

Atlas Resource Partners, L.P.
Form S-3
September 19, 2012
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As filed with the Securities and Exchange Commission on September 19, 2012

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ATLAS RESOURCE PARTNERS, L.P.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

Park Place Corporate Center One

45-3591625
(I.R.S. Employer
Identification No.)

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1000 Commerce Drive, Suite 400

Pittsburgh, PA 15275

(800) 251-0171

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

Edward E. Cohen

Atlas Resource Partners GP, LLC

Park Place Corporate Center One

1000 Commerce Drive, Suite 400

Pittsburgh, PA 15275

(800) 251-0171

(Address, including zip code, and telephone number, including area code, of agent for service)

Please send copies of communications to:

Lisa A. Ernst, Esq.

Mark E. Rosenstein, Esq.

Ledgewood

1900 Market Street, Suite 750

Philadelphia, PA 19103

(215) 731-9450

Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

If the only securities being registered on this form are being offered pursuant to dividend or reinvestment plans, please check the following box:

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, other than securities offered only in connection with dividend or interest reinvestment plans, 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.

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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 registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

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

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered(1)	Proposed maximum offering price per unit(2)	Proposed maximum aggregate offering price(2)	Amount of registration fee
Common Units(3)	7,683,438	\$25.12	\$193,007,962.56	\$22,119

- (1) Pursuant to Rule 416(a), the number of common units being registered shall be adjusted to include any additional common units that may become issuable as a result of any unit distribution, split, combination or similar transaction.
- (2) Estimated solely for the purpose of computing the amount of the registration fee in accordance with Rule 457(c) of the Securities Act of 1933, based upon the average of the high and low prices on the New York Stock Exchange on September 18, 2012.
- (3) 3,841,719 of these units are common units underlying the same number of the Registrant's Convertible Class B Preferred Units.

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.

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The information in this prospectus is not complete and may be changed. This prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale of these securities is not permitted. The selling unitholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective.

SUBJECT TO COMPLETION, DATED SEPTEMBER 19, 2012

PROSPECTUS

ATLAS RESOURCE PARTNERS, L.P.

7,683,438 Common Units

This prospectus relates to the possible resale, from time to time, by the selling unitholders named in this prospectus or in any supplement to this prospectus, of up to (i) 3,841,719 common units that may be issued upon the conversion of the same number of our Convertible Class B Preferred Units and (ii) 3,841,719 common units, all of which were issued in a private placement on July 25, 2012. The issued and outstanding common units and the common units to be issued upon conversion of the preferred units are collectively referred to herein as the Units.

The selling unitholders may sell the Units at various times and in various types of transactions, including sales in the open market, sales in negotiated transactions and sales by a combination of these methods. We will not receive any proceeds from the sale of the Units by the selling unitholders.

Our common units are traded on the New York Stock Exchange, or the NYSE, under the symbol ARP.

Investing in these securities involves certain risks. You should carefully read and consider the risk factors included in our periodic reports, in any prospectus supplement relating to a specific offering of securities and in other documents that we file with the Securities and Exchange Commission. See Risk Factors on page 2 of this prospectus.

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

Prospectus dated _____, 2012

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In making your investment decision, you should rely only on the information contained or incorporated by reference in this prospectus and in any prospectus supplement. We have not authorized any other person to provide you with any other information. If anyone provides you with different or inconsistent information, you should not rely on it.

You should not assume that the information contained in this prospectus or in any prospectus supplement is accurate as of any date other than the date on the front cover of those documents. You should not assume that the information contained in the documents incorporated by reference in this prospectus or in any prospectus supplement is accurate as of any date other than the respective dates of those documents. Our business, financial condition, results of operations and prospects may have changed since those dates. We will disclose any material changes in our affairs in an amendment to this prospectus, a prospectus supplement or a future filing with the Securities and Exchange Commission (the SEC) incorporated by reference in this prospectus.

ABOUT THIS PROSPECTUS

This prospectus is a part of a registration statement that we filed with the Securities and Exchange Commission, or the SEC, using a shelf registration process. Under this shelf registration statement, the selling unitholders may sell securities described in this prospectus in one or more offerings.

This prospectus provides you with a general description of the securities that may be offered by the selling unitholders. We may provide a prospectus supplement that will contain specific information about the terms of an offering. The prospectus supplement may also add to, update or change information in this prospectus. If there is any inconsistency between the information in this prospectus and any prospectus supplement, you should rely on the information in that prospectus supplement. Therefore, before you invest in our securities, you should read carefully this prospectus, any prospectus supplement and the additional information described below under the heading Where You Can Find More Information.

