STERLING CHEMICALS INC
Form DEFM14C
July 18, 2011

Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

SCHEDULE 14C
(RULE 14c-101)

INFORMATION REQUIRED IN INFORMATION STATEMENT
SCHEDULE 14C INFORMATION

Information Statement Pursuant to Section 14(c)
of the Securities Exchange Act of 1934

Check the appropriate box

o Preliminary Information Statement
o **Confidential, For Use of the Commission Only (as permitted by Rule 14c-5(d)(2))**
þ Definitive Information Statement

Sterling Chemicals, Inc.

(Name of Registrant as Specified in its Charter)

Payment of Filing Fee (Check the appropriate box):

o No fee required.

o 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:

þ Fee paid previously with preliminary materials

o 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

333 Clay Street, Suite 3600
Houston, TX 77002-4109

NOTICE OF WRITTEN CONSENT AND APPRAISAL RIGHTS
AND
INFORMATION STATEMENT

WE ARE NOT ASKING YOU FOR A PROXY AND YOU ARE REQUESTED NOT TO SEND US A PROXY

Fellow Stockholders:

This notice of written consent and appraisal rights and accompanying information statement (the Information Statement) are being furnished to the holders of shares of common stock, par value $0.01 per share (Common Stock), of Sterling Chemicals, Inc. (the Company) in connection with the Agreement and Plan of Merger (the Merger Agreement), dated as of June 22, 2011, by and among the Company, Eastman Chemical Company (Eastman) and Eastman TC, Inc. (Merger Sub) pursuant to which, at the Effective Time (as defined in the Merger Agreement), Merger Sub will merge with and into the Company (the Merger), whereupon the separate existence of Merger Sub will cease and the Company will continue as the surviving corporation, and the Company will become a wholly-owned indirect subsidiary of Eastman. A copy of the Merger Agreement is attached as Annex A to the accompanying Information Statement.

If the Merger is completed, you will be entitled to receive $2.50 in cash, without interest, less any applicable withholding taxes, for each share of Common Stock owned by you (unless you have properly exercised your appraisal rights under Section 262 of the General Corporation Law of the State of Delaware (the DGCL) with respect to such shares).

The special committee (the Special Committee) of the board of directors of the Company (the Board), comprised of independent members of the Board, to which the Board delegated the full and exclusive powers and authority of the Board to take any action on behalf of the Company with respect to and in response to any proposal that would result in a party other than Resurgence Asset Management, L.L.C., its affiliates and its and its affiliates managed funds and accounts (collectively, Resurgence) becoming the beneficial owner of a majority of the outstanding shares of the Series A convertible preferred stock, par value $0.01 per share, of the Company (Preferred Stock and, together with the Common Stock, the Capital Stock) or the Common Stock, at a meeting duly called and held, duly and unanimously adopted resolutions (i) determining that the Merger and the Merger Agreement are fair to, and in the best interests of, the holders of the Common Stock other than Resurgence and (ii) recommending that the Board adopt a resolution approving the Merger Agreement. The Board, having considered the recommendation of the Special Committee and having reviewed and evaluated the merits of the Merger, has (i) approved the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement, (ii) determined that the terms of the Merger and the other transactions contemplated by the Merger Agreement are advisable and fair to the Company and its stockholders, and (iii) recommended that the Company s stockholders adopt the Merger Agreement and the Merger.

The adoption of the Merger Agreement required the affirmative vote or written consent of the holders of a majority of the outstanding voting power of the Company s issued and outstanding shares of Capital Stock voting together as a single class, and a majority of the outstanding shares of Preferred Stock. Resurgence, which beneficially owns approximately 56% of the outstanding shares of Common Stock, 100% of the outstanding shares of Preferred Stock and over 88% of the voting power of the outstanding shares of the Capital Stock entitled to vote on the adoption of the Merger Agreement and the approval of the Merger, executed a written consent in lieu of a meeting and delivered such written consent to the Company adopting the Merger Agreement and approving the transactions contemplated thereby

on June 22, 2011. As a result, no

Table of Contents

further action by any other of the Company s stockholders is required to adopt the Merger Agreement or to authorize the transactions contemplated thereby. The Company has not solicited and will not be soliciting your authorization and adoption of the Merger Agreement.

