase Agreement dated December 16, 2016 (the “Purchase Agreement”). Under the Purchase Agreement, the selling stockholders, concurrently with the issuance of the Warrants, purchased 1,000,000 shares of the Company’s common stock, which were registered under the Company’s shelf registration on Form S-3. The gross proceeds to the Company from the sale of the common stock and Warrants under the Purchase Agreement totaled $1,500,000. The closing under the Purchase Agreement took place on December 20, 2016. Under the terms of the Purchase Agreement, we agreed to register the shares of common stock underlying and issuable upon exercise of the Warrants, and this prospectus covers the securities subject to those registration rights.

We do not know when or in what amounts the selling stockholders may offer shares for sale. The selling stockholders may choose not to sell any or all of the shares offered by this prospectus. Because the selling stockholders may offer all or some of the shares, and because there are currently no agreements, arrangements or understandings with respect to the sale of any of the shares, we cannot accurately report the number of the shares that will be held by the selling stockholders after completion of the offering. However, for purposes of this table, we have assumed that, after completion of the offering, all of the shares covered by this prospectus will be sold by the selling stockholders.

As disclosed above, the selling stockholders may have sold, transferred or otherwise disposed of, or may sell, transfer or otherwise dispose of, at any time or from time to time since the date hereof, a portion of the shares beneficially owned in transactions exempt from the registration requirements of the Securities Act.

The number of shares outstanding, and the percentage of beneficial ownership, post-offering are based on 6,134,506 shares of our common stock issued and outstanding as of July 31, 2017. For the purposes of the following table, the

number of shares of common stock beneficially owned has been determined in accordance with Rule 13d-3 under the Exchange Act, and such information is not necessarily indicative of beneficial ownership for any other purpose. Under Rule 13d-3, beneficial ownership includes any shares as to which the selling stockholders have sole or shared voting power or investment power and also any shares which each selling stockholder, respectively, has the right to acquire within 60 days of the date of this prospectus through the exercise of any stock option, warrant or other rights. No selling stockholder has had any position, office or any other material relationship with the Company or any of its predecessors or affiliates within the past three years.

| Name | Number of securities beneficially owned before offering[1] | Number of securities to be offered[2] | Number of securities owned after offering[3] | Percentage of securities beneficially owned after offering | |
|---|---|---|---|---|---|
| Hudson Bay Master Fund Ltd. | 500,000 | 500,000 | 500,000 | 8.15 | % |
| CVI Investments, Inc. | 500,000 | 500,000 | 500,000 | 8.15 | % |

(1) Pre-offering beneficial ownership includes the shares of common stock issuable on exercise of the Warrants.

(2) The number of securities to be offered represents 1,000,000 shares of common stock issuable upon the exercise of the Warrants.

(3) For purposes of this table, we have assumed that, after completion of the offering, all of the shares covered by this prospectus will be sold by the selling stockholders. The number of securities beneficially owned post-offering assumes the exercise of the warrants and acquisition and sale of all of the shares of common stock issuable on exercise of the Warrants in compliance with the terms of the warrants.

Each time a selling stockholder sells any securities offered by this prospectus, the selling stockholder is required to provide you with this prospectus and, to the extent required, a related prospectus supplement containing specific information about such selling stockholder and the terms of the securities being offered in the manner required by the Securities Act. Any prospectus supplement will, to the extent required, set forth the following information with respect to the selling stockholder:

the name of the selling stockholder;

the nature of any position, office or other material relationship that the selling stockholder has had within the last three years with us, our predecessors or any of our affiliates;

the amount of Company common stock owned by the selling stockholder prior to the offering;

the amount of Company common stock to be offered for the selling stockholder’s account; and

the amount and (if 1% or more) the percentage of Company common stock to be beneficially owned by the selling stockholder after the completion of the offering.

No offer or sale may occur unless the registration statement that includes this prospectus has been declared effective by the SEC and remains effective at the time a selling stockholder offers or sells Company common stock. We are required, under certain circumstances, to update, supplement or amend this prospectus to reflect material developments in our business, financial position and results of operations and may do so by an amendment to this prospectus, a prospectus supplement or a future filing with the SEC incorporated by reference in this prospectus.

9

PLAN OF DISTRIBUTION

The selling stockholders and any of the selling stockholders' pledgees, assignees and successors-in-interest may, from time to time, sell any or all of their securities covered hereby on the principal trading market or any other stock exchange, market or trading facility on which the securities are traded or in private transactions. These sales may be at fixed or negotiated prices. The selling stockholders may use any one or more of the following methods when selling securities:

ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;

block trades in which the broker-dealer will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;

purchases by a broker-dealer as principal and resale by the broker-dealer for its account;

an exchange distribution in accordance with the rules of the applicable exchange;

privately negotiated transactions;

in transactions through broker-dealers that agree with the selling stockholders to sell a specified number of such securities at a stipulated price per security;

a combination of any such methods of sale; or

any other method permitted pursuant to applicable law.

The selling stockholders may also sell securities under Rule 144 under the Securities Act, if available, rather than under this prospectus.

Broker-dealers engaged by the selling stockholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the selling stockholders (or, if any broker-dealer acts as agent for a purchaser of securities, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2121 (formerly Rule 2440); and in the case of a principal transaction a markup or markdown in compliance with FINRA Rule 2121 (formerly IM-2440).

In connection with the sale of the securities or interests therein, the selling stockholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the

securities in the course of hedging the positions they assume. The selling stockholders may also sell securities short and deliver these securities to close out their short positions, or loan or pledge the securities to broker-dealers that in turn may sell these securities. The selling stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The selling stockholders and any broker-dealers or agents that are involved in selling the securities may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each selling stockholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the securities.

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the securities. The Company has agreed to indemnify the selling stockholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

The parties involved have agreed to keep this prospectus effective until the earliest of (i) the date on which the securities may be resold by the selling stockholders without registration and without regard to any volume or manner-of-sale limitations by reason of Rule 144, or (ii) all of the securities have been sold pursuant to this prospectus or Rule 144 under the Securities Act or any other rule of similar effect; or (iii) the five-year anniversary of the issuance of the Warrants. The resale securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Exchange Act, any person engaged in the distribution of the resale securities may not simultaneously engage in market making activities with respect to the common stock for the applicable restricted period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the selling stockholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of the common stock by the selling stockholders or any other person. We will make copies of this prospectus available to the selling stockholders and have informed the selling stockholders of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).