SPECIAL NOTE ON FORWARD-LOOKING STATEMENTS AND RISK FACTORS

Certain sections of this registration statement contain statements reflecting our views about our future performance and constitute forward-looking statements. We and our representatives may, from time to time, make written or oral forward-looking statements, including statements contained in our filings with the SEC and

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in our reports to security holders. Generally, the inclusion of the words believe, expect, intend, estimate, project, anticipate, will and similar expressions identify statements that constitute forward-looking statements. All statements addressing operating performance of us or any subsidiary, events or developments that we expect or anticipates would occur in the future are forward-looking statements.

These views involve risks and uncertainties that are difficult to predict and, accordingly, our actual results may differ materially from the results discussed in such forward-looking statements. Readers should consider the various factors, including those discussed in our annual report for the year ended December 31, 2011 under Risk Factors, Management's Discussion and Analysis of Financial Condition and Results of Operations and Critical Accounting Policies and Estimates that is on file with the SEC for additional factors that may affect our performance. The forward-looking statements are and will be based upon management's then-current views and assumptions regarding future events and operating performance, and are applicable only as of the dates of such statements. We undertake no obligation to update any forward-looking statements as a result of new information, future events or otherwise.

You should rely only on the information contained in this prospectus, in any prospectus supplement and in material we file with the SEC. We have not authorized anyone to provide you with information that is different.

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THE COMPANY

We are a publicly-traded Delaware master-limited partnership (NYSE: ARP) and an independent developer and producer of natural gas and oil, with operations in basins across the United States. We sponsor and manage tax-advantaged investment partnerships, in which we coinvest, to finance a portion of our natural gas and oil production activities.

At June 30, 2012, Atlas Energy, L.P., or ATLS, a publicly traded master-limited partnership (NYSE: ATLS), owned 100% of our general partner Class A units and incentive distribution rights through which it manages and effectively controls us, and an approximate 65.0% limited partnership ownership interest (20,962,485 limited partner units) in us.

We were formed in October 2011 to own and operate substantially all of ATLS' exploration and production assets, or the Atlas Energy E&P Operations, which were transferred to us on March 5, 2012. In February 2012, the board of directors of ATLS' general partner approved the distribution of approximately 5.24 million of our common units which were distributed on March 13, 2012 to ATLS' unitholders using a ratio of 0.1021 of our limited partner units for each of ATLS' common units owned on the record date of February 28, 2012. The distribution of our limited partner units represented approximately 20% of the common limited partner units outstanding.

On February 17, 2011, ATLS acquired certain assets and liabilities, or the Transferred Business, from Atlas Energy, Inc., or AEI, the former owner of ATLS' general partner. These assets principally included the following exploration and production assets which were included within Atlas Energy's E&P Operations:

AEI's investment management business, which sponsors tax-advantaged direct investment natural gas and oil partnerships, through which we fund a portion of our natural gas and oil well drilling;

proved reserves located in the Appalachia Basin, the Niobrara formation in Colorado, the New Albany Shale of west central Indiana, the Antrim Shale of northern Michigan, and the Chattanooga Shale of northeastern Tennessee; and

certain producing natural gas and oil properties, upon which we are developers and producers.

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RISK FACTORS

Investing in our securities involves risk. Before you decide whether to purchase any of our securities, in addition to the other information, documents or reports included or incorporated by reference into this prospectus and any prospectus supplement or other offering materials, you should carefully consider the risk factors in the section entitled "Risk Factors" in any prospectus supplement, in our most recent Annual Report on Form 10-K and any Quarterly Reports on Form 10-Q and Current Reports on Form 8-K filed by us subsequent to such Annual Report on Form 10-K, as the same may be amended, supplemented or superseded from time to time by our filings under the Securities Exchange Act of 1934, as amended, or the Exchange Act. For more information, see the section of this prospectus entitled "Where You Can Find More Information." These risks could materially and adversely affect our business, financial condition or operating results and could result in a partial or complete loss of your investment.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's web site at <http://www.sec.gov> or at our website at <http://www.atlasresourcepartners.com>. You may also read and copy any document we file at the SEC's public reference room at 100 F. Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for additional information on the public reference room.

The SEC allows us to incorporate by reference the information we file with it. This means that we can disclose important information to you by referring to these documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC under Sections 13, 14 or 15(d) of the Securities Exchange Act of 1934 will automatically update and supersede this information.