Under Section 262 of the DGCL, if the Merger is completed, subject to compliance with the minimum requirements of Section 262 of the DGCL, holders of shares of Common Stock, other than Resurgence, will have the right to seek an appraisal for, and be paid the fair value of, their shares of Common Stock (as determined by the Chancery Court of the State of Delaware) instead of receiving the consideration to be paid pursuant to the Merger Agreement. In order to exercise your appraisal rights, you must submit a written demand for appraisal no later than 20 days after the mailing of this Information Statement, or by August 8, 2011, and comply with the procedures set forth in Section 262 of the DGCL, which are summarized in the accompanying Information Statement. A copy of Section 262 of the DGCL is attached to the accompanying Information Statement as **Annex D**.

We urge you to read the entire Information Statement carefully. Please do not send in your stock certificates at this time. If the Merger is completed, you will receive instructions regarding the surrender of your stock certificates or the transfer of your book-entry shares, as the case may be, and payment for your shares of Common Stock.

This notice and the accompanying Information Statement constitute notice to you from the Company of the action by written consent taken by Resurgence contemplated by Section 228 of the DGCL. This notice and the accompanying Information Statement constitute notice to you from the Company of the availability of appraisal rights under Section 262 of the DGCL. Pursuant to Rule 14c-2 under the Securities Exchange Act of 1934, the adoption of the Merger Agreement will not be effective until 20 days after the date the attached information statement is mailed to our stockholders.

Important Notice Regarding the Availability of Information Statement Materials in Connection with this Notice of Written Consent and Appraisal Rights:

The Information Statement is available at: http://materials.proxyvote.com/859166. We will furnish a copy of this Information Statement, without charge, to any stockholder upon written request to the following address: Sterling Chemicals, Inc., 333 Clay Street, Suite 3600, Houston, Texas 77002; Attention: General Counsel and Secretary.

Thank you for your support of the Company.

Sincerely yours,

John V. Genova
President and Chief Executive Officer

NEITHER THE U.S. SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES REGULATORY AGENCY HAS APPROVED OR DISAPPROVED THE MERGER, PASSED UPON THE MERITS OR FAIRNESS OF THE MERGER AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY, INCLUDING THE PROPOSED MERGER, OR PASSED UPON THE ADEQUACY OR ACCURACY OF THE INFORMATION CONTAINED IN THIS DOCUMENT OR THE ACCOMPANYING INFORMATION STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

This Information Statement is dated July 18, 2011 and is first being mailed to the Company s common stockholders on or about July 19, 2011.

Table of Contents

TABLE OF CONTENTS

Table of Contents

Table of Contents

SUMMARY

This summary highlights selected information from this information statement (this Information Statement) and may not contain all of the information that is important to you. Accordingly, we encourage you to read this entire Information Statement and its annexes carefully, as well as those additional documents to which we refer you. Items in this summary include a page reference directing you to a more complete description of that topic. You may obtain certain information referenced in this Information Statement without charge by following the instructions set forth in the section entitled Where You Can Find More Information beginning on page 66.

Parties to the Merger (Page 12)

Sterling Chemicals, Inc.

Sterling Chemicals, Inc. (the Company) is a Delaware corporation formed in 1986 to acquire a petrochemicals facility located in Texas City, Texas, that was previously owned by Monsanto Company. We are a North American producer of selected petrochemicals used to manufacture a wide array of consumer goods and industrial products. Until 2011, our primary products consisted of acetic acid and plasticizers. As our plasticizers facility is currently idle, acetic acid is currently our only primary product. The acetic acid we produce is used primarily to manufacture vinyl acetate monomer which is used in a variety of products related to construction materials and automotive parts such as adhesives, surface coatings, polyester fibers and films, and to manufacture purified terephthalic acid which is used to produce plastic bottle resins.

Eastman Chemical Company

Eastman Chemical Company (Eastman) is a global chemical company which manufactures and sells a broad portfolio of chemicals, plastics, and fibers. Eastman began business in 1920 for the purpose of producing chemicals for Eastman Kodak Company s photographic business and became a public company, incorporated in Delaware, as of December 31, 1993. Eastman has sixteen manufacturing sites in nine countries that supply chemicals, plastics, and fibers products to customers throughout the world. Eastman s headquarters and largest manufacturing site are located in Kingsport, Tennessee.

Eastman TC, Inc.

Eastman TC, Inc. (Merger Sub) was formed by Eastman solely for the purpose of completing the Merger (as defined below). Merger Sub is a wholly-owned subsidiary of Eastman and has not carried on any activities to date, except for activities incidental to its incorporation and activities undertaken in connection with the transactions contemplated by the Merger Agreement (as defined below).

The Merger (Page 13)

On June 22, 2011, the Company entered into an agreement and plan of merger with Eastman and Merger Sub (the Merger Agreement). The Merger Agreement provides that at the Effective Time (as defined in the Merger Agreement), Merger Sub will merge with and into the Company, and the Company will cease to be an independent publicly-traded company and will instead be a wholly-owned indirect subsidiary of Eastman (the Merger). We expect to complete the Merger in the third quarter of 2011, assuming that all of the conditions set forth in the Merger Agreement have been satisfied or waived. However, because the Merger is subject to a number of conditions, some of which are beyond the control of the Company, the precise timing for completion of the Merger cannot be predicted

with certainty. If the Merger is completed, you will not own any shares of the capital stock of the surviving corporation. The Merger Agreement is attached as Annex A to this Information Statement, and we encourage you to review it carefully in its entirety because it is the legal document that governs the Merger.

Table of Contents

The Special Committee (Page 12)

The board of directors of the Company (the Board) delegated to a special committee (the Special Committee) comprised of three independent directors the full and exclusive powers and authority of the Board to take any action on behalf of the Company with respect to and in response to any proposal that would result in a party other than Resurgence becoming the beneficial owner of a majority of the outstanding shares of the Series A convertible preferred stock, par value $0.01 per share (the Preferred Stock), and common stock, par value $0.01 per share (the Common Stock and, together with the Preferred Stock, the Capital Stock), of the Company.

The Merger Consideration (Page 13)

In the Merger, (i) each share of Common Stock outstanding immediately prior to the Effective Time (other than shares of Common Stock held by stockholders who have properly demanded appraisal rights under the General Corporation Law of the State of Delaware (the DGCL) with respect to such shares, if any) will be converted into the right to receive $2.50 in cash, without interest (the Common Stock Merger Consideration), less any applicable withholding taxes, and (ii) each share of Preferred Stock outstanding immediately prior to the Effective Time will automatically be converted into the right to receive an amount equal to the quotient of (a) $100,000,000 minus the sum of (1) the aggregate amount of merger consideration payable with respect to the shares of Common Stock and (2) the Adjustment Amount (as defined in the section entitled The Merger Treatment of Certain Outstanding Equity Securities Treatment of Preferred Stock beginning on page 43) and (b) the number of shares of Preferred Stock issued and outstanding (including accrued and unpaid dividends thereon (whether or not declared)) in cash, without interest (the Preferred Stock Merger Consideration and, together with the Common Stock Merger Consideration, the Merger Consideration), less any applicable withholding taxes.

Reasons for the Merger (Page 25)

The Special Committee determined unanimously that the Merger and the Merger Agreement are fair to, and in the best interests of, the holders of the Common Stock other than Resurgence (the Minority Stockholders) and recommended unanimously that the Board adopt a resolution approving the Merger Agreement.

The Board considered the recommendation of the Special Committee and reviewed and evaluated the merits of the Merger, (i) approved the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement, (ii) determined that the terms of the Merger and the other transactions contemplated by the Merger Agreement are advisable and fair to the Company and its stockholders, and (iii) recommended that the Company s stockholders adopt the Merger Agreement and the Merger.

In arriving at their determinations, the Special Committee consulted with its legal and financial advisors and the Board consulted with independent legal advisors. For a discussion of the material factors considered by the Special Committee and the Board in making their determinations, see the section entitled The Merger Reasons for the Merger beginning on page 25.