We are incorporating by reference the following documents that we have previously filed with the SEC (other than information in such documents that is deemed not to be filed):

our Annual Report on Form 10-K for the fiscal year ended December 31, 2011;

our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2012 and June 30, 2012;

the description of our common units contained in our Form 10, filed on October 17, 2011, and any subsequent amendment thereto containing an update to such description; and

our Current Reports on Form 8-K and 8-K/A filed on February 16, 2012, February 24, 2012, March 7, 2012, March 14, 2012, March 21, 2012, May 1, 2012, May 21, 2012, July 10, 2012, July 26, 2012 and August 24, 2012.

We are also incorporating by reference all additional documents that we may file with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date hereof and prior to the effectiveness of the registration statement of which this prospectus forms a part.

You may request a copy of any document incorporated by reference in this prospectus without charge by writing or calling us at:

Atlas Resource Partners GP, LLC

Park Place Corporate Center One

1000 Commerce Drive, Suite 400

Pittsburgh, PA 15275

(800) 251-0171

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Attn: Brian Begley

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USE OF PROCEEDS

The Units to be offered and sold pursuant to this prospectus will be offered and sold by the selling unitholders. We will not receive any proceeds from the sale of the Units by the selling unitholders.

DESCRIPTION OF COMMON UNITS

Common Units

The common units are a class of limited partner interests in us. The holders of common units are entitled to participate in partnership distributions and exercise the rights or privileges available to holders of common units as outlined in our partnership agreement. For a description of the rights and preferences of holders of common units in partnership distributions, please read Our Cash Distribution Policy. For a description of the rights and privileges of the holders of our common units under our partnership agreement, including voting rights, please read Our Partnership Agreement.

Transfer Agent and Registrar

Duties. American Stock Transfer serves as registrar and transfer agent for the common units. We pay all fees charged by the transfer agent for transfers of common units except the following that must be paid by unitholders:

surety bond premiums to replace lost or stolen certificates, taxes and other governmental charges;

special charges for services requested by a common unitholder; and

other similar fees or charges.

There will be no charge to unitholders for disbursements of our cash distributions. We will indemnify the transfer agent, its agents and each of their stockholders, directors, officers and employees against all claims and losses that may arise out of acts performed or omitted for its activities in that capacity, except for any liability due to any gross negligence or intentional misconduct of the indemnified person or entity.

Resignation or Removal. The transfer agent may resign, by notice to us, or be removed by us. The resignation or removal of the transfer agent will become effective upon our appointment of a successor transfer agent and registrar and its acceptance of the appointment. If no successor has been appointed and has accepted the appointment within 30 days after notice of the resignation or removal, our general partner may act as the transfer agent and registrar until a successor is appointed.

Transfer of Common Units

By transfer of common units in accordance with our partnership agreement, each transferee of common units shall be admitted as a limited partner with respect to the common units transferred when such transfer and admission is reflected in our books and records. Each transferee:

represents that the transferee has the capacity, power and authority to become bound by our partnership agreement;

automatically becomes bound by the terms and conditions of, and is deemed to have executed, our partnership agreement;

gives the consents and waivers contained in our partnership agreement.

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A transferee will become a limited partner of our partnership for the transferred common units automatically upon the recording of the transfer on our books and records. Our general partner will cause any transfers to be recorded on our books and records from time to time as necessary to accurately reflect the transfers.

We may, at our discretion, treat the nominee holder of a common unit as the absolute owner. In that case, the beneficial holder's rights are limited solely to those that it has against the nominee holder as a result of any agreement between the beneficial owner and the nominee holder.

Common units are securities and are transferable according to the laws governing transfers of securities.

Until a common unit has been transferred on our books, we and the transfer agent may treat the record holder of the unit as the absolute owner for all purposes, except as otherwise required by law or stock exchange regulations.

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DESCRIPTION OF CLASS B PREFERRED UNITS

Convertible Class B Preferred Units

The class B preferred units are a class of limited partner interests in us with a face value of \$26.03 per unit. The holders of class B preferred units are entitled to participate in partnership distributions and exercise the rights or privileges available to holders of class B preferred units as outlined in our partnership agreement. For a description of the rights and preferences of holders of class B preferred units in partnership distributions, please read Our Cash Distribution Policy. For a description of the rights and privileges of the holders of class B preferred units under our partnership agreement, including voting rights, please read Our Partnership Agreement.