Stockholder Action by Written Consent (Page 36)

Following the execution of the Merger Agreement, Resurgence, which beneficially owns approximately 56% of the outstanding shares of Common Stock, 100% of the Preferred and over 88% of the voting power of the outstanding shares of Capital Stock entitled to vote on the adoption of the Merger Agreement and the approval of the Merger, executed a written consent in lieu of a meeting and delivered such written consent to the Company and Eastman

adopting the Merger Agreement and approving the transactions contemplated thereby on June 22, 2011 (the Written Consent). In addition, on June 22, 2011, Resurgence, as holder of 100% of the Preferred Stock, executed a written consent waiving, as of the effective time of the Merger, any notification requirements, redemption rights and consent rights in connection with the Merger under the Restated Certificate of Designations, Preferences, Rights and Limitations of the Preferred Stock. As a result,

Table of Contents

no further approval of the stockholders of the Company is required to approve and adopt the Merger Agreement and the transactions contemplated thereby.

Opinion of the Special Committee s Financial Advisor (Page 29)

On June 21, 2011 Moelis & Company LLC (Moelis) delivered its opinion to the Special Committee to the effect that, subject to the assumptions, conditions, limitations and other matters set forth in its written opinion, as of the date of such opinion, the Common Stock Merger Consideration to be received by the holders of Common Stock in the Merger is fair, from a financial point of view, to such holders, other than Resurgence.

The full text of the written opinion of Moelis, dated June 21, 2011, which sets forth, among other things, the assumptions made, procedures followed, factors considered and limitations on the review undertaken by Moelis in rendering its opinion, is attached as Annex C to this Information Statement. Holders of Common Stock should read the opinion completely and carefully to understand the assumptions made, procedures followed, factors considered and limitations on the review undertaken by Moelis in rendering its opinion. Moelis opinion was prepared only for the use and benefit of the Special Committee and the Board (solely in their capacities as such) in connection with their respective evaluations of the Merger. The Moelis opinion is not a recommendation as to how any stockholder should vote or act with respect to the Merger or any other matter. Pursuant to their engagement as financial advisor to the Special Committee, Moelis will receive fees for its services, $750,000 of which have been paid or were payable on or prior to the delivery of its opinion, regardless of the conclusion reached therein, and $250,000 of which are contingent upon the consummation of the Merger.

Financing of the Merger (Page 37)

Consummation of the Merger and the other transactions contemplated by the Merger Agreement are not conditioned upon Eastman or Merger Sub obtaining any financing. Eastman has represented that it has sufficient funds or committed credit facilities (without restrictions on the use of such facilities for the funding of the Merger and the transactions contemplated thereby or conditions precedent with respect to funding) to complete the Merger. See The Merger Financing of the Merger beginning on page 37.

Interests of Certain Persons in the Merger (Page 37)

You should be aware that certain of our directors and named executive officers may have interests in the Merger that may be different from, or in addition to, your interests as a holder of Common Stock. The Special Committee was aware of and considered these interests, among other matters, in evaluating and negotiating the Merger Agreement and the Merger, and in recommending that the Board adopt a resolution approving the Merger Agreement.

These interests include (a) potential payments to our named executive officers in connection with certain terminations of employment, if any, pursuant to the Amended and Restated Employment Agreement between the Company and John V. Genova, dated June 16, 2009 (as amended, the Genova Employment Agreement), and existing employment retention plans, (b) payments of bonuses to our named executive officers and other employees at the Effective Time not exceeding $590,000 in the aggregate pursuant to a transaction bonus program established under the terms of the Genova Employment Agreement in June of 2009 and (c) the assumption by Eastman and the surviving corporation of all rights to indemnification, advancement of expenses and exculpation from liabilities for acts or omissions of our directors and executive officers occurring at or prior to the Effective Time (as well as certain obligations with respect to director and officer liability insurance). For a discussion of the treatment of certain of these interests, also see the sections entitled The Merger Agreement Employee Benefit Matters and The Merger Agreement Indemnification; Directors and Officers Insurance beginning on page 58.

Certain of our named executive officers and directors also hold certain equity interests and performance awards that were awarded prior to the discussions regarding a potential transaction that eventually resulted in the execution of the Merger Agreement. For a discussion of the treatment of these interests (to the extent still

Table of Contents

outstanding) in accordance with their terms and as set forth in the Merger Agreement, see the section entitled The Merger Agreement Treatment of Common Stock, Preferred Stock, Stock Options, and Performance Units beginning on page 51.