The class B preferred units will receive cash distributions, paid quarterly on the same date as the distribution payment date for the common units, equal to the greater of (i) \$0.40 and (b) the quarterly common unit distribution payable for the most recently completed fiscal quarter, in each case multiplied by the number of common units into which each preferred unit is convertible. If we fail to pay in full any distribution on the class B preferred units, we will not be permitted to make any distributions on the common units until all preferred distributions have been paid in full. Our general partner did not have preemptive rights to acquire any class B preferred units in connection with their issuance.

Holders of class B preferred units have the right to convert their units, in whole or in part, at any time before July 25, 2015, into a number of common units equal to (i) \$26.03 plus all unpaid preferred distributions divided by (ii) \$26.03, subject to anti-dilution adjustments. Unless previously converted, all class B preferred units will convert into common units on July 25, 2015 on the same basis as described above. If a class B preferred unit conversion occurs before the record date for payment of common unit distributions and the class B preferred units convert into additional common units (because of the increase in the liquidation value by virtue of unpaid preferred distributions), the additional common units will not receive the common unit distribution with respect to the relevant quarter.

Transfer Agent and Registrar

Duties. American Stock Transfer serves as registrar and transfer agent for the class B preferred units. We pay all fees charged by the transfer agent except the following that must be paid by unitholders:

surety bond premiums to replace lost or stolen certificates, taxes and other governmental charges;

special charges for services requested by a class B preferred unitholder; and

other similar fees or charges.

There will be no charge to unitholders for disbursements of our cash distributions. We will indemnify the transfer agent, its agents and each of their stockholders, directors, officers and employees against all claims and losses that may arise out of acts performed or omitted for its activities in that capacity, except for any liability due to any gross negligence or intentional misconduct of the indemnified person or entity.

Resignation or Removal. The transfer agent may resign, by notice to us, or be removed by us. The resignation or removal of the transfer agent will become effective upon our appointment of a successor transfer agent and registrar and its acceptance of the appointment. If no successor has been appointed and has accepted the appointment within 30 days after notice of the resignation or removal, our general partner may act as the transfer agent and registrar until a successor is appointed.

Transfer of Class B Preferred Units

The class B preferred units are not transferable by a holder except to an affiliate of such holder.

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OUR PARTNERSHIP AGREEMENT

The following is a summary of the material provisions of our partnership agreement. We will provide holders of our common units and our class B preferred units with a copy of our partnership agreement upon request at no charge.

We summarize the following provisions of our partnership agreement elsewhere in this prospectus:

with regard to distributions of available cash, please read [Our Cash Distribution Policy](#);

with regard to the transfer of common units, please read [Description of Common Units](#) [Transfer of Common Units](#);

with regard to the transfer of our class B preferred units, please read [Description of Preferred Units](#) [Transfer of Preferred Units](#); and

with regard to allocations of taxable income and taxable loss, please read [Certain U.S. Federal Income Tax Matters](#).

Organization and Duration

Our partnership was formed in October 2011 and will have a perpetual existence unless terminated pursuant to the terms of our partnership agreement.

Purpose

Our purpose under the partnership agreement is to engage in any business activity that is approved by our general partner and that lawfully may be conducted by a limited partnership organized under Delaware law; provided, that our general partner will not cause us to engage in any business activity that the general partner determines would cause us to be treated as an association taxable as a corporation or otherwise taxable as an entity for U.S. federal income tax purposes.

Although our general partner has the ability to cause us and our subsidiaries to engage in activities other than the production of natural gas and oil, our general partner has no current plans to do so and may decline to do so free of any duty or obligation whatsoever to us or the limited partners, including any duty to act in good faith or in the best interests of us or the limited partners. Our general partner is authorized in general to perform all acts it determines to be necessary or appropriate to carry out our purposes and to conduct our business.

Cash Distributions

Our partnership agreement specifies the manner in which we will make cash distributions to holders of our common units and other partnership securities as well as to our general partner in respect of its incentive distribution rights. For a description of these cash distribution provisions, please read [Our Cash Distribution Policy](#).

Capital Contributions; No Dilution of Class A Units; One-to-One Ratio Between Class A Units and Common Units

Unitholders are not obligated to make additional capital contributions, except as described below under [Limited Liability](#).

The class A units are entitled to 2% of all distributions that we make prior to our liquidation. The 2% sharing ratio of the class A units will not be reduced if we issue additional equity securities in the future. Because the 2% sharing ratio will not be reduced if we issue additional equity securities, and in order to ensure that each class A unit represents the same percentage economic interest in us as one common unit, if we issue additional common units, we will also issue to our general partner, for no additional consideration and without any requirement to make a capital contribution, an additional number of class A units so that the total number of outstanding class A units after such issuance equals 2% of the sum of the total number of common units and class A units after such issuance.