The Merger Agreement (Page 50)

Treatment of Common Stock, Preferred Stock, Stock Options, and Performance Units (Page 51)

The Merger Agreement includes terms regarding the treatment of our outstanding Common Stock at the Effective Time, as well as stock options exercisable for Common Stock.

Common Stock. At the Effective Time, each share of Common Stock outstanding immediately prior thereto (except for shares held by stockholders who have properly demanded appraisal rights) will convert into the right to receive $2.50 in cash, without interest, less any applicable withholding taxes.

Preferred Stock. At the Effective Time, each share of Preferred Stock outstanding immediately prior thereto will convert into the right to receive an amount equal to the quotient of (a) $100,000,000 minus the sum of (1) the aggregate amount of merger consideration payable with respect to the shares of Common Stock and (2) the Adjustment Amount and (b) the number of shares of Preferred Stock issued and outstanding (including accrued and unpaid dividends thereon (whether or not declared)) in cash, without interest, less any applicable withholding taxes.

Stock Options. At the Effective Time, each option to purchase shares of Common Stock granted pursuant to the Second Amended and Restated 2002 Stock Plan of the Company (the 2002 Stock Plan) (each, a Stock Option) outstanding as of the Effective Time, whether vested or unvested, exercisable or not exercisable, will be canceled without any payment made to the holder thereof.

Performance Units. At the Effective Time, if any Transaction Fee (as defined in the section entitled Interests of Certain Persons in the Merger Transaction Fee beginning on page 37) is paid to any person under the terms of the Genova Employment Agreement, each outstanding performance unit granted under the Company s Long-Term Incentive Plan will lapse and be cancelled without any payment to the holder thereof. The Merger Agreement obligates the Company to pay a Transaction Fee to John V. Genova.

Solicitation of Acquisition Proposals (Page 57)

The Merger Agreement contains customary limitations on the Company s ability to engage with alternative purchasers, subject to an exception for the Board to comply with its fiduciary duties under applicable law.

Conditions to the Merger (Page 59)

Each of the Company s, Eastman s and Merger Sub s obligations to complete the Merger is subject to the satisfaction or waiver of the following conditions, among other things:

Approval by the Company s stockholders, which approval occurred when Resurgence executed and delivered the Written Consent to the Company, Eastman and Merger Sub on June 22, 2011;

The waiting period under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended (the HSR Act), has expired or been terminated;

The absence of legal prohibitions on the completion of the Merger; and

Approval by Eastman of the Closing Statement (as defined in the section entitled Merger Agreement Conduct of our Business Pending the Merger beginning on page 55) prepared by the Company and delivered to Eastman and Merger Sub (which approval will not be unreasonably withheld, delayed or conditioned).

Table of Contents

In addition, the Company s obligation to complete the Merger is subject to the satisfaction or waiver of the following additional conditions:

The representations and warranties of Eastman and Merger Sub will be true and correct in the manner set forth in the section entitled The Merger Agreement Conditions to the Merger beginning on page 59;

Eastman and Merger Sub will have performed, in all material respects, all of their obligations under the Merger Agreement; and

Eastman will have delivered to the Company an officer s certificate certifying that the two conditions above have been met.

In addition, Eastman s and Merger Sub s obligations to complete the Merger are subject to the satisfaction or waiver of the following additional conditions:

The representations and warranties of the Company will be true and correct in the manner set forth in the section entitled The Merger Agreement Conditions to the Merger beginning on page 59;

The Company will have performed, in all material respects, all of its obligations under the Merger Agreement;

The Company shall have obtained the consents set forth in the Company Disclosure Letter (as defined in the Merger Agreement);

There shall not have occurred any event that has had or could reasonably be expected to have a Material Adverse Effect (as defined in the section entitled The Merger Agreement Representations and Warranties beginning on page 53) since December 31, 2010;

The Company shall obtain written statements executed by each of John V. Genova, David Collins and Kenneth M. Hale acknowledging that if a Transaction Fee is paid to any person in connection with a Change of Control (as defined in the Genova Employment Agreement), all issued and outstanding performance units awarded to Mr. Genova under the Company s Long-Term Incentive Plan shall immediately lapse and have no present or future value; and

The Company will have delivered to Eastman an officer s certificate certifying that the first two conditions above have been met.

Termination (Page 60)

The Merger Agreement may be terminated at any time prior to the Effective Time, by mutual written consent of Eastman and the Company, and, subject to certain limitations described in the Merger Agreement, by either Eastman or the Company, if any of the following occurs:

The Merger is not consummated by October 31, 2011 (the Outside Date); or

A governmental entity has issued any order or taken any final and non-appealable action prohibiting or restraining the Merger.

In addition, the Company may terminate the Merger Agreement if, among other things:

Prior to the date that is 40 days following the date of the Merger Agreement or such later date to which such 40-day period has been extended pursuant to the Merger Agreement, it concurrently enters into a definitive agreement with respect to a Superior Proposal (as defined in the section entitled The Merger Agreement Solicitation of Acquisition Proposals beginning on page 57); or

Eastman or Merger Sub breach or fail to perform in any material respect any representation, warranty, covenant or agreement which results in the failure of a closing condition and which is not cured by the Outside Date.

Table of Contents

Eastman may terminate the Merger Agreement if, among other things:

The Company breaches or fails to perform in any material respect any representation, warranty, covenant or agreement which results in the failure of a closing condition and which is not cured by the Outside Date;

Prior to the date that is 40 days following the date of the Merger Agreement or such later date to which such 40-day period has been extended pursuant to the Merger Agreement, (i) the Board has publicly withdrawn its approval or recommendation of the Merger Agreement or the Merger or has publicly recommended to the stockholders of the Company any proposal or offer to purchase or acquire in any manner, directly or indirectly, (A) assets (including equity interests of a Company subsidiary) representing 20% or more of the assets or revenues of the Company and its subsidiaries taken as a whole, or (B) 20% or more of the voting securities of the Company, other than, in each case, the Merger or other transactions with Eastman (any such proposal or offer, an Acquisition Proposal), (ii) a tender or exchange offer, that if successful, would result in any Person or group becoming the beneficial owner of 20% or more of the outstanding Capital Stock, has been commenced (other than by Eastman or any affiliate of Eastman) and the Board fails to recommend that the stockholders of the Company not tender their shares in such tender or exchange offer within ten business days of such commencement or (iii) a representative of the Company or any Company subsidiary takes any action that would constitute a willful material breach of the non-solicitation provisions of the Merger Agreement by the Company pursuant to the terms thereof; or

If the Written Consent had not been executed and delivered to the Company and Eastman within one business day after the date of the Merger Agreement. The Written Consent was delivered to the Company and Eastman on the date of the Merger Agreement.

Termination Fees (Page 61)

If the Merger Agreement is terminated, then the Company may be required under certain circumstances specified in the Merger Agreement to pay to Eastman a termination fee of $3.75 million, and Eastman may be required to pay to the Company approximately $2.7 million under certain circumstances if it materially breaches its obligations under the Merger Agreement.

Regulatory Approvals to Be Obtained in Connection with the Merger (Page 44)

The completion of the transaction is conditioned upon the expiration or termination of the applicable waiting period under the HSR Act has expired or been terminated.

Material U.S. Federal Income Tax Consequences of the Merger (Page 44)

The exchange of shares of our Common Stock for cash pursuant to the Merger or due to the exercise of appraisal rights will be treated as a taxable sale for U.S. federal income tax purposes (and also may be taxed under applicable state, local and foreign tax laws), so that stockholders who are U.S. Holders (as defined in the section entitled The Merger Material U.S. Federal Income Tax Consequences of the Merger beginning on page 44) and who receive the Common Stock Merger Consideration in exchange for their shares of Common Stock will generally recognize capital gain or loss in an amount equal to the difference, if any, between the cash payments made pursuant to the Merger and their adjusted tax basis in their shares of Common Stock. Any such gain will be long term capital gain subject to tax at capital gain rates if you have held the Common Stock for more than one year or as short term capital gain subject to tax at ordinary income rates if you have held our Common Stock for one year or less.

You should read The Merger Material U.S. Federal Income Tax Consequences of the Merger and a more detailed discussion of the U.S. federal income tax consequences of the Merger to both U.S. Holders and non-U.S. holders. We urge you to consult your own tax advisor to determine the particular U.S. federal, state, local and foreign tax consequences to you of the receipt of the Merger Consideration in exchange for shares of our Common Stock pursuant to the Merger.