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Voting Rights

The following is a summary of the unitholder vote required for the matters specified below. Matters requiring the approval of a unit majority require the approval of a majority of the common units. Except as set forth below, the class B preferred units have no voting rights.

Atlas Energy has the ability to ensure passage of, as well as the ability to ensure the defeat of, any matter that requires a unit majority because, as of the date of this prospectus, Atlas Energy holds approximately 64% of our outstanding common units.

In voting their common units, Atlas Energy and its affiliates will have no duty or obligation whatsoever to us or the limited partners, including any duty to act in good faith or in the best interests of us or the limited partners. The holders of a majority of the common units represented in person or by proxy shall constitute a quorum at a meeting of such common unitholders, unless any such action requires approval by holders of a greater percentage of such units in which case the quorum shall be such greater percentage.

The following is a summary of the vote requirements specified for certain matters under our partnership agreement:

Issuance of additional partnership securities	No approval right. See Issuance of Additional Securities.
Amendment of our partnership agreement	Certain amendments may be made by our general partner without the approval of the common unitholders. Other amendments generally require the approval of a unit majority or, if any amendment could adversely affect their rights the approval by a majority of the class B preferred units. See Amendment of the Partnership Agreement.
Merger of our partnership or the sale of all or substantially all of our assets	Unit majority in certain circumstances. See Merger, Consolidation, Conversion, Sale or Other Disposition of Our Assets.
Dissolution of our partnership	Unit majority and the approval by a majority of the class B preferred units. See Termination and Dissolution.
Continuation of our partnership upon dissolution	Unit majority. See Termination and Dissolution.
Withdrawal of our general partner	Prior to March 13, 2022, under most circumstances, the approval of a majority of the common units, excluding common units held by our general partner and its affiliates, is required for the withdrawal of our general partner in a manner that would cause a dissolution of our partnership. See Withdrawal or Removal of Our General Partner.
Removal of our general partner	Not less than two-thirds of the outstanding common units, including common units held by our general partner and its affiliates. See Withdrawal or Removal of Our General Partner.
Transfer of the general partner interest	Our general partner may transfer without a vote of our common unitholders all, but not less than all, of its general partner interest in us to an affiliate or another person (other than an individual) in connection with its merger or consolidation with or into, or sale of all, or substantially all, of its assets, to such person. The approval of a majority of the common units, excluding common units held by our general partner and its affiliates, is required in other circumstances for a transfer of the general partner interest to a third-party prior to the tenth anniversary of the date of the distribution. See Transfer of General Partner Interest.

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Transfer of ownership interests in our general partner	No approval required at any time. See	Transfer of Ownership Interests in the
	General Partner.	
The holder of our class A units has all voting rights applicable to the general partner.		

Applicable Law; Forum, Venue and Jurisdiction

Our partnership agreement is governed by Delaware law. Our partnership agreement requires that, unless we (through the approval of our general partner) consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for any claims, suits, actions or proceedings:

arising out of or relating in any way to the partnership agreement (including any claims, suits or actions to interpret, apply or enforce the provisions of the partnership agreement or the duties, obligations or liabilities among limited partners or of limited partners to us, or the rights or powers of, or restrictions on, the limited partners or us);

brought in a derivative manner on our behalf;

asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of us or our general partner, or owed by our general partner, to us or the limited partners;

asserting a claim arising pursuant to any provision of the Delaware Act; or

asserting a claim governed by the internal affairs doctrine;

regardless of whether such claims, suits, actions or proceedings sound in contract, tort, fraud or otherwise, are based on common law, statutory, equitable, legal or other grounds, or are derivative or direct claims. However, if and only if the Court of Chancery of the State of Delaware dismisses any such claims, suits, actions or proceedings for lack of subject matter jurisdiction, such claims, suits, actions or proceedings may be brought in another state or federal court sitting in the State of Delaware. By acquiring or purchasing a common unit, a limited partner is irrevocably consenting to these limitations and provisions regarding claims, suits, actions or proceedings and submitting to the exclusive jurisdiction of the Court of Chancery of the State of Delaware in connection with any such claims, suits, actions or proceedings.