Table of Contents

Appraisal Rights (Page 47)

Under the DGCL, stockholders are entitled to appraisal rights in connection with the Merger, provided that such stockholders submit a written demand for appraisal within 20 days of the mailing date of this Information Statement and meet all of the other conditions set forth in Section 262 of the DGCL. This means that you are entitled to have the value of your shares of Common Stock determined by the Delaware Court of Chancery (the Delaware Court) and to receive payment based on that valuation. **The ultimate amount that you receive in an appraisal proceeding may be less than, equal to or more than the amount that you would have received under the Merger Agreement**.

To exercise your appraisal rights, you must submit a written demand of appraisal to the Company within 20 days of the date of mailing of this Information Statement, or by August 8, 2011. Your failure to follow exactly the procedures specified under the DGCL may result in the loss of your appraisal rights. See the section entitled The Merger Appraisal Rights beginning on page 47 and the text of the Delaware appraisal rights statute, which is reproduced in its entirety as Annex D to this Information Statement and incorporated by reference herein. If you hold your shares of Common Stock through a bank, brokerage firm or other nominee and you wish to exercise your appraisal rights, you should consult with your bank, brokerage firm or other nominee to determine the appropriate procedures for the making of a demand for appraisal by the nominee. In view of the complexity of the DGCL, stockholders who may wish to pursue appraisal rights should consult their legal and financial advisors promptly.

Market Price of Our Common Stock (Page 62)

The closing price of our Common Stock on the OTCQB of the OTC Market (the OTCQB), on June 21, 2011, the last trading day prior to public announcement of the execution of the Merger Agreement, was $1.53 per share. On July 1, 2011, the most recent practicable date before this Information Statement was mailed to our stockholders, the closing price of our Common Stock on the OTCQB was $2.62 per share. You are encouraged to obtain current market quotations for our Common Stock.

Deregistration of Our Common Stock

If the Merger is completed, the Common Stock will be deregistered under the Securities Exchange Act of 1934, as amended (the Exchange Act) and would no longer be quoted on the OTCQB. As such, we would no longer file periodic reports with the U.S. Securities and Exchange Commission (the SEC) on account of the Common Stock or otherwise.

Table of Contents

QUESTIONS AND ANSWERS ABOUT THE MERGER

The following questions and answers are intended to address briefly some commonly asked questions regarding the Merger and the Merger Agreement. These questions and answers may not address all questions that may be important to you as a Company stockholder. Please refer to the Summary and the more detailed information contained elsewhere in this Information Statement, the annexes to this Information Statement and the documents referred to in this Information Statement, each of which you should read carefully. You may obtain certain information referenced in this Information Statement without charge by following the instructions set forth in the section entitled Where You Can Find More Information beginning on page 66.

Q: **What is the proposed transaction and what effects will it have on the Company?**

A: The proposed transaction is the acquisition of the Company by Eastman pursuant to the Merger Agreement. If the closing conditions under the Merger Agreement have been satisfied or waived, at the Effective Time all outstanding Common Stock and Preferred Stock will be converted into the right to receive the Common Stock Merger Consideration and Preferred Stock Merger Consideration, respectively. As a result of the Merger, the Company will become an indirect subsidiary of Eastman and will no longer be a publicly-held corporation, our Common Stock will be deregistered under the Exchange Act and would no longer be quoted on the OTCQB, we will no longer file any reports with the SEC on account of our Common Stock or otherwise and you will no longer have any interest in our future earnings or growth.

Q: **What will holders of Common Stock be entitled to receive if the Merger is completed?**

A: Upon completion of the Merger, holders of Common Stock will be entitled to receive $2.50 in cash, without interest, less any applicable withholding taxes, for each share of Common Stock that you own, unless you have properly exercised and not withdrawn your appraisal rights under the DGCL with respect to such shares. For example, if you own 100 shares of Common Stock, you will be entitled to receive $250.00 in cash in exchange for your shares of Common Stock, without interest, less any applicable withholding taxes. Upon completion of the Merger, you will not own any shares of the capital stock in the surviving corporation.

Q: **When do you expect the Merger to be completed?**

A: We are working to complete the Merger as soon as practicable. We expect to complete the Merger in the third quarter of 2011, assuming that all of the conditions set forth in the Merger Agreement have been satisfied or waived. However, because the Merger is subject to a number of conditions, some of which are beyond the control of Eastman and the Company, the precise timing for completion of the Merger cannot be predicted with certainty. See the section entitled The Merger Agreement Conditions to The Merger beginning on page 59.

Q: **When can I expect to receive the cash Merger Consideration for my shares?**

A: Under the Merger Agreement, Eastman must use commercially reasonable efforts to cause provision to be made for holders of the Company s Capital Stock to procure in person immediately after the Effective Time a letter of transmittal and instructions and to cause to be delivered in person immediately after the Effective Time such letter of transmittal and to provide immediate payment of the related Merger Consideration against delivery thereof, to the extent practicable. To the extent that you do not procure a letter of transmittal in person, after the Merger is completed, you will be sent a letter of transmittal with detailed written instructions for exchanging your Common Stock for the Common Stock Merger Consideration. When you properly complete and return the required documentation described in the written instructions, you will receive from the paying agent a payment of the Common Stock Merger Consideration for your shares. If your shares are held in street name by a bank, brokerage firm or other nominee, you will receive instructions from your bank, brokerage firm or other nominee as to how to effect the surrender of your street name shares in exchange for the Common Stock Merger Consideration.

Table of Contents

Q: **Will the Merger be a taxable transaction to me?**

A: Yes. The exchange of shares of Common Stock for cash pursuant to the Merger generally will be a taxable transaction to U.S. Holders (as set forth in the section entitled The Merger Material U.S. Federal Income Tax Consequences of the Merger beginning on page 44) for U.S. federal income tax purposes (and may also be taxable under applicable state, local and foreign tax laws). If you are a U.S. holder and you exchange your shares of Common Stock in the Merger, you will generally recognize gain or loss in an amount equal to the difference, if any, between the cash payments made pursuant to the Merger and your adjusted tax basis in your shares of Common Stock. Backup withholding may also apply to the cash payments made pursuant to the Merger unless the U.S. Holder or other payee provides a taxpayer identification number, certifies that such number is correct and otherwise complies with the backup withholding rules. You should read the section entitled The Merger Material U.S. Federal Income Tax Consequences of the Merger beginning on page 44 for a more detailed discussion of the U.S. federal income tax consequences of the Merger to both U.S. Holders and non-U.S. holders. You should also consult your tax advisor for a complete analysis of the effect of the Merger on your U.S. federal, state and local and/or foreign taxes.

Q: **Did the Board approve and recommend the Merger Agreement?**

A: Yes. The Board delegated to the Special Committee, which is comprised of independent members of the Board, the full and exclusive powers and authority of the Board to take any action on behalf of the Company with respect to and in response to any proposal that would result in a party other than Resurgence becoming the beneficial owner of a majority of the outstanding shares of the Preferred Stock or the Common Stock. The Special Committee, at a meeting duly called and held, unanimously adopted resolutions (i) determining that the Merger and the Merger Agreement are fair to, and in the best interests of, the holders of the Common Stock (other than Resurgence) and (ii) recommending that the Board adopt a resolution approving the Merger Agreement. The Board, having considered the recommendation of the Special Committee and having reviewed and evaluated the merits of the Merger, (i) approved the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement, (ii) determined that the terms of the Merger and the other transactions contemplated by the Merger Agreement are advisable and fair to the Company and its stockholders, and (iii) recommended that the Company s stockholders adopt the Merger Agreement and the Merger.

Q: **Has stockholder approval and adoption of the Merger Agreement been obtained?**

A: Yes. Following the execution of the Merger Agreement, Resurgence delivered the Written Consent approving and adopting the Merger Agreement and approving the Merger.

Q: **What happens if the Merger is not completed?**

A: If the Merger is not completed for any reason, the Company will continue as an independent entity, the shares of Common Stock and Preferred Stock will not be converted and will remain outstanding, and the performance units granted under the Company s Long-Term Incentive Plan and Stock Options will not be canceled, and you will not receive the Merger Consideration.

Q: **Why am I not being asked to vote on the Merger?**

A: Consummation of the Merger requires the approval and adoption of the Merger and the Merger Agreement by the holders of a majority of the outstanding voting p