Limited Liability

Assuming that a limited partner does not participate in the control of our business within the meaning of the Delaware Act and otherwise acts in conformity with the provisions of our partnership agreement, the limited partner's liability under the Delaware Act will be limited, subject to possible exceptions, to the amount of capital it is obligated to contribute to us for its common units plus its share of any undistributed profits and assets. If it were determined, however, that the right, or exercise of the right, by the limited partners as a group:

to remove or replace our general partner,

to approve some amendments to our partnership agreement, or

to take other action under our partnership agreement

constituted participation in the control of our business for purposes of the Delaware Act, then our limited partners could be held personally liable for our obligations under Delaware law to the same extent as our general partner. This liability would extend to persons who transact business with us and reasonably believe that the limited partner is a general partner. Neither our partnership agreement nor the Delaware Act specifically

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provides for legal recourse against our general partner if a limited partner were to lose limited liability through any fault of our general partner. While this does not mean that a limited partner could not seek legal recourse, we know of no precedent for this type of a claim in Delaware case law.

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Under the Delaware Act, a limited partnership cannot make a distribution to a partner if, after the distribution, all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the recourse of creditors is limited to specific property of the partnership, would exceed the fair value of the assets of the limited partnership. For the purpose of determining the fair value of the assets of a limited partnership, the Delaware Act provides that the fair value of property subject to liability for which recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds the nonrecourse liability. Moreover, under the Delaware Act, a limited partnership may also not make a distribution to a partner upon the winding up of the limited partnership before liabilities of the limited partnership to creditors have been satisfied by payment or the making of reasonable provision for payment thereof. The Delaware Act provides that a limited partner who receives a distribution and knew at the time of the distribution that the distribution was in violation of the Delaware Act will be liable to the limited partnership for the amount of the distribution for three years. Under the Delaware Act, an assignee who becomes a limited partner is liable for the obligations of his assignor to make contributions to the partnership, except such person is not obligated for liabilities unknown to him at the time he became a limited partner and that could not be ascertained from the partnership agreement.

We currently conduct business in Colorado, Indiana, Michigan, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas and West Virginia. Limitations on the liability of limited partners for the obligations of a limited partnership have not been clearly established in many jurisdictions. If it were determined that we were conducting business in any state without compliance with the applicable limited partnership statute, or that the right or exercise of the right by the limited partners as a group to remove or replace our general partner, to approve some amendments to our partnership agreement or to take other action under our partnership agreement constituted participation in the control of our business for purposes of the statutes of any relevant jurisdiction, then the limited partners could be held personally liable for our obligations under the law of that jurisdiction to the same extent as our general partner under the circumstances. We will operate in a manner that our general partner considers reasonable and necessary or appropriate to preserve the limited liability of the limited partners.

Issuance of Additional Securities

Our partnership agreement authorizes us to issue an unlimited number of additional partnership securities for the consideration and on the terms and conditions determined by our general partner without the approval of our unitholders. While any class B preferred units remain outstanding, we are not permitted to issue any equity securities ranking senior to, or *pari passu* with, the class B preferred units with respect to liquidation preference or distributions without the affirmative vote of at least 75% of the outstanding class B preferred units.

It is possible that we will fund acquisitions through the issuance of additional common units or other partnership securities. Holders of any additional common units we issue will be entitled to share equally with the then-existing holders of common units in our distributions of available cash. In addition, the issuance of additional common units or other partnership securities may dilute the value of the interests of the then-existing holders of common units in our net assets. The holders of common units will not have preemptive rights to acquire additional common units or other partnership securities.

In accordance with Delaware law and the provisions of our partnership agreement, we may also issue additional partnership securities that, as determined by our general partner, may have special voting rights to which the common units are not entitled. In addition, our partnership agreement does not prohibit the issuance by our subsidiaries of equity securities, which may effectively rank senior to our common units.

The class A units will be entitled to 2% of all distributions that we make prior to our liquidation. The 2% sharing ratio of the class A units will not be reduced if we issue additional equity securities in the future. Because the 2% sharing ratio will not be reduced if we issue additional equity securities, and in order to ensure that each class A unit represents the same percentage economic interest in us as one common unit, if we issue additional common units, we will also issue to our general partner, for no additional consideration and without any

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requirement to make a capital contribution, an additional number of class A units so that the total number of outstanding class A units after such issuance equals 2% of the sum of the total number of common units and class A units after such issuance.

In addition to the right to receive additional class A units, our general partner will have a limited preemptive right in connection with any issuance by us of additional partnership securities. The right, which the general partner may assign in whole or in part to any of its affiliates, will entitle the general partner to purchase additional units of any securities being sold to third parties, on the same terms as such third parties, in an amount up to the amount necessary to maintain the aggregate ownership percentage of the general partner and its affiliates at the same level before and after such issuance.

Amendment of the Partnership Agreement

General. Amendments to our partnership agreement may be proposed only by our general partner. However, our general partner will have no duty or obligation to propose any amendment and may decline to do so free of any duty or obligation whatsoever to us or our limited partners, including any duty to act in good faith or in the best interests of us or our limited partners. To adopt a proposed amendment, other than the amendments discussed under *Amendment of the Partnership Agreement - No Unitholder Approval*, our general partner is required to seek written approval of the holders of the number of units required to approve the amendment or call a meeting of the limited partners to consider and vote upon the proposed amendment.

Prohibited Amendments. No amendment may be made that would:

enlarge the obligations of any limited partner without its consent, unless approved by at least a majority of the type or class of limited partner interests so affected; or

enlarge the obligations of, restrict in any way any action by or rights of or reduce in any way the amounts distributable, reimbursable or otherwise payable by us to our general partner or any of its affiliates without the consent of our general partner, which consent may be given or withheld at its option.

The provision of our partnership agreement preventing the amendments having the effects described in any of the clauses above can be amended upon the approval of the holders of at least 90% of the outstanding units voting together as a single class.

No Unitholder Approval. Our general partner may generally make amendments to our partnership agreement without the approval of any limited partner to reflect:

a change in our name, the location of our principal place of business, our registered agent or registered office;

the admission, substitution, withdrawal or removal of partners in accordance with our partnership agreement;

a change that our general partner determines to be necessary or appropriate for us to qualify us or continue our qualification as a limited partnership or other entity in which the limited partners have limited liability under the laws of any state or to ensure that we will not be taxed as a corporation or otherwise taxed as an entity for U.S. federal income tax purposes;

a change in our fiscal year or taxable year and related changes;

an amendment that is necessary, in the opinion of our counsel, to prevent us or our general partner, or its directors, officers, agents or trustees, from in any manner being subject to the provisions of the Investment Company Act of 1940, the Investment Advisers Act of 1940 or plan asset regulations adopted under the Employee Retirement Income Security Act of 1974, or ERISA, whether or not

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substantially similar to plan asset regulations currently applied or proposed;

an amendment that our general partner determines to be necessary or appropriate for the authorization or issuance of additional partnership securities or options, warrants, rights or appreciation rights relating to any partnership securities;

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an amendment expressly permitted in our partnership agreement to be made by our general partner acting alone;

any amendment effected, necessitated or contemplated by a merger agreement or plan of conversion that has been approved under the terms of our partnership agreement;

any amendment that our general partner determines to be necessary or appropriate for the formation by us of, or our investment in, any corporation, partnership or other entity, as otherwise permitted by our partnership agreement;

any amendment necessary to require our limited partners to provide a statement, certification or other evidence to us regarding whether such limited partner is subject to U.S. federal income taxation on the income generated by us or regarding such limited partner's nationality or citizenship and to provide for the ability of our general partner to redeem the units of any limited partner who fails to provide such statement, certification or other evidence;

conversions into, mergers with or conveyances to another limited liability entity that is newly formed and has no assets, liabilities or operations at the time of the conversion, merger or conveyance other than those it receives by way of the conversion, merger or conveyance; and

any other amendment substantially similar to any of the matters described above.

In addition, our general partner may amend our partnership agreement, without the approval of the unitholders, if our general partner determines that those amendments:

do not adversely affect the limited partners in any material respect;

are necessary or appropriate to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation of any federal or state agency or judicial authority or contained in any federal or state statute;

are necessary or appropriate to facilitate the trading of limited partner interests or to comply with any rule, regulation, guideline or requirement of any securities exchange or interdealer quotation system on which the limited partner interests are or will be listed for trading;

are necessary or appropriate for any action taken by our general partner relating to splits or combinations of units or to implement the tax-related provisions of our partnership agreement; or

are required to effect the intent expressed in this registration statement or the intent of the provisions of our partnership agreement or are otherwise contemplated by our partnership agreement.

Unitholder Approval. For amendments of the type not requiring unitholder approval, our general partner will not be required to obtain an opinion of counsel that an amendment will not result in a loss of limited liability to our limited partners or result in our being treated as an association taxable as a corporation or otherwise taxable as an entity for federal income tax purposes. No other amendments to our partnership agreement will become effective without the approval of holders of at least 90% of the outstanding common units if our general partner determines that such amendment will affect the limited liability of any limited partner under Delaware law.

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In addition to the above restrictions, any amendment that would have a material adverse effect on the rights or preferences of any type or class of outstanding units, including our class B preferred units, in relation to other classes of units will require the approval of at least a majority of the type or class of units so affected. Any amendment that reduces the voting percentage required to take any action other than to remove the general partner or call a meeting of unitholders is required to be approved by the affirmative vote of limited partners whose aggregate outstanding common units constitute not less than the voting requirement sought to be reduced. Any amendment that would increase the percentage of common units required to remove the general partner or call a meeting of unitholders must be approved by the affirmative vote of limited partners whose aggregate outstanding common units constitute not less than the percentage sought to be increased.

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Merger, Consolidation, Conversion, Sale or Other Disposition of Our Assets

A merger, consolidation or conversion of us requires the prior consent of our general partner. However, our general partner will have no duty or obligation to consent to any merger, consolidation or conversion and may decline to do so free of any fiduciary duty or obligation whatsoever to us or the limited partners, including any duty to act in good faith or any other standard imposed by our partnership agreement, the Delaware Act or applicable law.

In addition, the partnership agreement generally prohibits our general partner, without the prior approval by a unit majority, from causing us to sell, exchange or otherwise dispose of all or substantially all of our assets in a single transaction or a series of related transactions. Our general partner may, however, mortgage, pledge, hypothecate or grant a security interest in all or substantially all of our assets without the approval of a unit majority. Our general partner may also sell all or substantially all of our assets under a foreclosure or other realization upon those encumbrances without that approval. Finally, our general partner may consummate any merger, consolidation or conversion without the prior approval of our unitholders if we are the surviving entity in the transaction, our general partner has received an opinion of counsel regarding limited liability and tax matters, the transaction will not result in an amendment to the partnership agreement (other than an amendment that the general partner could adopt without the consent of other partners), each of our units will be an identical unit of our partnership following the transaction and the number of partnership securities to be issued does not exceed 20% of our outstanding partnership securities immediately prior to the transaction.

Notwithstanding the foregoing, in the event of (i) any consolidation, merger or combination of us (other than a merger or consolidation in which we are the continuing entity and in which the common units outstanding immediately prior to the merger or consolidation are not exchanged for cash, securities or other property); (ii) any sale, transfer, lease or conveyance of all or substantially all of the properties and assets of us; or (iii) any statutory exchange of our securities (other than in connection with a merger or acquisition covered by clause (i) above), in each case where our common units are exchanged for, or converted into, stock, securities, property or assets (including cash or any combination thereof), collectively referred to as a reorganization event, we may, at our option, cause the conversion of all, but not less than all, outstanding class B preferred units. In the event that we do not convert all of the outstanding class B preferred units as described above, upon a reorganization event, each class B preferred unit outstanding immediately prior to such event shall, without the consent of the holders of the class B preferred units, become convertible into the kind of securities, cash and other property that such holder would have been entitled to receive if such holder had converted its class B preferred units into our common units immediately prior to such reorganization event.

If the conditions specified in the partnership agreement are satisfied, our general partner may convert us or any of our subsidiaries into a new limited liability entity or merge us or any of our subsidiaries into, or convey all of our assets to, a newly formed entity if the purpose of that conversion, merger or conveyance is to effect a change in our legal form into another limited liability entity, our general partner has received an opinion of counsel regarding limited liability and tax matters and the general partner determines that the governing instruments of the new entity provide the limited partners and the general partner with substantially the same rights and obligations as contained in the partnership agreement. The unitholders are not entitled to dissenters' rights of appraisal under the partnership agreement or applicable Delaware law in the event of a conversion, merger or consolidation, a sale of substantially all of our assets or any other similar transaction or event.

Termination and Dissolution

We will continue as a limited partnership until dissolved under our partnership agreement. We will dissolve upon:

the election of our general partner to dissolve us, if approved by a unit majority;

the entry of a decree of judicial dissolution of our partnership;

there being no limited partners, unless we are continued without dissolution in accordance with applicable Delaware law; or

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the withdrawal or removal of our general partner or any other event that results in its ceasing to be our general partner other than by reason of a transfer of its general partner interest in us in accordance with our partnership agreement or withdrawal or removal following approval and admission of a successor.

Upon a dissolution under the last item above, the holders of a unit majority may also elect, within specific time limitations, to continue our business on the same terms and conditions described in our partnership agreement by appointing as a successor general partner an entity approved by the holders of a unit majority subject to our receipt of an opinion of counsel to the effect that: