

APACHE CORP  
Form S-4  
May 19, 2010

Table of Contents

As filed with the Securities and Exchange Commission on May 19, 2010  
Registration No. 333-

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

Form S-4  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

**APACHE CORPORATION**

*(Exact Name of Registrant as Specified in its Charter)*

**Delaware**

*(State or other jurisdiction of  
Incorporation or Organization)*

**1311**

*(Primary Standard Industrial  
Classification Code Number)*

**41-0747868**

*(I.R.S. Employer  
Identification Number)*

**One Post Oak Central  
2000 Post Oak Boulevard, Suite 100  
Houston, Texas 77056-4400  
(713) 296-6000**

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

**P. Anthony Lannie  
Executive Vice President and General Counsel  
Apache Corporation  
One Post Oak Central  
2000 Post Oak Boulevard, Suite 100  
Houston, Texas 77056-4400  
(713) 296-6000**

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

***Copies To:***

**John B. Clutterbuck  
Tim C. Langenkamp  
Andrews Kurth LLP  
600 Travis, Suite 4200  
Houston, Texas 77002  
(713) 220-4200**

**Teresa G. Bushman  
Senior Vice President, General  
Counsel,  
and Secretary  
Mariner Energy, Inc.  
One BriarLake Plaza  
2000 West Sam Houston Parkway  
South,  
Suite 2000  
Houston, Texas 77042  
(713) 954-5505**

**Kelly B. Rose  
M. Breen Haire  
Baker Botts L.L.P.  
One Shell Plaza  
910 Louisiana Street  
Houston, Texas 77002-4995  
(713) 229-1234**

**Approximate date of commencement of proposed sale of the securities to the public:** As soon as practicable after the effectiveness of this registration statement and the satisfaction or waiver of all other conditions to the closing of the merger described herein.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, 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, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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.

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

---

**Table of Contents****CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities to be Registered(1)</b>	<b>Amount to be Registered(2)</b>	<b>Proposed Maximum Offering Price Per Share</b>	<b>Proposed Maximum Aggregate Offering Price(3)</b>	<b>Amount of Registration Fee(4)</b>
Common Stock, par value \$0.625 per share, including the associated preferred stock purchase rights	17,595,425	N/A	\$1,526,939,714	\$108,870.80

- (1) The registration statement also covers the associated preferred stock purchase rights (the Rights ) issued pursuant to the Rights Agreement, dated January 31, 1996, between Apache Corporation and Wells Fargo Bank, N.A. (as successor-in-interest to Norwest Bank Minnesota, N.A.), as amended by Amendment No. 1 thereto dated as of January 31, 2006. Until the occurrence of certain events, the Rights will not be exercisable for or evidenced separately from the shares of common stock of the registrant.
- (2) Represents the maximum number of shares of common stock, par value \$0.625 per share, of Apache Corporation estimated to be issuable upon the completion of the merger described herein, based on the number of shares of Mariner Energy, Inc. common stock outstanding, or issuable pursuant to outstanding stock options, as of May 10, 2010 (other than certain shares of performance-based restricted stock, which will be cancelled in the merger) and the maximum number of restricted shares of Mariner common stock that may be issued prior to the completion of the merger and the exchange of each such share for 0.17043 shares of Apache Corporation common stock, pursuant to the merger agreement described herein.
- (3) Estimated solely for the purpose of calculating the registration fee required by Section 6(b) of the Securities Act and calculated pursuant to Rule 457(f)(1) and (f)(3) and 457(c) of the Securities Act. The proposed maximum aggregate offering price of the registrant's common stock was calculated based upon the market value of shares of Mariner common stock (the maximum number of securities to be cancelled and exchanged in the merger) in accordance with Rule 457(c) under the Securities Act as follows: (i) the product of (a) \$22.59, the average of the high and low prices per share of Mariner common stock on the New York Stock Exchange on May 17, 2010, and (b) 103,241,360, the maximum possible number of shares of Mariner common stock that may be cancelled and exchanged in the merger as of May 10, 2010, less (ii) the estimated amount of cash of \$805,282,608 that would be paid by Apache Corporation in exchange for such maximum possible number of shares of Mariner common stock.
- (4) Determined in accordance with Section 6(b) of the Securities Act and SEC Fee Advisory #4 for Fiscal Year 2010 at a rate equal to \$71.30 per \$1,000,000 of the proposed maximum aggregate offering price.

**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 that 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.**

**Table of Contents**

The information in this proxy statement/prospectus is not complete and may be changed. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This proxy statement/prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful.

**PRELIMINARY SUBJECT TO COMPLETION, DATED MAY 19, 2010**

**PROPOSED MERGER YOUR VOTE IS VERY IMPORTANT**

Dear Stockholders of Mariner Energy, Inc.:

On April 14, 2010, Mariner Energy, Inc. and Apache Corporation entered into a merger agreement that provides for Mariner to merge with and into a wholly owned subsidiary of Apache. The Mariner board of directors has determined that the merger and the merger agreement are advisable and in the best interests of Mariner and its stockholders and has approved the merger agreement and the merger.

Under the merger agreement, Mariner stockholders may elect to receive consideration consisting of cash, shares of Apache common stock or a combination of both in exchange for their shares of Mariner common stock, subject to a proration feature. Mariner stockholders electing to receive a mix of cash and stock consideration and non-electing stockholders will receive \$7.80 in cash and 0.17043 shares of Apache common stock in exchange for each share of Mariner common stock. Subject to proration, Mariner stockholders electing to receive all cash will receive \$26.00 in cash per Mariner share and Mariner stockholders electing to receive only Apache common stock will receive 0.24347 shares of Apache common stock in exchange for each share of Mariner common stock.

Immediately following completion of the merger, it is expected that Mariner stockholders will own approximately 5% of the outstanding shares of Apache common stock, based on the number of shares of Mariner and Apache common stock outstanding as of May 10, 2010.

Apache's common stock is listed on the New York Stock Exchange, the Chicago Stock Exchange and the NASDAQ National Market under the symbol APA.

Mariner's common stock is listed on the New York Stock Exchange under the symbol ME.

Mariner is holding a special meeting of stockholders on [ ], 2010 to consider and vote to approve and adopt the merger agreement, as it may be amended from time to time. Your vote is very important. The merger cannot be completed unless the holders of a majority of the outstanding shares of Mariner common stock vote for the approval and adoption of the merger agreement at the special meeting. **Please note that a failure to vote your shares is the equivalent of a vote AGAINST the approval and adoption of the merger agreement.**

**The Mariner board of directors unanimously recommends that Mariner stockholders vote FOR the approval and adoption of the merger agreement.**

Your vote is important. Whether or not you expect to attend the Mariner special meeting in person, we urge you to submit your proxy as promptly as possible through one of the delivery methods described in the accompanying proxy statement/prospectus.

In addition, we urge you to read carefully the accompanying proxy statement/prospectus (and the documents incorporated by reference into the accompanying proxy statement/prospectus), which includes important information about the merger agreement, the proposed merger, Mariner, Apache and the special meeting. The obligations of Apache and Mariner to complete the merger are subject to the satisfaction or waiver of several conditions set forth in the merger agreement. **Please pay particular attention to the section titled Risk Factors in the accompanying proxy statement/prospectus.**

On behalf of the Mariner board of directors, thank you for your continued support.

Sincerely,

Scott D. Josey  
*Chairman of the Board, Chief Executive Officer and President*

**Neither the Securities and Exchange Commission, which is referred to as the SEC, nor any state securities commission has approved or disapproved of the merger or the securities to be issued under this proxy statement/prospectus or has passed upon the adequacy or accuracy of the disclosure in this proxy statement/prospectus. Any representation to the contrary is a criminal offense.**

This proxy statement/prospectus is dated [ ], 2010, and is first being mailed to Mariner stockholders on or about [ ], 2010.

---

Table of Contents

**One BriarLake Plaza  
2000 West Sam Houston Parkway South, Suite 2000  
Houston, Texas 77042  
(713) 954-5500**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**

To the Stockholders of Mariner Energy, Inc.:

Notice is hereby given that a special meeting of stockholders of Mariner Energy, Inc., a Delaware corporation, which is referred to as Mariner, will be held on [ ], 2010 at [ ], local time, at Mariner's principal executive offices located at One BriarLake Plaza, 2000 West Sam Houston Parkway South, Suite 2000, Houston, Texas 77042, for the following purposes:

1. to consider and vote on the proposal to approve and adopt the Agreement and Plan of Merger, dated April 14, 2010 (referred to as the merger agreement), by and among Apache Corporation, which is referred to as Apache, ZMZ Acquisitions LLC, a Delaware limited liability company and a wholly owned subsidiary of Apache, and Mariner, as it may be amended from time to time (a copy of the merger agreement is attached as Annex A to the proxy statement/prospectus accompanying this notice);
2. to consider and vote on any proposal to adjourn the special meeting to a later date or dates if necessary to solicit additional proxies if there are insufficient votes to approve and adopt the merger agreement at the time of the special meeting; and
3. to transact any other business that may properly come before the special meeting or any adjournment or postponement of the special meeting.

These items of business, including the merger agreement and the proposed merger, are described in detail in the accompanying proxy statement/prospectus. **The Mariner board of directors has determined that the merger agreement and the transactions contemplated by the merger agreement, including the merger, are advisable and in the best interests of Mariner and its stockholders and unanimously recommends that Mariner stockholders vote FOR the proposal to approve and adopt the merger agreement and FOR any proposal to adjourn the special meeting if necessary to solicit additional proxies in favor of approval and adoption.** In considering the recommendation of Mariner's board of directors, stockholders of Mariner should be aware that members of Mariner's board of directors and its executive officers have agreements and arrangements that provide them with interests in the merger that may be different from, or in addition to, those of Mariner stockholders. See The Merger - Interests of the Mariner Directors and Executive Officers in the Merger.

Only stockholders of record as of the close of business on [ ], 2010 are entitled to notice of the Mariner special meeting and to vote at the Mariner special meeting or at any adjournment or postponement thereof. A list of stockholders entitled to vote at the special meeting will be available in our principal executive offices located at One BriarLake Plaza, 2000 West Sam Houston Parkway South, Suite 2000, Houston, Texas 77042, during regular business hours for a period of no less than ten days before the special meeting and at the place of the special meeting during the meeting.

Approval and adoption of the merger agreement by the Mariner stockholders is a condition to the merger and requires the affirmative vote of holders of a majority of the shares of Mariner common stock outstanding and entitled to vote thereon. Therefore, your vote is very important. **Your failure to vote your shares will have the same effect as a vote AGAINST the approval and adoption of the merger agreement.**

By Order of the Board of Directors of  
Mariner Energy, Inc.

Teresa G. Bushman,  
*Senior Vice President, General Counsel, and Secretary*  
Houston, Texas  
[ ], 2010

---



**Table of Contents**

**YOUR VOTE IS IMPORTANT!**

WHETHER OR NOT YOU EXPECT TO ATTEND THE MARINER SPECIAL MEETING IN PERSON, WE URGE YOU TO SUBMIT YOUR PROXY AS PROMPTLY AS POSSIBLE (1) THROUGH THE INTERNET, (2) BY TELEPHONE OR (3) BY MARKING, SIGNING AND DATING THE ENCLOSED PROXY CARD AND RETURNING IT IN THE POSTAGE-PAID ENVELOPE PROVIDED. You may revoke your proxy or change your vote at any time before the Mariner special meeting. If your shares are held in the name of a bank, broker or other fiduciary, please follow the instructions on the voting instruction card furnished to you by such record holder. Brokers cannot vote on the proposal to approve and adopt the merger agreement without your instructions.

We urge you to read the accompanying proxy statement/prospectus, including all documents incorporated by reference into the accompanying proxy statement/prospectus, and its annexes carefully and in their entirety. If you have any questions concerning the merger, the special meeting or the accompanying proxy statement/prospectus, would like additional copies of the accompanying proxy statement/prospectus or need help voting your shares of Mariner common stock, please contact Mariner's proxy solicitor:

Morrow & Co., LLC  
470 West Avenue  
Stamford, CT 06902  
Stockholders, call toll-free: (800) 278-2141  
Banks and brokers, call collect: (203) 658-9400

---

**Table of Contents**

**ADDITIONAL INFORMATION**

This proxy statement/prospectus incorporates by reference important business and financial information about Apache and Mariner from other documents filed with the SEC that are not included or delivered with this proxy statement/prospectus. See *Where You Can Find More Information; Incorporation by Reference*.

Documents incorporated by reference are available to you without charge upon written or oral request. You can obtain any of these documents by requesting them in writing or by telephone from the appropriate company at the following addresses and telephone numbers.

Apache Corporation  
Attention: Corporate Secretary  
One Post Oak Central  
2000 Post Oak Boulevard, Suite 100  
Houston, Texas 77056-4400  
(713) 296-6157  
[www.apachecorp.com](http://www.apachecorp.com)

Mariner Energy, Inc.  
Attention: Corporate Secretary  
One BriarLake Plaza  
2000 West Sam Houston Parkway South, Suite 2000  
Houston, Texas 77042  
(713) 954-5505  
[www.mariner-energy.com](http://www.mariner-energy.com)

**To receive timely delivery of the requested documents in advance of the special meeting, you should make your request no later than [ ], 2010.**

**ABOUT THIS DOCUMENT**

This document, which forms part of a registration statement on Form S-4 filed with the SEC by Apache (File No. 333-[ ]), constitutes a prospectus of Apache under Section 5 of the Securities Act of 1933, as amended, which we refer to as the Securities Act, with respect to the shares of Apache common stock to be issued pursuant to the merger agreement. This document also constitutes a notice of meeting and a proxy statement under Section 14(a) of the Securities Exchange Act of 1934, as amended, which we refer to as the Exchange Act, with respect to the special meeting of Mariner stockholders, at which Mariner stockholders will be asked to consider and vote on, among other matters, a proposal to approve and adopt the merger agreement.

You should rely only on the information contained in or incorporated by reference into this document. No one has been authorized to provide you with information that is different from that contained in, or incorporated by reference into, this document. This document is dated [ ], 2010. The information contained in this document is accurate only as of that date or in the case of information in a document incorporated by reference, as of the date of such document, unless the information specifically indicates that another date applies. Neither our mailing of this document to Mariner stockholders nor the issuance by Apache of shares of its common stock pursuant to the merger agreement will create any implication to the contrary.

---

**Table of Contents**

**Table of Contents**

<u>QUESTIONS AND ANSWERS ABOUT THE MERGER</u>	1
<u>SUMMARY</u>	7
<u>The Companies</u>	7
<u>The Merger</u>	7
<u>Election Procedures</u>	9
<u>Treatment of Equity Awards</u>	9
<u>Recommendation of the Mariner Board of Directors and its Reasons for the Merger</u>	9
<u>Opinion of Mariner's Financial Advisor</u>	10
<u>Directors and Executive Officers of Apache After the Merger</u>	10
<u>Mariner Stockholder Meeting; Stockholders Entitled to Vote; Vote Required</u>	10
<u>Apache Stockholder Approval is Not Required</u>	11
<u>Ownership of Apache After the Merger</u>	11
<u>Share Ownership of Directors and Executive Officers of Mariner</u>	11
<u>Interests of the Mariner Directors and Executive Officers in the Merger</u>	11
<u>Risks Relating to the Merger</u>	11
<u>Material U.S. Federal Income Tax Consequences of the Merger</u>	11
<u>Accounting Treatment</u>	11
<u>Listing of Shares of Apache Common Stock; Delisting and Deregistration of Mariner Common Stock</u>	12
<u>Appraisal Rights in the Merger</u>	12
<u>Conditions to the Merger</u>	12
<u>Regulatory Approvals Required for the Merger</u>	13
<u>No Solicitation and Change in Recommendation</u>	13
<u>Termination of the Merger Agreement</u>	13
Table of Contents	11

<u>Termination Fee</u>	14
<u>Source of Funding for the Merger</u>	14
<u>Comparison of Rights of Apache Stockholders and Mariner Stockholders</u>	14
<u>Litigation Relating to the Merger</u>	15
<u>SELECTED HISTORICAL FINANCIAL, OPERATING AND RESERVE DATA OF APACHE</u>	16
<u>SELECTED HISTORICAL FINANCIAL, OPERATING AND RESERVE DATA OF MARINER</u>	18
<u>UNAUDITED COMPARATIVE PER SHARE INFORMATION</u>	20
<u>COMPARATIVE APACHE AND MARINER MARKET PRICE AND DIVIDEND DATA</u>	22
<u>Historical Market Prices</u>	22
<u>Dividends</u>	23
<u>RISK FACTORS</u>	24
<u>CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS</u>	31
<u>THE COMPANIES</u>	33
<u>Apache Corporation</u>	33
<u>Mariner Energy, Inc.</u>	33

**Table of Contents**

<u>ZMZ Acquisitions LLC</u>	33
<b><u>THE MERGER</u></b>	34
<u>General</u>	34
<u>Background of the Merger</u>	35
<u>Recommendation of the Mariner Board of Directors and Its Reasons for the Merger</u>	42
<u>Opinion of Mariner's Financial Advisor</u>	44
<u>Mariner Projected Financial Information</u>	53
<u>Share Ownership of Directors and Executive Officers of Mariner</u>	55
<u>Interests of the Mariner Directors and Executive Officers in the Merger</u>	56
<u>Apache Reasons for the Merger</u>	60
<u>Material U.S. Federal Income Tax Consequences of the Merger</u>	62
<u>Accounting Treatment</u>	66
<u>Regulatory Approvals Required for the Merger</u>	66
<u>Directors and Executive Officers of Apache After the Merger</u>	67
<u>Listing of Apache Common Stock</u>	67
<u>Delisting and Deregistration of Mariner Common Stock</u>	67
<u>Apache Stockholder Approval is Not Required</u>	67
<u>Ownership of Apache after the Merger</u>	67
<u>Restrictions on Sales of Shares of Apache Common Stock Received in the Merger</u>	67
<u>Litigation Relating to the Merger</u>	67
<b><u>THE MERGER AGREEMENT</u></b>	69
<u>Merger</u>	69
<u>Effective Time; Closing</u>	69
<u>Conversion of Securities</u>	69
Table of Contents	13

<u>Employee Stock Options; Restricted Shares</u>	70
<u>Dissenting Shares</u>	71
<u>Election Procedures</u>	71
<u>Allocation of Merger Consideration</u>	72
<u>Surrender of Shares; Stock Transfer Books</u>	72
<u>Withholding Taxes</u>	73
<u>Representations and Warranties</u>	73
<u>Conduct of Business Pending the Effective Time of the Merger</u>	76
<u>Certain Additional Agreements</u>	78
<u>Conditions to the Merger</u>	80
<u>Termination, Amendment and Waiver</u>	82
<u>APPRAISAL RIGHTS</u>	85
<u>SOURCE OF FUNDING FOR THE MERGER</u>	89
<u>COMPARISON OF RIGHTS OF APACHE STOCKHOLDERS AND MARINER STOCKHOLDERS</u>	90
<u>THE MARINER SPECIAL MEETING</u>	97
<u>Date, Time, Place and Purpose of the Mariner Special Meeting</u>	97

**Table of Contents**

<u>Who Can Vote at the Mariner Special Meeting</u>	97
<u>Quorum: Vote Required for Approval</u>	97
<u>Manner of Voting</u>	98
<u>Shares Held in Street Name</u>	98
<u>Tabulation of the Votes</u>	99
<u>Proxy Solicitation</u>	99
<u>No Other Business</u>	99
<u>Adjournments</u>	99
<u>Mariner 2011 Annual Stockholder Meeting and Stockholder Proposals</u>	99
<b><u>LEGAL MATTERS</u></b>	100
<b><u>EXPERTS</u></b>	100
<u>Apache</u>	100
<u>Mariner</u>	100
<b><u>WHERE YOU CAN FIND MORE INFORMATION; INCORPORATION BY REFERENCE</u></b>	101
<u>Annexes</u>	
Annex A Agreement and Plan of Merger	
Annex B Opinion of Mariner's Financial Advisor	
Annex C Section 262 of the General Corporation Law of the State of Delaware	
<u>EX-23.4</u>	
<u>EX-23.5</u>	
<u>EX-23.6</u>	
<u>EX-23.7</u>	
<u>EX-23.8</u>	
<u>EX-23.9</u>	
<u>EX-99.2</u>	

**Table of Contents**

**QUESTIONS AND ANSWERS ABOUT THE MERGER**

*The following are some questions that Mariner stockholders may have regarding the merger and the special meeting, and brief answers to those questions. You are encouraged to read carefully this entire proxy statement/prospectus, including the Annexes, and the other documents to which this proxy statement/prospectus refers or incorporates by reference because the information in this section does not provide all the information that might be important to you. Unless stated otherwise, all references in this proxy statement/prospectus to Apache are to Apache Corporation, a Delaware corporation; all references to Mariner are to Mariner Energy, Inc., a Delaware corporation; all references to Merger Sub or the surviving entity are to ZMZ Acquisitions LLC, a Delaware limited liability company and a wholly owned subsidiary of Apache; and all references to the merger agreement are to the Agreement and Plan of Merger, dated April 14, 2010, by and among Apache, Merger Sub and Mariner, a copy of which is attached as Annex A to this proxy statement/prospectus and is incorporated herein by reference.*

**Q: Why am I receiving this document?**

A: Apache and Mariner have agreed to a merger, pursuant to which Mariner will merge with and into a wholly owned subsidiary of Apache and will cease to be a publicly held corporation. In order to complete the merger, Mariner stockholders must vote to approve and adopt the merger agreement, and Mariner is holding a special meeting of stockholders to obtain such stockholder approval. In the merger, Mariner stockholders may elect to receive consideration consisting of cash, shares of Apache common stock, or a combination of both in exchange for their shares of Mariner common stock, subject to a proration feature.

This document is being delivered to you as both a proxy statement of Mariner and a prospectus of Apache in connection with the merger. It is the proxy statement by which the Mariner board of directors is soliciting proxies from you to vote on the approval and adoption of the merger agreement, as it may be amended from time to time, at the special meeting or at any adjournment or postponement of the special meeting. It is also the prospectus by which Apache may issue Apache common stock to you in the merger.

**Q: What will happen in the merger?**

A: In the merger, Mariner will merge with and into Merger Sub, with Merger Sub surviving the merger as a wholly owned subsidiary of Apache. As a result of the merger, Mariner will cease to exist, Merger Sub will continue to be owned by Apache and Apache will continue as a public company.

**Q: What will I receive in the merger?**

A: The total amount of cash and shares of Apache common stock that will be paid and issued, respectively, pursuant to the merger agreement is fixed. If the merger is completed, each of your shares of Mariner common stock will be converted into the right to receive, at your election and subject to proration, one of the following: (i) 0.24347 shares of Apache common stock, par value \$0.625 per share, which is sometimes referred to as the stock consideration, (ii) \$26.00 in cash, which is sometimes referred to as the cash consideration or (iii) a combination of \$7.80 in cash and 0.17043 shares of Apache common stock, which is sometimes referred to as the mixed consideration, as described under "The Merger Agreement - Conversion of Securities."

Based on the closing price of \$108.06 for Apache common stock on the New York Stock Exchange, or NYSE, on April 14, 2010, the last trading day before the public announcement of the merger agreement, the mixed consideration represented approximately \$26.22 in value for each share of Mariner common stock. Based on the closing price of \$[ ]



for Apache common stock on the NYSE on [ ], 2010, the most recent practicable trading day prior to the date of this proxy statement/prospectus, the mixed consideration represented approximately \$[ ] in value for each share of Mariner common stock. **The market price of Apache common stock will fluctuate prior to the merger, and the market price of Apache common**

**Table of Contents**

**stock received by Mariner stockholders upon completion of the merger could be greater or less than the current market price of Apache common stock.** See Risk Factors.

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

A: If the merger agreement is not approved and adopted by Mariner stockholders or if the merger is not completed for any other reason, you will not receive any consideration for your shares of Mariner common stock in connection with the merger. Instead, Mariner will remain an independent public company and its common stock will continue to be listed and traded on the NYSE. If the merger agreement is terminated under certain circumstances, Mariner may be required to pay Apache a termination fee of \$67 million as described under The Merger Agreement Termination, Amendment and Waiver. See Risk Factors Risks Relating to the Merger Failure to complete the merger could negatively impact the stock price and the future business and financial results of Mariner.

**Q: What will happen to Mariner's stock options and restricted stock in the merger?**

A: Upon completion of the merger, each outstanding option to purchase Mariner common stock will be converted into a fully exercisable option to purchase the number of shares of Apache common stock obtained by multiplying the number of Mariner shares subject to the option by the 0.24347 exchange ratio, with a per share exercise price equal to the existing per-Mariner-share exercise price divided by the 0.24347 exchange ratio.

In addition, upon completion of the merger, each outstanding unvested share of Mariner restricted stock (other than shares of restricted stock granted pursuant to Mariner's 2008 Long-Term Performance-Based Restricted Stock Program, which are referred to as the Performance-Based Restricted Stock) will vest and will entitle the holder to the merger consideration in respect of each such vested share. Forty percent of each outstanding award of Performance-Based Restricted Stock held by Mariner employees will vest and will entitle the holder to the merger consideration in respect of each such vested share, and the remaining portion will be cancelled. See The Merger Agreement Employee Stock Options; Restricted Shares.

**Q: When must I elect the type of merger consideration that I prefer to receive?**

A: Holders of Mariner common stock who wish to elect the type of merger consideration they prefer to receive pursuant to the merger should review and follow carefully the instructions set forth in the election form provided to Mariner stockholders together with this proxy statement/prospectus or in a separate mailing. These instructions require that a properly completed and signed election form be received by the exchange agent by the election deadline, which is 5:00 p.m., New York time, on [ ], 2010. If the merger is consummated, each Mariner stockholder who did not submit a properly completed and signed election form to the exchange agent by the election deadline will receive a mix of cash and stock consideration consisting of \$7.80 in cash and 0.17043 shares of Apache common stock in exchange for each Mariner share.

**Q: What am I being asked to vote on?**

A: Mariner stockholders are being asked to vote on the following proposals:

to approve and adopt the merger agreement, as it may be amended from time to time; and

to approve the adjournment of the special meeting to a later date or dates if necessary to solicit additional proxies if there are insufficient votes to approve and adopt the merger agreement at the time of the special meeting.

The approval by Mariner stockholders of the proposal to approve and adopt the merger agreement is a condition to the obligations of Mariner and Apache to complete the merger.

**Table of Contents**

**Q: Does Mariner's board of directors recommend that stockholders approve and adopt the merger agreement?**

A: Yes. The Mariner board of directors has approved the merger agreement and the transactions contemplated thereby, including the merger, and determined that these transactions are advisable and in the best interests of Mariner and its stockholders. Therefore, the Mariner board of directors unanimously recommends that you vote **FOR** the proposal to approve and adopt the merger agreement at the special meeting. See The Merger Recommendation of the Mariner Board of Directors and its Reasons for the Merger.

In considering the recommendation of Mariner's board of directors, stockholders of Mariner should be aware that members of Mariner's board of directors and its executive officers have agreements and arrangements that provide them with interests in the merger that may be different from, or in addition to, those of Mariner stockholders. See The Merger Interests of the Mariner Directors and Executive Officers in the Merger.

**Q: What stockholder vote is required for the approval of each proposal?**

A: The following are the vote requirements for the proposals:

*Approval and Adoption of the Merger Agreement.* The affirmative vote of holders of a majority of the outstanding shares of Mariner common stock entitled to vote on the proposal, either in person or represented by proxy. Accordingly, abstentions and unvoted shares will have the same effect as votes **AGAINST** approval and adoption.

*Adjournment.* The affirmative vote of holders of a majority of the shares of Mariner common stock present in person or represented by proxy at the special meeting and entitled to vote thereat. Abstentions and broker non-votes will have the same effect as a vote **AGAINST** the proposal.

Your vote is very important. You are encouraged to submit a proxy as soon as possible.

**Q: What constitutes a quorum for the special meeting?**

A: The presence in person or by proxy of the holders of a majority of the outstanding shares of Mariner common stock is necessary to constitute a quorum at the special meeting. If a stockholder is not present in person or represented by proxy at the special meeting, such stockholder's shares will not be counted for purposes of calculating a quorum. Abstentions and broker non-votes count as present for establishing a quorum.

**Q: If my shares are held in street name by my bank, broker or other nominee will they automatically vote my shares for me?**

A: No. If you hold shares of Mariner common stock in an account at a bank, broker or other nominee and do not chose to attend the special meeting in person, you must provide your bank, broker or other nominee with instructions as to how to vote your shares of Mariner common stock. You may also vote in person at the special meeting; however, if you wish to do so, you must bring a proxy from the bank, broker or other nominee identifying you as the beneficial owner of such shares of Mariner common stock and authorizing you to vote. Brokers will NOT vote shares of Mariner common stock held in street name unless you have instructed your broker how to vote. A failure to vote will have the same effect as a vote **AGAINST** the approval and adoption of the merger agreement.

**Q: Are there risks associated with the merger that I should consider in deciding how to vote?**

A: Yes. There are a number of risks related to the merger that are discussed in this proxy statement/prospectus and in other documents incorporated by reference. You should read carefully the detailed description of the risks associated with the merger and the operations of Apache after the merger described in Risk Factors.

**Table of Contents**

**Q: If my Mariner stock is certificated, should I send in my stock certificates with my proxy card?**

A: No. Please do not send your Mariner stock certificates with your proxy card. Rather, prior to the election deadline, send your completed, signed election form, together with your Mariner common stock certificates (or a properly completed notice of guaranteed delivery) to the exchange agent. Please note that most of Mariner's shares are held in book-entry form and are uncertificated, which means that they are not represented by stock certificates. The election form for your Mariner shares and your instructions will be delivered to you together with this proxy statement/prospectus or in a separate mailing. If your shares of Mariner common stock are held in street name by your broker or other nominee, you should follow their instructions for making an election.

**Q: What are the tax consequences of the merger?**

A: Apache and Mariner each expect the merger to qualify as a reorganization that is tax free pursuant to Section 368(a) of the Internal Revenue Code of 1986, as amended, to the extent Mariner stockholders receive stock pursuant to the merger.

Please review carefully the information under the caption **The Merger – Material U.S. Federal Income Tax Consequences of the Merger** for a description of material U.S. federal income tax consequences of the merger. The tax consequences to you will depend on your own situation. Please consult your tax advisors for a full understanding of the tax consequences of the merger to you.

**Q: When do Apache and Mariner expect to complete the merger?**

A: Apache and Mariner are working to complete the merger as quickly as practicable. Apache and Mariner currently expect the merger to be completed during the third quarter of 2010, subject to the approval and adoption of the merger agreement by Mariner stockholders, governmental and regulatory approvals and other usual and customary closing conditions. However, no assurance can be given as to when, or if, the merger will occur. See **The Merger Agreement – Conditions to the Merger**.

**Q: Will I receive dividends on any Apache common stock I receive in the merger?**

A: Mariner historically has retained its earnings for the development of its business and, accordingly, has not paid dividends since it commenced regular way trading on March 3, 2006 on the NYSE. Mariner's existing bank credit facility and indentures governing its senior unsecured notes contain certain covenants that restrict Mariner's ability to pay dividends. However, after the merger is completed, you will be entitled to receive any dividends declared by Apache's board of directors with a record date after the effective time of the merger on any shares of Apache common stock you receive pursuant to the merger. Apache has paid cash dividends on its common stock for 45 consecutive years through December 31, 2009. However, when, and if, declared by Apache's board of directors, future dividend payments will depend upon Apache's level of earnings, financial requirements and other relevant factors.

**Q: Where will my shares be traded after the merger?**

A: Apache common stock will continue to be traded on the NYSE, the Chicago Stock Exchange and the NASDAQ National Market under the symbol **APA**. Mariner common stock will no longer be traded.

**Q: What will Apache stockholders receive in the merger?**

A: Apache common stockholders will simply retain the Apache common stock they currently own. They will not receive any additional Apache common stock in the merger.

**Q: Am I entitled to appraisal rights?**

A: If the merger is approved and adopted by Mariner stockholders, Mariner stockholders who do not vote in favor of the approval and adoption of the merger agreement and who properly demand appraisal of their shares will be entitled to appraisal rights in connection with the merger under Section 262 of the General

**Table of Contents**

Corporation Law of the State of Delaware, or the DGCL. For more information regarding appraisal rights, see Appraisal Rights. In addition, a copy of Section 262 of the DGCL is attached to this proxy statement/prospectus as Annex C.

**Q: When and where is the special meeting?**

A: The special meeting will be held on [ ], 2010 at [ ], local time, at Mariner's principal executive offices located at One BriarLake Plaza, 2000 West Sam Houston Parkway South, Suite 2000, Houston, Texas 77042.

**Q: Who can vote at the special meeting?**

A: All holders of Mariner common stock who held shares at the close of business on the record date for the special meeting ([ ], 2010) are entitled to receive notice of and to vote at the special meeting, provided that such shares remain outstanding on the date of the special meeting or any adjournment or postponement thereof. As of the close of business on the record date, there were [ ] shares of Mariner common stock outstanding and entitled to vote at the special meeting, held by approximately [ ] holders of record. Each share of Mariner common stock is entitled to one vote.

**Q: Is my vote important?**

A: Yes, your vote is very important. If you do not submit a proxy or vote in person at the special meeting, it will be more difficult for Mariner to obtain the necessary quorum to hold the special meeting. In addition, if you fail to vote, or if you abstain, that will have the same effect as a vote **AGAINST** the approval and adoption of the merger agreement. If you hold your shares through a bank, broker or other nominee, your bank, broker or other nominee will not be able to cast a vote on the approval and adoption of the merger agreement without instructions from you. The Mariner board of directors unanimously recommends that you vote **FOR** the approval and adoption of the merger agreement.

**Q: What happens if I sell my shares after the record date but before the special meeting?**

A: The record date for the special meeting is earlier than the date of the special meeting and the date that the merger is expected to be completed. If you sell or otherwise transfer your Mariner shares after the record date but before the date of the special meeting, you will retain your right to vote at the special meeting. However, you will not have the right to receive the merger consideration to be received by Mariner's stockholders in the merger. In order to receive the merger consideration, you must hold your shares through completion of the merger.

**Q: What do I need to do now?**

A: After you have carefully read this proxy statement/prospectus, please respond by completing, signing and dating your proxy card and returning it in the enclosed postage-paid envelope or, if available, by submitting your proxy by telephone or through the Internet as soon as possible so that your shares of Mariner common stock will be represented and voted at the special meeting.

Please refer to your proxy card or the information forwarded by your bank, broker or other nominee to see which voting options are available to you.

The Internet and telephone proxy submission procedures are designed to verify your stock holdings and to allow you to confirm that your instructions have been properly recorded.



The method by which you submit a proxy will in no way limit your right to vote at the special meeting if you later decide to attend the meeting in person. If your shares of Mariner common stock are held in the name of a bank, broker or other nominee, you must obtain a proxy, executed in your favor, from the holder of record, to be able to vote in person at the special meeting.

**Table of Contents**

**Q: How will my proxy be voted?**

A: All shares of Mariner common stock entitled to vote and represented by properly completed proxies received prior to the special meeting, and not revoked, will be voted at the special meeting as instructed on the proxies. **If you properly complete, sign and return a proxy card, but do not indicate how your shares of Mariner common stock should be voted, the shares of Mariner common stock represented by your proxy will be voted as the Mariner board of directors recommends and therefore FOR the approval and adoption of the merger agreement and FOR any proposal to adjourn the special meeting to a later date or dates if necessary to solicit additional proxies if there are insufficient votes to approve and adopt the merger agreement at the time of the special meeting.**

**Q: Can I revoke my proxy or change my vote after I have delivered my proxy?**

A: Yes. You may revoke or change your proxy at any time before your proxy is voted. You can change your proxy by delivering a later dated proxy using any of the methods listed above. You can revoke your proxy by delivering written notice of revocation to The Continental Stock Transfer & Trust Company at the address set forth in The Mariner Special Meeting Manner of Voting. You also can attend the meeting, withdraw your proxy and vote your shares personally. Your attendance at the meeting will not constitute automatic revocation of your proxy. If your shares are held in the name of a broker, bank or other nominee and you have directed the record holder to vote your shares, you should instruct the record holder to change your vote or obtain a proxy from the broker, bank or other nominee to do so yourself.

**Q: What should I do if I receive more than one set of voting materials for the special meeting?**

A: You may receive more than one set of voting materials for the special meeting, including multiple copies of this proxy statement/prospectus and multiple proxy cards or voting instruction cards. For example, if you hold your shares of Mariner common stock in more than one brokerage account, you will receive a separate voting instruction card for each brokerage account in which you hold shares of Mariner common stock. If you are a holder of record and your shares of Mariner common stock are registered in more than one name, you will receive more than one proxy card. Please complete, sign, date and return each proxy card and voting instruction card that you receive.

**Q: Who can answer my questions?**

A: Mariner stockholders should call Morrow & Co., LLC, Mariner's proxy solicitor, toll-free at (800) 278-2141 (banks and brokers call collect at (203) 658-9400) with any questions about the merger or the special meeting, or to obtain additional copies of this proxy statement/prospectus, proxy cards or voting instruction forms.

**Table of Contents**

**SUMMARY**

*The following is a summary that highlights information contained in this proxy statement/prospectus. This summary may not contain all of the information that is important to you. For a more complete description of the merger agreement and the transactions contemplated by the merger agreement, you are encouraged to read carefully this entire proxy statement/prospectus, including the attached Annexes. In addition, you are encouraged to read the information incorporated by reference into this proxy statement/prospectus, which includes important business and financial information about Apache and Mariner that has been filed with the SEC. You may obtain the information incorporated by reference into this proxy statement/prospectus without charge by following the instructions in the section entitled *Where You Can Find More Information; Incorporation by Reference*.*

**The Companies (See page [ ])**

***Apache Corporation***

Apache, a Delaware corporation formed in 1954, is an independent energy company that explores for, develops and produces natural gas, crude oil and natural gas liquids. In North America, Apache's exploration and production interests are focused in the Gulf of Mexico, the Gulf Coast, East Texas, the Permian Basin, the Anadarko Basin and the Western Sedimentary Basin of Canada. Outside of North America, Apache has exploration and production interests onshore Egypt, offshore Western Australia, offshore the United Kingdom in the North Sea (North Sea), and onshore Argentina. Apache also has exploration interests on the Chilean side of the island of Tierra del Fuego.

Apache's common stock is listed on the NYSE, the Chicago Stock Exchange, and the NASDAQ National Market and trades under the symbol **APA**.

Apache's principal executive offices are located at One Post Oak Central, 2000 Post Oak Boulevard, Suite 100, Houston, Texas 77056, its telephone number is (713) 296-6000 and its website is [www.apachecorp.com](http://www.apachecorp.com).

***Mariner Energy, Inc.***

Mariner, a Delaware corporation formed in 1983, is an independent oil and gas exploration, development, and production company headquartered in Houston, Texas, with principal operations in the Permian Basin, Gulf Coast and the Gulf of Mexico.

Mariner's common stock is listed on the NYSE and trades under the symbol **ME**.

Mariner's principal executive offices are located at One BriarLake Plaza, 2000 West Sam Houston Parkway South, Suite 2000, Houston, Texas 77042, its telephone number is (713) 954-5500 and its website is [www.mariner-energy.com](http://www.mariner-energy.com).

***ZMZ Acquisitions LLC***

ZMZ Acquisitions LLC, which is sometimes referred to as Merger Sub, is a Delaware limited liability company and a wholly owned subsidiary of Apache. Merger Sub was formed solely for the purpose of entering into the merger agreement. Merger Sub has not carried on any activities to date, except for activities incidental to its formation and activities undertaken in connection with the merger.

Merger Sub's principal executive offices are located at One Post Oak Central, 2000 Post Oak Boulevard, Suite 100, Houston, Texas 77056 and its telephone number is (713) 296-6000.

**The Merger (See page [ ])**

Apache, Merger Sub and Mariner have entered into the merger agreement. Subject to the terms and conditions of the merger agreement and in accordance with Delaware law, Mariner will be merged with and

**Table of Contents**

into Merger Sub, with Merger Sub continuing as the surviving entity. Upon completion of the merger, Mariner will cease to exist and Mariner common stock will no longer be outstanding or publicly traded.

Under the merger agreement, Mariner stockholders may elect to receive consideration consisting of cash, shares of Apache common stock or a combination of both in exchange for their shares of Mariner common stock, subject to a proration feature. Mariner stockholders electing to receive a mix of cash and stock consideration and non-electing stockholders will receive \$7.80 in cash and 0.17043 shares of Apache common stock in exchange for each share of Mariner common stock. Subject to proration, Mariner stockholders electing to receive all cash will receive \$26.00 in cash per Mariner share and Mariner stockholders electing to receive only Apache common stock will receive 0.24347 shares of Apache common stock in exchange for each share of Mariner common stock.

The aggregate cash consideration to be received by Mariner stockholders pursuant to the merger will be fixed at an amount equal to the product of \$7.80 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger. Such cash amount is expected to be approximately \$800 million. Similarly, the aggregate number of shares of Apache common stock to be received by Mariner stockholders pursuant to the merger will be fixed at a number equal to the product of 0.17043 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger. Such number is expected to be approximately 17.5 million shares of Apache common stock. Accordingly, if Mariner stockholders elect, in the aggregate, to receive cash in an amount greater than the aggregate cash consideration payable under the merger agreement, then those holders electing to receive all cash consideration will be prorated down and will receive Apache stock as a portion of the overall consideration they receive for their shares. On the other hand, if Mariner stockholders elect, in the aggregate, to receive stock in an amount greater than the aggregate number of shares issuable under the merger agreement, then those holders electing to receive all stock consideration will be prorated down and will receive cash as a portion of the overall consideration they receive for their shares. As a result, Mariner stockholders that make a valid election to receive all cash or all stock consideration may not receive merger consideration entirely in the form elected.

The share exchange ratios in the merger agreement are fixed and will not change between now and the completion of the merger, regardless of whether the market price of either Apache or Mariner common stock changes. The market price of Apache common stock will fluctuate prior to the merger, and the market price of Apache common stock received by Mariner stockholders after completion of the merger could be greater or less than the current market price of Apache common stock and the price of Apache common stock at the election deadline. In addition, at the time of the completion of the merger, the values of the three forms of merger consideration that Mariner stockholders will have the right to receive (which are (i) 0.24347 shares of Apache common stock per Mariner share, subject to proration, (ii) \$26.00 in cash per Mariner share, subject to proration, or (iii) a combination of \$7.80 in cash and 0.17043 shares of Apache common stock per Mariner share) may not be equal due to fluctuations in the market price of Apache common stock. See Risk Factors Risks Relating to the Merger As a result of the consideration election and proration provisions of the merger agreement, and because the market price of Apache common stock will fluctuate, Mariner stockholders cannot be sure of the aggregate value of the merger consideration that they will receive.

Apache will not issue any fractional shares of its common stock in connection with the merger. For each fractional share that would otherwise be issued, Apache will pay cash (without interest) in an amount equal to the product of the fractional share and the average of the closing price of Apache common stock on the NYSE, as reported in The Wall Street Journal, for the five consecutive trading days ending on the calendar day immediately prior to the closing date of the merger.

The merger agreement is attached as Annex A to this proxy statement/prospectus and is incorporated herein by reference. **You should read the merger agreement in its entirety because it is the legal document that governs the merger.**

## Table of Contents

### **Election Procedures (See page [ ])**

Mariner stockholders of record as of the close of business on the record date for the special meeting will receive (together with this proxy statement/prospectus or in a separate mailing) an election form that will allow each Mariner stockholder to specify the number of Mariner shares with respect to which such holder elects to receive: (i) the stock consideration, (ii) the cash consideration or (iii) the mixed consideration. You must complete properly and deliver to the exchange agent your election form along with your stock certificates, if any, (or a properly completed notice of guaranteed delivery). **Do not send your stock certificates or election form with your proxy card.**

Election forms and stock certificates (or a properly completed notice of guaranteed delivery) must be received by the exchange agent by the election deadline, which is 5:00 p.m., New York time, on [ ], 2010. Once you tender your stock certificates, if any, to the exchange agent, you may not transfer your shares of Mariner common stock until the merger is completed, unless you revoke your election by a written notice to the exchange agent that is received prior to the election deadline.

If you fail to submit a properly completed election form prior to the election deadline, you will be deemed not to have made an election. As a holder making no election, you will receive the mixed consideration in the merger.

If you own shares of Mariner common stock in street name through a bank, broker or other nominee and you wish to make an election, you should seek instructions from the bank, broker or other nominee holding your shares concerning how to make your election.

### **Treatment of Equity Awards (See page [ ])**

Upon completion of the merger, each outstanding option to purchase Mariner common stock will be converted into a fully exercisable option to purchase the number of shares of Apache common stock obtained by multiplying the number of Mariner shares subject to the option by the 0.24347 exchange ratio, with a per share exercise price equal to the existing per-Mariner-share exercise price divided by the 0.24347 exchange ratio. All outstanding options to acquire Mariner common stock were fully vested and exercisable by December 31, 2008.

In addition, upon completion of the merger, each outstanding share of Mariner restricted stock (other than Performance-Based Restricted Stock) will vest and will entitle the holder to the merger consideration in respect of each such vested share. Forty percent of each outstanding award of Performance-Based Restricted Stock held by Mariner's employees will vest and will entitle the holder to the merger consideration in respect of each such vested share and the remaining portion will be cancelled. Partial vesting of outstanding Performance-Based Restricted Stock awards occurs solely as a result of the terms of the merger agreement; otherwise, under the terms of Mariner's 2008 Long-Term Performance-Based Restricted Stock Program, 100% of outstanding Performance-Based Restricted Stock would be forfeited.

### **Recommendation of the Mariner Board of Directors and its Reasons for the Merger (See page [ ])**

The Mariner board of directors unanimously determined that the merger agreement and the transactions contemplated by the merger agreement are advisable and in the best interests of Mariner and its stockholders, and approved and adopted the merger agreement and the transactions contemplated thereby. **The Mariner board unanimously recommends that Mariner stockholders vote FOR the proposals to approve and adopt the merger agreement and to approve any adjournment of the special meeting if necessary or appropriate to solicit additional proxies.** See The Merger Recommendation of the Mariner Board of Directors and Its Reasons for the Merger.

As described under the heading "The Merger" Interests of the Mariner Directors and Executive Officers in the Merger, Mariner's directors and executive officers will receive financial benefits that may be different from, or in addition to, those of Mariner stockholders in the merger.



**Table of Contents**

**Opinion of Mariner's Financial Advisor (See page [ ])**

On April 14, 2010, Credit Suisse Securities (USA) LLC, which we refer to as Credit Suisse, rendered its oral opinion to Mariner's board of directors (which was subsequently confirmed in writing by delivery of Credit Suisse's written opinion dated the same date) to the effect that, as of April 14, 2010, the merger consideration to be received by the holders of Mariner common stock in the merger was fair, from a financial point of view, to such holders.

**Credit Suisse's opinion was directed to Mariner's board of directors and only addressed the fairness to the holders of Mariner common stock, from a financial point of view, of the merger consideration to be received by such holders in the merger, and did not address any other aspect or implication of the merger. The summary of Credit Suisse's opinion in this proxy statement/prospectus is qualified in its entirety by reference to the full text of its written opinion, which is included as Annex B to this proxy statement/prospectus and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Credit Suisse in preparing its opinion. However, neither Credit Suisse's written opinion nor the summary of its opinion and the related analyses set forth in this proxy statement/prospectus are intended to be, and do not constitute advice or a recommendation to any holder of Mariner common stock as to how such stockholder should act or vote with respect to any matter relating to the merger. See The Merger Opinion of Mariner's Financial Advisor.**

**Directors and Executive Officers of Apache After the Merger (See page [ ])**

The directors and executive officers of Apache prior to the merger will continue as the directors and executive officers of Apache after the merger.

**Mariner Stockholder Meeting; Stockholders Entitled to Vote; Vote Required (See page [ ])**

The special meeting of the stockholders of Mariner will be for the following purposes:

to consider and vote on the proposal to approve and adopt the merger agreement, as it may be amended from time to time;

to consider and vote on any proposal to adjourn the special meeting to a later date or dates if necessary to solicit additional proxies if there are insufficient votes to approve and adopt the merger agreement at the time of the special meeting; and

to transact any other business that may properly come before the special meeting or any adjournment or postponement of the special meeting.

All holders of Mariner common stock who held shares at the close of business on the record date for the special meeting ([ ], 2010) are entitled to receive notice of and to vote at the special meeting, or any postponement or adjournment thereof, provided that such shares remain outstanding on the date of the special meeting. As of the close of business on the record date, there were [ ] shares of Mariner common stock outstanding and entitled to vote at the special meeting. Each share of Mariner common stock is entitled to one vote at the Mariner special meeting.

The presence in person or by proxy of the holders of a majority of the outstanding shares of Mariner common stock is necessary to constitute a quorum at the special meeting. The affirmative vote of the holders of a majority of the outstanding shares of Mariner common stock entitled to vote on the proposal as of the Mariner record date, either in

person or represented by proxy, is necessary for the approval and adoption of the merger agreement. Approval of any proposal to adjourn the special meeting if necessary to solicit additional proxies requires the affirmative vote of the holders of a majority of the shares of Mariner common stock present in person or represented by proxy at the special meeting and entitled to vote thereat.

If a Mariner stockholder fails to vote, or if a Mariner stockholder abstains, that will have the same effect as votes cast **AGAINST** the approval and adoption of the merger agreement. Abstentions and broker non-

## **Table of Contents**

votes will have the same effect as votes cast **AGAINST** approval of any proposal to adjourn the special meeting if necessary to solicit additional proxies.

### **Apache Stockholder Approval is Not Required (See page [ ])**

Apache stockholders are not required to adopt the merger agreement or approve the merger or the issuance of shares of Apache common stock in connection with the merger.

### **Ownership of Apache After the Merger (See page [ ])**

Apache will issue approximately 17.5 million shares of Apache common stock to former Mariner stockholders pursuant to the merger. Immediately following the completion of the merger, Apache expects to have approximately 354.8 million shares of common stock outstanding. Mariner stockholders are therefore expected to hold approximately 5% of the combined company's common stock outstanding immediately after the merger. Consequently, Mariner stockholders, as a general matter, will have less influence over the management and policies of Apache than they currently exercise over the management and policies of Mariner.

### **Share Ownership of Directors and Executive Officers of Mariner (See page [ ])**

At the close of business on the record date for the special meeting ([ ], 2010), the directors and executive officers of Mariner and their affiliates beneficially owned and were entitled to vote [ ] shares of Mariner common stock, collectively representing approximately [ ]% of the shares of Mariner common stock outstanding and entitled to vote on the record date. It is expected that Mariner's directors and executive officers will vote their shares **FOR** the approval and adoption of the merger agreement, although none of them has entered into any agreement requiring them to do so.

### **Interests of the Mariner Directors and Executive Officers in the Merger (See page [ ])**

In considering the recommendation of Mariner's board of directors with respect to the merger, Mariner stockholders should be aware that the executive officers and directors of Mariner have certain interests in the merger that may be different from, or in addition to, the interests of Mariner stockholders. Mariner's board of directors was aware of these interests and considered them, among other matters, when adopting a resolution to approve the merger agreement and recommending that Mariner stockholders vote to approve and adopt the merger agreement.

### **Risks Relating to the Merger (See page [ ])**

You should be aware of and carefully consider the risks relating to the merger described under Risk Factors. These risks include possible difficulties in combining the two companies, which have previously operated independently.

### **Material U.S. Federal Income Tax Consequences of the Merger (See page [ ])**

Apache and Mariner each expect the merger to qualify as a reorganization that is tax free pursuant to Section 368(a) of the Internal Revenue Code to the extent Mariner stockholders receive stock pursuant to the merger.

Please review carefully the information under the caption The Merger Material U.S. Federal Income Tax Consequences of the Merger for a description of the material U.S. federal income tax consequences of the merger. The tax consequences to you will depend on your own situation. Please consult your tax advisors for a full understanding of the tax consequences of the merger to you.

**Accounting Treatment (See page [ ])**

Apache will account for the merger using the acquisition method of accounting under U.S. generally accepted accounting principles, which are referred to as GAAP. The merger will be accounted for as a single

**Table of Contents**

line of business. Apache will record net tangible and identifiable intangible assets acquired and liabilities assumed from Mariner at their respective fair values at the date of the completion of the merger. Any excess of the purchase price, which will equal the cash consideration plus the market value, at the date of completion of the merger, of the Apache common stock issued as consideration for the merger, over the net fair value of such assets and liabilities will be recorded as goodwill.

**Listing of Shares of Apache Common Stock; Delisting and Deregistration of Mariner Common Stock (See page [ ])**

Approval of the listing on the NYSE of the shares of Apache common stock issuable pursuant to the merger agreement, subject to official notice of issuance, is a condition to each party's obligation to complete the merger. If the merger is completed, shares of Mariner common stock will be delisted from the NYSE and deregistered under the Exchange Act. In addition to listing the shares of Apache common stock issuable pursuant to the merger agreement on the NYSE, Apache intends to list the shares issuable pursuant to the merger agreement on the NASDAQ National Market and the Chicago Stock Exchange.

**Appraisal Rights in the Merger (See page [ ])**

If the merger is approved and adopted by the Mariner stockholders, Mariner stockholders who do not vote in favor of the approval and adoption of the merger agreement and who properly demand appraisal of their shares will be entitled to appraisal rights in connection with the merger under Section 262 of the DGCL. Mariner stockholders who wish to seek appraisal of their shares are in any case urged to seek the advice of counsel with respect to the exercise of appraisal rights.

Stockholders considering seeking appraisal should be aware that the fair value of their shares as determined pursuant to Section 262 of the DGCL could be more than, the same as or less than the value of the consideration they would receive pursuant to the merger if they did not seek appraisal of their shares.

The DGCL requirements for exercising appraisal rights are described in further detail in this proxy statement/prospectus, and the relevant section of the DGCL regarding appraisal rights is reproduced and attached as Annex C.

**Conditions to the Merger (See page [ ])**

The following conditions must be satisfied or waived, where legally permissible, before the proposed merger can be consummated:

the approval and adoption of the merger agreement by the requisite affirmative vote of Mariner's stockholders;

the expiration or termination of the waiting period (and any extension of the waiting period) applicable to the merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, which is referred to in this proxy statement/prospectus as the HSR Act;

the effectiveness of the Form S-4 registration statement, of which this proxy statement/prospectus is a part, and the absence of a stop order suspending the effectiveness of the Form S-4 or proceedings for such purpose having been initiated or threatened by the SEC;

the approval for listing on the NYSE of the shares of Apache common stock issuable to the Mariner stockholders pursuant to the merger agreement, subject to official notice of issuance;

the absence of any statute, rule or regulation prohibiting the merger, or any order or injunction of a court of competent jurisdiction preventing the consummation of the merger;

the receipt by each of Mariner and Apache of an opinion from its outside counsel to the effect that for federal income tax purposes the merger will be treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code and that each of Apache and Mariner will be a party to such reorganization within the meaning of Section 368(b) of the Internal Revenue Code;

**Table of Contents**

the accuracy of the representations and warranties of Apache, Merger Sub and Mariner in the merger agreement, subject to certain materiality thresholds;

the performance in all material respects by each of Apache and Merger Sub, on the one hand, and Mariner, on the other hand, of its respective covenants required to be performed by it under the merger agreement at or prior to the closing date;

receipt of certificates by executive officers of each of Apache and Merger Sub, on the one hand, and Mariner, on the other hand, to the effect that the conditions described in the preceding two bullet points have been satisfied;

there not having occurred a material adverse effect on either party since the date of the merger agreement, the effects of which are continuing; and

the number of Mariner shares for which appraisal rights are properly exercised does not exceed 50% of the Mariner shares outstanding immediately prior to the merger.

On May 3, 2010, the Antitrust Division and the FTC granted early termination of the statutory waiting period under the HSR Act. Apache and Mariner cannot be certain when, or if, the other conditions to the merger will be satisfied or waived, or that the merger will be completed.

**Regulatory Approvals Required for the Merger (See page [ ])**

The merger is subject to review by the Antitrust Division of the U.S. Department of Justice, which is referred to as the Antitrust Division, and the Federal Trade Commission, which is referred to as the FTC, under the HSR Act. Under the HSR Act, Apache and Mariner are required to make premerger notification filings and to await the expiration or early termination of the statutory waiting period (and any extension of the waiting period) prior to completing the merger. Apache and Mariner each filed its required HSR notification and report form with respect to the merger on April 26, 2010, commencing the initial 30-day waiting period. On May 3, 2010, the Antitrust Division and the FTC granted early termination of the statutory waiting period under the HSR Act.

**No Solicitation and Change in Recommendation (See page [ ])**

Under the merger agreement, Mariner has agreed not to (and has agreed to cause its officers, directors, employees, agents and representatives not to), among other things, (i) initiate, solicit or knowingly encourage or knowingly facilitate any acquisition proposal, (ii) have any discussion with or provide or cause to be provided any non-public information to any person relating to an acquisition proposal, or engage or participate in any negotiations concerning an acquisition proposal, (iii) approve, endorse or recommend any acquisition proposal or (iv) approve, endorse or recommend, or enter into an agreement to do any of the foregoing with respect to an acquisition proposal. Mariner may, however, prior to the approval and adoption of the merger agreement by its stockholders, communicate with third parties that make unsolicited acquisition proposals if its board concludes in good faith, after consultation with its financial advisors and outside legal counsel, that the acquisition proposal constitutes or is reasonably likely to lead to a transaction more favorable to its stockholders. Additionally, prior to the approval and adoption of the merger agreement by Mariner stockholders, Mariner's board of directors may under certain circumstances withdraw its recommendation that its stockholders adopt the merger agreement if it concludes in good faith, after consultation with its financial advisors and outside legal counsel, that withdrawal of its recommendation is necessary to comply with its fiduciary duties.

**Termination of the Merger Agreement (See page [ ])**

In general, the merger agreement may be terminated at any time prior to the effective time of the merger in the following ways:

by mutual written consent of Apache, Merger Sub and Mariner;



**Table of Contents**

by either Apache or Mariner if:

the merger is not consummated on or before January 31, 2011, referred to as the outside date, provided that the terminating party has not materially breached the merger agreement in a manner that proximately caused the failure to consummate the merger on or prior to the outside date;

a court or other governmental authority issues a final, non-appealable order prohibiting the merger; or

the Mariner stockholders do not approve and adopt the merger agreement at the special meeting or any adjournment or postponement thereof.

by Apache if:

Mariner is in material breach of the merger agreement such that certain conditions set forth in the merger agreement are not capable of being satisfied and such breach is not cured prior to the earlier of 30 days after notice of such breach to Mariner and the outside date; provided that Apache is not permitted to so terminate the merger agreement if Apache or Merger Sub is then in breach of the merger agreement in any material respect; or

prior to the approval and adoption of the merger agreement by Mariner's stockholders, Mariner's board of directors changes its recommendation to vote for approval and adoption of the merger agreement.

by Mariner if:

Apache or Merger Sub is in material breach of the merger agreement such that certain conditions set forth in the merger agreement are not capable of being satisfied and such breach is not cured prior to the earlier of 30 days after notice of such breach to Apache and the outside date; provided that Mariner is not permitted to so terminate the merger agreement if it is then in breach of the merger agreement in any material respect; or

prior to the approval and adoption of the merger agreement by Mariner's stockholders, Mariner's board of directors changes its recommendation to vote for approval and adoption of the merger agreement in order to accept a superior proposal, authorizes Mariner to enter into a definitive agreement with respect to the superior proposal and Mariner pays the termination fee (described below) to Apache.

**Termination Fee (See page [ ])**

Under the merger agreement, Mariner may be required to pay to Apache a termination fee of \$67 million (less any Apache expenses previously reimbursed by Mariner) if the merger agreement is terminated under certain circumstances. In addition, the merger agreement requires each of Apache and Mariner to reimburse the other's expenses, up to \$7.5 million, in certain circumstances when the merger agreement is terminated.

**Source of Funding for the Merger (See page [ ])**

Apache's obligation to complete the merger is not conditioned upon its obtaining financing. As of March 31, 2010, Apache had \$2.1 billion in cash. Apache expects to fund the cash portion of the merger consideration payable to Mariner stockholders, which is expected to equal approximately \$800 million as of May 10, 2010, with existing cash balances and commercial paper.

**Comparison of Rights of Apache Stockholders and Mariner Stockholders (See page [ ])**

As a result of the merger, the holders of Mariner common stock that receive shares of Apache common stock will become stockholders of Apache. Following the merger, these Mariner stockholders will have different rights as stockholders of Apache than as stockholders of Mariner due to the different provisions of the governing documents of Mariner and Apache.

**Table of Contents**

These differences are described in more detail under [Comparison of Rights of Apache Stockholders and Mariner Stockholders](#).

**Litigation Relating to the Merger (See page [ ])**

In connection with the merger, two stockholder lawsuits styled as class actions have been filed against Mariner and its board of directors. The lawsuits are captioned *City of Livonia Employees' Retirement System, Individually and on Behalf of All Others Similarly Situated vs. Mariner Energy, Inc, et al.* (filed April 16, 2010 in the District Court of Harris County, Texas), and *Southeastern Pennsylvania Transportation Authority, individually, and on behalf of all those similarly situated, vs. Scott D. Josey, et. al.* (filed April 21, 2010 in the Court of Chancery in the State of Delaware). The plaintiff in the Southeastern Pennsylvania Transportation Authority lawsuit filed an Amended Class Action Complaint on May 3, 2010, and also names Apache, Merger Sub and certain Mariner officers as defendants. The lawsuits generally allege that (1) Mariner's directors breached their fiduciary duties in negotiating and approving the merger and by administering a sale process that failed to maximize stockholder value and (2) Mariner, and in the case of the Southeastern Pennsylvania Transportation Authority complaint, Apache and Merger Sub, aided and abetted Mariner's directors in breaching their fiduciary duties. The lawsuits also allege that Mariner's directors and executives stand to receive substantial financial benefits if the transaction is consummated on its current terms. The plaintiffs in these lawsuits seek, among other things, to enjoin the merger and to rescind the merger agreement. Apache and Mariner believe that these lawsuits are without merit and intend to vigorously defend these lawsuits.

**Table of Contents****SELECTED HISTORICAL FINANCIAL, OPERATING AND RESERVE DATA OF APACHE**

The following table presents selected historical consolidated financial, operating and reserve data of Apache. The financial data as of, and for the years ended, December 31, 2009, 2008, 2007, 2006 and 2005 are derived from Apache's audited consolidated financial statements for those periods. The financial data as of, and for the quarterly periods ended, March 31, 2010 and 2009 are derived from Apache's unaudited consolidated financial statements for those periods. Apache's management believes that the company's interim unaudited financial statements have been prepared on a basis consistent with its audited financial statements and include all normal and recurring adjustments necessary for a fair presentation of the results for each interim period.

The information in the following table is only a summary and is not indicative of the results of future operations of Apache. You should read the following information together with Apache's Annual Report on Form 10-K for the year ended December 31, 2009, Apache's Quarterly Report on Form 10-Q for the three months ended March 31, 2010 and the other information that Apache has filed with the SEC and incorporated by reference into this proxy statement/prospectus. See "Where You Can Find More Information; Incorporation by Reference."

Apache is not required to furnish pro forma financial information with respect to the merger in this proxy statement/prospectus because Mariner would not be a significant subsidiary under any of the financial conditions specified in Rule 1-02(w) of SEC Regulation S-X, substituting 20% for 10% in each of those conditions in accordance with Rule 11.01(b)(1) of SEC Regulation S-X.

	<b>Three Months Ended</b>		<b>Year Ended December 31,</b>				
	<b>March 31,</b>						
	<b>2010</b>	<b>2009</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>
	<b>(\$ in millions, except per share amounts)</b>						
<b>Financial Data</b>							
Revenues and other	\$ 2,673	\$ 1,634	\$ 8,615	\$ 12,390	\$ 10,000	\$ 8,309	\$ 7,584
Income (loss) attributable to common stock(1)(2)	\$ 705	\$ (1,758)	\$ (292)	\$ 706	\$ 2,807	\$ 2,547	\$ 2,618
Net income (loss) per common share(1)(2)							
Basic	\$ 2.09	\$ (5.25)	\$ (0.87)	\$ 2.11	\$ 8.45	\$ 7.72	\$ 7.96
Diluted	\$ 2.08	\$ (5.25)	\$ (0.87)	\$ 2.09	\$ 8.39	\$ 7.64	\$ 7.84
Cash dividends declared per common share	\$ 0.15	\$ 0.15	\$ 0.60	\$ 0.70	\$ 0.60	\$ 0.50	\$ 0.36
Total assets	\$ 29,228	\$ 26,293	\$ 28,186	\$ 29,186	\$ 28,635	\$ 24,308	\$ 19,272
Total debt	\$ 5,064	\$ 4,912	\$ 5,068	\$ 4,922	\$ 4,227	\$ 3,822	\$ 2,192
<b>Operating Data</b>							
Average daily production:							

Edgar Filing: APACHE CORP - Form S-4

Crude oil (MBbls)	289	267	279	254	249	225	234
Natural gas (MMcf)	1,712	1,624	1,759	1,618	1,796	1,589	1,264
Natural gas liquids (MBbls)	12	10	11	11	13	12	10
MBoe	586	548	583	535	561	502	455
Average realized price:							
Crude oil per Bbl	\$ 74.55	42.49	\$ 59.85	\$ 87.80	\$ 68.84	\$ 59.92	\$ 51.66
Natural gas per Mcf	\$ 4.60	3.84	\$ 3.69	\$ 6.70	\$ 5.34	\$ 5.17	\$ 6.35
Natural gas liquids per Bbl	\$ 45.45	21.29	\$ 27.63	\$ 51.38	\$ 42.78	\$ 37.70	\$ 32.13
Proved reserves:							
Crude oil & natural gas liquids (MBbls)	N/A	N/A	1,067,248	1,081,144	1,133,710	1,061,041	975,910
Natural gas (MMcf)	N/A	N/A	7,796,031	7,917,025	7,872,717	7,512,919	6,848,022
MBoe	N/A	N/A	2,366,586	2,400,648	2,445,829	2,313,194	2,117,248

**Table of Contents**

- (1) Loss attributable to common stock and net loss per common share for the three months ended March 31, 2009 and the year ended December 31, 2009 include a \$2.82 billion (\$1.98 billion net of tax) write-down of the carrying value of Apache's March 31, 2009 proved property balances in the U.S. and Canada.
- (2) Income attributable to common stock and net income per common share for the year ended December 31, 2008 include a \$5.3 billion (\$3.6 billion net of tax) write-down of the carrying value of Apache's December 31, 2008 proved property balances in the U.S., the U.K. North Sea, Canada and Argentina.

**Table of Contents****SELECTED HISTORICAL FINANCIAL, OPERATING AND RESERVE DATA OF MARINER**

The following table presents selected historical consolidated financial, operating and reserve data of Mariner. The financial data as of, and for the years ended, December 31, 2009, 2008, 2007, 2006 and 2005 are derived from Mariner's audited consolidated financial statements for those periods. The financial data as of, and for the quarterly periods ended, March 31, 2010 and 2009 are derived from Mariner's unaudited condensed consolidated financial statements for those periods. Mariner's management believes that the company's interim unaudited financial statements have been prepared on a basis consistent with its audited financial statements and include all normal and recurring adjustments necessary for a fair presentation of the results for each interim period.

The reserve data set forth below includes information with respect to Mariner's estimated proved reserves based on estimates made in reserve reports prepared by Ryder Scott Company, L.P.

The information in the following table is only a summary and is not indicative of the results of future operations of Mariner. You should read the following information together with Mariner's Annual Report on Form 10-K for the year ended December 31, 2009, Mariner's Quarterly Report on Form 10-Q for the three months ended March 31, 2010 and the other information that Mariner has filed with the SEC and incorporated by reference into this proxy statement/prospectus. See [Where You Can Find More Information](#); [Incorporation by Reference](#).

	<b>Three Months Ended March 31,</b>		<b>Year Ended December 31,</b>				
	<b>2010</b>	<b>2009</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>
	<b>(\$ in millions, except per share amounts)</b>						
<b>Financial Data</b>							
Total revenues(1)	\$ 243	\$ 243	\$ 943	\$ 1,301	\$ 875	\$ 660	\$ 200
Net income (loss) attributable to Mariner Energy, Inc.(2)(3)(4)	\$ 15	\$ (424)	\$ (319)	\$ (389)	\$ 144	\$ 121	\$ 40
Net income (loss) per common share:							
Basic	\$ 0.15	\$ (4.77)	\$ (3.34)	\$ (4.44)	\$ 1.68	\$ 1.59	\$ 1.24
Diluted	\$ 0.15	\$ (4.77)	\$ (3.34)	\$ (4.44)	\$ 1.67	\$ 1.58	\$ 1.20
Cash dividends declared per common share	\$	\$	\$	\$	\$	\$	\$
Total assets(5)	\$ 3,002	\$ 2,820	\$ 2,867	\$ 3,393	\$ 3,084	\$ 2,680	\$ 666
Total debt	\$ 1,222	\$ 1,240	\$ 1,195	\$ 1,170	\$ 779	\$ 654	\$ 156
<b>Operating Data</b>							
Average daily production:							
Crude oil (MBbls)	15	11	12	13	12	9	5
Natural gas (MMcf)	230	245	249	218	186	154	50
Natural gas liquids (MBbls)	6	3	4	4	3	2	

Edgar Filing: APACHE CORP - Form S-4

MBoe	59	55	58	54	46	37	13
Average realized price:							
Crude oil per Bbl	\$ 72.31	\$ 62.81	\$ 70.59	\$ 86.02	\$ 67.50	\$ 62.63	\$ 41.23
Natural gas per Mcf	\$ 5.67	\$ 6.95	\$ 6.08	\$ 9.31	\$ 7.88	\$ 7.37	\$ 6.66
Natural gas liquids per Bbl	\$ 48.08	\$ 23.70	\$ 33.10	\$ 55.02	\$ 45.16	\$ 48.37	\$
Proved reserves:							
Crude oil & natural gas liquids (MBbls)	N/A	N/A	85,950	69,304	64,563	48,136	21,647
Natural gas (MMcf)	N/A	N/A	571,435	558,048	448,439	426,687	207,686
MBoe	N/A	N/A	181,189	162,312	139,303	119,251	56,261



**Table of Contents**

- (1) Total revenues for the year ended December 31, 2008 includes a \$16.6 million arbitration award related to a consummated acquisition. Total revenues for the year ended December 31, 2008 includes the release of \$46.5 million in suspended revenue related to a potential MMS royalty dispute.
- (2) Net loss attributable to Mariner Energy, Inc. and net loss per common share for the year ended December 31, 2009 include a \$754.3 million (\$486.5 million net of tax) write-down of the carrying value of Mariner's proved property balances and a \$107.3 million gain on the acquisition of the reorganized subsidiaries and operations of Edge Petroleum Corporation. The loss also included \$12.0 million recorded to lease operating expense for contingent OIL insurance premiums.
- (3) Net loss attributable to Mariner Energy, Inc. and net loss per common share for the three months ended March 31, 2009 include a \$704.7 million (\$454.6 million, net of tax) write-down of the carrying value of Mariner's proved property balances.
- (4) Net loss attributable to Mariner Energy, Inc. and net loss per common share for the year ended December 31, 2008 include a \$575.6 million (\$369.1 million, net of tax) write-down of the carrying value of Mariner's proved property balances, a \$295.6 million impairment of Mariner's goodwill and a \$15.3 million (\$9.8 million, net of tax) impairment of other property. The loss also included \$36.0 million recorded to lease operating expense for a contingent OIL insurance premium.
- (5) Total assets at December 31, 2009 include \$237.5 million from the acquisition of the reorganized subsidiaries and operations of Edge Petroleum Corporation.

**Table of Contents**

**UNAUDITED COMPARATIVE PER SHARE INFORMATION**

The following table sets forth selected historical and unaudited pro forma combined per share information of Apache and Mariner.

*Pro Forma Combined Per Share Information of Apache.* The unaudited pro forma combined per share information of Apache below gives effect to the merger under the acquisition method of accounting, as if the merger had been effective on January 1, 2009, in the case of net income per share and cash dividends per share data, and March 31, 2010, in the case of book value per share data, and assuming that 0.17043 of a share of Apache common stock had been issued in exchange for each outstanding share of Mariner common stock. The unaudited pro forma combined per share information of Apache is derived from the audited financial statements as of, and for the year ended, December 31, 2009 and the unaudited condensed consolidated financial statements as of, and for the three months ended, March 31, 2010 for Apache and Mariner.

The accounting for an acquisition of a business is based on the authoritative guidance for business combinations. Acquisition accounting requires, among other things, that most assets acquired and liabilities assumed be recognized at their fair values as of the acquisition date. Acquisition accounting is dependent upon certain valuations of Mariner's assets and liabilities and other studies that have yet to commence or progress to a stage where there is sufficient information for a definitive measurement. Accordingly, the pro forma adjustments reflect the assets and liabilities of Mariner at their preliminary estimated fair values. Differences between these preliminary estimates and the final acquisition accounting will occur and these differences could have a material impact on the unaudited pro forma combined per share information set forth in the following table.

The unaudited pro forma combined per share information of Apache does not purport to represent the actual results of operations that Apache would have achieved had the companies been combined during these periods or to project the future results of operations that Apache may achieve after the merger.

*Historical Per Share Information of Apache and Mariner.* The historical per share information of each of Apache and Mariner below is derived from the audited financial statements as of, and for the year ended, December 31, 2009 and the unaudited condensed consolidated financial statements as of, and for the three months ended, March 31, 2010 for each such company.

*Equivalent Pro Forma Combined Per Share Information.* The unaudited equivalent pro forma combined per share amounts below are calculated by multiplying the unaudited pro forma combined per share amounts of Apache by the exchange ratio for the mixed consideration of 0.17043. This computation does not include the benefit to Mariner stockholders of the cash component of the transaction.

*Generally.* You should read the below information in conjunction with the selected historical financial information included elsewhere in this proxy statement/prospectus and the historical financial statements of Apache and Mariner and related notes that are incorporated into this proxy statement/prospectus by reference. See Selected Historical Financial, Operating and Reserve Data of Apache, Selected Historical Financial, Operating and Reserve Data of Mariner and Where You Can Find More Information; Incorporation By Reference.

**Table of Contents**

	<b>Three Months Ended March 31, 2010</b>	<b>Year Ended December 31, 2009</b>
<b>Apache historical</b>		
Net income (loss) per share basic	\$ 2.09	\$ (0.87)
Net income (loss) per share diluted	2.08	(0.87)
Cash dividends per common share	0.15	0.60
Book value per share at period end(2)	49.71	46.90
<b>Apache pro forma combined</b>		
Net income (loss) per share basic	\$ 2.02	\$ (1.72)
Net income (loss) per share diluted	2.00	(1.72)
Cash dividends per common share(1)	0.15	0.60
Book value per share at period end(2)	51.73	N/A
<b>Mariner historical</b>		
Net income (loss) per share basic	\$ 0.15	\$ (3.34)
Net income (loss) per share diluted	0.15	(3.34)
Cash dividends per common share		
Book value per share at period end(2)	9.13	8.67
<b>Pro forma (equivalent)(3)</b>		
Net income (loss) per share basic	\$ 0.34	\$ (0.29)
Net income (loss) per share diluted	0.34	(0.29)
Cash dividends per common share	0.03	0.10
Book value per share at period end(2)	8.82	N/A

(1) Same as Apache's historical, since no change in dividend policy is expected as a result of the merger.

(2) Historical book value per share is calculated by dividing stockholders' equity by the number of Apache or Mariner common shares outstanding at the end of the period. Pro forma book value per share is computed by dividing pro forma stockholders' equity by the pro forma number of Apache common shares outstanding at the end of the period. Book value per share is required to be presented on a pro forma basis only for the most recent balance sheet date - March 31, 2010.

(3) Amounts are calculated by multiplying the Apache pro forma combined per share amounts by the exchange ratio of 0.17043.

Table of Contents**COMPARATIVE APACHE AND MARINER MARKET PRICE AND DIVIDEND DATA**

Apache common stock is listed on the NYSE, the Chicago Stock Exchange and the NASDAQ National Market under the symbol APA. Mariner common stock is listed on the NYSE under the symbol ME.

The following table presents closing prices per share of Apache common stock and Mariner common stock as reported on the NYSE as of April 14, 2010, the last full trading day before the public announcement of the execution of the merger agreement by Apache and Mariner, and as of [ ], 2010, the most recent practicable trading day prior to the date of this proxy statement/prospectus. This table also presents the implied value of the mixed consideration per share of Mariner common stock on each of the specified dates, as determined by multiplying the closing prices of shares of Apache common stock on those dates by 0.17043, plus \$7.80 in cash.

	Apache Common Stock	Mariner Common Stock	Equivalent per Share Value
April 14, 2010	\$ 108.06	\$ 18.09	\$ 26.22
[ ], 2010	\$ [ ]	\$ [ ]	\$ [ ]

The market prices of shares of Apache common stock and Mariner common stock will fluctuate between the date of this proxy statement/prospectus and the completion of the merger, and thus no assurance can be given concerning the market prices of shares of Apache common stock or Mariner common stock before the completion of the merger or shares of Apache common stock after the completion of the merger. The market value of the merger consideration ultimately received by Mariner stockholders will depend on the closing price of Apache common stock on the day the merger is consummated. **Mariner stockholders are encouraged to obtain current market quotations for Apache common stock and Mariner common stock in deciding whether to vote for the approval and adoption of the merger agreement and in electing the form of consideration they wish to receive.** See Risk Factors Risks Relating to the Merger As a result of the consideration election and proration provisions of the merger agreement, and because the market price of Apache common stock will fluctuate, Mariner stockholders cannot be sure of the aggregate value of the merger consideration they will receive.

As of [ ], 2010, there were approximately [ ] record holders of Apache common stock and approximately [ ] record holders of Mariner common stock.

**Historical Market Prices**

The following table sets forth, for the calendar quarters indicated, the intra-day high and low sale prices per share of Apache common stock and per share of Mariner common stock as reported on the NYSE. The table also shows the amount of cash dividends declared per share of Apache common stock and Mariner common stock for the calendar quarters indicated.

	Apache Common Stock			Mariner Common Stock		
	High	Low	Cash Dividends Declared	High	Low	Cash Dividends Declared

**Fiscal Year Ended December 31,  
2010:**

Second Quarter (through [ ], 2010)	\$ [ ]	\$ [ ]	\$ 0.15	\$ [ ]	\$ [ ]	\$
First Quarter	\$ 108.92	\$ 95.15	\$ 0.15	\$ 16.27	\$ 11.84	\$

**Fiscal Year Ended December 31,  
2009:**

Fourth Quarter	\$ 106.46	\$ 88.06	\$ 0.15	\$ 16.66	\$ 11.35	\$
Third Quarter	\$ 95.77	\$ 65.02	\$ 0.15	\$ 15.41	\$ 9.65	\$
Second Quarter	\$ 87.04	\$ 61.60	\$ 0.15	\$ 15.74	\$ 7.48	\$
First Quarter	\$ 88.07	\$ 51.03	\$ 0.15	\$ 12.84	\$ 6.46	\$

**Table of Contents**

	Apache Common Stock			Mariner Common Stock		
	High	Low	Cash Dividends Declared	High	Low	Cash Dividends Declared
<b>Fiscal Year Ended December 31, 2008:</b>						
Fourth Quarter	\$ 103.17	\$ 57.11	\$ 0.15	\$ 20.46	\$ 6.86	\$
Third Quarter	\$ 145.00	\$ 94.82	\$ 0.15	\$ 37.25	\$ 19.20	\$
Second Quarter	\$ 149.23	\$ 117.65	\$ 0.15	\$ 37.38	\$ 26.60	\$
First Quarter(1)	\$ 122.34	\$ 84.52	\$ 0.25	\$ 30.06	\$ 22.80	\$
<b>Fiscal Year Ended December 31, 2007:</b>						
Fourth Quarter	\$ 109.32	\$ 87.44	\$ 0.15	\$ 25.00	\$ 19.78	\$
Third Quarter	\$ 91.25	\$ 72.61	\$ 0.15	\$ 25.43	\$ 17.82	\$
Second Quarter	\$ 87.82	\$ 70.53	\$ 0.15	\$ 25.87	\$ 19.20	\$
First Quarter	\$ 73.44	\$ 63.01	\$ 0.15	\$ 20.55	\$ 16.88	\$
<b>Fiscal Year Ended December 31, 2006:</b>						
Fourth Quarter	\$ 70.50	\$ 59.99	\$ 0.15	\$ 21.36	\$ 17.68	\$
Third Quarter	\$ 72.40	\$ 59.18	\$ 0.15	\$ 19.68	\$ 15.94	\$
Second Quarter	\$ 75.66	\$ 56.50	\$ 0.10	\$ 20.65	\$ 14.81	\$
First Quarter(2)	\$ 76.25	\$ 63.17	\$ 0.10	\$ 21.00	\$ 18.05	\$

(1) Apache's first quarter 2008 dividends declared included a special non-recurring cash dividend of 10 cents per common share declared and paid in the first quarter of 2008.

(2) Mariner common stock commenced regular way trading on March 3, 2006 on the NYSE.

**Dividends**

Apache has paid cash dividends on its common stock for 45 consecutive years through December 31, 2009. On February 22, 2010, Apache paid a dividend of \$0.15 per share on its common stock and will pay a dividend of \$0.15 per share on May 21, 2010. In addition, on May 6, 2010, Apache's board of directors declared a dividend of \$0.15 per share on Apache's common stock that will be paid on August 23, 2010 to stockholders of record on July 22, 2010. If (but only if) the merger is completed on or before July 22, 2010, former Mariner stockholders will be entitled to receive the August 23, 2010 \$0.15 dividend in respect of any Apache shares they receive in the merger. After the merger is completed, former Mariner stockholders will be entitled to receive any dividends declared by Apache's board of directors with a record date after the effective time of the merger on any shares of Apache common stock they receive pursuant to the merger. When and if declared by Apache's board of directors, future dividend payments will depend upon Apache's level of earnings, financial requirements and other relevant factors.

Mariner historically has retained its earnings for the development of its business, and accordingly has not paid dividends since it commenced regular way trading on March 3, 2006 on the NYSE. Mariner's existing bank credit facility and indentures governing its senior unsecured notes contain certain covenants that restrict Mariner's ability to pay dividends.



**Table of Contents**

**RISK FACTORS**

*In addition to the other information contained or incorporated by reference into this proxy statement/prospectus, including the matters addressed in Cautionary Statement Concerning Forward-Looking Statements, you should carefully consider the following risk factors in determining whether to vote for the approval and adoption of the merger agreement. You should also read and consider the risk factors associated with each of the businesses of Apache and Mariner because these risk factors may affect the operations and financial results of the combined company. These risk factors may be found under Part I, Item 1A, Risk Factors in each company's Annual Report on Form 10-K for the year ended December 31, 2009 and Part II, Item 1A Risk Factors in each company's Form 10-Q for the quarter ended March 31, 2010, each of which is on file with the SEC and all of which are incorporated by reference into this proxy statement/prospectus.*

**Risks Relating to the Merger**

***Mariner stockholders electing to receive only cash or only Apache common stock may, as the result of proration, receive a form or combination of consideration different from the form they elect.***

While each Mariner stockholder may elect to receive consideration consisting of all cash, all shares of Apache common stock or a combination of both in exchange for their shares of Mariner common stock, the aggregate cash consideration to be received by Mariner stockholders pursuant to the merger will be fixed at an amount equal to the product of \$7.80 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger. Such cash amount is expected to be approximately \$800 million. Similarly, the aggregate number of shares of Apache common stock to be received by Mariner stockholders pursuant to the merger will be fixed at a number equal to the product of 0.17043 and the number of shares of Mariner common stock outstanding immediately prior to closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger, which number is expected to be approximately 17.5 million shares of Apache common stock. Accordingly, if Mariner stockholders elect, in the aggregate, to receive cash in an amount greater than the aggregate cash consideration payable under the merger agreement, then those holders electing to receive all cash consideration will be prorated down and will receive Apache common stock as a portion of the overall consideration they receive for their shares. On the other hand, if Mariner stockholders elect, in the aggregate, to receive stock in an amount greater than the aggregate number of shares issuable under the merger agreement, then those holders electing to receive all stock consideration will be prorated down and will receive cash as a portion of the overall consideration they receive for their shares. As a result, Mariner stockholders that make a valid election to receive all cash or all stock consideration may not receive merger consideration entirely in the form elected.

***As a result of the consideration election and proration provisions of the merger agreement, and because the market price of Apache common stock will fluctuate, Mariner stockholders cannot be sure of the aggregate value of the merger consideration they will receive.***

The total number of shares of Apache common stock that will be issued to Mariner stockholders pursuant to the merger is fixed. Accordingly, the value of the merger consideration payable in Apache common stock will depend on the trading price of Apache common stock for those Mariner stockholders electing or, through the proration mechanism contained in the merger agreement, becoming entitled to receive Apache common stock pursuant to the merger. This means that there is no price protection mechanism contained in the merger agreement that would adjust the number of Apache shares that Mariner stockholders will receive based on any increases or decreases in the trading price of Apache common stock prior to the closing of the merger. If Apache's stock price decreases, the market value



of the consideration to be received will also decrease for those Mariner stockholders electing or, through the proration mechanism, becoming entitled to receive Apache common stock. If Apache's stock price increases, the market value of the consideration to be received will likewise increase for those Mariner stockholders electing or becoming entitled to receive Apache common stock. The value of the merger consideration you receive in Apache common shares, if any, will vary from the date of the announcement of the merger agreement, the date that this proxy statement/prospectus was mailed to Mariner stockholders, the election deadline, the date of the Mariner special meeting and the date the merger

**Table of Contents**

is completed and thereafter. Accordingly, at the election deadline and at the time of the Mariner special meeting, you will not know or be able to determine the value of the Apache common stock you will receive upon completion of the merger. Stock price changes may result from a variety of factors, including, among others, general market and economic conditions, changes in oil and natural gas prices, changes in Apache's and Mariner's respective businesses, operations and prospects, regulatory considerations, market assessments of the likelihood that the merger will be completed and the timing of the merger. Many of these factors are beyond Apache's and Mariner's control.

***If you tender shares of Mariner common stock to make an election, you will not be able to sell those shares unless you revoke your election prior to the election deadline.***

If you are a Mariner stockholder and want to make a mixed, cash or stock consideration election under the merger agreement, you must deliver your stock certificates, if any (or follow the procedures for guaranteed delivery), and a properly completed and signed election form to the exchange agent. The deadline for doing this is 5:00 p.m., New York time, on [ ], 2010. You will not be able to sell any shares of Mariner common stock that you have delivered under this arrangement unless you revoke your election before the deadline by providing written notice to the exchange agent. If you do not revoke your election, you will not be able to liquidate your investment in Mariner common stock for any reason until you receive cash and/or Apache common stock pursuant to the merger. In the time between delivery of your shares and the closing of the merger, the market price of Mariner or Apache common stock may increase or decrease and you might otherwise want to sell your shares of Mariner to gain access to cash, make other investments or reduce the potential for a decrease in the value of your investment.

***The date that Mariner stockholders will receive their merger consideration is uncertain.***

The completion of the merger is subject to the stockholder and governmental approvals described in this proxy statement/prospectus and the satisfaction or waiver of certain other conditions. While we currently expect to complete the merger promptly following the Mariner special meeting of stockholders (assuming the merger is approved and adopted at the meeting), the completion date might be later than expected due to delays in satisfying such conditions. Accordingly, we cannot provide Mariner stockholders with a definitive date on which they will receive the merger consideration.

***Mariner stockholders will have a significantly reduced ownership and voting interest after the merger and will exercise less influence over management.***

Immediately after the completion of the merger, it is expected that former Mariner stockholders, who collectively own 100% of Mariner, will own approximately 5% of Apache, based on the number of shares of Mariner and Apache common stock outstanding as of May 10, 2010. Consequently, Mariner stockholders will have less influence over the management and policies of Apache than they currently have over the management and policies of Mariner.

***The market price of Apache common stock after the merger may be affected by factors different from those affecting shares of Mariner common stock currently.***

Holders of Mariner common stock may receive Apache common stock in the merger. The business of Apache differs from that of Mariner in important respects and, accordingly, the results of operations of Apache after the merger, as well as the market price of its common stock, may be affected by factors different from those currently affecting the results of operations of Mariner as an independent company and the price of Mariner common stock. For further information on the businesses of Apache and Mariner and certain factors to consider in connection with those businesses, including risk factors associated with their businesses, see Apache's Annual Report on Form 10-K for the fiscal year ended December 31, 2009 and its Form 10-Q for the quarter ended March 31, 2010 and Mariner's Annual Report on Form 10-K for the fiscal year ended December 31, 2009 and its Form 10-Q for the quarter ended March 31,

2010, which are incorporated by reference into this proxy statement/prospectus. See also the other documents incorporated by reference into

**Table of Contents**

this proxy statement/prospectus under the caption "Where You Can Find More Information; Incorporation by Reference."

***Mariner's directors and executive officers have interests in the merger that may be different from, and in addition to, the interests of other Mariner stockholders.***

When considering the recommendation of Mariner's board of directors that Mariner stockholders vote in favor of the approval and adoption of the merger agreement, you should be aware that the executive officers and directors of Mariner are parties to agreements or participants in other arrangements that provide them with interests in the merger that are different from, or in addition to, your interests as a stockholder of Mariner. These different interests could create conflicts of interest in their determinations to recommend the merger. In particular, the executive officers of Mariner hold unvested shares of Mariner restricted stock (including Performance-Based Restricted Stock) that will vest pursuant to the terms of the merger agreement and are parties to employment agreements, which will survive the merger, that provide for severance and change of control benefits. The completion of the merger will be considered a change of control under these agreements. In addition, the receipt of compensation and other benefits by certain Mariner's employees in connection with the merger may make it more difficult for Apache to retain their services after the merger, or require Apache to expend additional sums of money to do so.

Mariner's board of directors was aware of these interests and considered them, among other matters, when adopting a resolution to approve the merger agreement and recommending that Mariner stockholders vote to approve and adopt the merger agreement. You should consider these interests in voting on the merger. We have further described these different interests under "The Merger - Interests of the Mariner Directors and Executive Officers in the Merger."

***The merger agreement contains provisions that limit Mariner's ability to pursue alternatives to the merger with Apache, could discourage a potential competing acquirer of Mariner from making a favorable alternative transaction proposal and, in certain circumstances, could require Mariner to pay a \$67 million termination fee to Apache.***

Unless and until the merger agreement is terminated, subject to limited fiduciary exceptions (which are discussed in more detail in "The Merger Agreement - Certain Additional Agreements"), Mariner is restricted from initiating, soliciting, knowingly encouraging, knowingly facilitating, discussing or negotiating any inquiry, proposal or offer for a competing acquisition proposal with any person. Additionally, under the merger agreement, in the event of a potential change by the Mariner board of directors of its recommendation with respect to the merger, Mariner must provide Apache with three business days to propose an adjustment to the terms and conditions of the merger agreement. Mariner may terminate the merger agreement and enter into an agreement with respect to a superior proposal only if specified conditions have been satisfied, including compliance with the no solicitation provisions of the merger agreement. Additionally, Mariner may be required to pay to Apache a termination fee of \$67 million (less the amount of any of Apache's expenses reimbursed by Mariner pursuant to the merger agreement) if the merger agreement is terminated under certain circumstances. These provisions could discourage a third party that may have an interest in acquiring all or a significant part of Mariner from considering or proposing that acquisition, even if such third party were prepared to pay consideration with a higher per share cash or market value than that market value proposed to be received in the merger, or they could result in a potential competing acquirer proposing to pay a lower price than it would otherwise have proposed.

***The rights of Mariner stockholders will be governed by Apache's restated certificate of incorporation and amended bylaws.***

All Mariner stockholders who receive shares of Apache common stock in the merger will become Apache stockholders and their rights as stockholders will be governed by Apache's restated certificate of incorporation and its

amended bylaws. There are material differences between the current rights of Mariner stockholders, which are governed by Mariner's second amended and restated certificate of incorporation and fourth amended

**Table of Contents**

and restated bylaws, and the rights of holders of Apache common stock. See Comparison of Rights of Apache Stockholders and Mariner Stockholders.

*Apache may fail to realize the anticipated benefits of the merger, which could adversely affect the value of Apache's common stock.*

The success of the merger will depend, in part, on Apache's ability to integrate effectively the businesses of Apache and Mariner and realize the anticipated benefits from such combination. To realize these anticipated benefits, the combined company must successfully integrate the businesses of Apache and Mariner and it is possible that Apache will not be able to achieve these benefits fully, or at all, or will not be able to achieve them within the anticipated timeframe. Failure to achieve the anticipated merger benefits could result in increased costs or decreases in the amount of expected revenues and could adversely affect Apache's future business, financial condition, operating results and prospects.

Apache and Mariner have operated and, until the completion of the merger, will continue to operate independently, and there can be no assurance that their businesses can be integrated successfully. If Apache's expectations as to the benefits of the merger turn out to be incorrect, or Apache is not able to successfully combine the businesses of Apache and Mariner for any other reason, the value of Apache's common stock (including the stock issued as the merger consideration) may be adversely affected.

The integration process is subject to a number of uncertainties. It is possible that the integration process could result in the loss of key Mariner employees, as well as the disruption of each company's ongoing business or inconsistencies in standards, controls, procedures, policies and compensation arrangements, any of which could adversely affect the combined company's ability to achieve the anticipated benefits of the merger. The combined company's results of operations could also be adversely affected by any issues attributable to either company's operations that arise or are based on events or actions that occur prior to the closing of the merger. Apache may have difficulty addressing possible differences in corporate cultures and management philosophies. In addition, the combined company may not be able to eliminate duplicative costs or realize other efficiencies from integrating the businesses to offset part or all of the transaction and merger-related costs incurred by Apache and Mariner. Specific issues that must be addressed upon completion of the merger in order to realize the anticipated benefits of the merger include, among other things:

integrating the companies' oil and natural gas exploration and production operations;

applying each company's best practices to the combined oil and natural gas portfolio;

combining the companies' natural gas processing, marketing and transportation functions;

harmonizing the companies' operating practices, employee development and compensation programs, internal controls and other policies, procedures and processes;

integrating the companies' corporate, administrative and information technology infrastructure; and

managing any tax costs or inefficiencies associated with integration.

In addition, at times, the attention of certain members of Mariner's management and Apache's management, and resources of the two companies, may be focused on the completion of the merger and the integration of the businesses of the two companies and diverted from day-to-day business operations, which could also have an adverse effect on the businesses of Apache or Mariner or the combined company.

*Any delay in completing the merger may substantially reduce the benefits expected to be obtained from the merger.*

The merger is subject to a number of other conditions beyond the control of Mariner and Apache that may prevent, delay or otherwise materially adversely affect its completion. See The Merger Agreement Conditions to the Merger. Apache and Mariner cannot predict whether or when the conditions required to complete the merger will be satisfied. The requirements for obtaining the required clearances and approvals could delay the effective time of the merger for a significant period of time or prevent it from occurring. Any

**Table of Contents**

delay in completing the merger may materially adversely affect the synergies and other benefits that Apache and Mariner expect to achieve if the merger and the integration of their respective businesses are completed within the expected timeframe.

***Mariner may have difficulty attracting, motivating and retaining executives and other key employees in light of the merger.***

Uncertainty about the effect of the merger on Mariner employees may have an adverse effect on Mariner and consequently Apache. This uncertainty may impair Mariner's ability to attract, retain and motivate key personnel until the merger is completed. Employee retention may be particularly challenging during the pendency of the merger, as employees may experience uncertainty about their future roles with Apache. If key employees of Mariner depart because of issues relating to the uncertainty and difficulty of integration or a desire not to become employees of Apache, Apache's ability to realize the anticipated benefits of the merger could be delayed or reduced.

***Failure to complete the merger could negatively impact the stock price and the future business and financial results of Mariner.***

If the merger is not completed, the ongoing business of Mariner may be adversely affected and Mariner would be subject to a number of risks, including the following:

Mariner will not realize the benefits expected from the merger, including a potentially enhanced competitive and financial position, and instead will be subject to all the risks it currently faces as an independent company;

Mariner may experience negative reactions from the financial markets and Mariner's customers and employees;

under the merger agreement, Mariner may be required to pay to Apache a termination fee of \$67 million (less the amount of any of Apache's expenses reimbursed by Mariner pursuant to the merger agreement) if the merger agreement is terminated under certain circumstances. If such a termination fee is payable, the payment of this fee could have material and adverse consequences to the financial condition and operations of Mariner (see "The Merger Agreement - Termination, Amendment and Waiver");

Mariner will be required to pay certain costs relating to the merger, including certain investment banking, legal and accounting fees and expenses, whether or not the merger is completed;

the merger agreement places certain restrictions on the conduct of Mariner's business prior to the completion of the merger or the termination of the merger agreement. Such restrictions, the waiver of which is subject to the consent of Apache (not to be unreasonably withheld, conditioned or delayed), may prevent Mariner from making certain acquisitions, taking certain other specified actions or otherwise pursuing business opportunities during the pendency of the merger (see "The Merger Agreement - Conduct of Business Pending the Effective Time of the Merger" for a description of the restrictive covenants applicable to Mariner); and

matters relating to the merger (including integration planning) may require substantial commitments of time and resources by Mariner management, which would otherwise have been devoted to other opportunities that may have been beneficial to Mariner as an independent company.

There can be no assurance that the risks described above will not materialize, and if any of them do, they may adversely affect Mariner's business, financial results and stock price.



***Pending litigation against Mariner and Apache could result in an injunction preventing the consummation of the merger or may adversely affect Apache's business, financial condition or results of operations following the merger.***

In connection with the merger, to date, two lawsuits styled as class actions have been filed in the Delaware Court of Chancery and in the state District Court of Harris County, Texas against Mariner, its

## **Table of Contents**

directors and officers, alleging violations of various fiduciary duties in approving the merger and, in the case of the Delaware lawsuit, also against Apache, claiming that Apache aided and abetted such alleged violations. Among other remedies, the plaintiffs seek to enjoin the merger. The outcome of any such litigation is inherently uncertain. These lawsuits could prevent or delay the consummation of the merger and result in substantial costs to Mariner and Apache. Apache's and Mariner's insurance policies may not provide sufficient coverage for the claims under these lawsuits, and rights of indemnification with respect to these lawsuits will continue after the completion of the merger. The defense or settlement of any lawsuit or claim that remains unresolved at the time the merger closes may adversely affect Apache's business, financial condition or results of operations.

### ***Following the merger, Apache's exposure to offshore Gulf of Mexico operations will increase.***

Following the merger, a larger percentage of Apache's exploration and production operations will be related to offshore Gulf of Mexico properties. Greater offshore concentration proportionally increases risks from delays or higher costs common to offshore activity including severe weather, availability of specialized equipment, compliance with environmental and other laws and regulations and increases in insurance costs or decreases in the availability of insurance.

### ***The market value of Apache common stock could decline if large amounts of its common stock are sold following the merger.***

Following the merger, stockholders of Apache and former stockholders of Mariner will own interests in a combined company operating an expanded business with more assets and a different mix of liabilities. Current stockholders of Apache and Mariner may not wish to continue to invest in the additional operations of the combined company, or may wish to reduce their investment in the combined company, or for other reasons may wish to dispose of some or all of their interests in the combined company. If, following the merger, large amounts of Apache common stock are sold, the price of its common stock could decline.

### ***The merger will likely not be accretive, and may be dilutive, to Apache's earnings per share, which may negatively affect the market price of Apache common stock.***

Apache anticipates that the merger will not be accretive, and may be dilutive, to earnings per share for several quarters following the merger. This expectation is based on preliminary estimates that may materially change. In addition, future events and conditions could decrease or delay any accretion, result in dilution or cause greater dilution than is currently expected, including adverse changes in energy market conditions; commodity prices for oil, natural gas and natural gas liquids; production levels; reserve levels; operating results; competitive conditions; laws and regulations affecting the energy business; capital expenditure obligations; and general economic conditions. Any dilution of, or decrease or delay of any accretion to, Apache's earnings per share could cause the price of Apache's common stock to decline.

## **Risks Relating to Apache and Mariner**

Apache and Mariner are, and following completion of the merger, Apache and Mariner will continue to be, subject to the risks described in (i) Part I, Item 1A in Apache's Annual Report on Form 10-K for the year ended December 31, 2009, and Part II, Item 1A of Apache's Form 10-Q for the quarter ended March 31, 2010, and (ii) Part I, Item 1A in Mariner's Annual Report on Form 10-K for the year ended December 31, 2009, and Part II, Item 1A of Mariner's 10-Q for the quarter ended March 31, 2010, each of which is on file with the SEC and all of which are incorporated by reference into this proxy statement/prospectus. See [Where You Can Find More Information; Incorporation by Reference](#).

***Apache's and Mariner's operations in the Gulf of Mexico could be adversely impacted by the recent drilling rig accident and resulting oil spill.***

On April 22, 2010, a deepwater drilling rig, the *Deepwater Horizon*, operating in the Gulf of Mexico on Mississippi Canyon Block 252 sank after an apparent blowout and fire. Although attempts are being made to

**Table of Contents**

seal the well, hydrocarbons have been leaking and the spill area continues to grow. Neither Apache nor Mariner owns an interest in the field.

As a result of the incident and spill, there may be changes in laws and regulations, increases in insurance costs or decreases in insurance availability, as well as delays in offshore exploration and drilling activities in the Gulf of Mexico. For example, on May 6, 2010, the Secretary of the United States Department of the Interior (DOI) announced that, as a result of the *Deepwater Horizon* incidents, no applications for drilling permits for new offshore drilling activity will go forward until the DOI completes the safety review process that President Obama requested. The DOI indicated that it would deliver its report to the President by May 28, 2010.

Any of the aforementioned changes could adversely impact Apache's, Mariner's or the combined company's cost of operations and ability to explore for, develop or produce hydrocarbons. This in turn could have a material adverse impact on the financial condition or results of operations of Mariner, Apache or the combined company and could impact Apache's ability to realize the anticipated benefits of the merger.

**Table of Contents**

**CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS**

This proxy statement/prospectus and the documents incorporated by reference in this proxy statement/prospectus contain statements that constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Representatives of Apache and Mariner may also make forward-looking statements. Forward-looking statements are opinions, forecasts, projections, future plans or other statements other than statements of historical fact and are identified by terminology such as expect, anticipate, estimate, intend, may, will, could, would, should, predict, potential, believe or the negative of these terms or similar terminology. Neither Mariner nor Apache can give any assurance that such expectations will prove to be correct. Actual results could differ materially as a result of a variety of risks and uncertainties, including: the timing to consummate the proposed agreement; the risk that a condition to closing the proposed agreement may not be satisfied; the risk that a regulatory approval that may be required for the proposed agreement is not obtained or is obtained subject to conditions that are not anticipated; negative effects from the pendency of the merger; Apache's ability to achieve the synergies and value creation contemplated by the proposed agreement; Apache's ability to promptly and effectively integrate the merged businesses; and the diversion of management time on agreement-related issues.

These statements are only predictions and are not guarantees of performance. Actual results may differ materially from those expected, estimated or projected because of market conditions or other factors. These statements are based upon the current beliefs and expectations of management of Apache and Mariner and are subject to numerous risks and uncertainties that could cause actual outcomes and results to be materially different from those projected or anticipated. In addition to the risks described under Risk Factors and those risks described in documents that are incorporated by reference into this proxy statement/prospectus, the following factors, among others, could cause actual results to be materially different from those expressed or implied by any forward-looking statements:

Mariner stockholder approval may not be obtained in a timely manner, or at all;

the merger may not close due to the failure to satisfy any of the closing conditions;

expected synergies and value creation from the merger may not be realized;

key employees of Mariner may not be retained;

the businesses may not be integrated successfully;

management time may be diverted on merger-related matters;

fluctuations in the prices of crude oil, natural gas and natural gas liquids;

the downgrade of Apache's or Mariner's credit rating;

general economic, business or industry conditions;

credit risk of counterparties;

the expiration of leases on undeveloped acreage;

cash flow, liquidity and financial position;

pipeline and gathering system capacity constraints and various transportation interruptions;

success in acquiring or finding additional reserves on an economic basis;

the effects of industry competition;

the failure to realize adequate returns on wells that are drilled;

the success of commodity price risk management and trading activities;

the failure to fully identify potential problems related to acquired reserves or to properly estimate those reserves;

**Table of Contents**

the impact of government regulation of the oil and natural gas industry;

the impact of weather and the occurrence of natural events and natural disasters;

environmental liabilities; and

currency rate fluctuations.

You are cautioned not to place undue reliance on the forward-looking statements made in this proxy statement/prospectus or documents incorporated into this proxy statement/prospectus or by representatives of Apache or Mariner. These statements speak only as of the date hereof, or, in the case of statements in any document incorporated by reference, as of the date of such document, or, in the case of statements made by representatives of Apache or Mariner, on the date those statements are made. All subsequent written and oral forward-looking statements concerning the merger, the combined company or any other matter addressed in this proxy statement/prospectus and attributable to Apache, Mariner or any person acting on behalf of either company are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. Apache and Mariner expressly disclaim any obligation to publicly update or revise forward-looking statements in light of new information, future events or otherwise.

**Table of Contents**

**THE COMPANIES**

**Apache Corporation**

Apache, a Delaware corporation formed in 1954, is an independent energy company that explores for, develops and produces natural gas, crude oil and natural gas liquids. In North America, Apache's exploration and production interests are focused in the Gulf of Mexico, the Gulf Coast, East Texas, the Permian Basin, the Anadarko Basin and the Western Sedimentary Basin of Canada. Outside of North America, Apache has exploration and production interests onshore Egypt, offshore Western Australia, offshore the U.K. in the North Sea (North Sea), and onshore Argentina. Apache also has exploration interests on the Chilean side of the island of Tierra del Fuego.

Apache's common stock is listed on the NYSE, the Chicago Stock Exchange and the NASDAQ National Market and trades under the symbol APA.

Apache's principal executive offices are located at One Post Oak Central, 2000 Post Oak Boulevard, Suite 100, Houston, Texas 77056, its telephone number is (713) 296-6000 and its website is [www.apachecorp.com](http://www.apachecorp.com).

This proxy statement/prospectus incorporates important business and financial information about Apache by reference to other documents that are not included in or delivered with this proxy statement/prospectus. For a list of the documents that are incorporated by reference, see Where You Can Find More Information; Incorporation By Reference.

**Mariner Energy, Inc.**

Mariner, a Delaware corporation formed in 1983, is an independent oil and gas exploration, development, and production company headquartered in Houston, Texas, with principal operations in the Permian Basin, Gulf Coast and the Gulf of Mexico.

Mariner's common stock is listed on the NYSE and trades under the symbol ME.

Mariner's principal executive offices are located at One BriarLake Plaza, Suite 2000, 2000 West Sam Houston Parkway South, Houston, Texas 77042, its telephone number is (713) 954-5500 and its website is [www.mariner-energy.com](http://www.mariner-energy.com).

This proxy statement/prospectus incorporates important business and financial information about Mariner from other documents that are not included in or delivered with this proxy statement/prospectus. For a list of the documents that are incorporated by reference, see Where You Can Find More Information; Incorporation By Reference.

**ZMZ Acquisitions LLC**

ZMZ Acquisitions LLC, which is sometimes referred to as Merger Sub, is a Delaware limited liability company and a wholly owned subsidiary of Apache. Merger Sub was formed solely for the purpose of entering into the merger agreement. Merger Sub has not carried on any activities to date, except for activities incidental to its formation and activities undertaken in connection with the merger.

Merger Sub's principal executive offices are located at One Post Oak Central, 2000 Post Oak Boulevard, Suite 100, Houston, Texas 77056 and its telephone number is (713) 296-6000.





**Table of Contents**

**THE MERGER**

**General**

Apache, Merger Sub and Mariner have entered into the merger agreement. Subject to the terms and conditions of the merger agreement and in accordance with Delaware law, Mariner will be merged with and into Merger Sub, with Merger Sub continuing as the surviving entity. Upon completion of the merger, Mariner will cease to exist and Mariner common stock will no longer be outstanding or publicly traded.

Under the merger agreement, Mariner stockholders may elect to receive consideration consisting of cash, shares of Apache common stock or a combination of both in exchange for their shares of Mariner common stock, subject to a proration feature. Mariner stockholders electing to receive a mix of cash and stock consideration and non-electing stockholders will receive \$7.80 in cash and 0.17043 shares of Apache common stock, in exchange for each share of Mariner common stock. Subject to proration, Mariner stockholders electing to receive all cash will receive \$26.00 in cash per Mariner share and Mariner stockholders electing to receive only Apache common stock will receive 0.24347 shares of Apache common stock in exchange for each share of Mariner common stock.

The aggregate cash consideration to be received by Mariner stockholders pursuant to the merger will be fixed at an amount equal to the product of \$7.80 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger. Such cash amount is expected to be approximately \$800 million. Similarly, the aggregate number of shares of Apache common stock to be received by Mariner stockholders pursuant to the merger will be fixed at a number equal to the product of 0.17043 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger. Such number of shares is expected to be approximately 17.5 million shares of Apache common stock. Accordingly, if Mariner stockholders elect, in the aggregate, to receive cash in an amount greater than the aggregate cash consideration payable under the merger agreement, then those holders electing to receive all cash consideration will be prorated down and will receive Apache stock as a portion of the overall consideration they receive for their shares. On the other hand, if Mariner stockholders elect, in the aggregate, to receive stock in an amount greater than the aggregate number of shares issuable under the merger agreement, then those holders electing to receive all stock consideration will be prorated down and will receive cash as a portion of the overall consideration they receive for their shares. As a result, Mariner stockholders that make a valid election to receive all cash or all stock consideration may not receive merger consideration entirely in the form elected.

The share exchange ratios in the merger agreement are fixed and will not change between now and the completion of the merger, regardless of whether the market price of either Apache or Mariner common stock changes. The market price of Apache common stock will fluctuate prior to the merger and the market price of Apache common stock received by Mariner stockholders after completion of the merger could be greater or less than the current market price of Apache common stock and the price of Apache common stock at the election deadline. In addition, the time of the completion of the merger, the values of the three forms of merger consideration that Mariner stockholders will have the right to receive (which are (i) 0.24347 shares of Apache common stock per Mariner share, subject to proration, (ii) \$26.00 in cash per Mariner share, subject to proration, or (iii) a combination of \$7.80 in cash and 0.17043 shares of Apache common stock per Mariner share) may not be equal due to fluctuations in the market price of Apache common stock. See **Risk Factors** **Risks Relating to the Merger** As a result of the consideration election and proration provisions of the merger agreement, and because the market price of Apache common stock will fluctuate, Mariner stockholders cannot be sure of the aggregate value of the merger consideration they will receive.

Apache will not issue any fractional shares of its common stock in connection with the merger. For each fractional share that would otherwise be issued, Apache will pay cash (without interest) in an amount equal to the product of the fractional share and the average of the closing price of Apache common stock on the NYSE, as reported in The Wall Street Journal, for the five consecutive trading days ending on the calendar day immediately prior the closing date of the merger.

**Table of Contents**

**Background of the Merger**

Mariner regularly reviews and assesses potential industry and strategic alternatives in order to enhance stockholder value. In connection with these reviews and in an effort to ensure that Mariner's board is fully informed regarding potential avenues for increasing stockholder value, from time to time Mariner's management meets with investment bankers to discuss strategic business opportunities, including acquisitions of and combinations with other companies. In one such meeting in April 2008, Mr. Josey and a representative of Credit Suisse discussed a number of companies that might present strategic business opportunities for Mariner. Apache was one such company discussed, as both companies operate in the Gulf of Mexico shelf and deepwater and in the Permian Basin. From time to time the companies had engaged in farm-out agreements and other ordinary course transactions, and they also owned working interests in some of the same properties, including the Geauxpher prospect at Garden Banks 462. The companies had enjoyed a good working relationship. In April and May 2008, a representative of Credit Suisse met with Roger Plank, Apache's President, and discussed strategic opportunities between Apache and Mariner.

In May 2008, G. Steven Farris, Apache's Chairman and Chief Executive Officer, contacted Scott D. Josey, Mariner's Chairman, Chief Executive Officer and President, to suggest that they meet to discuss a potential business combination. Messrs. Farris and Josey met on May 22, 2008 to discuss such a transaction. Mr. Farris did not present any specific proposal at that time. Mr. Josey responded that he would discuss the matter with members of Mariner's board. Mr. Josey subsequently reported on his conversation with Mr. Farris to two Mariner directors, Bernard Aronson (Mariner's presiding independent director) and Jonathan Ginns. Mr. Aronson relayed the information provided by Mr. Josey to the other members of Mariner's board.

Representatives of Apache and Mariner negotiated the terms of a confidentiality agreement over the following weeks, and on June 17, 2008, the parties executed an agreement. In the confidentiality agreement Apache agreed to a standstill provision providing that it would not, for a period of two years, acquire or seek, offer or propose to acquire any securities or assets of Mariner or take other actions seeking to control or influence Mariner. The confidentiality agreement also restricted acquisitions by Apache of interests in certain properties for which Mariner was the apparent high bidder at an offshore lease sale that had recently occurred, but for which leases had not yet been awarded to Mariner. Following execution of the confidentiality agreement on June 17, several members of Mariner management and Ryder Scott Company, L.P., the petroleum consulting firm primarily responsible for overseeing the preparation of Mariner's reserve estimates, met with representatives of Apache to review reserve estimates, prospects and financial and legal matters. Over the course of the next few days, subsequent conversations took place between members of management of the two companies regarding the means of conducting accounting and tax due diligence and personnel matters.

On June 19, 2008, Messrs. Farris and Josey met to discuss Mariner's prospects and other due diligence issues.

On June 20, 2008, at a telephonic special meeting of Mariner's board, Mr. Josey reported on the status of discussions with, and due diligence conducted by, Apache. The board also considered the retention of Credit Suisse as Mariner's financial advisor in connection with a potential transaction. The board noted Credit Suisse's knowledge of Mariner, having previously provided Mariner with financial advisory and other investment banking services, and Credit Suisse's knowledge of the oil and gas industry and experience as a financial advisor in connection with transactions similar to the proposed merger. Credit Suisse was formally engaged by Mariner on June 25, 2008. The board requested that Mr. Josey provide updates as appropriate to Mr. Aronson, who would communicate with the other directors.

Over the course of the following nine weeks, representatives of Mariner, Ryder Scott, Deloitte & Touche LLP (Mariner's independent auditor) and PricewaterhouseCoopers (tax consultant to Mariner) provided Apache with

additional due diligence information regarding Mariner's reserve estimates, prospect inventory, financial condition, accounting, tax, and legal matters, among other things.

On August 19, 2008, Mr. Farris met with Mr. Josey at Mariner's offices in Houston. Mr. Farris said that Apache would be willing to acquire Mariner for consideration worth \$30 per share of Mariner common stock, which represented a premium of approximately 3.5% to Mariner's then-current stock price. Mr. Farris also

**Table of Contents**

indicated that the proposed transaction would potentially be contingent on the successful sale of a volumetric production payment with respect to a portion of Mariner's leasehold interests. Mr. Josey stated his view that the proposed consideration was too low and that the risk associated with the sale of the volumetric production payment was unacceptable, but he said he would convey Apache's proposal to the Mariner board. Mr. Josey discussed the proposal with the Mariner directors individually. Following those discussions, he reported to Mr. Farris that Mariner was not interested in further pursuit of a transaction at that time.

On February 8, 2010, representatives of another company, referred to as Company A, and Company A's financial advisor met with Mr. Josey to express interest in acquiring Mariner for a purchase price of \$18 to \$19 per share. The representatives stated that the proposal was based on, among other things, Company A's review of Mariner's reserve estimates as of December 31, 2008, but not its 2009 reserve estimates, which had only recently been disclosed.

On February 23, 2010, the Mariner board discussed Company A's proposal and concluded that the proposed consideration was insufficient but authorized management to allow Company A to review nonpublic information, with the expectation that Company A would be able to increase its proposed purchase price substantially following its review of Mariner's prospects and 2009 year-end reserve estimates. The board also discussed Mariner's strategy as a diversified company, marketing and messaging with respect to its strategy and various potential alternatives for its operating regions. The board reviewed a sum of the parts analysis prepared by Mariner management that attempted to evaluate each of Mariner's operating regions based on valuation metrics of several non-diversified, publicly-traded companies, each operating primarily in one of Mariner's operating regions. The analysis indicated that the stock of Mariner, as a diversified company, traded at a significant discount to the sum of the estimated values of its operating regions if they were valued similarly to the non-diversified or pure play companies in those regions. The sum of the parts analysis reflected a potential trading range for Mariner common stock of \$25.23 to \$35.59 per share, excluding estimated values for certain unbooked Mariner discoveries but providing methodologies for valuing Mariner's interests in those discoveries. Earlier that month, Mariner had provided the sum of the parts analysis and the potential trading range in a February 4 public presentation to the investor community at the Credit Suisse Energy Summit Conference and also made it publicly available on Mariner's website. Subsequent to that public presentation and through the February 23 board meeting, Mariner's common stock closed at prices ranging from \$13.65 to \$15.52. Subsequently, management used the methodologies provided to the board at the February 23 board meeting to assign values to the unbooked discoveries and included those values, as well as values for a significant portion of Mariner's deepwater exploration prospect portfolio prepared by a third-party engineering firm, in public presentations to the investor community on March 2, March 23 and April 13, 2010 and made publicly available on Mariner's website, reflecting a potential trading range for Mariner common stock of approximately \$43 to \$60 per share. Subsequent to the first of those public presentations and through the date prior to the announcement of the merger with Apache, Mariner's common stock closed at prices ranging from \$14.13 to \$18.09.

Mariner and Company A negotiated and, on March 11, 2010, executed a confidentiality agreement in a form substantially similar to the one previously entered into with Apache, including a two-year standstill provision. Later that day, several members of the Company's management team met with representatives of Company A to provide information regarding Mariner's 2009 reserve estimates, prospects and financial matters. Representatives of Company A also were provided access to representatives of Ryder Scott to perform a more detailed review of Mariner's reserve estimates. During the course of the diligence meetings on March 11, Mr. Josey met with a representative of Company A to discuss the expected timing of a revised proposal. The representative advised Mr. Josey that Company A's board of directors had approved discussions regarding a business combination and that their board planned to meet on April 16, 2010 to consider a revised proposal to acquire Mariner.

From March 11, 2010, until April 9, 2010, members of Mariner's management team provided additional due diligence information to representatives of Company A.



**Table of Contents**

On March 25, 2010, at Mr. Farris's request, Mr. Josey met with Messrs. Farris and Plank at Apache's offices in Houston. At the meeting Mr. Farris suggested that Apache and Mariner re-engage in discussions regarding a business combination, because the two companies had a great asset and people fit and Mariner's deepwater position was desirable to Apache, but he did not present any specific proposal. Mr. Josey responded by saying that the consideration in any proposal would need to reflect a substantial premium in order to be successful. Mr. Josey also indicated to Messrs. Farris and Plank that another party had expressed an interest in acquiring Mariner, that it was undertaking due diligence, and that the board of directors of the other party planned to meet on April 16 to consider a possible transaction. Mr. Farris responded that, due to its extensive analysis of Mariner in 2008, Apache could be ready with an offer and a merger agreement on an accelerated timeline. Mr. Josey also stated that even though Mariner could provide confidential data to Apache under the 2008 confidentiality agreement which remained in effect until June 2010, he would prefer that the parties execute an extension before he arranged for additional confidential information about Mariner to be delivered to Apache.

Apache and Mariner entered into a new confidentiality agreement on March 26, 2010, in a form substantially similar to the prior agreement between the parties. Shortly after execution of the confidentiality agreement, Mariner made diligence materials available, and meetings occurred between representatives of Mariner, Ryder Scott and Apache over the next two weeks.

On April 1, 2010, Apache's board of directors convened a special meeting to consider the potential transaction with Mariner. The board was presented with financial and operational information about Mariner, including an update on developments in Mariner's business since a possible transaction had been last considered by the board in 2008. At the end of the meeting and after extensive discussion, the board authorized Apache management to continue its pursuit of a transaction with Mariner for consideration of up to \$25 per share with at least 70% payable in Apache common stock.

On April 5, 2010, Mr. Josey met with Mr. Farris at Apache's offices. At this meeting, Messrs. Josey and Farris discussed in general terms the per-share purchase price of a potential acquisition, with Mr. Josey indicating his belief that the Mariner board would be disappointed with any offer below \$25 per share, and that an offer may need to be as high as \$30 per share in order to be approved. Messrs. Josey and Farris also discussed generally the possibility of making a portion of the consideration contingent on the success of the Heidelberg #2 well in the Gulf of Mexico deepwater, which was being drilled on a prospect in which Mariner has an interest (referred to as the Heidelberg well). Mr. Josey also requested that, in accordance with the confidentiality agreement, Apache should not provide a written offer to Mariner unless it was invited to do so by Mariner's board of directors. Mr. Farris thanked Mr. Josey for the information, and did not present him with an offer. That afternoon the parties amended the confidentiality agreement to permit advisors and additional employees of Apache to assist in the due diligence effort.

Following his meeting with Mr. Josey, Mr. Farris met with Apache's financial advisors, Goldman, Sachs & Co., referred to as Goldman Sachs, and J.P. Morgan Securities Inc., referred to as J.P. Morgan, to inform them of his conversation with Mr. Josey. Over the next two days, Messrs. Farris and Plank, other Apache senior management, and representatives of Goldman Sachs and J.P. Morgan worked on preparing an appropriate initial proposal to Mariner.

As part of preparing the initial proposal, Mr. Farris telephoned each of the members of Apache's board, informed them of developments, and discussed with them the possible terms that were being developed. In the course of consultation with the directors, Mr. Farris was given the discretion to offer to Mariner a combination of cash and Apache common stock as consideration in the merger.

On April 7, 2010, a representative of Company A sent an e-mail to Jesus G. Melendrez, Mariner's Senior Vice President, Chief Commercial Officer, Acting Chief Financial Officer and Treasurer, to inform him that Company A's board meeting to discuss a potential transaction with Mariner would be delayed. The following day, Mr. Melendrez



advised representatives of Company A and its financial advisor that such delay was not in Company A's interest.

**Table of Contents**

Also on April 7, 2010, Mr. Farris called Mr. Josey to notify him that Apache was prepared to send a term sheet describing its offer to acquire Mariner and that Apache was highly motivated to complete a transaction because of the strategic fit of Mariner's assets with Apache's North American operations. He communicated that it was important to Apache that a merger agreement be signed and a transaction be announced very quickly. Mr. Farris also told Mr. Josey that Apache would not engage in an auction process in connection with a possible transaction. Mr. Josey responded that he would discuss the terms of the initial proposal with the Mariner board and call Mr. Farris afterwards. Mr. Josey then advised Mariner's presiding independent director of the conversation, and the director organized a board meeting to be held that afternoon.

Following his conversation with Mr. Josey, Mr. Farris telephoned each of Apache's directors separately and informed them of the terms of the initial proposal. Each director was supportive of the proposal and instructed Mr. Farris to continue pursuing the transaction with Mariner.

Later in the day on April 7, 2010, Apache sent Mariner a term sheet proposing a merger for consideration of \$25.00 per share, payable in a combination of cash (30%) and shares of Apache common stock (70%) at a fixed exchange ratio. Apache stated that the \$25 proposal represented a premium of 47% to Mariner's closing price and a 63% premium to Mariner's 30-day average trading price, each as of April 6, 2010. The term sheet further proposed that the consideration would be increased or decreased by \$2.00 per share depending on success or lack of success at the Heidelberg #2 well. The Heidelberg well was expected to be completed in May 2010 and was designed to delineate the lateral extent of the M-15 sand of the reservoir found in a discovery well that reached total depth in 2009, and to explore another potential target in the lower Miocene sand. Because of the contingent adjustment to the proposed purchase price (a result of which was that the consideration would either be \$23.00 or \$27.00 per share, but never \$25.00), Apache's proposal effectively offered consideration of \$23.00 per share with a possible \$4.00 increase for success at the Heidelberg well. The term sheet stated that it would expire on April 14, 2010, and that Apache had prepared a draft merger agreement and was prepared to begin negotiations immediately. The term sheet also stated Apache's intention to be able to announce a transaction within days and in no event later than April 14, 2010.

After receipt of the term sheet, Mariner's board convened a telephonic special meeting on April 7, 2010 to discuss the proposal, including the financial terms, the likelihood that the transaction could be successfully completed, and potential responses to the proposal. Also present at the invitation of the board were representatives of Baker Botts L.L.P., outside counsel to Mariner, who discussed with the directors certain legal matters, including their fiduciary duties to stockholders in connection with a potential business combination transaction. During the meeting, Mr. Josey updated the directors on his discussions with Mr. Farris. After discussing the terms proposed in the Apache term sheet and Mariner's other prospects, the board decided to seek to reengage Credit Suisse as Mariner's financial advisor in connection with a potential transaction, given Credit Suisse's familiarity with Mariner and its prior engagement as Mariner's financial advisor in 2008 in connection with Mariner's discussions regarding a potential transaction with Apache. The board instructed Mr. Josey to tell Mr. Farris that the board was seriously considering Apache's proposal and would respond promptly after further analysis and after consulting with Credit Suisse. The board also received a status report on discussions with Company A. Credit Suisse was contacted that evening and instructed to begin preparing an analysis of Apache's proposal for discussion with the board.

On April 8, 2010, Mr. Josey called Mr. Farris to update him on the board's reaction to the proposal and on next steps. Messrs. Josey and Farris briefly discussed the terms reflected in the term sheet, particularly Apache's rationale for proposing consideration contingent upon the success of the Heidelberg well. Other members of Mariner management met that day and on April 9, 2010 with Apache representatives to discuss how to define "success" at the Heidelberg well for purposes of determining whether the contingent consideration would be paid.

On April 9, 2010, Mariner's board again convened a telephonic special meeting, with representatives of Mariner management, Baker Botts and Credit Suisse also attending. Mr. Josey briefed the board on his April 8 discussion with

Mr. Farris. Representatives of Credit Suisse reviewed its preliminary financial analyses with respect to Mariner and the proposed merger. The board, with the assistance of management and Credit Suisse, also evaluated and discussed potential business combination transactions with other companies (including

**Table of Contents**

Company A), taking into account the various financial and operational characteristics of the other potential partners and the probable level of interest and strategic rationale for each company to engage in a business combination with Mariner, and the financial capability of each to complete a transaction. The board, in consultation with its legal and financial advisors, also considered the potential benefits of conducting an auction process or other effort to solicit interest from other potential buyers prior to the execution and delivery of a merger agreement with Apache, and what it viewed as a substantial risk that conducting such a process could cause Apache to terminate discussions with Mariner given Apache's stated intention not to participate in an auction and insistence on a short time frame. The board concluded that other companies lacked the strategic fit that had attracted Apache to Mariner and thus were unlikely to offer a price higher than the price proposed by Apache. The board also considered the risks and opportunities of Mariner remaining an independent company and the risk that the company would not achieve or exceed a stock price comparable to the proposed merger consideration within a reasonable period of time, taking into account the competitive landscape, the risks inherent in Mariner's business activities, fluctuations in the availability of capital and the volatility of commodity prices. After extensive discussion, the directors determined to reconvene on April 11, 2010 to continue their review of a potential transaction with Apache.

On April 10, 2010, Mr. Josey called Mr. Farris to update him on the board's process and timing. He stated that Apache's initial proposal would have to be improved, and he suggested in particular that the contingent consideration proposal regarding the Heidelberg well be amended to consist of an increase in the event of success, without a corresponding decrease. Mr. Farris agreed to reconsider Apache's proposal in light of Mr. Josey's comments, but he emphasized that, in light of Mariner's previously planned analyst conference scheduled for April 15, 2010, Apache felt very strongly that an agreement must be executed and the transaction announced no later than April 14, 2010.

Following the call, Mr. Farris, Apache's senior management and its financial advisors met telephonically to discuss Mr. Josey's response to Apache's initial offer. After considerable discussion, Mr. Farris and Apache management decided that at the next discussion between the parties, Apache would offer \$26 per Mariner share, payable in a combination of 30% cash and 70% Apache common stock, but without any contingent consideration relating to the Heidelberg well.

Later that day, P. Anthony Lannie, Apache's Executive Vice President and General Counsel, sent a draft merger agreement to Teresa G. Bushman, Mariner's Senior Vice President, General Counsel and Secretary.

On April 11, 2010, the Mariner board convened a telephonic special meeting, with representatives of Mariner management, Baker Botts, Credit Suisse and Morris, Nichols, Arsht & Tunnell LLP, special Delaware counsel to Mariner, also attending. Mr. Josey updated the directors on his latest discussion with Mr. Farris, including Mr. Farris' emphasis on announcing a transaction by April 14, 2010. Representatives of Baker Botts briefed the board on the terms reflected in the draft merger agreement provided by Apache, which included, among other things:

a condition to Apache's obligation to close that oil and natural gas commodity market prices not fall below specified levels;

a condition to Apache's obligation to close that hurricane damage to Mariner's assets not exceed 10% of the consideration payable to Mariner stockholders in the merger;

a termination fee, payable by Mariner in the event that it terminated the agreement to accept an alternative acquisition proposal or in other specified circumstances, of 3.75% of the value of the consideration payable to Mariner stockholders; and

in addition to the termination fee, an incremental obligation to reimburse Apache's expenses capped at 2% of the value of the equity consideration.

Representatives of Baker Botts and Morris Nichols reviewed for the directors their fiduciary duties and other legal matters. Representatives of Credit Suisse discussed certain financial aspects of Apache's proposal, including potential collar mechanisms regarding the Apache common stock proposed to be received in the merger. After extensive discussion, the board authorized Mr. Josey to propose to Apache consideration of \$26

**Table of Contents**

per share with a \$2.50 increase if the Heidelberg well were successful, payable 30% in cash and 70% in Apache stock at a fixed exchange ratio.

Messrs. Josey and Farris spoke by phone later in the evening of April 11, 2010. Mr. Josey conveyed the board's purchase price proposal and indicated to Mr. Farris that the sections of Apache's draft merger agreement regarding proposed closing conditions based on commodity prices and hurricane damage were not acceptable, that the termination fee must be lower and that the expense reimbursement must be eliminated. Mr. Farris expressed concern that it would be difficult to define the parameters for success at the Heidelberg well and suggested that the merger consideration be set at \$25 per share with no contingent consideration adjustment. Mr. Josey responded that \$25 per share was insufficient, to which Mr. Farris responded that Apache's best and final offer would be a purchase price set at \$26 per share with no adjustment. Mr. Josey agreed to discuss Apache's proposal with the Mariner board.

Mariner's board met telephonically on April 12, 2010 with representatives of Credit Suisse, Baker Botts, Morris Nichols and members of management also in attendance. After extensive discussion and consideration of Mariner's possible responses and various strategic alternatives, the board authorized Mr. Josey to continue the negotiations with Apache on the basis of the \$26 per share purchase price, with a breakup fee of less than 3%. The board also received a status report on discussions with Company A. The board instructed Baker Botts to send comments to the draft merger agreement to Apache, including a deletion of the proposed closing conditions based on commodity prices and hurricane damage and a reduction of the termination fee to 2% of the value of the equity consideration, with no expense reimbursement.

Later that day, Mr. Josey spoke with Mr. Farris about the board's decision to proceed on the basis of \$26 per share and informed Mr. Farris that the breakup fee must be less than 3%, all subject to the negotiation of a mutually acceptable merger agreement. Mr. Farris reiterated Apache's desire to be in a position to sign and announce an agreement by April 14, 2010. Subsequent to this discussion, Baker Botts sent a revised draft of the merger agreement reflecting Mariner's comments to Apache and Andrews Kurth LLP, outside counsel to Apache.

Also on April 12, representatives of Goldman Sachs called representatives of Credit Suisse to emphasize that Apache was very serious about the April 14, 2010 deadline and informed Credit Suisse that there was a real risk that Apache would not agree to a transaction if an agreement could not be reached by April 14, 2010.

On April 11, 2010, Mr. Josey was contacted by a representative of Company A's financial advisor regarding the previous communication between Mr. Melendrez and representatives of Company A concerning the delay in Company A's schedule for updating its proposal. After exchanging messages, Mr. Josey and Company A's representative spoke on April 12, 2010. Mr. Josey told the representative that he had been advised that Company A's board meeting would be delayed. Mr. Josey stated his belief that the delay was harming Company A's credibility with Mariner's board and that any proposal should be made sooner rather than later. The financial advisor responded that Company A expected to provide a new proposal during the week of April 19, 2010 following its board meeting.

On April 13, 2010, representatives of Apache, Mariner, Credit Suisse, Baker Botts and Andrews Kurth, met telephonically and in person at the offices of Andrews Kurth to conduct due diligence on Apache's business and operations and to discuss the draft merger agreement. During the merger agreement discussions, Apache agreed to remove the proposed closing conditions based on commodity prices and hurricane damage. Apache stated that it was still considering Mariner's proposal on the termination fee but might agree to limit its proposed expense reimbursement to \$7.5 million. On that day and continuing over the next day, representatives of the parties continued to negotiate and revise the draft merger agreement and disclosure schedules.

Later on April 13, the Mariner board met telephonically, with representatives of Credit Suisse and Baker Botts and members of management also participating, to discuss the status of the discussions with Apache. During the board

meeting, Mr. Josey reported on his April 12 conversation with Company A's financial advisor. Mr. Josey also reported on his most recent conversations with Mr. Farris, during which they had discussed retention and severance arrangements for Mariner's nonexecutive employees. The board

**Table of Contents**

determined to continue with negotiations with Apache. Later that evening, Apache sent Mariner a revised draft merger agreement reflecting a 3% breakup fee and an incremental expense reimbursement of \$10 million.

Throughout the day on April 14, 2010, representatives of Mariner, Apache, Baker Botts and Andrews Kurth met to negotiate the draft merger agreement. During those discussions, Mariner stated that the termination fee could be no higher than 2.5% of the value of the equity consideration, with no expense reimbursement.

On the afternoon of April 14, 2010, Apache's board of directors held a special meeting to consider the proposed business combination, with representatives of Goldman Sachs, J.P. Morgan, and Apache's senior management attending. The board was provided with a substantially final draft of the merger agreement and other materials related to the transaction. At the meeting, Apache's financial advisors Goldman Sachs and J.P. Morgan reviewed their financial analyses of the proposed merger. Mr. Lannie reviewed with the board certain legal matters relating to the board's consideration of the proposed merger, discussed certain material terms of the merger agreement, and reviewed the status of the remaining open issues. Mr. Lannie informed the board that in addition to certain drafting matters, the parties had yet to reach agreement on the amount of a termination fee. Mr. Lannie explained that Mariner's proposal for the breakup fee was 2.5% of the value of the equity consideration and Apache's proposal was for 3%. After discussion and deliberation, the Apache board approved and adopted the proposed merger agreement and the transactions contemplated thereby, giving Mr. Farris authority and parameters under which to resolve the remaining open issues. Mr. Farris then contacted Mr. Josey to inform him that the Apache board meeting had concluded and that the board had approved the merger.

Later on April 14, Mariner's board again convened telephonically to consider the terms of the proposed transaction. Prior to the meeting the directors received a packet that included the current draft of the merger agreement, a summary of the agreement and other discussion materials to facilitate their review and consideration of the proposed transaction, including financial analyses prepared by Credit Suisse. During the meeting, representatives of Credit Suisse reviewed its financial analyses with respect to Mariner and the proposed transaction with the board, and representatives of Baker Botts and Morris Nichols reviewed the terms of the proposed merger agreement and the board's fiduciary duties.

During the board meeting and after the close of trading on the New York Stock Exchange, the board was notified that an employee of Apache had mistakenly sent an e-mail to investment analysts announcing a conference call for the following day to discuss Apache's agreement to acquire Mariner and had attempted to recall the e-mail. The board then agreed to recess the meeting to allow Mariner's management and advisors to inquire about what had occurred and to continue to negotiate with respect to the outstanding issues on the proposed merger agreement. Members of Mariner's and Apache's respective transaction teams then discussed and resolved (subject to finalization of disclosure schedules and board approval) all outstanding terms, including reaching agreement to set the termination fee at \$67 million, or approximately 2.5% of the value of the equity consideration, with a reciprocal expense reimbursement capped at \$7.5 million and credited against the termination fee if paid. The final exchange ratio was set with reference to Apache's closing stock price on April 13, 2010 of \$106.79.

After resolution of the outstanding issues, the Mariner board reconvened. Credit Suisse delivered its oral opinion to the Mariner board (which was subsequently confirmed in writing by delivery of Credit Suisse's written opinion dated April 14, 2010), to the effect that, as of April 14, 2010, the merger consideration to be received by the holders of Mariner common stock in the merger was fair, from a financial point of view, to such holders. Following discussion, the board unanimously determined that the proposed merger agreement and the transactions contemplated by the proposed merger agreement were advisable, fair to and in the best interests of Mariner and its stockholders, and approved and adopted the proposed merger agreement and the transactions contemplated thereby.



After the parties finalized the form of, and exchanged the final versions of, the merger agreement and disclosure schedules, the agreement was executed by Apache, Mariner and Merger Sub, and Apache and Mariner issued a joint press release before the opening of trading on April 15, 2010 announcing the merger agreement.

**Table of Contents**

**Recommendation of the Mariner Board of Directors and Its Reasons for the Merger**

In reaching its decision to approve the merger and the merger agreement and recommend the approval and adoption of the merger agreement by Mariner stockholders, the Mariner board of directors consulted with Mariner management, as well as with Mariner's legal and financial advisors, and considered a number of factors, including the following:

The fact that the merger consideration:

exceeded by 44.4% the median of the price targets for Mariner common stock set by investment analysts covering Mariner;

represented a 47.3% premium to the closing price of Mariner common stock on April 13, 2010;

represented a 64.5% premium to the average closing price for the 20 trading days ended April 13, 2010;

represented a 73.0% premium to the average closing price for the three months ended April 13, 2010; and

represented a 93.9% premium to the average closing price for the year ended April 13, 2010.

The board's view, in consultation with management and Credit Suisse, that, taking into account the unique compatibility of Mariner's assets with Apache's existing properties and operational experience, Apache would be more likely to offer a higher price to acquire Mariner than other potential acquirors.

The risks and opportunities of Mariner remaining an independent company, including the competitive landscape, the risks inherent in Mariner's exploration activities, fluctuations in the availability of capital and the volatility of commodity prices.

The risk that Mariner would not achieve or exceed a stock price comparable to the proposed merger consideration within a reasonable period of time.

The financial analysis reviewed and discussed with Mariner's board by representatives of Credit Suisse, as well as the oral opinion of Credit Suisse to Mariner's board on April 14, 2010 (which was subsequently confirmed in writing by delivery of Credit Suisse's written opinion dated the same date) with respect to the fairness, from a financial point of view, to the holders of Mariner common stock of the merger consideration to be received by such holders in the merger.

The Mariner board's recognition that management's sum of the parts analysis was an illustration of the view that Mariner's stock was undervalued by the market on a relative basis compared to certain other companies rather than a projection of actual trading values that management and the Mariner board believed would realistically be attained in a reasonable period of time.

The fact that the acquisition would provide Mariner stockholders with the benefits of ownership in a much larger company with a more diversified asset base, an investment grade credit rating, and greater financial capacity to explore, develop and exploit Mariner's portfolio of assets.

The fact that 70% of the merger consideration will be paid in shares of Apache common stock in a tax-free reorganization, providing Mariner stockholders with the opportunity to participate in any future earnings or

growth of Apache and future appreciation of Apache common stock following the merger should they determine to retain the Apache common stock payable in the merger.

The fact that the price of Apache common stock is generally subject to less volatility than Mariner common stock and that Apache stock would provide liquidity for those Mariner stockholders who seek to sell their shares following the merger.

The fact that 30% of the merger consideration will be paid in cash, which provides Mariner stockholders with some protection against the value of the merger consideration diminishing due to a decrease in the trading price of Apache common stock before the closing of the merger.

**Table of Contents**

The Mariner board's knowledge of Apache's business, operations, financial condition, earnings and prospects, taking into account the results of Mariner's due diligence review of Apache.

The risk that conducting an auction process or other effort to solicit interest from other potential buyers prior to the execution and delivery of the merger agreement could cause Apache to terminate discussions with Mariner.

The belief that regulatory approvals and clearances necessary to complete the merger will likely be obtained promptly without material cost or burden.

The terms and conditions of the merger agreement and the course of negotiations thereof, including:

the structure of the transaction as a merger, requiring approval by Mariner's stockholders, which would result in detailed public disclosure and a period of time prior to completion of the merger during which an unsolicited superior proposal could be brought forth;

Mariner's right to engage in negotiations with, and provide information to, a third party that makes an unsolicited acquisition proposal if the board of directors concludes in good faith, after consultation with its outside counsel and financial advisors, that such proposal constitutes or is reasonably likely to lead to a transaction that is more favorable to Mariner's stockholders than the merger;

the Mariner board's right to change or withdraw its recommendation if it concludes in good faith that a change or withdrawal is necessary in order to comply with its fiduciary obligations under applicable law, subject to the payment of a termination fee to Apache in certain circumstances;

Mariner's right to terminate the merger agreement in order to accept a superior proposal, subject to certain conditions and payment of a termination fee to Apache;

the termination fee of \$67 million, representing approximately 2.5% of the value of the equity consideration in the proposed transaction, which the board viewed as relatively low compared to comparable transactions;

that it is not a condition to closing that Apache receive financing for the cash portion of the merger consideration; and

that Mariner's stockholders will be entitled to appraisal rights under Delaware law.

The Mariner board of directors also considered potential risks and potentially negative factors concerning the merger in connection with its deliberations of the proposed transaction, including:

The risks and contingencies relating to the announcement and pendency of the merger and the risks and costs to Mariner if the closing of the merger is not timely or if the merger does not close at all, including the diversion of management and employee attention, potential employee attrition, the impact on Mariner's relationships with third parties and the effect a public announcement of termination of the merger agreement may have on the trading price of Mariner's common stock and Mariner's operating results.

The potential impact of the restrictions under the merger agreement on Mariner's ability to take specified actions during the period prior to the completion of the merger (which may delay or prevent Mariner from undertaking business opportunities that may arise pending completion of the merger).

The fact that the exchange ratio included in the merger agreement provides for a fixed number of shares of Apache common stock, the possibility that Mariner stockholders could be adversely affected by a decrease in the trading price of Apache common stock before the closing of the merger, and the fact that the merger agreement does not provide Mariner with a termination right based on the trading price of Apache common stock.

The absence of an auction process or other effort to solicit interest from other potential buyers prior to the execution and delivery of the merger agreement.

**Table of Contents**

The limitations imposed in the merger agreement on the solicitation, negotiation or consideration by Mariner of alternative transactions with third parties.

The provision of the merger agreement that, in certain circumstances, Mariner could be required to pay a termination fee of \$67 million to Apache, potentially discouraging other parties from proposing an alternative transaction with Mariner.

The transaction costs to be incurred in connection with the merger.

The interests of Mariner executive officers and directors with respect to the merger apart from their interests as Mariner stockholders, and the risk that these interests might influence their decisions with respect to the merger (see [Interests of the Mariner Directors and Executive Officers in the Merger](#) ).

The risks described in the section titled [Risk Factors](#).

The foregoing list comprises material factors considered by Mariner's board of directors in its consideration of the merger and is intended to be a summary rather than an exhaustive list. In view of the wide variety of factors considered in connection with its evaluation of the merger and the complexity of these matters, the Mariner board of directors did not find it useful and did not attempt to quantify or assign any relative or specific weights to the various factors that it considered in reaching its determination to approve the merger and the merger agreement and to recommend that Mariner stockholders adopt the merger agreement. In addition, individual members of the Mariner board may have given differing weights to different factors. The Mariner board did not reach any specific conclusion with respect to any of the factors considered and instead conducted an overall analysis of such factors.

The Mariner board of directors unanimously determined that the merger agreement and the transactions contemplated by the merger agreement are advisable and in the best interests of Mariner and its stockholders, and approved and adopted the merger agreement and the transactions contemplated thereby.

The Mariner board of directors unanimously recommends that Mariner stockholders vote **FOR** the merger proposal.

**Opinion of Mariner's Financial Advisor**

On April 14, 2010, Credit Suisse rendered its oral opinion to Mariner's board of directors (which was subsequently confirmed in writing by delivery of Credit Suisse's written opinion dated the same date) to the effect that, as of April 14, 2010, the merger consideration to be received by the holders of Mariner common stock in the merger was fair, from a financial point of view, to such holders.

**Credit Suisse's opinion was directed to Mariner's board of directors and only addressed the fairness to the holders of Mariner common stock, from a financial point of view, of the merger consideration to be received by such holders in the merger, and did not address any other aspect or implication of the merger. The summary of Credit Suisse's opinion in this proxy statement/prospectus is qualified in its entirety by reference to the full text of its written opinion, which is included as Annex B to this proxy statement/prospectus and sets forth the procedures followed, assumptions made, qualifications and limitations on the review undertaken and other matters considered by Credit Suisse in preparing its opinion. However, neither Credit Suisse's written opinion nor the summary of its opinion and the related analyses set forth in this proxy statement/prospectus are intended to be, and do not constitute advice or a recommendation to any holder of Mariner common stock as to how such stockholder should act or vote with respect to any matter relating to the merger.**

In arriving at its opinion, Credit Suisse:

1. reviewed the merger agreement and certain related agreements;
2. reviewed certain publicly available business and financial information relating to Mariner and Apache;

**Table of Contents**

3. reviewed certain other information relating to Mariner and Apache, including certain oil and gas reserve reports prepared by the management of Mariner and certain oil and gas reserve reports prepared by Mariner's independent oil and gas reserve engineers containing estimates with respect to Mariner's oil and gas reserves, which we refer to collectively as the Reserve Reports;
4. reviewed certain financial forecasts relating to Mariner provided to Credit Suisse by Mariner;
5. reviewed certain publicly available financial forecasts relating to Apache that Credit Suisse discussed with Apache;
6. met with the managements of Mariner and Apache to discuss the business and prospects of Mariner and Apache, respectively;
7. considered certain financial and stock market data of Mariner and Apache, and compared that data with similar data for other companies with publicly traded securities in businesses Credit Suisse deemed similar to those of Mariner and Apache;
8. considered, to the extent publicly available, the financial terms of certain other business combinations and other transactions which have recently been effected or announced; and
9. considered such other information, financial studies, analyses and investigations and financial, economic and market criteria which Credit Suisse deemed relevant including, without limitation, certain alternative oil and gas commodity pricing assumptions and probabilities, which is sometimes referred to as risking.

In connection with its review, Credit Suisse did not independently verify any of the foregoing information and assumed and relied upon such information being complete and accurate in all material respects. With respect to the financial forecasts for Mariner that Credit Suisse used in its analyses, the management of Mariner advised Credit Suisse, and Credit Suisse assumed, that such forecasts had been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of Mariner as to the future financial performance of Mariner. With respect to the oil and gas reserve estimates for Mariner set forth in the Reserve Reports that Credit Suisse reviewed, the management of Mariner advised Credit Suisse, and Credit Suisse assumed, that such estimates had been reasonably prepared on bases reflecting the best currently available estimates and judgments of Mariner and its independent oil and gas reserve engineers with respect to the oil and gas reserves of Mariner. With respect to the alternative oil and gas commodity pricing assumptions and risking that Credit Suisse utilized for purposes of its analyses, Credit Suisse was advised by the management of Mariner, and assumed, that such assumptions were a reasonable basis on which to evaluate the future financial performance of Mariner and were appropriate for such purposes. With respect to the publicly available financial forecasts for Apache referred to above, Credit Suisse reviewed and discussed such forecasts with the management of Apache who advised Credit Suisse, and with Mariner's consent Credit Suisse assumed, that such forecasts represented reasonable estimates and judgments with respect to the future financial performance of Apache. Credit Suisse assumed, with Mariner's consent, that the merger would be treated as a tax-free reorganization for federal income tax purposes. Credit Suisse also assumed, with Mariner's consent, that, in the course of obtaining any regulatory or third party consents, approvals or agreements in connection with the merger, no delay, limitation, restriction or condition would be imposed that would have an adverse effect on Mariner, Apache or the contemplated benefits of the merger and that the merger would be consummated in accordance with the terms of the merger agreement without waiver, modification or amendment of any material term, condition or agreement thereof. In addition, Credit Suisse was not requested to make, and did not make, an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of Mariner or Apache, nor was Credit Suisse furnished with any such evaluations or appraisals other than the Reserve Reports. Credit Suisse is not an expert in the evaluation of oil and gas reserves and Credit Suisse expressed no view as to the reserve quantities, or the development or production (including, without limitation, as to the feasibility or timing thereof), of any oil or gas properties of



Mariner.

Credit Suisse's opinion addressed only the fairness, from a financial point of view, to the holders of Mariner common stock of the merger consideration to be received by such holders in the merger and did not address any other aspect or implication of the merger or any other agreement, arrangement or understanding entered into in connection with the merger or otherwise, including, without limitation, the fairness of the amount or nature of, or any other aspect relating to, any compensation to any officers, directors or employees

**Table of Contents**

of any party to the merger, or class of such persons, relative to the merger consideration or otherwise. The issuance of Credit Suisse's opinion was approved by an authorized internal committee of Credit Suisse.

Credit Suisse's opinion was necessarily based upon information made available to Credit Suisse as of the date of its opinion and financial, economic, market and other conditions as they existed and could be evaluated on the date of its opinion. In addition, as Mariner was aware, the financial projections and estimates that Credit Suisse reviewed relating to the future financial performance of Mariner and Apache reflected certain assumptions regarding the oil and gas industry which are subject to significant volatility and which, if different than assumed, could have had a material impact on Credit Suisse's analyses and opinion. Credit Suisse did not express any opinion as to what the value of shares of Apache common stock actually would be when issued to the holders of Mariner common stock pursuant to the merger or the prices at which shares of Apache common stock would trade at any time. Credit Suisse's opinion did not address the relative merits of the merger as compared to alternative transactions or strategies that might be available to Mariner, nor did it address the underlying business decision of Mariner to proceed with the merger. Credit Suisse was not requested to, and did not, solicit third party indications of interest in acquiring all or any part of Mariner.

Credit Suisse's opinion was for the information of Mariner's board of directors in connection with its consideration of the merger and does not constitute advice or a recommendation to any stockholder as to how such stockholder should vote or act on any matter relating to the merger or whether such stockholder should elect to receive all cash consideration, all stock consideration or a mix of cash and stock consideration in the merger.

In preparing its opinion to Mariner's board of directors, Credit Suisse performed a variety of analyses, including those described below. The summary of Credit Suisse's analyses described below is not a complete description of the analyses underlying Credit Suisse's fairness opinion. The preparation of a fairness opinion is a complex process involving various quantitative and qualitative judgments and determinations with respect to the financial, comparative and other analytic methods employed and the adaptation and application of those methods to the unique facts and circumstances presented. As a consequence, neither Credit Suisse's opinion nor the analyses underlying its opinion are readily susceptible to partial analysis or summary description. Credit Suisse arrived at its opinion based on the results of all analyses undertaken by it and assessed as a whole and did not draw, in isolation, conclusions from or with regard to any individual analysis, analytic method or factor. Accordingly, Credit Suisse believes that its analyses must be considered as a whole and that selecting portions of its analyses, analytic methods and factors, without considering all analyses and factors or the narrative description of the analyses, could create a misleading or incomplete view of the processes underlying its analyses and opinion.

In performing its analyses, Credit Suisse considered business, economic, industry and market conditions, financial and otherwise, and other matters as they existed on, and could be evaluated as of, the date of the written opinion. No company, transaction or business used in Credit Suisse's analyses for comparative purposes is identical to Mariner, Apache or the merger. While the results of each analysis were taken into account in reaching its overall conclusion with respect to fairness, Credit Suisse did not make separate or quantifiable judgments regarding individual analyses. The implied valuation reference ranges indicated by Credit Suisse's analyses are illustrative and not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by the analyses. In addition, any analyses relating to the value of assets, businesses or securities do not purport to be appraisals or to reflect the prices at which businesses or securities actually may be sold, which may depend on a variety of factors, many of which are beyond Mariner's control and the control of Credit Suisse. Much of the information used in, and accordingly the results of, Credit Suisse's analyses are inherently subject to substantial uncertainty.

Credit Suisse's opinion and analyses were provided to Mariner's board of directors in connection with its consideration of the merger and Credit Suisse's analyses were among many factors considered by Mariner's board of directors in

evaluating the merger. Neither Credit Suisse's opinion nor its analyses were determinative of the merger consideration or of the views of Mariner's board of directors with respect to the merger.

The following is a summary of the material financial analyses performed in connection with the preparation of Credit Suisse's opinion rendered to Mariner's board of directors on April 14, 2010. The analyses

## **Table of Contents**

summarized below include information presented in tabular format. The tables alone do not constitute a complete description of the analyses. Considering the data in the tables below without considering the full narrative description of the analyses, as well as the methodologies underlying and the assumptions, qualifications and limitations affecting each analysis, could create a misleading or incomplete view of Credit Suisse's analyses.

For purposes of its analyses, Credit Suisse reviewed a number of financial metrics including:

*Enterprise Value* generally the value as of a specified date of the relevant company's outstanding equity securities (taking into account its options and other outstanding convertible securities) plus the value of its minority interests plus the value as of such date of its net debt (the value of its outstanding indebtedness, preferred stock and capital lease obligations less the amount of cash on its balance sheet).

*EBITDAX* generally the amount of the relevant company's earnings before interest, taxes, depreciation, amortization and exploration expenses for a specified time period.

*Pre-Tax PV 10%* generally means the estimated net present value, using a discount rate of 10%, of future cash inflows from proved reserves and applying 12-month average prices for natural gas and oil (calculated as the unweighted arithmetic average of the first-day-of-the-month price for each month within the 12-month prior period to the end of the period), net of future development and production costs.

Unless the context indicates otherwise, equity values used in the selected companies analysis described below were calculated using the closing price of the common stock of Mariner, Apache and the selected companies listed below as of April 13, 2010. Estimates of EBITDAX and daily production for Mariner for the fiscal years ending December 31, 2010 and 2011 were based on projected reserves and financial data for 2010 and reserve data for 2011, in each case provided by management of Mariner. Estimates of EBITDAX and daily production for Apache and the selected companies listed below for the fiscal years ending December 31, 2010 and 2011 were based on publicly available research analyst estimates. For purposes of its analyses and its opinion, Credit Suisse assumed an implied value of the merger consideration to be received by the holders of Mariner common stock in the merger of \$26.00 per share of Mariner common stock based on the closing price of Apache common stock on April 13, 2010. Reserves and production are expressed on a natural gas equivalent basis.

### ***Selected Companies Analysis***

Credit Suisse calculated the multiples of enterprise value to certain financial metrics for the selected companies in the oil and gas industry deemed to be similar to Mariner or Apache, as the case may be, in one or more respects which included nature of business, size, diversification, financial performance and geographic concentration.

The calculated multiples included:

Enterprise Value as a multiple of 2010E EBITDAX;

Enterprise Value as a multiple of 2011E EBITDAX;

Enterprise Value as a multiple of 2009 year-end proved reserves;

Enterprise Value as a multiple of 2010E daily production;

Enterprise Value as a multiple of 2011E daily production; and

Enterprise Value as a multiple of Pre-Tax PV 10% at year-end 2009.

No specific numeric or other similar criteria were used to select the selected companies and all criteria were evaluated in their entirety without application of definitive qualifications or limitations to individual criteria. As a result, a significantly larger or smaller company with substantially similar lines of business and business focus may have been included while a similarly sized company with less similar lines of business and greater diversification may have been excluded. Credit Suisse identified a sufficient number of companies for

**Table of Contents**

purposes of its analysis but may not have included all companies that might be deemed comparable to Mariner.

The selected companies were:

Pioneer Natural Resources Company

Plains Exploration & Production Company

Concho Resources Inc.

Whiting Petroleum Corporation

ATP Oil & Gas Corporation

Energy XXI (Bermuda) Limited

McMoRan Exploration Co.

Swift Energy Company

Stone Energy Corporation

W&T Offshore, Inc.

Crimson Exploration Inc.

The selected companies analysis indicated the following:

<b>Multiple Description</b>	<b>Median</b>	<b>Mean</b>
<b>Enterprise Value as a multiple of:</b>		
2010E EBITDAX	6.0x	5.9x
2011E EBITDAX	4.2x	4.5x
2009 Year-End Proved Reserves (\$/Mcf)	\$ 3.47	\$ 3.61
2010E Daily Production (\$/Mcf/d)	\$ 11,501	\$ 12,291
2011E Daily Production (\$/Mcf/d)	\$ 10,431	\$ 11,120
2009 Year-End Pre-Tax PV 10%	2.0x	2.2x

Credit Suisse applied multiple ranges based on the selected companies analysis to corresponding financial data for Mariner including 2010E EBITDAX, 2011E EBITDAX, 2009 year-end proved reserves, 2010E daily production, 2011E daily production and 2009 year-end Pre-Tax PV 10% to calculate an implied reference range per share of Mariner common stock. The selected companies analysis indicated an implied reference range per share of Mariner common stock of \$15.35 to \$23.10, as compared to the implied value of the merger consideration of \$26.00 per share of Mariner common stock.

***Net Asset Value (NAV) Analysis***

Credit Suisse calculated the net present value of Mariner's unlevered, after-tax cash flows from Mariner's reserves based on the following scenarios. For purposes of the unrisks scenarios, it was assumed that all reserves would be realized. For purposes of the risks scenarios, it was assumed that the classes of reserves would be realized in accordance with the associated percentages.

Proved Reserves (1P) NAV Analysis:

*Unrisks* using the New York Mercantile Exchange, or NYMEX, forward pricing curve for oil and natural gas;

*Unrisks* Credit Suisse research analyst pricing estimates for oil and natural gas;

Proved and Probable Reserves (2P) NAV Analysis:

*Risks* NYMEX forward pricing curve (Proved (100%)/Probable (50%));

**Table of Contents**

*Risked* Credit Suisse research analyst pricing estimates (Proved (100%)/Probable (50%));

*Unrisked* NYMEX forward pricing curve;

*Unrisked* Credit Suisse research analyst pricing estimates;

Proved, Probable and Possible Reserves (3P) + Contingent Resources NAV Analysis:

*Risked* NYMEX forward pricing curve (Proved (100%)/Probable (50%)/Possible and Contingent (20%));

*Risked* Credit Suisse research analyst pricing estimates (Proved (100%)/Probable (50%)/Possible and Contingent (20%));

*Risked* NYMEX forward pricing curve (Proved (100%)/Probable (50%)/Possible and Contingent (50%)); and

*Risked* Credit Suisse research analyst pricing estimates (Proved (100%)/Probable (50%)/Possible and Contingent (50%)).

In performing this analysis, Credit Suisse calculated the net present value of the unlevered, after-tax free cash flows that Mariner could generate during calendar years 2010 through 2024 from its estimated reserves as of March 31, 2010. Estimated cash flows were based on reserve and production data reflected in reserve reports prepared by independent oil and gas reserve engineers or by Mariner's management and NYMEX forward pricing curve oil and gas commodity prices as reported on the NYMEX and Credit Suisse research analyst pricing estimates for oil and natural gas through 2016, thereafter increased at a rate 2% per year through 2024. Estimated cash flows after 2024 were discounted based on the weighted average remaining life of production. The present value of the cash flows were calculated using discount rates ranging from 9.0% to 11.0%. This analysis indicated the following implied per share reference range for Mariner common stock under the following scenarios, as compared to the implied value of the merger consideration of \$26.00 per share of Mariner common stock:

Scenario	Implied Reference Range Per Share of Mariner Common Stock (NYMEX Forward Pricing Curve)	Implied Reference Range per Share of Mariner Common Stock (Credit Suisse Research Analyst Forward Pricing Estimates)
<b>Proved Reserves (1P) NAV Analysis:</b>		
Unrisked	\$ 9.03 - \$10.81	\$ 7.27 - \$8.85
<b>Proved and Probable Reserves (2P) NAV Analysis:</b>		
Risked (Proved (100%)/Probable (50%))	\$ 13.37 - \$15.75	\$ 10.91 - \$13.00
Unrisked	\$ 17.70 - \$20.68	\$ 14.54 - \$17.13
<b>Proved, Probable and Possible Reserves (3P) + Contingent Resources NAV Analysis:</b>		
Risked (Proved (100%)/Probable (50%)/Possible and Contingent	\$ 17.62 - \$21.15	\$ 14.29 - \$17.31



(20%))

Risked (Proved (100%)/Probable

(50%)/Possible and Contingent

(50%))

\$ 23.97 - \$29.23

\$ 19.33 - \$23.75

**Table of Contents*****Selected Transactions Analysis***

Credit Suisse calculated multiples of transaction value to certain financial data based on the purchase prices paid in selected publicly-announced transactions involving target companies in the oil and gas industry, oil and gas reserve assets in the Gulf of Mexico and onshore oil and gas reserve assets that it deemed relevant.

The calculated multiples included:

Transaction Value as a multiple of proved reserves; and

Transaction Value as a multiple of daily production.

The selected transactions were selected because the target companies or relevant assets were deemed to be similar to Mariner in one or more respects including the nature of their business, size, diversification, financial performance and geographic concentration. No specific numeric or other similar criteria were used to select the selected transactions and all criteria were evaluated in their entirety without application of definitive qualifications or limitations to individual criteria. As a result, a transaction involving the acquisition of a significantly larger or smaller company or significantly larger or smaller assets with substantially similar lines of business and business focus may have been included while a transaction involving the acquisition of a similarly sized company or group of assets with less similar lines of business and greater diversification may have been excluded. Credit Suisse identified a sufficient number of transactions for purposes of its analysis, but may not have included all transactions that might be deemed comparable to the merger.

The selected corporate transactions were:

<b>Date Announced</b>	<b>Buyer</b>	<b>Seller</b>
04/04/10	SandRidge Energy, Inc.	Arena Resources, Inc.
11/01/09	Denbury Resources Inc.	Encore Acquisition Company
06/05/08	Concho Resources Inc.	Henry Petroleum LP
04/30/08	Stone Energy Corporation	Bois d Arc Energy, Inc.
07/17/07	Plains Exploration & Production Company	Pogo Producing Company
01/07/07	Forest Oil Corporation	The Houston Exploration Company
08/28/06	Woodside Petroleum Ltd.	Energy Partners, Ltd.
06/23/06	Anadarko Petroleum Corporation	Kerr-McGee Corporation
05/25/06	Energy Partners, Ltd.	Stone Energy Corporation
04/24/06	Plains Exploration & Production Company	Stone Energy Corporation
04/21/06	Petrohawk Energy Corporation	KCS Energy, Inc.
01/23/06	Cal Dive International, Inc.	Remington Oil and Gas Corporation
10/13/05	Occidental Petroleum Corporation	Vintage Petroleum, Inc.
09/19/05	Norsk Hydro ASA	Spinnaker Exploration Company
04/04/05	ChevronTexaco Corporation	Unocal Corporation
01/26/05	Cimarex Energy Co.	Magnum Hunter Resources, Inc.

The selected corporate transactions analysis indicated the following:

<b>Multiple Description</b>	<b>Median</b>	<b>Mean</b>
<b>Transaction Value as a multiple of:</b>		
Proved Reserves (\$/Mcfe)	\$ 3.47	\$ 3.52
Daily Production (\$/Mcfe/d)	\$ 12,013	\$ 13,258

Credit Suisse applied multiple ranges based on the selected corporate transactions analysis to corresponding financial data for Mariner including proved reserves and daily production to calculate an implied reference range per share of Mariner common stock. The selected corporate transactions analysis indicated an implied reference range per share of Mariner common stock of \$21.17 to \$26.98, as compared to the implied value of the merger consideration of \$26.00 per share of Mariner common stock.

**Table of Contents**

The selected Gulf of Mexico oil and gas reserve asset transactions involved:

<b>Date Announced</b>	<b>Buyer</b>	<b>Seller</b>
04/12/10	Apache Corporation	Devon Energy Corporation
11/23/09	Energy XXI (Bermuda) Limited	Mitsui & Co., Ltd.
02/26/08	Dynamic Offshore Resources, LLC	Superior Energy Services, Inc.
02/01/08	Korea National Oil Corporation / Samsung Corporation	Taylor Energy Company LLC
12/28/07	Mariner Energy, Inc.	Statoil ASA
06/21/07	McMoRan Exploration Co.	Newfield Exploration Company
04/30/07	Eni S.p.A.	Dominion Resources, Inc.
04/24/07	Energy XXI (Bermuda) Limited	Pogo Producing Company
05/16/06	Coldren Oil & Gas Company LP	Noble Energy, Inc.
04/20/06	Mitsui & Co., Ltd.	Pogo Producing Company
04/19/06	Apache Corporation / Stone Energy Corporation / Mariner Energy, Inc.	BP p.l.c.
02/23/06	Marubeni Corporation	Pioneer Natural Resources Company
01/24/06	W&T Offshore, Inc.	Kerr-McGee Corporation
09/12/05	Mariner Energy, Inc.	Forest Oil Corporation
09/01/05	Woodside Petroleum Ltd.	Gryphon Exploration Company
04/28/05	Statoil ASA	Encana Corporation

The selected Gulf of Mexico oil and gas reserve asset transactions analysis indicated the following:

<b>Multiple Description</b>	<b>Median</b>	<b>Mean</b>
<b>Transaction Value as a multiple of:</b>		
Proved Reserves (\$/Mcfe)	\$ 3.82	\$ 4.39
Daily Production (\$/Mcfe/d)	\$ 6,944	\$ 7,208

The selected onshore oil and gas reserve asset transactions involved:

<b>Date Announced</b>	<b>Buyer</b>	<b>Seller</b>
04/05/10	Quantum Resources Management, LLC	Denbury Resources Inc.
03/29/10	Linn Energy, LLC	Undisclosed
01/11/10	Berry Petroleum Company	Undisclosed
12/01/09	Linn Energy, LLC	Undisclosed
11/30/09	SandRidge Energy, Inc.	Forest Oil Corporation
11/23/09	Concho Resources Inc.	Terrace Petroleum Corporation
09/15/09	Apollo Global Management LLC	Parallel Petroleum Corporation
04/30/09	Apache Corporation	Marathon Oil Corporation
12/21/07	Linn Energy, LLC	Lamamco Drilling Company
07/18/07	EV Energy Partners, L.P.	Plantation Petroleum Holdings III, LLC.

Edgar Filing: APACHE CORP - Form S-4

01/18/07	Apache Corporation	Anadarko Petroleum Corporation
11/02/06	St. Mary Land & Exploration Company	Undisclosed
04/17/06	Pogo Producing Company	Latigo Petroleum, Inc.

The selected onshore oil and gas reserve asset transactions analysis indicated the following:

<b>Multiple Description</b>	<b>Median</b>	<b>Mean</b>
<b>Transaction Value as a multiple of:</b>		
Proved Reserves (\$/Mcf)	\$ 2.17	\$ 2.27
Daily Production (\$/Mcf/d)	\$ 15,625	\$ 15,970

**Table of Contents**

Credit Suisse applied multiple ranges based on the selected Gulf of Mexico oil and gas reserve asset transactions analysis to corresponding financial data for Mariner's Gulf of Mexico oil and gas reserves and applied multiple ranges based on the selected onshore oil and gas reserve asset transactions analysis to corresponding financial data for Mariner's onshore oil and gas reserves to calculate an implied reference range per share of Mariner common stock. The selected oil and gas reserve asset transactions analysis indicated an implied reference range per share of Mariner common stock of \$17.77 to \$26.50, as compared to the implied value of the merger consideration of \$26.00 per share of Mariner common stock.

**Other Considerations**

*Implied Premiums Analysis.* Credit Suisse also observed the following closing stock prices for Mariner common stock and the premium per share of Mariner common stock implied by the merger consideration based on the closing price of Apache common stock of \$106.79 on April 13, 2010:

		<b>Premium of Implied Value of Merger Consideration to the Average Closing Price of Mariner Common Stock</b>	<b>Spot Closing Price of Mariner Common Stock</b>	<b>Premium of Implied Value of Merger Consideration to the Spot Price of Mariner Common Stock</b>
<b>Period Prior to 4/13/2010</b>	<b>Average Mariner Common Stock Price</b>			
1 Trading Day	\$ 17.65	47.3%	\$ 17.65	47.3%
5 Trading Days	17.24	50.8%	16.69	55.8%
10 Trading Days	16.60	56.7%	15.20	71.1%
20 Trading Days	15.81	64.5%	15.60	66.7%
1 Month	15.79	64.7%	15.75	65.1%
3 Month	15.01	73.2%	13.66	90.3%
6 Month	14.19	83.2%	15.20	71.1%
1 Year	13.39	94.2%	9.35	178.1%
2 Years	16.49	57.6%	27.42	(5.2)%
3 Years	18.88	37.7%	21.62	20.3%
Mariner's Acquisition of Forest Energy Resources, Inc. (3/3/06)	18.86	37.9%	20.27	28.3%

*Premiums Paid Analysis.* Credit Suisse also observed premiums paid in selected publicly-announced transactions involving target companies in the oil and gas exploration and production industry.

The premiums paid analysis indicated the following:

<b>Period Prior to Public Announcement</b>	<b>Selected Transactions</b>		<b>Premium of Implied Value of the Merger Consideration to the Price of Mariner Common Stock</b>
	<b>Median</b>	<b>Mean</b>	
1-Day Spot Price	18.7%	18.0%	47.3%
5-Day Spot Price	18.8%	20.0%	55.8%
10-Day Spot Price	20.3%	20.3%	71.1%
20-Day Spot Price	24.6%	24.3%	66.7%

***Other Matters***

Mariner engaged Credit Suisse pursuant to a letter agreement dated as of April 9, 2010 to act as the board's financial advisor in connection with the merger. Mariner selected Credit Suisse based on Credit Suisse's experience and reputation and knowledge of Mariner and its industry. Credit Suisse is an internationally recognized investment banking firm and is regularly engaged in the valuation of businesses and securities in connection with mergers and acquisitions, leveraged buyouts, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for corporate and other purposes. Credit Suisse acted as financial advisor to Mariner in connection with the

**Table of Contents**

merger and will receive a fee of approximately \$16.1 million for its services based on information available as of the date hereof, approximately \$14.1 million of which is contingent upon the consummation of the merger. In addition, Mariner has agreed to indemnify Credit Suisse and certain related parties for certain liabilities and other items arising out of or related to its engagement.

Credit Suisse and its affiliates have in the past provided and are currently providing investment banking and other financial services to Mariner and its affiliates for which Credit Suisse and its affiliates have received and would expect to receive compensation, including, among other things, having acted as lead bookrunning manager of an offering of equity and debt securities by Mariner in June 2009, and as a lender under Mariner's credit facility. Credit Suisse and its affiliates also have in the past provided investment banking and other financial services to Apache and its affiliates. Credit Suisse and its affiliates may have provided other financial advice and services, and may in the future provide financial advice and services, to Mariner, Apache and their respective affiliates for which Credit Suisse and its affiliates have received, and would expect to receive, compensation. Credit Suisse is a full service securities firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, Credit Suisse and its affiliates may acquire, hold or sell, for Mariner and Mariner's affiliates own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of Mariner, Apache and any other company that may be involved in the merger, as well as provide investment banking and other financial services to such companies.

**Mariner Projected Financial Information**

Mariner does not as a matter of course make public projections as to future revenues, net income or other results due to, among other reasons, business volatility and the uncertainty of the underlying assumptions and estimates. However, certain projected financial information is being included in this proxy statement/prospectus to provide you with a summary of the projected financial information with respect to Mariner that was made available to Mariner's board of directors and/or was used by Credit Suisse in the preparation of the financial analyses performed in connection with the rendering of its opinion to the Mariner board of directors on April 14, 2010. Neither Apache nor any of its representatives were provided with, or had any access to, the projected financial information prior to the announcement of the proposed merger. The projected financial information summarized below was based on financial forecasts for 2010 relating to Mariner prepared by Mariner management and on reserve reports prepared by Mariner's independent oil and gas reserve engineers and Mariner management (including risking adjustments thereto based on discussions with Mariner management) under two pricing scenarios, the NYMEX forward pricing curve for oil and natural gas and Credit Suisse research analyst pricing estimates for oil and natural gas. The two pricing scenarios only indicate the potential impact of different oil and natural gas prices. For purposes of the unrisks scenarios, it was assumed that all reserves would be realized. For purposes of the risks scenarios, it was assumed that the classes of reserves would be realized in accordance with the associated risking adjustments. With respect to the financial forecasts for Mariner that Credit Suisse used in its analyses, the management of Mariner advised Credit Suisse, and Credit Suisse assumed, that such forecasts had been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of Mariner as to the future financial performance of Mariner.

The summary of the projected financial information is not being included in this proxy statement/prospectus for the purpose of influencing your decision whether to vote for the approval and adoption of the merger agreement. The projected financial information was not prepared with a view toward public disclosure, and the inclusion of this information should not be regarded as an indication that any of Mariner, Credit Suisse or any other recipient of this information considered, or now considers, it to be predictive of actual future results. The projected financial information was prepared on a standalone basis and is not anticipated to be representative of the financial and operating performance of the combined company going forward, which could differ materially from the assumptions underlying the projected financial information for Mariner on a standalone basis.



Mariner and Apache caution you that uncertainties are inherent in prospective financial information of any kind. None of Mariner, Apache or their respective affiliates assumes any responsibility for the accuracy of this projected financial information, nor can they give any assurance to any Mariner stockholder or any other person regarding the ultimate performance of Mariner or the combined company in relation to the summarized information set forth below.

**Table of Contents**

The projected financial information was not prepared with a view toward complying with GAAP, the published guidelines of the SEC regarding projections or the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial information. Neither Mariner's independent registered public accounting firm, nor any other independent accountants, have compiled, examined or performed any procedures with respect to the projected financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability. The report of Mariner's independent registered public accounting firm contained in Mariner's Annual Report on Form 10-K for the year ended December 31, 2009, which is incorporated by reference into this proxy statement/prospectus, relates to Mariner's historical financial information. It does not extend to the projected financial information and should not be read to do so.

The projected financial information does not take into account any circumstances or events occurring after April 14, 2010, the date it was prepared. Since the preparation of the information, Mariner has made publicly available its actual results of operations for its quarter ended March 31, 2010. Stockholders are urged to read Mariner's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010, which is incorporated by reference into this proxy statement/prospectus, to obtain this information. The projected financial information does not give effect to the merger. The board of directors of Mariner did not prepare, and does not give any assurance regarding, the projected financial information.

The following tables present a summary of projected Mariner daily production, EBITDA and unlevered free cash flow in the specified risked and unrisked scenarios, using the NYMEX forward pricing curve and the Credit Suisse research analyst pricing estimates for oil and natural gas. 1P refers to proved reserves, 2P refers to proved and probable reserves, and 3P refers to proved, probable and possible reserves plus contingent resources.

***Mariner Projected Financial Information (NYMEX Forward Pricing Curve Scenario)***

	<b>Nine Months Ending December 31,</b>				<b>Fiscal Year Ending</b>					
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	
<b>Benchmark Prices</b>										
Oil WTI (\$/Bbl)	\$ 87.13	\$ 90.00	\$ 90.98	\$ 91.45	\$ 91.91	\$ 92.65	\$ 94.51	\$ 96.40	\$ 98.32	
Gas Henry Hub (\$/Mcf)	4.85	5.42	5.81	6.08	6.37	6.63	6.76	6.89	7.03	
<b>Daily Production (Mmcfe/d)</b>										
1P Unrisked	389.2	344.5	358.2	305.8	249.3	184.3	123.7	90.7	72.6	
2P Risked (100/50)	402.2	371.4	402.5	351.0	296.7	235.7	176.4	131.2	97.4	
2P Unrisked	415.2	398.3	446.8	396.1	344.2	287.2	229.0	171.8	122.2	
3P Risked (100/50/20)	402.7	373.4	402.2	348.5	291.9	252.0	204.6	170.2	139.8	
3P Risked (100/50/50)	403.5	376.3	401.6	344.7	284.6	276.4	247.0	228.7	203.4	
<b>EBITDA (\$ millions)</b>										
1P Unrisked	\$ 594	\$ 749	\$ 801	\$ 681	\$ 569	\$ 438	\$ 290	\$ 211	\$ 168	
2P Risked (100/50)	619	826	945	848	759	625	470	356	278	
2P Unrisked	644	903	1,089	1,014	948	813	651	501	389	

Edgar Filing: APACHE CORP - Form S-4

3P Risked (100/50/20)	621	837	946	838	737	709	616	561	506
3P Risked (100/50/50)	624	853	948	824	704	833	835	869	848
Unlevered Free Cash Flow (\$ millions)									
1P Unrisked	\$ 349	\$ 345	\$ 513	\$ 401	\$ 343	\$ 296	\$ 179	\$ 127	\$ 114
2P Risked (100/50)	336	321	576	504	448	401	284	220	186
2P Unrisked	323	297	639	606	552	507	389	312	258
3P Risked (100/50/20)	340	346	560	461	398	428	343	315	288
3P Risked (100/50/50)	346	379	536	403	323	467	432	459	441

**Table of Contents*****Mariner Projected Financial Information (Credit Suisse Research Analyst Pricing Estimates Scenario)***

	<b>Nine Months Ending December 31,</b>		<b>Fiscal Year Ending</b>						
	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Benchmark Prices									
Oil WTI (\$/Bbl)	\$ 70.00	\$ 71.40	\$ 72.85	\$ 74.18	\$ 75.77	\$ 77.23	\$ 78.81	\$ 80.41	\$ 82.02
Gas Henry Hub (\$/Mcf)	5.25	6.50	7.00	7.14	7.28	7.43	7.58	7.73	7.88
Daily Production (Mmcfe/d)									
1P Unrisked	389.2	344.5	358.2	305.8	249.3	184.3	123.7	90.7	72.6
2P Risked (100/50)	402.2	371.4	402.5	351.0	296.7	235.7	176.4	131.2	97.4
2P Unrisked	415.2	398.3	446.8	396.1	344.2	287.2	229.0	171.8	122.2
3P Risked (100/50/20)	402.7	373.4	402.2	348.5	291.9	252.0	204.6	170.2	139.8
3P Risked (100/50/50)	403.5	376.3	401.6	344.7	284.6	276.4	247.0	228.7	203.4
EBITDA (\$ millions)									
1P Unrisked	\$ 545	\$ 708	\$ 763	\$ 662	\$ 544	\$ 404	\$ 262	\$ 186	\$ 146
2P Risked (100/50)	568	779	892	808	708	572	425	314	239
2P Unrisked	591	851	1,021	953	872	740	588	443	331
3P Risked (100/50/20)	570	788	893	800	690	642	548	487	431
3P Risked (100/50/50)	572	801	895	789	663	748	733	746	719
Unlevered Free Cash Flow (\$ millions)									
1P Unrisked	\$ 303	\$ 304	\$ 488	\$ 419	\$ 327	\$ 274	\$ 161	\$ 111	\$ 99
2P Risked (100/50)	288	274	542	511	415	367	254	192	160
2P Unrisked	273	244	595	603	504	460	347	273	221
3P Risked (100/50/20)	292	297	526	470	368	386	299	267	239
3P Risked (100/50/50)	297	333	501	409	297	415	367	381	357

The projected financial information is subjective in many respects and thus subject to interpretation. Although presented with numeric specificity, the projected financial information reflects numerous estimates and assumptions with respect to oil and gas industry activity, commodity prices, demand for natural gas and crude oil, North American and international rig count, capacity utilization and general economic and regulatory conditions, and matters specific to Mariner's business, many of which are beyond Mariner's control. The projected financial information was prepared solely for internal use and is subjective in many respects. Since the projected financial information covers multiple years, such information by its nature becomes less predictive with each successive year.

Readers of this proxy statement/prospectus are cautioned not to place undue reliance on the projected financial information set forth above. Stockholders are urged to review Mariner's Annual Report on Form 10-K for the year ended December 31, 2009, Mariner's Quarterly Report on Form 10-Q for the quarter ended March 31, 2010 and future SEC filings for a description of risk factors with respect to Mariner's business. See Cautionary Statement Concerning Forward-Looking Statements and Where You Can Find More Information; Incorporation by Reference. No representation is made by Mariner, Apache or any other person to any stockholder regarding the ultimate performance of Mariner compared to the projected financial information. No representation was made by Mariner to Apache in the merger agreement concerning this information.

MARINER DOES NOT INTEND TO UPDATE OR OTHERWISE REVISE THE PROJECTED FINANCIAL INFORMATION TO REFLECT CIRCUMSTANCES EXISTING AFTER THE DATE WHEN MADE OR TO REFLECT THE OCCURRENCE OF FUTURE EVENTS, EVEN IN THE EVENT THAT ANY OR ALL OF THE ASSUMPTIONS UNDERLYING SUCH PROJECTED FINANCIAL INFORMATION ARE NO LONGER APPROPRIATE.

### **Share Ownership of Directors and Executive Officers of Mariner**

At the close of business on the record date for the special meeting ([ ], 2010), the directors and executive officers of Mariner and their affiliates beneficially owned and were entitled to vote [ ] shares of Mariner common stock, collectively representing approximately [ ]% of the shares of Mariner common stock

**Table of Contents**

outstanding and entitled to vote on the record date. It is expected that Mariner's directors and executive officers will vote their shares FOR the approval and adoption of the merger agreement, although none of them has entered into any agreement requiring them to do so.

**Interests of the Mariner Directors and Executive Officers in the Merger**

In considering the recommendation of Mariner's board of directors with respect to the merger, Mariner stockholders should be aware that the executive officers and directors of Mariner have certain interests in the merger that may be different from, or in addition to, the interests of Mariner stockholders. Mariner's board of directors was aware of these interests and considered them, among other matters, when adopting a resolution to approve the merger agreement and recommending that Mariner stockholders vote to approve and adopt the merger agreement. These interests are summarized below.

***Treatment of Equity Awards***

Upon completion of the merger, each outstanding share of Mariner restricted stock (other than Performance-Based Restricted Stock) will vest and will entitle the holder to the merger consideration in respect of each such vested share. Forty percent of each outstanding award of Performance-Based Restricted Stock will vest and will entitle the holder to the merger consideration in respect of each such vested share, and the remaining portion of each award of Performance-Based Restricted Stock will be cancelled. Partial vesting of outstanding Performance-Based Restricted Stock awards occurs solely as a result of the terms of the merger agreement; otherwise, under the terms of Mariner's 2008 Long-Term Performance-Based Restricted Stock Program, 100% of the Performance-Based Restricted Stock would be forfeited because 40% of such stock does not begin to vest until Mariner's stock price reaches a sustained \$38 per share and the remaining 60% does not begin to vest until Mariner's stock price reaches a sustained \$46 per share.

In addition, upon completion of the merger, each outstanding option to purchase Mariner common stock will be converted into a fully exercisable option to purchase the number of shares of Apache common stock obtained by multiplying the number of Mariner shares subject to the option by the 0.24347 exchange ratio, with a per share exercise price equal to the existing per-Mariner-share exercise price divided by the 0.24347 exchange ratio. All outstanding options to acquire Mariner common stock were fully vested and exercisable by December 31, 2008.

**Table of Contents**

The following table sets forth information concerning unvested restricted stock held by Mariner's executive officers and directors as of May 13, 2010.

	Number of Unvested Shares of Non- Performance-Based Restricted Stock that Will Vest at Merger Closing	Number of Unvested Shares of Performance-Based Restricted Stock that Will Vest at Merger Closing	Total
<b>Executive Officers</b>			
Scott D. Josey <i>Chairman of the Board, Chief Executive Officer and President</i>	481,901	94,824	576,725
Jesus G. Melendrez <i>Senior Vice President, Chief Commercial Officer, Acting Chief Financial Officer and Treasurer</i>	139,605	22,126	161,731
Dalton F. Polasek <i>Chief Operating Officer</i>	205,379	35,822	241,201
Mike C. van den Bold <i>Senior Vice President and Chief Exploration Officer</i>	163,047	26,340	189,387
Judd A. Hansen <i>Senior Vice President Shelf and Onshore</i>	143,564	26,340	169,904
Teresa G. Bushman <i>Senior Vice President, General Counsel and Secretary</i>	111,297	22,126	133,423
Cory L. Loegering <i>Senior Vice President Deepwater</i>	123,925	22,126	146,051
Murray W. Grigg <i>Vice President Unconventional Resources</i>	68,027	6,848	74,875
Emily R. McClung <i>Vice President Human Resources</i>	13,351	5,896	19,247
Michael C. McCullough <i>Vice President Acquisitions and Divestitures</i>	44,893	6,848	51,741
Richard A. Molohon <i>Vice President Reservoir Engineering</i>	64,147	10,536	74,683
Kenneth E. Moore, Jr. <i>Vice President Onshore Land</i>	36,693	6,848	43,541
Charles H. Odom <i>Vice President Offshore Land and Business Development</i>	40,170	6,848	47,018
R. Cris Sherman <i>Vice President and Chief Accounting Officer</i>	9,908	6,848	16,756
<b>Non-Employee Directors</b>			
Bernard Aronson <i>Director</i>	15,413		15,413

Alan R. Crain, Jr. <i>Director</i>	15,413	15,413
Jonathan Ginns <i>Director</i>	15,413	15,413
John F. Greene <i>Director</i>	15,413	15,413
H. Clayton Peterson <i>Director</i>	15,413	15,413
Laura A. Sugg <i>Director</i>	8,517	8,517

***Severance and Change of Control Arrangements***

Mariner has employment agreements with its executive officers which will survive the merger. The employment agreements provide for severance and change of control benefits. The completion of the merger



**Table of Contents**

will be considered a change of control under these agreements. For purposes of this discussion, references to Mariner include the corporation surviving the merger.

*Severance Benefits.* Under the employment agreements, Mariner agrees to provide the following severance benefits if it terminates the executive's employment without cause, or he or she terminates his or her employment for good reason, or in the case of Mr. Josey, Mariner does not renew his agreement:

a lump sum severance payment equal to 2.99 (for Messrs. Josey, McCullough and Moore), 2.5 (for Messrs. Melendrez, Polasek, van den Bold, Hansen and Loegering and Ms. Bushman) and 2.0 (for Messrs. Grigg, Molohon, Odom and Sherman, and Ms. McClung) times the sum of his or her base salary plus three-year average annual bonus; and

health care coverage for the executive, his or her spouse and dependents for two years (for Messrs. Josey and Polasek) or 18 months (for the other executives) after termination under Mariner's group health plan on the same basis as its active executive employees (except to the extent another employer's group health care coverage is available), provided that the executive must reimburse Mariner for his or her portion of the premium on a monthly basis.

To be eligible for severance under the employment agreements, the executive must agree in writing to waive and release claims against Mariner arising before termination. The executive also must keep in confidence and not use Mariner confidential information for two years after termination. If within one year after an executive's termination Mariner's board determines cause existed before, on or after the termination, he or she is ineligible for severance and must return to Mariner any severance paid.

The employment agreements define "cause" and "good reason" as follows:

Mariner can terminate the executive's employment for "*cause*" if the executive:

- (1) is grossly negligent in performing his or her duties, materially mismanages the performance of his or her duties, or materially fails or is unable (other than due to death or disability) to perform his or her duties,
- (2) commits any act of willful misconduct or material dishonesty against Mariner or any act that results in, or could reasonably be expected to result in, material injury to Mariner's reputation, business or business relationships,
- (3) materially breaches the agreement, any fiduciary duty owed to Mariner, or any written policies applicable to him or her,
- (4) is convicted of, or enters a plea bargain, a plea of *nolo contendere* or settlement admitting guilt for, any felony, any crime of moral turpitude, or any other crime that could reasonably be expected to have a material adverse impact on Mariner or its reputation, or
- (5) materially violates any federal law regulating securities (without having relied on the advice of Mariner's legal counsel to perform certain required acts) or is subject to any final order, judicial or administrative, obtained or issued by the SEC, for any securities violation involving fraud.

The executive can terminate his or her employment for "*good reason*" if, without his or her consent:

- (1) Mariner materially breaches the agreement,

- (2) Mariner requires the executive to relocate outside of the Houston metropolitan area,
- (3) Mariner's successor fails to assume the agreement by the time it acquires substantially all of its equity, assets or businesses,
- (4) Mariner materially reduces the executive's title, responsibilities, or duties, including, in the case of Mr. Josey, a change that causes him to cease reporting to the board, and in the case of Mr. Polasek and Ms. Bushman, the board directs him or her to cease reporting to Mariner's President or Chief Executive Officer, or

**Table of Contents**

(5) Mariner assigns to the executive any duties materially inconsistent with his or her office.

*Change of Control Benefits.* The employment agreements, equity plan awards and merger agreement provide for accelerated vesting of outstanding unvested equity awards as described above under Treatment of Equity Awards .

The employment agreements with Messrs. Josey, Melendrez, Polasek, van den Bold, Hansen, Loegering and Molohon, and Ms. Bushman also provide that if:

(1) he or she terminates his or her employment with or without good reason within nine months after a change of control occurs while he or she is employed,

(2) Mariner terminates his or her employment without cause within nine months after a change of control occurs while he or she is employed, or

(3) a change of control occurs within nine months after Mariner terminates his or her employment without cause or he or she terminates his or her employment for good reason,

then he or she becomes entitled to a lump sum payment equal to 2.99 (for Mr. Josey), 2.5 (for Messrs. Melendrez, Polasek, van den Bold, Hansen and Loegering, and Ms. Bushman), and 2.0 (for Mr. Molohon) times the sum of his or her base salary plus three-year average annual bonus, less any severance previously paid in respect of Mariner's termination without cause or his or her termination for good reason. If within one year after an executive's termination Mariner's board determines cause existed before, on or after the termination, the executive is ineligible for these change of control benefits and must return to Mariner any benefits paid.

Each executive's employment agreement provides that he or she is entitled to a full tax gross-up payment if the aggregate payments and benefits to be provided constitute a parachute payment subject to a Federal excise tax.

***Retention and Severance Arrangements Under the Merger Agreement***

The merger agreement provides that any employee of Mariner, including an executive officer, who remains employed until the closing date of the merger will be paid a cash closing bonus within 10 days after the closing date of not less than 100% of his or her 2009 bonus (as paid in 2010). In addition, the merger agreement provides that any employee of Mariner who remains employed with Apache on February 15, 2011 will be paid a cash retention bonus of not less than 100% of his or her 2009 bonus (as paid in 2010) on February 15, 2011. If an executive officer did not have a full year of service in 2009, the merger agreement provides that the amount of his or her closing bonus shall be determined by Mariner in its discretion.

The merger agreement further provides that if, during the period between the closing of the merger and December 31, 2010 (or 90 days after the closing if the closing does not occur by October 1, 2010), an executive officer of Mariner terminates his or her employment as a result of a qualifying termination, he or she will be entitled to (1) a lump sum payment of an amount equal to (i) his or her annual base salary, plus (ii) the severance payment amounts described in Severance and Change of Control Arrangements above, and (2) the welfare benefit continuation coverage provided under the terms of each executive officer's employment agreement. A qualifying termination is defined as a termination of employment that would entitle the employee to separation benefits under the executive officer's employment agreement.

If an executive officer (i) does not receive an offer of employment from Apache by December 1, 2010 (or 60 days after the closing if the closing does not occur by October 1, 2010), or (ii) receives an offer of employment from Apache, and the executive terminates his employment for any reason by December 31, 2010 (or 90 days after the

closing if the closing does not occur by October 1, 2010), then he or she will be entitled to (1) a lump sum payment of an amount equal to (i) his or her annual base salary, plus (ii) the severance payment amounts described in Severance and Change of Control Arrangements above, and (2) the welfare benefit continuation coverage provided under the terms of the executive officer's employment agreement. Any executive officer of Mariner who accepts a formal written offer of permanent employment with Apache will be required to waive his or her rights under such officer's employment agreement effective December 31, 2010.

**Table of Contents*****Estimated Value of Accelerated Equity Awards and Severance Benefits***

The chart below sets forth the estimated aggregate value of all outstanding unvested shares of restricted stock (including Performance-Based Restricted Stock) held by Mariner's executive officers and directors that will vest upon consummation of the merger. The chart also includes the estimated amount of the closing bonus, cash severance payments and tax gross up, and the estimated value of other severance benefits, that the executive officers would receive. The chart assumes that the merger is completed on May 13, 2010 and that each executive officer experiences a termination immediately thereafter that entitles him or her to the highest amount of severance payable pursuant to the arrangements described above. Termination on a different date or under different circumstances may result in different amounts payable to an executive officer.

	<b>Value of Accelerated Restricted Stock (\$)(1)</b>	<b>Closing Bonus (\$)(2)</b>	<b>Cash Severance Payments (\$)(3)</b>	<b>Tax Gross Up (\$)</b>	<b>Value of Other Severance Benefits (\$)(4)</b>	<b>Total (\$)</b>
Scott D. Josey	13,822,476	1,550,000	6,026,783		40,614	21,439,873
Jesus G. Melendrez	3,876,237	450,000	1,885,833	1,227,705	30,461	7,470,236
Dalton F. Polasek	5,780,909	500,000	2,548,333		40,614	8,869,856
Mike C. van den Bold	4,539,074	450,000	2,004,167		19,544	7,012,785
Judd A. Hansen	4,072,121	375,000	1,962,500		18,958	6,428,579
Teresa G. Bushman	3,197,774	425,000	1,865,000	1,099,772	19,544	6,607,090
Cory L. Loegering	3,500,432	450,000	1,865,000	1,221,979	30,461	7,067,872
Murray W. Grigg	1,794,543	90,000	896,790	655,306	30,461	3,467,100
Emily R. McClung	461,296	57,500	613,267	337,318	30,461	1,499,842
Michael C. McCullough	1,240,086	185,000	1,371,200	744,050	18,958	3,559,294
Richard A. Molohon	1,789,941	175,000	991,667		30,461	2,987,069
Kenneth E. Moore, Jr.	1,043,555	185,000	1,241,567	727,072	19,544	3,216,738
Charles H. Odom	1,126,889	185,000	1,037,500	664,839	18,958	3,033,186
R. Cris Sherman	401,594	125,000	940,000	507,548	30,461	2,004,603
Non-Employee Directors as a Group	2,051,160					2,051,160

- (1) Based on closing price of Apache common stock on May 12, 2010 of \$98.44 per share multiplied by 0.24347.
- (2) Equal to 2009 bonus (as paid in 2010), which for Messrs. Grigg, Odom and Sherman may increase because each was employed for less than full-year 2009.
- (3) Includes lump sum payable pursuant to employment agreements plus one year of annual base salary payable pursuant to the merger agreement.
- (4) The indicated amount is the estimated aggregate monthly premiums payable by Mariner for continued group health coverage for two years (for Messrs. Josey and Polasek) or 18 months (for other executives) after

termination and excludes the monthly premium payable by executive. The amount indicated assumes continuation of the same health care coverage executive had in effect on May 13, 2010.

***Indemnification and Insurance***

The merger agreement provides for indemnification in favor of the current and former directors, officers and employees of Mariner and its subsidiaries and for the purchase of directors and officers liability insurance and fiduciary liability insurance tail policies with respect to matters existing or occurring at or prior to the effective time of the merger. These interests are described in detail below at The Merger Agreement Certain Additional Agreements Indemnification and Insurance.

## **Table of Contents**

### **Apache Reasons for the Merger**

Apache's board of directors approved the merger agreement and determined that the merger agreement and the merger are advisable and in the best interests of Apache and its stockholders. In reaching this decision, Apache's board of directors considered the financial performance and condition, business operations and prospects of each of Apache, Mariner, and the combined company, the terms and conditions of the merger agreement, the views of Apache's management, accountants, and legal counsel, and the analysis presented by Apache's financial advisors.

Apache's board of directors considered a number of potential benefits of the merger, including those listed below:

The merger will give Apache access to Mariner's significant portfolio of high-quality assets in the deepwater of the Gulf of Mexico, Permian basin, Gulf of Mexico shelf and in unconventional shale plays in the United States (U.S.). Mariner's substantial deepwater assets, including an inventory of developments and a large acreage position and prospects with identified exploration opportunities, provide Apache a new platform of assets that allow Apache to enter the deepwater Gulf of Mexico in a significant way and add meaningful growth potential for the future. Apache also considered that deepwater assets have a higher potential for significant oil and liquids discoveries than do reservoirs in most other regions of the United States. The Mariner assets also include valuable holdings in the Permian basin and the Gulf of Mexico shelf which fit well with Apache's existing holdings and provide additional access and an inventory of future potential drilling locations, particularly in the Spraberry, Wolfcamp and Wolfberry oil plays of the Permian Basin. In addition, Mariner has accumulated attractive acreage in, and the merger will give Apache exposure to, emerging unconventional shale oil resources in the U.S., which Apache considers complementary to its existing unconventional resource plays in the U.S. and Canada. Combining Apache's and Mariner's assets is intended to create an outstanding resource portfolio positioned to support long-term production growth in each of these areas.

The merger will give Apache access to Mariner's deepwater exploration and drilling capabilities and expertise in deepwater completion techniques, including extensive experience in subsea tiebacks. Mariner employees, who are recognized in the industry for their successful track record in the Gulf of Mexico, have made several significant discoveries in the deepwater and shelf and have a reputation for generating high-quality exploration prospects. Mariner also has technical expertise and experience in developing unconventional resource plays. Apache will add to this its own drilling and completion expertise in the deepwater, in Australia, Egypt and the Gulf of Mexico, and in unconventional resource plays gained through holdings in the United States and Canada. The combined technical expertise will be applied to both Apache's and Mariner's deepwater and unconventional holdings around the world, allowing those assets, and potentially others, to be developed more effectively.

Recent advances in seismic technology and continued enhancements in facilities design continue to improve the success level in the deepwater Gulf, one of the world's most prolific oil exploration basins. In addition, advancements in completion technology enhance the profitability of unconventional resource plays, increasing the long-term value Mariner's holdings will add to Apache's existing global portfolio. From a financial perspective, Apache's current financial condition, including its accumulated cash balance, leaves it in the position to complete the merger without materially altering its debt as a percentage of total capitalization or impacting its ability to fund or complete key existing exploration and development projects in its existing portfolio of assets. Subsequent to announcing the merger agreement, Apache's single-A ratings and stable outlook were confirmed by Moody's, S&P and Fitch. In addition, production from Apache's international regions is projected to increase for the next several years as longer-term projects to develop significant

discoveries are completed. With additional production on the horizon, the assets added through the merger will enable Apache to maintain its diversified asset base.

Apache believes the merger will create significant synergies by combining Mariner's capabilities and expertise with Apache's own extensive technical, project management and operational skills, global scale and financial capacity. These synergies will allow the combined portfolio to be developed more



**Table of Contents**

effectively than either company would be able to accomplish on its own. Although Apache believes these synergies will enhance the value of Apache's global portfolio, including its deepwater and unconventional holdings, such benefits are likely to be fully realized over the course of years after closing of the merger and cannot be quantified with certainty at present.

Mariner's and Apache's employees have worked together and have had shared experiences with past discoveries in the Gulf, and Apache believes that the two companies will make a good cultural fit.

Apache's board of directors also considered a number of potentially negative factors, including those listed below:

the risk that the value of Mariner's business could decline after the execution of the merger agreement, including as a result of oil or natural gas price declines or as a result of hurricanes or other casualty losses;

the Gulf of Mexico Shelf assets that Mariner will bring to the combined company will increase Apache's existing exposure to hurricane risk;

the risk that the potential benefits of the merger may not be realized in the absence of exploration and appraisal success in the deepwater;

the risk that the potential benefits of the merger would not be realized fully as a result of challenges Apache might face in integrating Mariner's operations and personnel, including the possible loss of key employees;

the risk that, if the merger is not completed, Apache's management would have devoted significant time and resources to the merger at the expense of attending to and growing Apache's business or seeking out other business opportunities;

the possibility that the merger may not be completed, or that completion may be unduly delayed, for reasons beyond the control of Apache and/or Mariner;

the risk that Apache may assume liability for the activities of Mariner that arose before the completion of the merger, including litigation claims, violations of laws, commercial disputes, tax liabilities, royalty claims, and other known and unknown liabilities; and

the other risks described above under the heading *Risk Factors*.

The foregoing list comprises the material factors considered by Apache's board of directors in its consideration of the merger and is intended to be a summary rather than an exhaustive list. In view of the variety and complexity of factors and information considered, Apache's board of directors did not consider it practicable to, and did not attempt to, quantify or otherwise assign relative weights or values to the specific factors considered in reaching its decision. Rather, the decision was made after an overall analysis and consideration of all of the factors as a whole. In addition, individual members of Apache's board of directors may have given different weights to different factors.

This explanation of Apache's reasons for the merger and other information presented in this section is forward-looking in nature and, therefore, should be read in light of the factors described under the heading *Cautionary Statement Concerning Forward-Looking Statements* elsewhere in this proxy statement/prospectus.

**Material U.S. Federal Income Tax Consequences of the Merger**

*General*

The following discussion summarizes the material U.S. federal income tax consequences of the merger to U.S. holders (as defined below) of Mariner common stock and is the opinion of Andrews Kurth LLP and Baker Botts L.L.P. insofar as it relates to matters of U.S. federal income tax law and legal conclusions with respect to those matters. The opinions of counsel are included as exhibits to the registration statement of which this proxy statement/prospectus forms a part. The opinions of counsel are dependent on the accuracy of

**Table of Contents**

the statements, representations, and assumptions upon which the opinions are based and are subject to the limitations, qualifications and assumptions set forth below and in the opinions. The following summary is not binding on the Internal Revenue Service. It is based upon the Internal Revenue Code, and the regulations, rulings, and decisions thereunder in effect as of the date of this document, all of which are subject to change, possibly with retroactive effect, and to differing interpretations. This summary addresses only those stockholders who hold their shares of Mariner common stock as a capital asset, and does not address all of the U.S. federal income tax consequences that may be relevant to particular Mariner stockholders in light of their individual circumstances, or to Mariner stockholders who are subject to special rules, such as:

financial institutions;

mutual funds;

tax-exempt organizations;

insurance companies;

dealers in securities or foreign currencies;

traders in securities who elect to apply a market-to-market method of accounting;

foreign holders;

persons who hold shares of Mariner common stock as a hedge against currency risk or as part of a straddle, constructive sale or conversion transaction; or

holders who acquired their shares of Mariner common stock upon the exercise of warrants or employee stock options or otherwise as compensation.

In addition, tax consequences under state, local and foreign laws and U.S. federal laws other than U.S. federal income tax laws are not addressed. Mariner stockholders are urged to consult their tax advisors as to the specific tax consequences to them of the merger, including the applicability and effect of U.S. federal, state, local and foreign income and other tax laws in their particular circumstances.

For purposes of this discussion, a U.S. holder means a beneficial owner of Mariner common stock who is:

an individual who is a citizen or resident of the United States;

a corporation (or other entity taxable as a corporation for U.S. federal income tax purposes) created or organized in the United States or under the laws of the United States or any subdivision thereof;

an estate the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source; or

a trust (a) that is subject to the primary jurisdiction of a court within the United States and the control of one or more United States persons or (b) that has a valid election in effect under applicable United States Treasury Regulations to be treated as a United States person.

The U.S. federal income tax consequence to a partner in an entity or arrangement treated as a partnership, for U.S. federal income tax purposes, that holds Mariner common stock generally will depend on the status of the partner and the activities of the partnership. Partners in a partnership holding Mariner common stock are urged to consult their own tax advisors.

***Tax Opinions***

Apache and Mariner intend for the merger to constitute a reorganization within the meaning of Section 368(a) of the Internal Revenue Code. It is a condition to the closing of the merger that Andrews Kurth LLP and Baker Botts L.L.P. deliver opinions, effective as of the date of closing, to Apache and Mariner, respectively, to the effect that for federal income tax purposes, the merger will be treated as a reorganization

**Table of Contents**

within the meaning Section 368(a) of the Internal Revenue Code and that each of Apache and Mariner will be a party to such reorganization within the meaning of Section 368(b) of the Internal Revenue Code.

Each tax opinion will be based on certain representations made by Apache and Mariner, including factual representations and certifications contained in officers' certificates to be delivered at closing by Apache and Mariner, and will assume that these representations are true, correct and complete, without regard to any knowledge limitation. Furthermore, each tax opinion will be subject to certain assumptions, limitations and qualifications. If any of these representations or assumptions are inconsistent with the actual facts, the U.S. federal income tax treatment of the merger could be adversely affected.

If the conclusions in the tax opinions delivered at closing are materially different from the opinions described herein, we will resolicit stockholder approval. Further, if the parties waive the condition that they receive such opinions, we will resolicit stockholder approval if the change in tax consequences is material.

An opinion of counsel represents counsel's best legal judgment and is not binding on the Internal Revenue Service or any court. No ruling has been, or will be, sought from the Internal Revenue Service as to the tax consequences of the merger.

***Tax Consequences of the Merger to Mariner Stockholders***

Assuming that the merger is treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code, the merger will have the following U.S. federal income tax consequences to Mariner stockholders:

*Mariner Stockholders Receiving Only Apache Common Stock.* No gain or loss will be recognized by a Mariner stockholder as a result of the surrender of shares of Mariner common stock solely in exchange for shares of Apache common stock pursuant to the merger, if such holder receives no cash pursuant to the merger, except as discussed below with respect to cash received instead of a fractional share of Apache common stock. The aggregate tax basis of the shares of Apache common stock received in the merger (including any fractional shares of Apache common stock deemed received) will be the same as the aggregate tax basis of the shares of Mariner common stock surrendered in exchange for the Apache common stock. The holding period of the shares of Apache common stock received (including any fractional share of Apache common stock deemed received) will include the holding period of shares of Mariner common stock surrendered in exchange for the Apache common stock.

*Mariner Stockholders Receiving Only Cash.* A Mariner stockholder that does not receive any shares of Apache common stock pursuant to the merger will generally recognize gain or loss equal to the difference between the amount of cash received and the holder's adjusted tax basis in the shares of Mariner common stock exchanged in the merger. Such gain or loss will generally be a capital gain or loss, and will generally be a long-term capital gain or loss to the extent that, at the effective time of the merger, the holder has a holding period in such Mariner common stock of more than one year. The deductibility of capital losses is subject to limitations.

*Mariner Stockholders Receiving Both Cash and Apache Common Stock.* If a Mariner stockholder receives both Apache common stock and cash (other than cash received instead of a fractional share of Apache common stock) pursuant to the merger, that holder will recognize gain equal to the lesser of (a) the amount of cash received (excluding cash received instead of a fractional share of Apache common stock) and (b) the amount, if any, by which the sum of the amount of cash received and the value (as of the effective time of the merger) of the Apache common stock received exceeds the holder's adjusted tax basis in the shares of Mariner common stock exchanged in the merger. This gain will generally be capital gain unless the holder's exchange of Mariner common stock for cash and Apache common stock has the effect of the distribution of a dividend, in which case the gain will be treated as dividend income to the extent of the U.S. holder's ratable share of Mariner's current or accumulated earnings and profits as

calculated for U.S. federal income tax purposes.

In general, the determination as to whether the receipt of cash has the effect of a distribution of a dividend depends upon whether and to what extent the transactions related to the merger will be deemed

**Table of Contents**

to reduce a holder's percentage ownership of Apache immediately following the merger. For purposes of that determination, a holder will be treated as if it first exchanged all of its Mariner common stock solely for Apache common stock, and then a portion of that stock was immediately redeemed by Apache for the cash (excluding cash received instead of a fractional share of Apache common stock) that the holder actually received in the merger. The Internal Revenue Service has indicated that a reduction in the interest of a minority stockholder that owns a small number of shares in a publicly and widely held corporation and that exercises no control over corporate affairs would result in capital gain (as opposed to dividend) treatment. In determining whether or not the receipt of cash has the effect of a distribution of a dividend, certain constructive ownership rules must be taken into account. A holder is urged to consult its tax advisers about the possibility that all or a portion of any cash received in exchange for Mariner common stock will be treated as a dividend.

The capital gain recognized generally will be long-term capital gain to the extent that, at the effective time of the merger, the holder has a holding period in the Mariner common stock exchanged in the merger of more than one year. The aggregate tax basis to such a holder of the shares of Apache common stock received in the merger (including any fractional share of Apache common stock deemed received) will be the same as the aggregate tax basis of the shares of Mariner common stock surrendered in exchange therefor in the merger, increased by the amount of gain recognized (excluding gain recognized with respect to cash received in lieu of fractional shares) and reduced by the amount of cash received (excluding cash received with respect to fractional shares). The holding period of the shares of Apache common stock received (including any fractional share of Apache common stock deemed received) will include the holding period of shares of Mariner common stock surrendered in exchange for the Apache common stock. If a holder's tax basis in shares of Mariner common stock exceeds the sum of the amount of cash received and the value of the Apache common stock received in exchange for the shares of Mariner common stock, such a holder will not recognize loss. Mariner stockholders with differing tax bases or holding periods should consult their tax advisors as to their specific tax consequences as a result of the merger.

*Mariner Stockholders Receiving Cash Instead of a Fractional Share.* Mariner stockholders who receive cash instead of fractional shares of Apache common stock will be treated as having received the fractional shares in the merger and then as having exchanged the fractional shares for cash. These holders will generally recognize gain or loss equal to the difference between the tax basis allocable to the fractional shares and the amount of cash received. The gain or loss generally will be capital gain or loss and long-term capital gain or loss if the Mariner common stock exchanged has been held for more than one year at the effective time of the merger. The deductibility of capital losses is subject to limitations.

***Failure to Qualify as a Reorganization***

If the merger were not treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code, then each Mariner stockholder would recognize gain or loss equal to the difference between (1) the sum of the fair market value of the shares of Apache common stock and the amount of cash received pursuant to the merger (including cash received instead of fractional shares of Apache common stock) and (2) its adjusted tax basis in the shares of Mariner common stock surrendered in exchange therefor.

Further, if the merger were not treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code, Mariner would be subject to tax on the deemed sale of its assets to Apache, with gain or loss for this purpose measured by the difference between Mariner's tax basis in its assets and the fair market value of the consideration deemed to be received therefor, or, in other words, the cash and shares of Apache common stock plus liabilities assumed in the merger. Apache would become liable for any resulting tax liability to Mariner by virtue of the merger.

***Backup Withholding; Information Reporting***

Under U.S. federal income tax laws, the exchange agent will generally be required to report to a Mariner stockholder and to the Internal Revenue Service any reportable payments made to such Mariner stockholder in



## **Table of Contents**

the merger, and backup withholding may apply to such payment. To avoid such backup withholding, a Mariner stockholder must provide the exchange agent a properly completed Substitute Form W-9, signed under penalties of perjury, including such stockholder's current Taxpayer Identification Number, or TIN, and other certifications. Certain Mariner stockholders (including, among others, corporations) are exempt from these backup withholding and reporting requirements. Exempt holders who are not subject to backup withholding should indicate their exempt status on a Substitute Form W-9 by entering their correct TIN, marking the appropriate box and signing and dating the Substitute Form W-9 in the space provided.

Backup withholding is not an additional tax. Rather, the tax liability of a person subject to backup withholding may be reduced by the amount of tax withheld or a refund from the Internal Revenue Service may be obtained provided the requisite information is furnished to the Internal Revenue Service.

## ***Reporting Requirements***

Certain significant U.S. holders (generally those who own at least five percent of Mariner's common stock) may be required to attach a statement to their tax returns for the taxable year in which the merger is completed that contains the information set forth in Section 1.368-3(b) of the Treasury Regulations. The statement would include the fair market value of, and such U.S. holder's tax basis in, the Mariner common stock surrendered in the merger. U.S. holders are urged to consult their own tax advisors as to the necessity of attaching such a statement to their tax returns.

The foregoing discussion is not intended to be legal or tax advice to any particular Mariner stockholder. Tax matters regarding the merger are very complicated, and the tax consequences of the merger to any particular Mariner stockholder will depend on that stockholder's particular situation. Mariner stockholders are urged to consult their own tax advisors regarding the specific tax consequences of the merger, including tax return reporting requirements, the applicability of federal, state, local and foreign tax laws and the effect of any proposed change in the tax laws to them.

## **Accounting Treatment**

Apache will account for the merger using the acquisition method of accounting under GAAP. The merger will be accounted for as a single line of business. Apache will record net tangible and identifiable intangible assets acquired and liabilities assumed from Mariner at their respective fair values at the date of the completion of the merger. Any excess of the purchase price, which will equal the cash merger consideration plus the market value, at the date of the completion of the merger, of the Apache common stock issued as consideration for the merger, over the net fair value of such assets and liabilities will be recorded as goodwill.

The financial condition and results of operations of Apache after completion of the merger will reflect Mariner's balances and results after completion of the transaction but will not be restated retroactively to reflect the historical financial condition or results of operations of Mariner. The earnings of Apache following the completion of the merger will reflect acquisition accounting adjustments, including the effect of changes in the carrying value for assets and liabilities on depreciation and amortization expense. Intangible assets with indefinite useful lives and goodwill will not be amortized but will be tested for impairment at least annually, and all assets including goodwill will be tested for impairment when certain indicators are present. If in the future, Apache determines that tangible or intangible assets (including goodwill) are impaired, Apache would record an impairment charge at that time.

## **Regulatory Approvals Required for the Merger**

The merger is subject to review by the Antitrust Division and the FTC under the HSR Act. Under the HSR Act, Apache and Mariner are required to make premerger notification filings and to await the expiration or early

termination of the statutory waiting period (and any extension of the waiting period) prior to completing the merger. Apache and Mariner each filed its required HSR notification and report form with respect to the merger on April 26, 2010, commencing the initial 30-day waiting period. On May 3, 2010, the Antitrust Division and the FTC granted early termination of the statutory waiting period under the HSR Act.

## **Table of Contents**

At any time before or after the completion of the merger, the Antitrust Division, the FTC or any state could take any action under the antitrust laws that any of them considers necessary or desirable in the public interest, including seeking to enjoin the completion of the merger, unwinding the merger or seeking divestitures of particular assets of Apache and Mariner. Private parties and non-U.S. governmental authorities may also seek to take legal action under the antitrust laws. If a challenge to the merger on antitrust grounds were to be made, Apache and Mariner might not prevail.

### **Directors and Executive Officers of Apache After the Merger**

The directors and executive officers of Apache prior to the merger will continue as the directors and executive officers of Apache after the merger.

### **Listing of Apache Common Stock**

Application will be made to have the shares of Apache common stock to be issued in the merger approved for listing on the NYSE. In addition, Apache intends to list the shares issuable pursuant to the merger on the NASDAQ National Market and the Chicago Stock Exchange.

### **Delisting and Deregistration of Mariner Common Stock**

If the merger is completed, shares of Mariner common stock will be delisted from the NYSE and deregistered under the Exchange Act.

### **Apache Stockholder Approval is Not Required**

Apache stockholders are not required to adopt the merger agreement or approve the merger or the issuance of shares of Apache common stock in connection with the merger.

### **Ownership of Apache after the Merger**

Apache will issue approximately 17.5 million shares of Apache common stock to former Mariner stockholders pursuant to the merger. Immediately following the completion of the merger, Apache expects to have approximately 354.8 million shares of common stock outstanding. Mariner stockholders are therefore expected to hold approximately 5% of the combined company's common stock outstanding immediately after the merger. Consequently, Mariner stockholders, as a general matter, will have less influence over the management and policies of Apache than they currently exercise over the management and policies of Mariner.

### **Restrictions on Sales of Shares of Apache Common Stock Received in the Merger**

Shares of Apache common stock issued in the merger will not be subject to any restrictions on transfer arising under the Securities Act or the Exchange Act, except for shares of Apache common stock issued to any Mariner stockholder who may be deemed to be an affiliate of Apache after the completion of the merger. This proxy statement/prospectus does not cover resales of Apache common stock received by any person upon the completion of the merger, and no person is authorized to make any use of this proxy statement/prospectus in connection with any resale.

### **Litigation Relating to the Merger**

In connection with the merger, two stockholder lawsuits styled as class actions have been filed against Mariner and its board of directors. The lawsuits are captioned *City of Livonia Employees Retirement System, Individually and on*

*Behalf of All Others Similarly Situated vs. Mariner Energy, Inc, et al.* (filed April 16, 2010 in the District Court of Harris County, Texas), and *Southeastern Pennsylvania Transportation Authority, individually, and on behalf of all those similarly situated, vs. Scott D. Josey, et. al.* (filed April 21, 2010 in the Court of Chancery in the State of Delaware). The plaintiff in the Southeastern Pennsylvania Transportation Authority lawsuit filed an Amended Class Action Complaint on May 3, 2010, and also names Apache, Merger

**Table of Contents**

Sub and certain Mariner officers as defendants. The lawsuits generally allege that (1) Mariner's directors breached their fiduciary duties in negotiating and approving the merger and by administering a sale process that failed to maximize stockholder value and (2) Mariner, and in the case of the Southeastern Pennsylvania Transportation Authority complaint, Apache and Merger Sub, aided and abetted Mariner's directors in breaching their fiduciary duties. The lawsuits also allege that Mariner's directors and executives stand to receive substantial financial benefits if the transaction is consummated on its current terms. The plaintiffs in these lawsuits seek, among other things, to enjoin the merger and to rescind the merger agreement. Apache and Mariner believe that these lawsuits are without merit and intend to vigorously defend these lawsuits.

**Table of Contents**

**THE MERGER AGREEMENT**

*The following summary describes the material provisions of the merger agreement. The provisions of the merger agreement are complicated and not easily summarized. This summary may not contain all of the information about the merger agreement that is important to you. The merger agreement is attached to this proxy statement/prospectus as Annex A and is incorporated by reference into this proxy statement/prospectus, and we encourage you to read it carefully in its entirety for a more complete understanding of the merger agreement.*

*The merger agreement and the following summary have been included to provide you with information regarding the terms of the merger agreement and the transactions described in this proxy statement/prospectus. Neither Apache nor Mariner intends that the merger agreement or any of its terms will constitute a source of business or operational information about Apache or Mariner. The representations and warranties in the merger agreement are made as of a specified date, are tools used to allocate risk between the parties, are subject to contractual standards of knowledge and materiality, are modified or qualified by information contained in the parties' public filings and in the disclosure schedules exchanged by the parties and should not be relied on by any person or entity other than Apache or Mariner for any purpose. Business and operational information regarding Apache and Mariner can be found elsewhere in this proxy statement/prospectus and in the other public documents that Apache and Mariner file with the SEC. See *Where You Can Find More Information; Incorporation By Reference.**

**Merger**

The agreement and plan of merger, dated April 14, 2010, by and among Apache, Merger Sub, a wholly owned subsidiary of Apache, and Mariner, as it may be amended from time to time, contemplates a merger whereby Mariner will be merged with and into Merger Sub, with Merger Sub surviving the merger. Upon effectiveness of the merger, each Mariner stockholder will have the right to receive the merger consideration as described below under *Conversion of Securities.*

**Effective Time; Closing**

The merger will become effective on the date a certificate of merger is filed with the Delaware Secretary of State or at such later time as may be agreed upon by Apache and Mariner and specified in such certificate of merger. The merger agreement provides that the certificate of merger is to be filed as promptly as practicable after all the conditions to the closing of the merger are satisfied or waived. Apache and Mariner currently expect to consummate the merger in the third quarter of 2010.

**Conversion of Securities**

Under the merger agreement, Mariner stockholders may elect to receive consideration consisting of cash, shares of Apache common stock, or a combination of both in exchange for their shares of Mariner common stock, subject in each case to the proration procedures described below under *Election Procedures* and *Allocation of Merger Consideration.* Mariner stockholders electing to receive a mix of cash and stock consideration, and stockholders who do not make, or are deemed to not have made, an election, will receive \$7.80 in cash and 0.17043 shares of Apache common stock in exchange for each Mariner share, which we refer to as the *mixed consideration.* Subject to proration, Mariner stockholders electing to receive all cash will receive \$26.00 per Mariner share, which we refer to as the *cash consideration,* and Mariner stockholders electing to receive only Apache common stock will receive 0.24347 shares of Apache common stock in exchange for each Mariner share, which we refer to as the *stock consideration.*

The aggregate amount of cash consideration to be paid by Apache to Mariner stockholders pursuant to the merger will be fixed at an amount equal to the product of \$7.80 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger, after giving effect to the cancellation of certain shares of Performance-Based Restricted Stock. Similarly, the aggregate number of shares of Apache common stock to be issued to Mariner stockholders pursuant to the merger will be fixed at a number equal to the product of 0.17043 and the number of shares of Mariner common stock outstanding

## **Table of Contents**

immediately prior to the closing of the merger, after giving effect to the cancellation of certain shares of Performance-Based Restricted Stock.

Mariner shares held in treasury and Mariner shares owned by Merger Sub, Apache or any wholly owned subsidiary of Apache or Mariner will be cancelled without conversion or payment of the merger consideration.

### ***Mixed Consideration***

The merger agreement provides that each share of Mariner stock with respect to which a stockholder makes a valid election to receive a fixed combination of cash and Apache common stock, or the mixed consideration, will be converted into the right to receive (a) \$7.80 in cash, without interest and (b) 0.17043 shares of Apache common stock. Mariner stockholders who make this election will receive the mixed consideration without any application of the proration feature. In addition, each share for which a Mariner stockholder fails to make any election will also be converted into the mixed consideration. We sometimes refer to such shares as non-election shares.

### ***Cash Consideration***

The merger agreement provides that a Mariner stockholder who makes a valid election to receive the cash consideration will have the right to receive, in exchange for each share of Mariner common stock, \$26.00 in cash without interest, subject to the proration feature described in Election Procedures and Allocation of Merger Consideration. We sometimes refer to such shares as cash election shares.

### ***Stock Consideration***

The merger agreement provides that a Mariner stockholder who makes a valid election to receive the stock consideration will have the right to receive, in exchange for each share of Mariner common stock, 0.24347 shares of Apache common stock (which we sometimes refer to as the exchange ratio), subject to the proration feature described in Election Procedures and Allocation of Merger Consideration. We sometimes refer to such shares as stock election shares.

### **Employee Stock Options; Restricted Shares**

At the effective time of the merger, each outstanding option to purchase shares of Mariner common stock granted pursuant to a stock incentive plan or other arrangement of Mariner or any of its subsidiaries or predecessors, whether or not then exercisable or vested, will be converted into a fully exercisable option (i) to purchase the number of shares of Apache common stock obtained by multiplying the number of shares of Mariner common stock issuable upon exercise of such option by the exchange ratio (with any resulting number of shares that contain a fraction of a share being decreased to the next whole number of shares), (ii) at an exercise price per share of Apache common stock equal to the exercise price per share of Mariner common stock pursuant to such option divided by the exchange ratio (with any resulting exercise price that contains a fraction of a cent being increased to the next whole cent), and (iii) otherwise upon the same terms and conditions.

Immediately prior to the effective time of the merger, all existing restrictions on each outstanding award of restricted Mariner common stock granted pursuant to any stock incentive plan other than restrictions on Performance-Based Restricted Stock, will lapse at that time and each such restricted share will become fully vested. Each such restricted share will be treated in the merger the same as each share of Mariner common stock not subject to any restrictions, except that upon vesting applicable tax obligations will be satisfied by withholding a number of shares of Mariner's common stock equal in value to that obligation unless the holder elects to satisfy the obligation by payment by cash or check.



Immediately prior to the effective time of the merger, all existing restrictions on 40% of each outstanding Performance-Based Restricted Stock award will lapse, and each resulting released share will be fully vested and treated in the merger the same as each share of Mariner common stock without such restrictions, except

## **Table of Contents**

that upon vesting, applicable tax obligations will be satisfied by withholding a number of shares of Mariner's common stock equal in value to that obligation unless the holder elects to satisfy the obligation by payment by cash or check. The other 60% of each such award will be cancelled.

## **Dissenting Shares**

If the merger is approved and adopted by the Mariner stockholders, Mariner stockholders who do not vote in favor of the approval and adoption of the merger agreement and who properly demand appraisal of their shares will be entitled to appraisal rights in connection with the merger under Section 262 of the DGCL. If any holder of such dissenting shares waives, withdraws or loses the right to appraisal under Section 262 of the DGCL or the court properly determines that such holder is not entitled to relief under Section 262 of the DGCL, then each dissenting share will be deemed to have been converted into the right to receive the merger consideration in the manner provided in Election Procedures, any cash in lieu of fractional shares of Apache common stock, or any dividends or distributions on Apache common stock with a record date after the effective time of the merger. At the election deadline, Apache will have the right to require, but not the obligation to require (unless necessary to maintain the merger's tax status as a reorganization under Section 368(a) of the Internal Revenue Code), that any shares of Mariner common stock that constitute dissenting shares at the election deadline be treated as cash election shares not subject to the pro rata selection process. See Appraisal Rights.

Pursuant to the terms of the merger agreement, Mariner is required to give Apache prompt notice of any written demands for appraisal of Mariner common stock and afford Apache the opportunity to participate in all negotiations and proceedings with respect to demands for appraisal under the DGCL. Any amount payable to a holder of dissenting shares exercising appraisal rights will be paid in accordance with the DGCL solely by Merger Sub from its own funds.

## **Election Procedures**

The election form and other appropriate and customary transmittal materials will be mailed to Mariner stockholders of record as of the close of business on the record date for the special meeting, at the same time as this proxy statement/prospectus is mailed or as Apache and Mariner may otherwise agree. Apache will make election forms available upon reasonable request to persons who become Mariner stockholders after the record date but before the election deadline described below.

The election form will allow each Mariner stockholder to specify the number of Mariner shares with respect to which such holder elects to receive the mixed consideration, the stock consideration or the cash consideration. The election must be made prior to the election deadline. Unless extended or otherwise agreed upon by Apache and Mariner, the election deadline will be 5:00 p.m., New York time, on the 33rd day following the date the election form is mailed to Mariner stockholders. Apache and Mariner will make a public announcement if such election deadline has been extended.

To make a valid election, each Mariner stockholder must submit a properly completed form of election so that it is actually received by the exchange agent at or prior to the election deadline. A form of election will be properly completed only if accompanied by certificates, if any, which represent such stockholder's shares of Mariner common stock covered by the election form (or customary affidavits and indemnification regarding the loss or destruction of such certificates or the guaranteed delivery of such certificates) or, in case of book-entry shares, any additional documents specified by the procedures set forth in the election form. Please note that most of Mariner's shares are held in book-entry form and are uncertificated, which means they are not represented by stock certificates.

## **Table of Contents**

If a Mariner stockholder does not make an election to receive mixed consideration, cash consideration or stock consideration pursuant to the merger, the election form is not received by the exchange agent by the election deadline, the forms of election are improperly completed and/or are not signed, or the certificates representing Mariner common stock or other documentation are not included with the election form, a stockholder will be deemed not to have made an election. Stockholders not making an election will be paid the mixed consideration as described under [Conversion of Securities](#) [Mixed Consideration](#).

The actual allocation of cash and stock will be subject to the allocation procedures set forth in the merger agreement. Under the procedures, a Mariner stockholder who makes an all cash election will not receive all cash if the cash election pool is oversubscribed, and a Mariner stockholder who makes an all stock election will not receive all stock if the stock election pool is oversubscribed. For more information regarding these allocation procedures, see [Allocation of Merger Consideration](#).

Any election form may be revoked or changed by a stockholder submitting such election form prior to the election deadline. If the election is so revoked prior to the election deadline, the shares of Mariner stock represented by such election form will become non-election shares and Apache will return the certificates, if any, representing Mariner's common stock without charge to the revoking stockholder upon request, unless such stockholder properly makes a subsequent election. The exchange agent will have reasonable discretion to determine, in good faith, whether any election, revocation or change has been properly or timely made and to disregard immaterial defects in the election forms. None of Apache, Merger Sub, Mariner or the exchange agent will have any obligation to notify stockholders of any defect in an election form.

## **Allocation of Merger Consideration**

While each Mariner stockholder may elect to receive consideration consisting of all cash, all shares of Apache common stock or a combination of both in exchange for their shares of Mariner common stock, the aggregate cash consideration to be received by Mariner stockholders pursuant to the merger will be fixed at an amount equal to the product of \$7.80 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger. Such cash amount is expected to be approximately \$800 million. Similarly, the aggregate number of shares of Apache common stock to be received by Mariner stockholders pursuant to the merger will be fixed at a number equal to the product of 0.17043 and the number of shares of Mariner common stock outstanding immediately prior to the closing of the merger less 714,887 shares of outstanding unvested restricted stock that will be cancelled upon the merger. Such number is expected to be approximately 17.5 million shares of Apache common stock. Accordingly, if Mariner stockholders elect, in the aggregate, to receive cash in an amount greater than the aggregate cash consideration payable under the merger agreement, then those holders electing to receive all cash consideration will be prorated down (in accordance with their respective shares for which the cash consideration was elected) and will receive Apache stock as a portion of the overall consideration they receive for their shares. On the other hand, if Mariner stockholders elect, in the aggregate, to receive stock in an amount greater than the aggregate number of shares issuable under the merger agreement, then those holders electing to receive all stock consideration will be prorated down (in accordance with their respective shares for which the stock consideration was elected) and will receive cash as a portion of the overall consideration they receive for their shares. As a result, depending on the elections made by other Mariner stockholders, if a Mariner stockholder elects to receive all cash pursuant to the merger, that stockholder could receive a portion of the merger consideration in Apache common stock instead of cash, or, if a Mariner stockholder elects to receive all Apache common stock pursuant to the merger, that stockholder could receive a portion of the merger consideration in cash instead of Apache common stock. See [Risk Factors](#) [Risks Relating to the Merger](#) Mariner stockholders electing to receive only cash or only Apache common stock may, as the result of proration, receive a form or combination of consideration different from the form they elect.

**Surrender of Shares; Stock Transfer Books**

Prior to the effective time of the merger, Apache will deposit with Wells Fargo Bank, N.A., as the exchange agent for the merger, the shares of Apache common stock to be issued pursuant to the merger

## **Table of Contents**

agreement and the cash to be paid to Mariner stockholders, equal to the total cash consideration plus additional estimated cash amounts to be payable in respect of dividends and fractional shares. Such funds will be invested by the exchange agent as directed by Merger Sub subject to minimum credit-worthiness requirements, provided that in the event of any loss in such investment, Apache will be required to promptly provide additional funds to the exchange agent in the amount of such losses.

Promptly after the effective time of the merger, Apache will cause Merger Sub to send to each holder of record of Mariner common stock at the effective time of the merger a letter of transmittal and instructions for use in effecting the exchange of Mariner common stock for the merger consideration the holder is entitled to receive under the merger agreement. Upon surrender of the certificates or book-entry shares for cancellation along with the executed letter of transmittal and other documents, a Mariner stockholder will receive the merger consideration subject to the election and allocation provisions described above, which may include: (i) a book-entry statement or a certificate representing the stock consideration; (ii) the cash consideration; (iii) cash in lieu of fractional shares of Apache common stock and (iv) any unpaid dividends and distributions declared and paid in respect of Apache common stock after completion of the merger. No interest will accrue or be paid in respect of any merger consideration.

At any time following one year after the effective time of the merger, Merger Sub will have the right to require the exchange agent to return any shares of Apache common stock and cash that remain unclaimed. Any holder of Mariner common stock who has not exchanged his certificates or book-entry shares representing such stock prior to that time may thereafter look only to Merger Sub and Apache (subject to abandoned property, escheat and other similar laws) only as general creditors, to exchange his stock certificates or to pay amounts to which he is entitled pursuant to the merger agreement.

Until Mariner common stock certificates or book-entry shares are surrendered for exchange, any dividends or other distributions with a record date after the effective time of the merger with respect to Apache common stock issuable to Mariner stockholders will accrue but will not be paid. Apache will pay to Mariner stockholders any unpaid dividends or other distributions, without interest, only after they have duly surrendered their Mariner stock certificates or book-entry shares.

No fractional shares of Apache common stock will be issued to any holder of Mariner common stock upon completion of the merger. For each fractional share that would otherwise be issued, Apache will pay cash (without interest) in an amount equal to the fraction of a share multiplied by the average closing sales price of Apache common stock on the NYSE for the five consecutive trading days ending on the trading day immediately prior to the closing date. The cash to be paid in respect of fractional shares is not included in the total cash consideration limit described above under Allocation of Merger Consideration.

In the event any Mariner stock certificates are lost, stolen or destroyed, the exchange agent will issue and pay to the holder the consideration to which such holder would be entitled under the merger agreement upon the making of a lost certificate affidavit, which will include indemnities and the posting of a bond that are reasonably acceptable to Apache.

Neither Merger Sub nor the exchange agent will be liable to any holder of Mariner common stock certificates for any merger consideration properly delivered to a public official pursuant to applicable abandoned property, escheat or similar laws.

## **Withholding Taxes**

Apache, Merger Sub and the exchange agent will be entitled to deduct and withhold from the consideration otherwise payable to any Mariner stockholder the amounts that may be required to be deducted and withheld under any tax law.

The properly withheld amounts will be treated for all purposes of the merger as having been paid to the stockholders from whom they were withheld.

**Representations and Warranties**

The merger agreement contains representations and warranties made by each party regarding aspects of its business, financial condition and structure, as well as other facts pertinent to the merger. Each of Mariner,

**Table of Contents**

on the one hand, and Apache and/or Merger Sub, on the other hand, has made representations and warranties to the other in the merger agreement with respect to the following subject matters:

existence, good standing and qualification to conduct business;

subsidiaries;

organizational documents;

capitalization, including ownership of subsidiary capital stock and the absence of restrictions or encumbrances with respect to capital stock of any material subsidiary;

requisite power and authorization to enter into and carry out the obligations of the merger agreement and the enforceability of the merger agreement;

recommendations and approvals of the merger by boards of directors and opinions of financial advisors;

absence of any violation of organizational documents, third party agreements or laws, and absence of the creation of any liens, as a result of the execution and delivery of the merger agreement;

governmental and regulatory approvals or consents required to complete the merger;

absence of any violation of organizational documents, third party agreements or laws;

possession of and compliance with necessary permits;

filings and reports with the SEC and financial information;

disclosure controls and procedures and internal control over financial reporting;

absence of undisclosed liabilities or obligations;

absence of certain changes or events;

litigation;

employee benefit plans;

accuracy of information provided for inclusion in this proxy statement/prospectus;

ownership and condition of operating equipment;

title to properties and effectiveness of oil and gas leases;

information supplied in connection with the preparation of reserve reports;

operation of oil and gas properties;

hedging transactions;

tax matters;

environmental matters;

labor matters and employees;

interested party transactions;

intellectual property;

insurance;

fees payable to brokers, finders or investment banks in connection with the merger; and

tax treatment of merger as a reorganization within the meaning of Section 368 of the Internal Revenue Code.



**Table of Contents**

Mariner has made additional representations and warranties to Apache and Merger Sub in the merger agreement with respect to the following subject matters:

- absence of preferential purchase, consent or similar rights with respect to oil and gas properties as a result of the transactions contemplated by the merger agreement;
- absence of tax partnership agreements or similar arrangements;
- material contracts;
- anti-takeover laws or provisions in Mariner's organizational documents that are applicable to the merger agreement;
- inapplicability of Mariner's rights plan;
- designation of agents or attorneys-in-fact; and
- owned and leased real property.

Apache and Merger Sub have made additional representations and warranties to Mariner in the merger agreement with respect to the following subject matters:

- no ownership of Mariner common stock;
- solvency of Merger Sub following consummation of the merger;
- no Apache stockholder approval required in connection with the merger; and
- sufficiency of funds to pay the cash portion of the merger consideration and other amounts under the merger agreement.

Certain representations and warranties of Apache, Merger Sub and Mariner are qualified as to materiality or as to material adverse effect, which when used with respect to Apache, Merger Sub and Mariner means, as the case may be, any effect, event or change that is materially adverse to the business, assets, financial condition or results of operations of such party and its subsidiaries taken as whole or that prevents or materially impedes or delays the ability of such party to perform in all material respects its obligations under the merger agreement or to consummate the transactions contemplated by the merger agreement, except in each case for any such effect, event or change to the extent resulting from:

- changes in the financial or securities markets or general economic or political conditions in the United States or elsewhere in the world;
- changes or conditions generally affecting the oil and gas exploration, development and/or production industry or industries (including changes in oil, gas or other commodity prices);
- changes in applicable law or the interpretation thereof, or GAAP or the interpretation thereof;

the negotiation, execution, announcement or consummation of the transactions contemplated by the merger agreement, including the loss or departure of officers or other employees of such party or any of its subsidiaries, or any adverse change in customer, distributor, supplier or similar relationships resulting therefrom;

acts of war, terrorism, earthquakes, hurricanes, tornados or other natural disasters;

any failure by such party or any of its subsidiaries to meet any internal or published industry analyst projections or forecasts or estimates of revenues or earnings for any period;

any change in the price of either Apache's or Mariner's stock on the NYSE;

such party's failure to take any action as a result of any restrictions or prohibitions set forth in the merger agreement's section on the conduct of business until the effective time of the merger with respect to which the other party refused, following such party's request, to provide a waiver in a timely manner or at all;

**Table of Contents**

compliance with the terms of or the taking of any action required by the merger agreement;

the downgrade in rating of any debt or debt securities of such party or any of its subsidiaries; or

any legal proceedings arising out of or related to the merger agreement or any of the transactions contemplated thereby,

except, with respect to the matters described in the first, second and fifth bullets above, to the extent such effects, events or changes materially and disproportionately effect such party and its subsidiaries relative to other participants in the industry or industries in which such party and its subsidiaries operate (in which event the extent of such material and disproportionate effect may be taken into account in determining whether a material adverse effect has occurred), and except that with respect to the matters described in the sixth, seventh and tenth bullets above, the facts giving rise to such failure, change (excluding changes in the price of such party's common stock) or downgrade that are not otherwise excluded from the definition of material adverse effect may be taken into account in determining whether there has been a material adverse effect.

**Conduct of Business Pending the Effective Time of the Merger**

Except with the consent of Apache (which may not be unreasonably withheld, delayed or conditioned) in writing or as contemplated by the merger agreement, and excluding transactions between Mariner and its subsidiaries, Mariner has agreed that, prior to the effective time of the merger, it and its material subsidiaries will conduct their respective businesses in all material respects in the ordinary course consistent with past practice, and will use commercially reasonable efforts to preserve intact their respective business organizations, to maintain significant beneficial business relationships, and to keep available the services of key officers and employees. In addition, each of Mariner and its subsidiaries will maintain its insurance coverage and its accounts and records in a manner materially consistent with past practices, comply in all material respects with all applicable laws, maintain in all material respects its properties in good repair, not exceed its capital expenditure budget by more than \$50 million in the aggregate (provided, that Mariner and its subsidiaries may re-allocate capital expenditures provided for in the budget to other exploration and production projects in the ordinary course of business), and perform in all material respects its obligations under material contracts.

Except with the consent of Apache (which may not be unreasonably withheld, delayed or conditioned) in writing or as contemplated by the merger agreement, and excluding transactions between Mariner and its subsidiaries, the merger agreement also places specific restrictions on the ability of Mariner and its subsidiaries to, among other things:

amend or otherwise change its certificate of incorporation or bylaws, except as required to comply with applicable law or bylaw amendments that are not detrimental to Mariner stockholders;

issue, sell, pledge, dispose of, grant or encumber its securities, except in accordance with the terms of outstanding securities, employee benefits plan or Mariner's rights plan;

declare, set aside, make or pay any dividend or other distribution on any of its capital stock or reclassify, combine, split or subdivide, or redeem, purchase or otherwise acquire any of its capital stock;

make acquisitions in excess of \$15 million in the aggregate except purchases of assets from suppliers, clients or vendors in the ordinary course of business and consistent with past practice; incur any indebtedness for borrowed money or issue any debt securities other than indebtedness incurred under its existing credit agreement or debt permitted thereunder; assume or guarantee any indebtedness of a third party, or make any

loans or advances, except in the ordinary course of business consistent with past practice, and not in excess of \$1 million in the aggregate, other than performance bonds in the ordinary course of business and normal obligations under joint operating agreements; or enter into or amend any agreement to effect any of the foregoing;

increase the compensation payable or to become payable to, or grant any severance or termination pay to, its directors, officers or employees, except pursuant to existing contractual arrangements or in

**Table of Contents**

connection with normal compensation review; or enter into any employment or severance agreement with any director, officer or other employee; or except as required by law or consistent with past practice, establish, adopt, enter into or amend any collective bargaining, bonus, profit sharing, thrift, compensation, stock option, restricted stock, pension, retirement, deferred compensation, employment, termination, severance or other plan, agreement, or arrangement for the benefit of any director, officer or employee; or pay any bonus or similar compensation to any director, officer or employee in excess of \$50,000; or subject to certain exceptions, make any contributions to or with respect to any benefit plan or fund any trust, including a grantor trust;

sell, transfer, assign, farm-out, mortgage, encumber or otherwise dispose of any properties or assets having a value in excess of \$20 million in the aggregate, other than transactions (including sales of hydrocarbons) in the ordinary course of business;

enter into any hedging agreements not in the ordinary course of business consistent with past practice;

enter into, renew, extend, materially amend or terminate any material contract except in the ordinary course of business consistent with past practice or as permitted by the merger agreement;

waive, release, assign, settle or compromise any claim, action or proceeding other than those not exceeding the amount reserved against in Mariner's financial statements filed with the SEC, or otherwise pay, discharge or satisfy any claims, liabilities or obligations in excess of such amount, in each case, other than in the ordinary course consistent with past practice or that involve only the payment of monetary damages not in excess of \$20 million in the aggregate (excluding amounts to be paid under existing insurance policies);

take or omit to take any action that would reasonably be expected to result in any of the conditions to the merger not being satisfied or being materially delayed in violation of the merger agreement, except as permitted by the provisions in the merger agreement relating to an unsolicited acquisition proposal;

enter into any non-compete, non-solicit or similar agreement that would materially restrict the businesses of Merger Sub or its subsidiaries or their ability to solicit customers or employees following the merger;

adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization, except as permitted by the provisions in the merger agreement relating to an unsolicited acquisition proposal;

change its methods of accounting, except in accordance with changes in GAAP as concurred to by Mariner's independent auditors;

enter into any closing agreement with respect to material taxes, settle or compromise any material liability for taxes, make, revoke or change any material tax election, agree to any adjustment of any material tax attribute, file or surrender any claim for a material refund of taxes, execute or consent to any waivers extending the statutory period of limitations with respect to the collection or assessment of material taxes, file any material amended tax return or obtain any material tax ruling;

enter into any new, or materially amend or otherwise materially alter any transaction between Mariner or any of its subsidiaries, on the one hand, and, on the other hand, any (A) present executive officer or director of Mariner or any person that has served as such an executive officer or director within the past two years or any of such executive officer's or director's immediate family members, (B) record or beneficial owner of more than 5% of the outstanding shares of common stock of Mariner as of the date of the merger agreement, or (C) to the knowledge of Mariner, any affiliate of any such executive officer, director or owner (other than Mariner or any

of its subsidiaries);

make any loans to any individual other than advances of business expenses to employees, contractors or consultants in the ordinary course of business and consistent with past practice, in excess of \$500,000 in the aggregate for all such loans; and

agree or formally commit to do any of the foregoing.

## **Table of Contents**

Except with the consent of Mariner (which may not be unreasonably withheld, delayed or conditioned) in writing or as contemplated by the merger agreement, and excluding transactions between Apache and its subsidiaries, the merger agreement also places specific restrictions on the ability of each of Apache and its subsidiaries to, among other things:

acquire any business or corporation, partnership or other business organization or division thereof, or otherwise acquire any assets of any other entity (other than the purchase of assets from suppliers, clients or vendors in the ordinary course of business and consistent with past practice), if such transaction would reasonably be expected to prevent or materially delay the consummation of the merger;

adopt or propose to adopt any amendments to its charter documents which would reasonably be expected to prevent or materially delay the consummation of the merger or disproportionately adversely affect a holder of Mariner common stock relative to a holder of Apache common stock;

with respect to Apache only, split, combine or reclassify any shares of its capital stock, or declare, set aside or pay any dividend or other distribution to its stockholders, except for purchases of Apache common stock pursuant to stock repurchase plans;

adopt a plan of complete or partial liquidation or dissolution, restructuring, recapitalization or other reorganization of Apache or Merger Sub;

take or omit to take any action that would reasonably be expected to result in any of the conditions to the merger not being satisfied or being materially delayed in violation of the merger agreement; and

agree or formally commit to do any of the foregoing.

## **Certain Additional Agreements**

*No Solicitation.* Neither Mariner nor any of its subsidiaries nor any of their respective officers and directors shall, and Mariner will cause its and its subsidiaries' employees, agents and representatives not to, directly or indirectly:

initiate, solicit or knowingly encourage or knowingly facilitate an acquisition proposal (as defined below);

have any discussion with or provide or cause to be provided any non-public information to any person relating to an acquisition proposal, or engage or participate in any negotiations concerning an acquisition proposal;

approve, endorse or recommend any acquisition proposal; or

approve, endorse, recommend, or enter into any agreement related to an acquisition proposal.

The term "acquisition proposal" means any inquiry, proposal or offer with respect to (i) a merger, reorganization, share exchange, consolidation, business combination, recapitalization or similar transaction involving Mariner or any of its subsidiaries, (ii) any purchase or sale of 20% or more of the consolidated assets of Mariner and its subsidiaries, taken as a whole, or (iii) any purchase or sale of, or tender or exchange offer for, Mariner's equity securities that would result in any person beneficially owning securities representing 20% or more of Mariner's total voting power.

However, prior to the adoption and approval of the merger agreement by Mariner's stockholders, Mariner or its board of directors may:

engage or participate in negotiations or discussions with, or provide any information to, any person in response to, or otherwise facilitate, an unsolicited acquisition proposal that did not result from a breach of the non-solicitation provisions described above if (A) Mariner's board of directors concludes in good faith, after consultation with its outside counsel and financial advisors, that such acquisition proposal constitutes or is reasonably likely to lead to a superior proposal (as defined below), and (B) prior to providing any nonpublic information to any person in connection with an acquisition proposal, Mariner



**Table of Contents**

receives from such person an executed confidentiality agreement having provisions that are no less restrictive than those of Mariner's confidentiality agreement with Apache (Mariner may enter into a confidentiality agreement without a standstill provision or with a standstill provision less favorable to Mariner if it waives or similarly modifies the standstill provision in its confidentiality agreement with Apache); provided Mariner promptly provides to Apache any material non-public information concerning Mariner or its subsidiaries that is provided to the person making the acquisition proposal and which was not previously provided or made available to Apache; and

effect a change in Mariner's recommendation (as defined below) if (A) Mariner's board of directors concludes in good faith, after consultation with its outside counsel and financial advisors, that a change in Mariner's recommendation is necessary in order to comply with its fiduciary obligations or (B) Mariner has received an unsolicited acquisition proposal and its board of directors concludes in good faith that such acquisition proposal constitutes a superior proposal, and Mariner's board of directors concludes in good faith, after consultation with its outside counsel and financial advisors, that a change in Mariner's recommendation is necessary in order to comply with its fiduciary obligations.

The term "superior proposal" means an acquisition proposal that Mariner's board of directors determines, in good faith and after consultation with its outside counsel and financial advisors, is reasonably capable of being completed, is, in the good faith judgment of Mariner's board of directors, reasonably capable of being fully financed and is more favorable to Mariner's stockholders than the merger, taking into account, among other things, the likelihood and timing of consummation, any proposal or offer by Apache to amend the merger agreement or other factors deemed relevant by Mariner's board of directors; provided that for purposes of this definition, the references in the definition of "acquisition proposal" to "20%" are deemed to be "50%".

The term "change in Mariner's recommendation" means:

the failure by Mariner's board of directors to make, or the withdrawal, modification or qualification of, its recommendation of the approval and adoption of the merger agreement by Mariner's stockholders; or

the approval or recommendation by Mariner's board of directors of any acquisition proposal or letter of intent, agreement in principle, acquisition agreement or any similar agreement providing for any acquisition proposal.

Disclosure by Mariner of any acquisition proposal and the operation of the merger agreement with respect to the proposal is not a change in Mariner's recommendation under the merger agreement.

Under the merger agreement, Mariner's board of directors cannot make a change in Mariner's recommendation until (1) the third business day following Apache's receipt of written notice from Mariner advising Apache of the intent to effect a change in Mariner's recommendation, specifying material terms of the related superior proposal, if any, and the identity of the party making such proposal (with any amendment to the financial terms or any other material term of any such superior proposal requiring a new notice and a new three business day period) and Apache has not proposed, within three business days after its receipt of the notice of the intended change in Mariner's recommendation, an adjustment to the terms and conditions of the merger agreement as would enable Mariner's board of directors to proceed with their recommendation in favor of the merger; or if the intended change in Mariner's recommendation does not relate to a superior proposal, providing a general description of the material events giving rise thereto; and (2) if there is a superior proposal, approval of a definitive agreement by Mariner's board of directors with respect to such superior proposal and termination of the merger agreement in accordance with its terms.

Mariner will advise Apache of receipt of any acquisition proposal within 24 hours and keep Apache reasonably and promptly informed of the status and material terms of and any material changes to any acquisition proposal. Mariner

will cease and terminate any activities existing as of the date of the merger agreement with respect to any acquisition proposal.

**Table of Contents**

*Indemnification and Insurance.* The merger agreement provides for director and officer indemnification and insurance following completion of the merger. Under the merger agreement, Merger Sub and Apache will, for a period of six years following completion of the merger,

include provisions relating to exculpation, indemnification and expense advancement in Merger Sub's organizational documents that are no less favorable than those contained in Mariner's certificate of incorporation and bylaws; and

indemnify and hold harmless and advance expenses to, to the fullest extent permitted by law, the present and former directors, officers, employees, fiduciaries and agents of Mariner and its subsidiaries with respect to all acts or omissions by them in their capacities as such at any time.

Prior to closing of the merger, Mariner will purchase, and following the effective time of the merger, Merger Sub will maintain, a fully pre-paid six-year tail insurance policy to Mariner's directors and officers liability insurance policy maintained at the time of execution of the merger agreement. The tail insurance policy will cover a period from the effective time of the merger through and including the date six years after the closing of the merger with respect to claims arising from facts or events that existed or occurred prior to or at the effective time of the merger. The tail insurance will contain the same coverage and amount as, and contain terms and conditions that are equivalent to, the coverage provided by Mariner's directors and officers liability insurance maintained at the time of execution of the merger agreement.

The indemnification rights described above will be in addition to any other rights available under the organizational documents of Mariner, under applicable law or otherwise.

*Apache Guarantee.* Apache has agreed to cause Merger Sub to perform all of its obligations under the merger agreement and to be held liable for any breach of any representations, warranties, covenants or agreements of Merger Sub with respect to the merger agreement.

*Reorganization.* Apache, Merger Sub and Mariner have agreed to use their reasonable best efforts to cause the merger to qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code and to file all tax returns consistent with the treatment of the merger as a reorganization.

*Stockholder Litigation.* Subject to a customary joint defense agreement, Mariner will give Apache the opportunity to participate in full in, but not control, the defense or settlement of any stockholder litigation against Mariner and/or its directors relating to the merger or any other transactions contemplated by the merger agreement prior to the effective time of the merger.

**Conditions to the Merger**

*Conditions to the Obligations of Each Party to Effect the Merger.* The respective obligations of each party to effect the merger will be subject to the satisfaction of the following conditions on or prior to the closing date:

the approval and adoption of the merger agreement by the requisite affirmative vote of Mariner's stockholders;

the expiration or termination of any applicable waiting period under the HSR Act, the early termination of which was received on May 3, 2010;

the absence of any statute, rule or regulation promulgated by any governmental authority, and the absence of any order or injunction of a court of competent jurisdiction, preventing the consummation of the merger;

the approval for listing on the NYSE of the Apache common stock to be issued pursuant to the merger; and  
the absence of any stop order regarding the registration statement of which this proxy statement/prospectus is a part or any proceeding for such purpose pending before or threatened by the Securities and Exchange Commission.

**Table of Contents**

*Conditions to the Obligations of Apache and Merger Sub.* Unless waived by Apache, the obligations of Apache and Merger Sub to effect the merger are subject to the satisfaction or waiver on or prior to the closing date of the following additional conditions:

certain representations and warranties of Mariner contained in the merger agreement being true and correct in all material respects as of the date of the merger agreement and as of the closing date;

other representations and warranties of Mariner contained in the merger agreement being true and correct as of the date of the merger agreement and as of the closing date (except to the extent that such representations and warranties were expressly made as of an earlier date, in which case as of such earlier date), except where the failure of any such representations and warranties to be so true and correct would not have a material adverse effect;

performance in all material respects by Mariner of all of its covenants required to be performed by it under the merger agreement at or prior to the closing date;

receipt by Apache of a certificate signed on behalf of Mariner by its executive officer to the effect that the conditions specified in the preceding three bullet points have been satisfied;

the number of Mariner shares for which appraisal rights are properly exercised not exceeding 50% of the outstanding shares of Mariner's stock immediately prior to the effective time of the merger;

receipt by Apache of an opinion from its counsel, dated as of the closing date, to the effect that for federal income tax purposes the merger will be treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code and each of Apache and Mariner will be a party to such reorganization within the meaning of Section 368(b) of the Internal Revenue Code; and

there not having occurred from the date of the merger agreement through the closing, any event, condition, state of facts or development that has had, individually or in the aggregate, a material adverse effect on Mariner, the effects of which are continuing at the effective time of the merger.

The obligations of Apache and Merger Sub are not subject to any financing condition.

*Conditions to the Obligations of Mariner.* Unless waived by Mariner, the obligation of Mariner to effect the merger is subject to the satisfaction on or prior to the closing date of the following additional conditions:

the representations and warranties of Apache and Merger Sub contained in the merger agreement being true and correct as of the date of the merger agreement and as of the closing date (except to the extent that such representations and warranties were expressly made as of an earlier date, in which case as of such earlier date), except where the failure of any such representations and warranties to be so true and correct would not have a material adverse effect;

performance in all material respects by Apache and Merger Sub of their respective covenants required to be performed by them under the merger agreement at or prior to the closing date;

receipt by Mariner of a certificate signed on behalf of Apache by its executive officer to the effect that the conditions specified in the preceding two bullets have been satisfied;

receipt by Mariner of an opinion from its counsel, dated as of the closing date, to the effect that for federal income tax purposes the merger will be treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code and each of Apache and Mariner will be a party to such reorganization within the meaning of Section 368(b) of the Code; and

there not having occurred from the date of the merger agreement through the closing any event, condition, state of facts or development that has had, individually or in the aggregate, a material adverse effect on Apache, the effects of which are continuing at the effective time of the merger.

Apache and Mariner currently expect each of these conditions to be satisfied prior to or promptly after the Mariner stockholder meeting.

**Table of Contents**

No party may rely on the failure of any condition set forth in the merger agreement to be satisfied if such failure was caused by such party's failure to act in good faith or to use its reasonable best efforts to consummate the merger and the other transactions contemplated by the merger agreement.

**Termination, Amendment and Waiver**

***Termination***

The merger agreement may be terminated and the merger may be abandoned at any time prior to the effective time of the merger, notwithstanding the approval and adoption of the merger agreement by Mariner's stockholders:

by mutual written agreement of Apache, Merger Sub and Mariner; or

by either Apache or Mariner if:

the merger has not occurred on or before the outside date, which is January 31, 2011, provided that the party seeking termination has not materially breached its representations or covenants under the merger agreement in a manner that proximately caused the merger not to be consummated on or before the outside date;

a court of competent jurisdiction or other governmental authority has issued a final, non-appealable order, decree or ruling permanently restraining, enjoining or otherwise prohibiting the merger; or

the Mariner stockholders have failed to approve and adopt the merger agreement;

by Apache if:

Mariner breaches or fails to perform any of its representations, warranties or covenants in the merger agreement such that the conditions with respect thereto are not capable of being satisfied, and such breach or failure to perform is not cured prior to the earlier of 30 days after notice to Mariner of such breach or failure to perform and the outside date; provided that Apache will have no right to terminate the merger agreement under this provision if Apache or Merger Sub is then in breach or has failed to perform in any material respect any of its representations, warranties or covenants in the merger agreement; or

prior to the approval and adoption of the merger agreement by Mariner's stockholders, Mariner's board of directors effects a change in Mariner's recommendation; or

by Mariner if:

Apache or Merger Sub breaches or fails to perform any of their representations, warranties or covenants in the merger agreement such that the conditions with respect thereto are not capable of being satisfied, and such breach or failure to perform is not cured prior to the earlier of 30 days after notice to Apache of such breach or failure to perform and the outside date; provided that Mariner will have no right to terminate the merger agreement under this provision if Mariner is then in breach or has failed to perform in any material respect any of their representations, warranties or covenants in the merger agreement; or

prior to the approval and adoption of the merger agreement by Mariner's stockholders, Mariner's board of directors effects a change in Mariner's recommendation in respect of a superior proposal, authorizes Mariner to enter into a definitive agreement with respect to the superior proposal and Mariner pays the termination fee (described below) to Apache.





**Table of Contents**

***Fees and Expenses***

The merger agreement provides for the payment of a termination fee by Mariner in the amount of \$67 million less the amount of any of Apache's expenses reimbursed by Mariner pursuant to the merger agreement. This termination fee is payable by Mariner to Apache in the following circumstances:

the merger agreement is terminated by Apache prior to Mariner stockholder approval as a result of a change in Mariner's recommendation, or by Mariner prior to Mariner stockholder approval as a result of a change in Mariner's recommendation in respect of a superior proposal for which its board of directors has authorized a definitive agreement;

either Apache or Mariner terminates the merger agreement because the merger agreement was not approved and adopted by Mariner's stockholders and (i) a bona fide acquisition proposal has been publicly announced at the time of the stockholders meeting and such acquisition proposal was not withdrawn prior to the fifth business day preceding the stockholders meeting, and (ii) within 12 months after the date of such stockholders meeting, a transaction constituting an acquisition proposal is consummated or Mariner enters into an agreement with respect to a transaction constituting an acquisition proposal that is consummated (as the term "acquisition proposal" is described above under "Certain Additional Agreements - No Solicitation," except that all references to "20%" therein are deemed to be references to "50%" for the purposes of the provision described in this paragraph); or

Apache terminates the merger agreement because Mariner is in material breach of the merger agreement and such breach gives rise to a failure of the conditions to closing with respect thereto, or if Apache has the right, at the time, to terminate the merger agreement because the merger has not occurred by the outside date, and (i) a bona fide acquisition proposal has been publicly announced at the time of termination and such proposal was not withdrawn prior to the termination or the fifth business day preceding the outside date, as the case may be, and (ii) within 12 months after the date of such termination, a transaction constituting an acquisition proposal is consummated or Mariner enters into an agreement with respect to a transaction constituting an acquisition proposal that is consummated (as the term "acquisition proposal" is described above under "Certain Additional Agreements - No Solicitation," except that all references to "20%" therein are deemed to be references to "50%" for the purposes of the provision described in this paragraph).

All costs and expenses incurred in connection with the merger agreement and the merger will be paid by the party incurring such expenses, whether or not the merger is consummated. Apache will not be entitled to receive more than one termination fee.

The merger agreement provides that Mariner will be required to reimburse Apache for its expenses of up to \$7.5 million if the merger agreement is terminated:

by Apache, for Mariner's uncured material breach or if there is a change in Mariner's recommendation;

by Mariner, if prior to the approval and adoption of the merger agreement by Mariner's stockholders, Mariner's board of directors effects a change in Mariner's recommendation in respect of a superior proposal, authorizes Mariner to enter into a definitive agreement with respect to the superior proposal and Mariner pays the termination fee to Apache; or

by Apache or Mariner, as a result of failure to consummate the merger by the outside date or failure to approve and adopt the merger agreement by Mariner's stockholders, provided an acquisition proposal has also been

publicly announced and not timely withdrawn prior to Mariner's stockholders meeting (provided that the reference in the definition of acquisition proposal to 20% are deemed to be references to 50% for the purposes of the provision described in this paragraph).

To obtain reimbursement, Apache will be required to deliver an itemization of expenses within 10 business days following the termination of the merger agreement.

The merger agreement provides that Apache will be required to reimburse Mariner for its expenses of up to \$7.5 million if the merger agreement is terminated by Mariner for Apache's or Merger Sub's uncured

**Table of Contents**

material breach. To obtain reimbursement, Mariner will be required to deliver an itemization of expenses within 10 business days following the termination of the merger agreement.

For purposes of this section, expenses mean all reasonable out-of-pocket documented fees and expenses (including all fees and expenses of counsel, accountants, consultants, financial advisors and investment bankers, but excluding internal costs and allocated overhead of the parties) incurred with or related to the authorization, preparation, negotiation, execution and performance of the merger agreement and all other matters related to the merger.

*Amendment.* The merger agreement may not be amended except by an instrument in writing signed by all parties to the merger agreement. However, if the merger agreement has been approved by Mariner stockholders, then no amendment can be made that by law requires the further approval of Mariner's stockholders without receipt of such further approval.

*Waiver.* At any time prior to the effective time of the merger, each of Apache, Merger Sub and Mariner may, to the extent permitted by law:

extend the time for the performance of any obligations of Apache, Merger Sub or Mariner;

waive any inaccuracies in the representations and warranties of the other party; and

waive compliance with any agreements or conditions for the benefit of that party.

**Table of Contents**

**APPRAISAL RIGHTS**

If the merger is approved and adopted by the Mariner stockholders, Mariner stockholders who do not vote in favor of the approval and adoption of the merger agreement and who properly demand appraisal of their shares will be entitled to appraisal rights in connection with the merger under Section 262 of the DGCL ( Section 262 ).

At the election deadline, Apache will have the right to require, but not the obligation to require (unless necessary to maintain the merger's tax status as a reorganization under Section 368(a) of the Internal Revenue Code), that any shares of Mariner common stock that constitute dissenting shares at the election deadline be treated as cash election shares not subject to the pro rata selection process. For a description of the pro rata selection process, see The Merger Agreement Allocation of Merger Consideration.

The following discussion is not a complete statement of the law pertaining to appraisal rights under the DGCL and is qualified in its entirety by the full text of Section 262, which is attached to this joint proxy statement/prospectus as Annex C. The following summary does not constitute any legal or other advice nor does it constitute a recommendation that stockholders exercise their appraisal rights under Section 262. Only a holder of record of shares of Mariner common stock is entitled to demand appraisal rights for the shares registered in that holder's name. A person having a beneficial interest in shares of common stock of Mariner held of record in the name of another person, such as a broker, fiduciary, depository or other nominee, must act promptly to cause the record holder to follow the steps summarized below properly and in a timely manner to perfect appraisal rights.

Under Section 262, holders of shares of common stock of Mariner who do not vote in favor of the approval and adoption of the merger agreement, who continuously are the record holders of such shares through the effective time of the merger, and who otherwise follow the procedures set forth in Section 262 will be entitled to have their shares appraised by the Delaware Court of Chancery and to receive payment in cash of the fair value of the shares, exclusive of any element of value arising from the accomplishment or expectation of the merger, together with interest, if any, as determined by the court.

Under Section 262, where a merger agreement is to be submitted for adoption at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, must notify each of its stockholders entitled to appraisal rights that appraisal rights are available and include in the notice a copy of Section 262. This joint proxy statement/prospectus shall constitute the notice, and the full text of Section 262 is attached to this proxy statement as Annex C. In connection with the merger, any holder of common stock of Mariner who wishes to exercise appraisal rights, or who wishes to preserve such holder's right to do so, should review the following discussion and Annex C carefully because failure to timely and properly comply with the procedures specified will result in the loss of appraisal rights. Moreover, because of the complexity of the procedures for exercising the right to seek appraisal of shares of common stock, Mariner believes that if a stockholder considers exercising such rights, such stockholder should seek the advice of legal counsel.

***Filing Written Demand***

Any holder of common stock of Mariner wishing to exercise appraisal rights must deliver to Mariner, before the vote on the approval and adoption of the merger agreement at the special meeting at which the proposal to approve and adopt the merger agreement will be submitted to the stockholders, a written demand for the appraisal of the stockholder's shares, and that stockholder must not vote in favor of the approval and adoption of the merger agreement. A holder of shares of common stock of Mariner wishing to exercise appraisal rights must hold of record the shares on the date the written demand for appraisal is made and must continue to hold the shares of record through

the effective time of the merger. A proxy that is submitted and does not contain voting instructions will, unless revoked, be voted in favor of the approval and adoption of the merger agreement, and it will constitute a waiver of the stockholder's right of appraisal and will nullify any previously delivered written demand for appraisal. Therefore, a stockholder who submits a proxy and who wishes to exercise appraisal rights must submit a proxy containing instructions to vote against the approval and adoption of the merger agreement or abstain from voting on the approval and adoption of the merger agreement. Neither voting against the approval and adoption of the merger agreement nor abstaining from

## **Table of Contents**

voting or failing to vote on the proposal to approve and adopt the merger agreement will, in and of itself, constitute a written demand for appraisal satisfying the requirements of Section 262. The written demand for appraisal must be in addition to and separate from any proxy or vote on the approval and adoption of the merger agreement. A proxy or vote against the approval and adoption of the merger agreement will not constitute a demand. A stockholder's failure to make the written demand prior to the taking of the vote on the approval and adoption of the merger agreement at the special meeting of Mariner stockholders will constitute a waiver of appraisal rights.

Only a holder of record of shares of Mariner common stock is entitled to demand appraisal rights for the shares registered in that holder's name. A demand for appraisal in respect of shares of common stock of Mariner should be executed by or on behalf of the holder of record, and must reasonably inform Mariner of the identity of the holder and state that the person intends thereby to demand appraisal of the holder's shares in connection with the merger. If the shares are owned of record in a fiduciary capacity, such as by a trustee, guardian or custodian, such demand must be executed by or on behalf of the record owner, and if the shares are owned of record by more than one person, as in a joint tenancy and tenancy in common, the demand should be executed by or on behalf of all joint owners. An authorized agent, including an agent for two or more joint owners, may execute a demand for appraisal on behalf of a holder of record; however, the agent must identify the record owner or owners and expressly disclose that, in executing the demand, the agent is acting as agent for the record owner or owners. Stockholders who hold their shares in brokerage accounts or other nominee forms and who wish to exercise appraisal rights are urged to consult with their brokers to determine the appropriate procedures for the making of a demand for appraisal by such a nominee.

All written demands for appraisal pursuant to Section 262 should be sent or delivered to:

Mariner at One BriarLake Plaza, 2000 West Sam Houston Parkway South, Suite 2000, Houston, Texas 77042,  
Attention: General Counsel.

Any holder of common stock of Mariner may withdraw his, her or its demand for appraisal and accept the consideration offered pursuant to the merger agreement by delivering to Mariner, or if such withdrawal is made after the effective time of the merger, to Merger Sub as successor to Mariner, as the surviving entity, a written withdrawal of the demand for appraisal. However, any such attempt to withdraw the demand made more than 60 days after the effective date of the merger will require written approval of the surviving entity. No appraisal proceeding in the Delaware Court of Chancery will be dismissed without the approval of the Delaware Court of Chancery, and such approval may be conditioned upon such terms as the Delaware Court of Chancery deems just.

### ***Notice by the Surviving Entity***

If the merger is completed, within 10 days after the effective time of the merger, the surviving entity will notify each holder of common stock of Mariner who has made a written demand for appraisal pursuant to Section 262, and who has not voted in favor of the approval and adoption of the merger agreement, that the merger has become effective and the effective date thereof.

### ***Filing a Petition for Appraisal***

Within 120 days after the effective time of the merger, but not thereafter, the surviving entity or any holder of common stock of Mariner who has complied with Section 262 and is entitled to appraisal rights under Section 262 may file a petition in the Delaware Court of Chancery, with a copy served on the surviving entity in the case of a petition filed by a stockholder, demanding a determination of the fair value of the shares held by all dissenting holders. The surviving entity is under no obligation to and has no present intention to file a petition, and holders should not assume that the surviving entity will file a petition or initiate any negotiations with respect to the fair value of shares of common stock of Mariner. Accordingly, any holders of common stock of Mariner who desire to

have their shares appraised should initiate all necessary action to perfect their appraisal rights in respect of shares of common stock of Mariner within the time and in the manner prescribed in Section 262.

## **Table of Contents**

Within 120 days after the effective time of the merger, any holder of common stock of Mariner who has complied with the requirements for exercise of appraisal rights will be entitled, upon written request, to receive from the surviving entity a statement setting forth the aggregate number of shares not voted in favor of the approval and adoption of the merger agreement and with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. The statement must be mailed within 10 days after a written request therefor has been received by the surviving entity or within 10 days after the expiration of the period for delivery of demands for appraisal, whichever is later. A beneficial owner of shares held either in a voting trust or by a nominee on behalf of such person may file a petition seeking appraisal or request the foregoing statements. As noted above, however, the demand for appraisal can only be made by a stockholder of record.

If a petition for an appraisal is timely filed by a holder of shares of common stock of Mariner and a copy thereof is served upon the surviving entity, the surviving entity will then be obligated within 20 days to file with the Delaware Register in Chancery a duly verified list containing the names and addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached. After notice to the stockholders as required by the court, the Delaware Court of Chancery is empowered to conduct a hearing on the petition to determine those stockholders who have complied with Section 262 and who have become entitled to appraisal rights thereunder. The Delaware Court of Chancery may require the stockholders who demanded payment for their shares to submit their stock certificates to the Register in Chancery for notation thereon of the pendency of the appraisal proceeding, and if any stockholder fails to comply with the direction, the Delaware Court of Chancery may dismiss the proceedings as to such stockholder.

### ***Determination of Fair Value***

After determining the holders of common stock of Mariner entitled to appraisal, the Delaware Court of Chancery will appraise the fair value of their shares, exclusive of any element of value arising from the accomplishment or expectation of the merger, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining fair value, the Delaware Court of Chancery will take into account all relevant factors. Unless the court in its discretion determines otherwise for good cause shown, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the Federal Reserve discount rate (including any surcharge) as established from time to time during the period from the effective date of the merger and the date of payment of the judgment. In *Weinberger v. UOP, Inc.*, the Supreme Court of Delaware discussed the factors that could be considered in determining fair value in an appraisal proceeding, stating that proof of value by any techniques or methods which are generally considered acceptable in the financial community and otherwise admissible in court should be considered, and that [f]air price obviously requires consideration of all relevant factors involving the value of a company. The Delaware Supreme Court stated that, in making this determination of fair value, the court must consider market value, asset value, dividends, earnings prospects, the nature of the enterprise and any other facts that could be ascertained as of the date of the merger that throw any light on future prospects of the merged corporation. Section 262 provides that fair value is to be exclusive of any element of value arising from the accomplishment or expectation of the merger. In *Cede & Co. v. Technicolor, Inc.*, the Delaware Supreme Court stated that such exclusion is a narrow exclusion [that] does not encompass known elements of value, but which rather applies only to the speculative elements of value arising from such accomplishment or expectation. In *Weinberger*, the Supreme Court of Delaware also stated that elements of future value, including the nature of the enterprise, which are known or susceptible of proof as of the date of the merger and not the product of speculation, may be considered.

Stockholders considering seeking appraisal should be aware that the fair value of their shares as so determined could be more than, the same as or less than the consideration they would receive pursuant to the merger if they did not seek appraisal of their shares and that an investment banking opinion as to the fairness from a financial point of view of the consideration payable in a merger is not an opinion as to fair value under Section 262. Although Mariner believes that



the merger consideration is fair, no representation is made as to the outcome of the appraisal of fair value as determined by the Delaware Court of Chancery, and stockholders

**Table of Contents**

should recognize that such an appraisal could result in a determination of a value higher or lower than, or the same as, the merger consideration. Neither Mariner nor Apache anticipate offering more than the applicable merger consideration to any stockholder of Mariner exercising appraisal rights, and each of Mariner and Apache reserves the right to assert, in any appraisal proceeding, that for purposes of Section 262, the fair value of a share of common stock of Mariner is less than the applicable merger consideration, and that the methods which are generally considered acceptable in the financial community and otherwise admissible in court should be considered in the appraisal proceedings. If a petition for appraisal is not timely filed, then the right to an appraisal will cease. The costs of the action (which do not include attorneys' fees or the fees and expenses of experts) may be determined by the Delaware Court of Chancery and taxed upon the parties as the Delaware Court of Chancery deems equitable under the circumstances. The Delaware Court of Chancery may also order that all or a portion of the expenses incurred by a stockholder in connection with an appraisal, including, without limitation, reasonable attorneys' fees and the fees and expenses of experts, be charged pro rata against the value of all the shares entitled to be appraised.

If any stockholder who demands appraisal of shares of common stock of Mariner under Section 262 fails to perfect, or loses or successfully withdraws, such holder's right to appraisal, the stockholder's shares of common stock of Mariner will be deemed to have been converted at the effective time of the merger into the right to receive the merger consideration applicable to the shares. A stockholder will fail to perfect, or lose or withdraw, the holder's right to appraisal if no petition for appraisal is filed within 120 days after the effective time of the merger or if the stockholder delivers to the surviving entity a written withdrawal of the holder's demand for appraisal and an acceptance of the merger consideration in accordance with Section 262.

From and after the effective time of the merger, no dissenting stockholder shall have any rights of a stockholder of Mariner with respect to that holder's shares for any purpose, except to receive payment of fair value and to receive payment of dividends or other distributions on the holder's shares of common stock of Mariner, if any, payable to stockholders of Mariner of record as of a time prior to the effective time of the merger; provided, however, that if a dissenting stockholder delivers to the surviving company a written withdrawal of the demand for an appraisal within 60 days after the effective time of the merger, or subsequently with the written approval of the surviving company, then the right of that dissenting stockholder to an appraisal will cease and the dissenting stockholder will be entitled to receive the merger consideration in accordance with the terms of the merger agreement. Once a petition for appraisal is filed with the Delaware Court of Chancery, however, the appraisal proceeding may not be dismissed as to any stockholder of Mariner without the approval of the court.

Failure to comply strictly with all of the procedures set forth in Section 262 may result in the loss of a stockholder's statutory appraisal rights. Consequently, any stockholder of Mariner wishing to exercise appraisal rights is urged to consult legal counsel before attempting to exercise those rights.

**Table of Contents**

**SOURCE OF FUNDING FOR THE MERGER**

Apache's obligation to complete the merger is not conditioned upon its obtaining financing. As of March 31, 2010, Apache had \$2.1 billion in cash. Apache expects to fund the cash portion of the merger consideration payable to Mariner stockholders, which is expected to equal approximately \$800 million as of May 10, 2010, with existing cash balances and commercial paper.

**Table of Contents**

**COMPARISON OF RIGHTS OF APACHE STOCKHOLDERS  
AND MARINER STOCKHOLDERS**

Apache and Mariner are both incorporated under Delaware law. Therefore, any differences in the rights of Mariner stockholders and Apache stockholders are due to differences in each company's respective certificate of incorporation, bylaws and agreements defining the rights of security holders, each as amended or restated. As a result of the merger, Mariner stockholders will become stockholders of Apache and, accordingly, their rights will be governed by Apache's certificate of incorporation and bylaws, each as amended, and the laws of the State of Delaware. While the rights and privileges of Mariner stockholders are, in many instances, comparable to those of the stockholders of Apache, there are some differences. The following is a summary of the material differences as of the date of this proxy statement/prospectus between the rights of the Mariner stockholders and the rights of Apache stockholders.

The following discussion of these differences is only a summary of the material differences and does not purport to be a complete description of all the differences. Please consult the DGCL, and the respective certificates of incorporation and bylaws, each as amended, restated, supplemented or otherwise modified from time to time, of Apache and Mariner for a more complete understanding of these differences.

**Apache**

**Mariner**

***Capital Stock:***

Apache is authorized to issue:

430,000,000 shares of common stock, par value \$0.625 per share, of which 337,352,692 were issued and outstanding as of May 10, 2010. Immediately following the completion of the merger, Apache expects to have approximately 354,814,228 shares of common stock outstanding (based on the number of outstanding shares of Mariner common stock and equity awards as of May 10, 2010, and based on the assumption that no options to purchase Apache or Mariner common stock are exercised prior to completion of the merger).

5,000,000 shares of preferred stock, no par value per share, of which none are issued and outstanding. 100,000 shares of Apache's preferred stock has been designated as Series A Junior Participating Preferred Stock, of which none are issued and outstanding.

Apache's board of directors has the authority to issue one or more series of preferred stock, having terms designated by Apache's board.

Each share of common stock has one vote, and cumulative voting is not allowed.

Mariner is authorized to issue:

180,000,000 shares of common stock, par value \$.0001 per share, of which 103,170,652 were issued and outstanding as of May 10, 2010.

20,000,000 shares of preferred stock, par value \$.0001 per share, of which none are issued and outstanding.

Mariner's board of directors has the authority to issue one or more series of preferred stock, having terms designated by Mariner's board.

Each share of common stock has one vote, and cumulative voting is not allowed.

***Number and Term of Directors:***

The number of directors shall be fixed from time to time exclusively by the board of directors pursuant to a resolution adopted by a majority of the directors then in office.

Currently, there are eleven directors on the board of directors, divided as evenly as possible into three classes, each director serving a three-year term.

The number of directors shall be determined from time to time by the board of directors (provided that no decrease in the number of directors which would have the effect of shortening the term of an incumbent director may be made by the board of directors). If the board makes no such determination, the number of directors shall be three.

Currently, there are seven directors on the board of directors, divided as evenly as possible into three classes, each director serving a three-year term.

**Table of Contents****Apache**

Directors are elected by a majority of votes cast; provided, however, if there are more nominees than positions, directors are elected by a plurality of votes cast. Stockholders do not have the option of withholding their vote in respect of a director nominee. They may, however, abstain, or vote for or against a nominee. A nominee receives a majority of votes cast if he or she receives more votes for than against, without taking abstentions into account.

To address the situation in which an incumbent director receives a plurality, but fails to receive a majority of votes cast, Apache's bylaws require each such incumbent director to submit promptly (and in any event within 10 days) after each meeting for the election of directors an irrevocable letter of resignation, which shall become effective upon acceptance by the board of directors. The board of directors may accept or reject such resignation, or take other action, and will publicly disclose and explain its decision on Apache's web site within 90 days from the date of the certification of election results. Any director not elected shall not participate in the board of directors decision with respect to his or her resignation.

If a director's resignation is accepted by the board of directors, then the board of directors may fill the resulting vacancy as described in *Filling Director Vacancies* below or may decrease the size of the board of directors.

***Removal of Directors:***

Directors may be removed as provided by statute, which generally requires the vote of the holders of a majority of the shares entitled to vote in the election of directors, and only allows for the removal of a director for cause in the case of a classified board.

Any director may be removed only for cause, by the affirmative vote of at least 80% of the voting power of all of the then-outstanding shares of Mariner capital stock entitled to vote generally in the election of directors, voting together as a single class.

***Filling Director Vacancies:***

Under Apache's bylaws and certificate of incorporation, a majority of the directors then in office, in their sole discretion and whether or not constituting a quorum, may elect a replacement director to serve during the unexpired term of any director previously elected whose office is vacant as a result of death, resignation, retirement,

Under Mariner's certificate of incorporation, newly created directorships resulting from any increase in the authorized number of directors or any vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, shall, unless otherwise required by law or by resolution of the board of

disqualification, removal or otherwise, and may elect directors, be filled by the affirmative vote of a majority of directors to fill any newly created directorships created by the directors then in office, though less than a quorum the board. (and not by stockholders).

***Stockholder Consents:***

Apache stockholders may not act by written consent.

Mariner stockholders may not act by written consent.

**Table of Contents**

**Apache**

**Mariner**

***Stockholder Proposals and Director Nominations:***

For business to be properly brought and nominations properly made before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the secretary of Apache. To be timely, notice must be delivered to or mailed and received at the principal executive offices of Apache not less than 120 days before the meeting of stockholders. Stockholders may not bring business before a special meeting.

For business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the secretary of Mariner. To be timely, notice must be delivered to or mailed and received at the principal executive offices of Mariner not less than 120 days prior to the anniversary date of the proxy statement for the preceding annual meeting of stockholders. Stockholders may not bring business before a special meeting.

For nominations to be properly made before a meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the secretary of Mariner. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of Mariner, (i) if in respect of an annual meeting, not later than 120 days prior to the anniversary date of the proxy statement for the immediately preceding annual meeting of stockholders, and (ii) if in respect of a special meeting, not later than the close of business on the 10th day following the day on which notice of the date of the special meeting was first mailed to the stockholders or public disclosure of the date of the special meeting was first made, whichever first occurs.

A stockholder's notice to the secretary of business to be brought must set forth (a) a brief description of the business desired to be brought before the annual meeting, (b) the name and address, as they appear on Apache's books, of the stockholder proposing the business, (c) the class and number of shares of Apache that are beneficially owned by the stockholder, and (d) any material interest of the stockholder in the business.

A stockholder's notice to the secretary of business to be brought must set forth as to each matter, (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (ii) the name and address, as they appear on Mariner's books, of the stockholder proposing such business, (iii) the acquisition date, the class and the number of shares of voting stock of Mariner which are owned beneficially by the stockholder, (iv) any material interest of the stockholder in such business, and (v) a representation that the stockholder intends to appear in person or by proxy at the annual meeting to bring the proposed business before the meeting.

A stockholder's nomination of person(s) for election to the board of directors must set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director (i) the name, age, business address

A stockholder's nomination of person(s) for election to the board of directors must set forth (a) as to each person whom the stockholder proposes to nominate for election or re-election as a director, all information relating to the



and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class and number of shares of Apache which are beneficially owned by the person, and (iv) any other information relating to the person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act (including, without limitation, the person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); and (b) as to the stockholder giving the notice (i) the name and address, as they appear on Apache's books, of the stockholder and (ii) the class and number of shares of Apache which are beneficially owned by the stockholder.

person that is required to be disclosed in solicitations for proxies for election of directors, or is otherwise required, pursuant to Regulation 14A under the Exchange Act (including the written consent of such person to be named in the proxy statement as a nominee and to serve as a director if elected); and (b) as to the stockholder giving the notice (i) the name and address, as they appear on Mariner's books, of such stockholder, and (ii) the class and number of shares of capital stock of Mariner that are beneficially owned by the stockholder.

**Table of Contents****Apache****Mariner*****Adjournment of Stockholder Meetings:***

If a quorum is not represented at any stockholder meeting, the stockholders entitled to vote thereat, present in person or by proxy, shall have power to adjourn the meeting, without notice, other than announcement at the meeting, until the requisite amount of voting stock shall be present.

The chairman of the meeting or the holders of a majority of the issued and outstanding stock, present in person or represented by proxy and entitled to vote thereat, at any meeting of stockholders, whether or not a quorum is present, shall have the power to adjourn such meeting from time to time, without any notice other than announcement at the meeting of the time and place of the holding of the adjourned meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such meeting. At such adjourned meeting at which a quorum is present or represented any business may be transacted that might have been transacted at the meeting as originally called.

***Special Meeting of Stockholders:***

May be called only by the chairman of the board or the chief executive officer and shall be called by the chairman of the board, chief executive officer, or secretary at the request in writing of a majority of the board of directors.

May be called only by resolution of a majority of the total number of authorized directors, regardless of any vacancies.

***Vote on Business Combinations:***

The affirmative vote of not less than 80% of all classes of stock voting as a single class is required: (a) for the adoption of any agreement for the merger or consolidation of Apache with or into any other corporation, or (b) to authorize any sale or lease of all or any substantial part of the assets of Apache to, or any sale or lease to Apache or any subsidiary in exchange for securities of Apache of any assets (except assets having an aggregate fair market value of less than \$5,000,000) of, any other corporation, person or other entity if, in either case, as of the record date for the determination of stockholders entitled to vote thereon or consent thereto, such other corporation, person or entity is the beneficial owner, directly or indirectly, of more than 5% of the outstanding shares of stock of Apache entitled to vote in elections of directors considered as one class; except that such approval is not required for any business combination that the board of directors approved prior to the related person involved in the business combination

Mariner's certificate of incorporation does not contain any provision requiring a supermajority vote of stockholders for business combinations. However, Mariner is subject to Section 203 of the DGCL, which provides that, if a person acquires 15% or more of the stock of a Delaware corporation without the approval of the board of directors of that corporation, thereby becoming an interested stockholder, that person may not engage in certain transactions, including mergers, with the corporation for a period of three years unless one of the following exceptions applies: (i) the board of directors approved the acquisition of stock or the transaction prior to the time that the person became an interested stockholder; (ii) the person became an interested stockholder and 85% owner of the voting stock of the corporation in the transaction, excluding voting stock owned by directors who are also officers and certain employee stock plans; or (iii) the transaction is

having become a related person or if the business combination is between Apache and a majority-owned subsidiary of Apache. This 80% vote is required even if no vote or a lesser percentage is required by any applicable laws.

approved by the board of directors and by the affirmative vote of two-thirds of the outstanding voting stock which is not owned by the interested stockholder.

**Table of Contents****Apache**

In addition to the super-majority voting provision in Apache's certificate of incorporation outlined above, Apache is subject to Section 203 of the DGCL, which provides that, if a person acquires 15% or more of the stock of a Delaware corporation without the approval of the board of directors of that corporation, thereby becoming an interested stockholder, that person may not engage in certain transactions, including mergers, with the corporation for a period of three years unless one of the following exceptions applies: (i) the board of directors approved the acquisition of stock or the transaction prior to the time that the person became an interested stockholder; (ii) the person became an interested stockholder and 85% owner of the voting stock of the corporation in the transaction, excluding voting stock owned by directors who are also officers and certain employee stock plans; or (iii) the transaction is approved by the board of directors and by the affirmative vote of two-thirds of the outstanding voting stock which is not owned by the interested stockholder.

**Mariner*****Stockholder Rights Plan:***

Apache has implemented a stockholder rights plan.

Mariner has implemented a stockholder rights plan.

***Exculpation and Indemnification of Officers and Directors:***

Apache's certificate of incorporation contains a provision that eliminates the personal liability of a director to Apache and its stockholders for monetary damages for breach of his or her fiduciary duty as a director to the extent currently allowed under the DGCL. Apache's certificate of incorporation further provides that no director shall be liable for such monetary damages unless, in addition to any and all other requirements for such liability, such director (i) shall have breached his duty of loyalty to Apache or its stockholders, (ii) shall not have acted in good faith, or in failing to act, shall not have acted in good faith, (iii) shall have acted in a manner involving intentional misconduct or a knowing violation of law or, in failing to act, shall have acted in a manner involving intentional misconduct or a knowing violation of law or (iv) shall have derived an improper personal benefit.

The Mariner certificate of incorporation provides that no director of Mariner shall be held personally liable to Mariner or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to Mariner or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL for unlawful payment of dividends or improper redemption of stock, or (iv) for any transaction from which the director derived an improper personal benefit. The Mariner certificate of incorporation also provides for the indemnification of each director and officer to the full extent permitted by the laws of the State of Delaware, and also provides that Mariner may indemnify each employee and agent of Mariner, and all other persons whom Mariner is authorized to indemnify under the provisions of the DGCL.

Under Apache's certificate of incorporation, liability for monetary damages remains for any matter in respect to which such director shall be liable under Section 174 of the DGCL for unlawful payment of dividends or improper redemption of stock.

**Table of Contents****Apache**

Under Apache's bylaws, each person who is or was a director, officer, employee or agent of Apache, or who is or was serving as a director, officer, employee, partner or agent of any other enterprise or organization at the request of Apache, shall be indemnified against expenses, judgments, damages, arbitration awards, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, arbitration or proceeding, including any interest payable thereon, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

Under Apache's bylaws, Apache will advance expenses incurred in advance of the final disposition of such action (i) to any present or past officer or director upon receipt of a written undertaking to repay such advance if he is determined ultimately to be not legally entitled to indemnification, and (ii) to any employee or agent who is not a present or past director or officer upon evidence of compliance with the terms and conditions, if any, deemed appropriate and specified by the board of directors for such advance if such employee or agent is determined ultimately to be not legally entitled to indemnification.

Under Apache's bylaws, Apache will pay to any director, officer, employee or agent all expenses, which may be incurred by such director, officer, employee or agent in enforcing his rights to indemnification and/or advances whether or not such director, officer, employee or agent is successful in enforcing such rights and whether or not suit or other proceedings are commenced.

**Mariner**

The Mariner bylaws provide that each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of Mariner or is or was serving at the request of Mariner as a director or officer of another enterprise, shall be indemnified and held harmless by Mariner to the fullest extent authorized by the DGCL, against all expense, liability and loss reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; however, Mariner shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the board of directors. The right to indemnification includes the right to be paid the expenses incurred in defending any such proceeding in advance of its final disposition; however, if the DGCL requires, the payment of such expenses incurred by a director or officer in such capacity (and not in any other capacity) in advance of the final disposition of a proceeding shall be made only upon delivery to Mariner of an undertaking to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified.

The Mariner bylaws also provide that Mariner may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding (whether or not an action by or in the right of Mariner) by reason of the fact that the person is or was an employee (other than an officer) or agent, or, while serving as an employee (other than an officer) or agent of Mariner, is or was serving at the request of Mariner as a director, officer, employee or agent of another enterprise, to the extent (i) permitted by the laws of the State of Delaware, and (ii) authorized in the sole discretion of the Chief Executive Officer and a Vice President of Mariner, referred to as the Authorizing Officers. Mariner may, to the extent permitted by Delaware law and authorized in the sole discretion of the Authorizing Officers, pay expenses reasonably incurred

by any such employee or agent in defending any action, suit or proceeding in advance of final disposition, upon such terms and conditions as the Authorizing Officers authorizing such expense advancement determine in their sole discretion.

As permitted by the DGCL, Apache currently has in effect a directors and officers liability insurance policy.

As permitted by the DGCL, Mariner maintains officers and directors liability insurance that insures against claims and liabilities (with stated exceptions) that Mariner's officers and directors may incur in such capacities. In addition, Mariner has entered into indemnification agreements with each of the directors and executive officers pursuant to which each director and officer is entitled to be indemnified to the fullest extent allowable under Delaware law.

**Table of Contents**

**Apache**

**Mariner**

***Certificate of Incorporation Amendments:***

Amendments to the provisions dealing with (i) the election of directors and certain powers of the board of directors, (ii) the 80% stockholder vote required for business combinations described above, (iii) second tier transactions, and (iv) stockholders action by written consent, require the approval of at least 80% of all classes of stock entitled to vote in the election of directors, considered as one class (and in the case of second tier transactions, a majority of voting stock not held by a related person).

All other provisions may be amended as provided by statute.

Amendments to the provisions dealing with (i) directors, (ii) amendment of bylaws, (iii) stockholder action by written consent, (iv) filling director vacancies, (v) Section 203 of the DGCL, (vi) liability of directors, (vii) indemnification, (viii) corporate opportunities, (ix) issuance of rights, and (x) amendment of the certificate of incorporation, require the affirmative vote of the holders of at least 80% of the voting power of all of the then-outstanding shares of the capital stock entitled to vote generally in the election of directors, voting together as a single class.

All other provisions may be amended as provided by statute.

***Bylaws Amendments:***

Amendments to Article VII (Indemnification of Officers, Directors, Employees and Agents) may only be made prospectively and require the affirmative vote of 80% of the entire board of directors.

The bylaws may be amended or repealed by the affirmative vote of a majority of the stockholders entitled to vote at the meeting and present or represented thereat, or by the affirmative vote of a majority of the board of directors at any regular meeting of the board of directors or at any special meeting of the board of directors, in each case, if notice of the proposed alteration or repeal is contained in the notice.

Any provision may be suspended by vote of two-thirds of the votes cast upon the motion to suspend.

The bylaws may be amended by the affirmative vote of a majority of the total number of authorized directors regardless of whether there exist any vacancies in such authorized directorships.

The bylaws may also be amended by the holders of at least 80% of the voting power of all of the shares outstanding and entitled to vote generally in the election of directors voting as a single class.



**Table of Contents**

**THE MARINER SPECIAL MEETING**

**Date, Time, Place and Purpose of the Mariner Special Meeting**

The special meeting of the stockholders of Mariner will be held at Mariner's principal executive offices located at One BriarLake Plaza, 2000 West Sam Houston Parkway South, Suite 2000, Houston, Texas 77042 on [ ], 2010 at [ ] a.m., local time. The purpose of the Mariner special meeting is:

1. to consider and vote on the proposal to approve and adopt the merger agreement, as it may be amended from time to time;
2. to consider and vote on any proposal to adjourn the special meeting to a later date or dates if necessary to solicit additional proxies if there are insufficient votes to approve and adopt the merger agreement at the time of the special meeting; and
3. to transact any other business that may properly come before the special meeting or any adjournment or postponement of the special meeting.

**The Mariner board of directors unanimously recommends that Mariner stockholders vote FOR the proposal to approve and adopt the merger agreement and FOR any proposal to adjourn the special meeting if necessary to solicit additional proxies.** For the reasons for this recommendation, see The Merger Recommendation of the Mariner Board of Directors and Its Reasons for the Merger.

**Who Can Vote at the Mariner Special Meeting**

Only holders of record of Mariner common stock at the close of business on [ ], 2010, the record date for the Mariner special meeting, are entitled to receive notice of, and have the right to vote at, the Mariner special meeting or any adjournment or postponement thereof. You are a stockholder of record if your shares of Mariner common stock are held in your name on the records of our stock transfer agent and registrar, The Continental Stock Transfer & Trust Company. As of that date, there were [ ] shares of Mariner common stock outstanding and entitled to vote at the Mariner special meeting, held by approximately [ ] stockholders of record. At the close of business on the record date for the special meeting, the directors and executive officers of Mariner and their affiliates beneficially owned and were entitled to vote [ ] shares of Mariner common stock, collectively representing approximately [ ]% of the shares of Mariner common stock outstanding and entitled to vote on the record date. It is expected that Mariner's directors and executive officers will vote their shares **FOR** the approval and adoption of the merger agreement, although none of them has entered into any agreement requiring them to do so. Each share of Mariner common stock is entitled to one vote at the Mariner special meeting.

A complete list of Mariner stockholders entitled to vote at the Mariner special meeting will be available for inspection at the principal place of business of Mariner during regular business hours for a period of no less than ten days before the special meeting and at the place of the Mariner special meeting during the meeting.

**Quorum; Vote Required for Approval**

A quorum of Mariner stockholders is necessary to have a valid meeting. The presence in person or by proxy of the holders of a majority of the outstanding shares of Mariner common stock is necessary to constitute a quorum at the special meeting. If a stockholder is not present in person or represented by proxy at the special meeting, such

stockholder's shares will not be counted for purposes of calculating a quorum. Abstentions and broker non-votes count as present for establishing a quorum. A broker non-vote occurs on an item when a broker is not permitted to vote on that item without instructions from the beneficial owner of the shares and no instructions are given.

The affirmative vote of the holders of a majority of the outstanding shares of Mariner common stock entitled to vote on the proposal as of the Mariner record date, either in person or represented by proxy, is necessary for the approval and adoption of the merger agreement. Approval of any proposal to adjourn the

## Table of Contents

special meeting to a later date or dates if necessary to solicit additional proxies requires the affirmative vote of the holders of a majority of the shares of Mariner common stock present in person or represented by proxy at the special meeting and entitled to vote thereat. If a Mariner stockholder fails to vote, or if a Mariner stockholder abstains, that will have the same effect as votes cast AGAINST the approval and adoption of the merger agreement. Abstentions and broker non-votes will have the same effect as votes cast AGAINST approval of any proposal to adjourn the special meeting if necessary to solicit additional proxies.

## **Manner of Voting**

Mariner stockholders of record may effect voting of their stock by any of the following methods:

submitting a proxy via the Internet or telephone by following the instructions provided on your enclosed proxy card;

completing the enclosed proxy card, and sign, date and either mailing it in the enclosed postage pre-paid envelope or send both sides by facsimile to:

The Continental Stock Transfer & Trust Company  
17 Battery Place, 8th Floor  
New York, New York 10004  
Facsimile (212) 509-5152; or

attending the special meeting and voting in person.

You may receive multiple sets of proxy materials for this meeting if some of your Mariner shares are held of record in your name and some of your shares are held of record in the name of a broker, bank or other nominee, or if your shares are held of record by more than one broker or nominee. In these instances, you must act on each proxy in order for 100% of your shares to be voted.

You may revoke your proxy at any time before your proxy is voted. To revoke your proxy, you can deliver a later dated proxy using any of the methods listed above, or you can deliver written notice of revocation to The Continental Stock Transfer & Trust Company at the above address. You also can attend the meeting, and revoke your proxy by voting your shares personally at the meeting. Your attendance at the meeting will not constitute automatic revocation of your proxy. If your shares are held in the name of a broker, bank or other nominee and you have directed the record holder to vote your shares, you should instruct the record holder to change your vote or obtain a proxy from the broker, bank or other nominee to do so yourself.

Submissions of proxies via the Internet and telephone will close at 7:00 p.m. Eastern time on the day before the special meeting. Thereafter, you may submit a proxy (and revoke a previously granted proxy) by mail or facsimile received before the meeting, or you may vote in person at the meeting.

All shares of Mariner common stock entitled to vote and represented by properly completed proxies received prior to the Mariner special meeting, and not revoked, will be voted at the Mariner special meeting as instructed on the proxies. **If Mariner stockholders do not indicate how their shares of Mariner common stock should be voted on a matter, the shares of Mariner common stock represented by their properly completed proxy will be voted as the Mariner board of directors recommends and therefore, FOR the approval and adoption of the merger agreement and FOR any proposal to adjourn the special meeting if necessary to solicit additional proxies.**

## **Shares Held in Street Name**

If Mariner stockholders hold shares of Mariner common stock in an account at a bank, broker or other nominee and they wish to vote, they must return their voting instructions to the bank, broker or other nominee.

If Mariner stockholders hold shares of Mariner common stock in an account at a bank, broker or other nominee and they wish to vote their shares in person at the Mariner special meeting, they should bring a proxy

## **Table of Contents**

from their bank, broker or other nominee identifying them as the beneficial owner of such shares of Mariner common stock and authorizing them to vote.

Brokers will NOT vote shares of Mariner common stock held in street name unless Mariner stockholders instruct their broker how to vote. Such failure to vote will have the same effect as a vote AGAINST approval and adoption of the merger agreement and any proposal to adjourn the special meeting to a later date or dates if necessary to solicit additional proxies. Mariner stockholders should therefore provide their brokers or other nominees with instructions as to how to vote their shares of Mariner common stock.

## **Tabulation of the Votes**

Mariner will appoint an Inspector of Election for the Mariner special meeting to tabulate affirmative and negative votes and abstentions.

## **Proxy Solicitation**

Mariner will pay the cost of soliciting proxies. Directors, officers and employees of Mariner and Apache may solicit proxies on behalf of Mariner in person or by telephone, facsimile, e-mail or other means. Mariner has engaged Morrow & Co., LLC to assist it in the distribution and solicitation of proxies. Mariner has agreed to pay Morrow a fee of \$7,500 plus payment of certain fees and expenses for its services to solicit proxies.

In accordance with the regulations of the SEC and the NYSE, Mariner also will reimburse brokerage firms and other custodians, nominees and fiduciaries for their expenses incurred in sending proxies and proxy materials to beneficial owners of shares of Mariner common stock.

*Stockholders should not send stock certificates with their proxies.* A letter of transmittal and instructions for the surrender of Mariner common stock certificates will be mailed to Mariner stockholders shortly after the completion of the merger.

## **No Other Business**

Under Mariner's bylaws, the business to be conducted at the special meeting will be limited to the purposes stated in the notice to Mariner stockholders provided with this proxy statement/prospectus.

## **Adjournments**

Any adjournment may be made from time to time by the chairman of the meeting or with the approval of the holders of a majority of the issued and outstanding stock, present in person or represented by proxy, whether or not a quorum exists. Mariner is not required to notify stockholders of any adjournment of 30 days or less if the time and place of the adjourned meeting are announced at the meeting at which the adjournment is taken, unless after the adjournment a new record date is fixed for the adjourned meeting. At any adjourned meeting, Mariner may transact any business that it might have transacted at the original meeting, provided that a quorum is present at such adjourned meeting. Proxies submitted by Mariner stockholders for use at the special meeting will be used at any adjournment or postponement of the meeting. References to the Mariner special meeting in this proxy statement/prospectus are to such special meeting as adjourned or postponed.

## **Mariner 2011 Annual Stockholder Meeting and Stockholder Proposals**

The 2011 annual meeting of Mariner stockholders will not be held if the merger is completed in 2010; therefore, Mariner reserves the right to postpone or cancel its 2011 annual meeting. If the 2011 annual meeting is held, and you are a Mariner stockholder and you wish to present a proposal for inclusion in Mariner's proxy material for consideration at Mariner's 2011 annual meeting, you must submit the proposal in writing to the corporate secretary at Mariner's principal executive offices at One BriarLake Plaza, 2000 West Sam Houston Parkway South, Suite 2000, Houston, Texas 77042, and Mariner must receive your proposal not later than November 29, 2010 (the 120th day before March 29, 2011, the anniversary date of the proxy statement for Mariner's 2010 annual meeting). That proposal must comply with Section 8 of Article II of Mariner's bylaws and, if it is to be included in Mariner's proxy materials, Rule 14a-8 under the Securities Exchange Act of 1934.

**Table of Contents**

**LEGAL MATTERS**

The validity of the shares of Apache common stock to be issued in the merger will be passed upon for Apache by Andrews Kurth LLP. It is a condition to the merger that Apache and Mariner receive opinions from Andrews Kurth LLP and Baker Botts L.L.P., respectively, to the effect that, for U.S. federal income tax purposes, the merger will be treated as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code and that each of Apache and Mariner will be a party to such reorganization within the meaning of Section 368(b) of the Internal Revenue Code.

**EXPERTS**

**Apache**

The consolidated financial statements of Apache included in Apache's Annual Report (Form 10-K) for the year ended December 31, 2009, and the effectiveness of Apache's internal control over financial reporting as of December 31, 2009 have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their reports thereon, included therein, and incorporated herein by reference. Such consolidated financial statements as of December 31, 2009 are incorporated herein by reference in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

The information appearing in Apache's Annual Report on Form 10-K for the year ended December 31, 2009, regarding Apache's total proved reserves was prepared by Apache and reviewed by Ryder Scott Company Petroleum Engineers, as stated in their letter reports, and is incorporated by reference into this proxy statement/prospectus in reliance upon the authority of said firm as experts in such matters.

**Mariner**

The consolidated financial statements incorporated in this proxy statement/prospectus by reference from Mariner Energy, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2009 and the effectiveness of Mariner Energy, Inc. and its subsidiaries' internal control over financial reporting, excluding the internal control over financial reporting of the subsidiaries of Edge Petroleum Corporation (the Edge Subsidiaries) acquired by Mariner Energy, Inc. and subsidiaries on December 31, 2009, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such report (1) expresses an unqualified opinion on the financial statements and includes an explanatory paragraph referring to the adoption of Accounting Standards Update No. 2010-3, Oil and Gas Reserve Estimation and Disclosures and Accounting Standards Codification Topic 805, Business Combinations and (2) expresses an unqualified opinion on the effectiveness of internal control over financial reporting, excluding the internal control over financial reporting of the Edge Subsidiaries acquired by Mariner Energy, Inc., and subsidiaries. Such consolidated financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

The information included in or incorporated by reference into this proxy statement/prospectus regarding estimated quantities of proved reserves, the future net revenues from those reserves and their present value is based, in part, on estimates of the proved reserves and present values of proved reserves of Mariner as of December 31, 2009, 2008, 2007, 2006 and 2005 and prepared by or derived from estimates prepared by Ryder Scott Company, L.P., independent petroleum engineers. These estimates are included in or incorporated by reference into this proxy statement/prospectus in reliance upon the authority of the firm as experts in these matters.

The audited consolidated financial statements of Edge Petroleum Corporation and subsidiaries incorporated in this proxy statement/prospectus by reference from Mariner's Current Report on Form 8-K/A filed March 18, 2010, and the effectiveness of Edge Petroleum Corporation's internal control over financial reporting have been audited by BDO Seidman, LLP, an independent registered public accounting firm, as stated in their report dated March 16, 2009, which is incorporated herein by reference and which contains an explanatory paragraph regarding Edge Petroleum Corporation's ability to continue as a going concern. Such consolidated financial statements have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.



**Table of Contents****WHERE YOU CAN FIND MORE INFORMATION; INCORPORATION BY REFERENCE**

Apache and Mariner file reports and other information with the SEC. Mariner stockholders may read and copy these reports, statements or other information filed by Apache and Mariner 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 further information on the Public Reference Room. The SEC filings of Apache and Mariner are also available to the public from commercial document retrieval services and at the website maintained by the SEC at <http://www.sec.gov>.

Apache has filed a registration statement on Form S-4 to register with the SEC the shares of Apache common stock to be issued to Mariner stockholders pursuant to the merger agreement. This proxy statement/prospectus forms a part of that registration statement and constitutes a prospectus of Apache, in addition to being a proxy statement of Mariner for its special meeting. The registration statement, including the attached Annexes and exhibits, contains additional relevant information about Apache and Mariner. As allowed by SEC rules, this proxy statement/prospectus does not contain all the information you can find in the registration statement or the exhibits to the registration statement.

The SEC allows Apache and Mariner to incorporate by reference information into this proxy statement/prospectus. This means that Apache and Mariner can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is considered to be a part of this proxy statement/prospectus, except for any information that is superseded by information that is included directly in this proxy statement/prospectus or incorporated by reference subsequent to the date of this proxy statement/prospectus.

This proxy statement/prospectus incorporates by reference the documents listed below that Apache and Mariner have previously filed with the SEC (other than information furnished pursuant to Item 2.02 or Item 7.01 of any Current Report on Form 8-K or exhibits filed under Item 9.01 relating to those Items, unless expressly stated otherwise therein). They contain important information about Apache and Mariner and the financial condition of each company.

**Apache SEC Filings  
(File No. 001-4300)**

**Period and/or Date Filed**

Annual Report on Form 10-K

Fiscal year ended December 31, 2009

Quarterly Report on Form 10-Q

Quarter ended March 31, 2010

Current Reports on Form 8-K

Filed on January 14, 2010, January 19, 2010, April 15, 2010 and April 16, 2010

Definitive Proxy Statement on Schedule 14A

Filed on March 31, 2010

Any description of Apache's common stock or preferred share purchase rights contained in a registration statement filed pursuant to the Exchange Act and any amendment or report filed for the purpose of updating such description

**Mariner SEC Filings  
(File No. 001-32747)**

**Period and/or Date Filed**

Annual Report on Form 10-K

Fiscal year ended December 31, 2009

Quarterly Report on Form 10-Q

Quarter ended March 31, 2010

Current Reports on Forms 8-K and 8-K/A

Filed on January 5, 2010, March 18, 2010, March 19,  
2010, March 31, 2010, April 8, 2010, April 16, 2010 and  
May 6, 2010

Filed on April 1, 2010

Definitive Proxy Statement on Schedule 14A

Any description of Mariner's common stock or preferred  
share purchase rights contained in a registration statement  
filed pursuant to the Exchange Act and any amendment or  
report filed for the purpose of updating such description

**Table of Contents**

In addition, Apache and Mariner incorporate by reference additional documents that they may file or furnish with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act between the date of this proxy statement/prospectus and the date of the Mariner special meeting (other than information furnished pursuant to Item 2.02 or Item 7.01 of any Current Report on Form 8-K or exhibits filed under Item 9.01 relating to those Items, unless expressly stated otherwise therein). These documents include periodic reports, such as annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K.

Apache and Mariner also incorporate by reference the merger agreement attached to this proxy statement/prospectus as Annex A.

Apache has supplied all information contained in or incorporated by reference into this proxy statement/prospectus relating to Apache and Merger Sub, and Mariner has supplied all information contained in this proxy statement/prospectus relating to Mariner.

Documents incorporated by reference are available without charge upon written or oral request, excluding any exhibits to those documents, unless the exhibit is specifically incorporated by reference as an exhibit in this proxy statement/prospectus. Mariner stockholders can obtain any of these documents by requesting them in writing or by telephone from the appropriate company at:

Apache Corporation  
Attention: Corporate Secretary  
2000 Post Oak Boulevard, Suite 100  
Houston, Texas 77056-4400  
(713) 296-6157  
[www.apachecorp.com](http://www.apachecorp.com)

Mariner Energy, Inc.  
Attention: Corporate Secretary  
One BriarLake Plaza  
2000 West Sam Houston Parkway South, Suite 2000  
Houston, Texas 77042  
(713) 954-5505  
[www.mariner-energy.com](http://www.mariner-energy.com)

**If you would like to request documents, please do so by [ ], 2010 in order to receive them before the special meeting.**

You may obtain these documents at the SEC's website, <http://www.sec.gov>, and may obtain certain of these documents at Apache's website, [www.apachecorp.com](http://www.apachecorp.com), by selecting Investors and then selecting SEC Filings, and at Mariner's website, [www.mariner-energy.com](http://www.mariner-energy.com), by selecting Investor Information and then selecting SEC Filings. Information not filed with the SEC, but contained on the Apache and Mariner websites is expressly not incorporated by reference into this proxy statement/prospectus.

Apache and Mariner are not incorporating the contents of the websites of the SEC, Apache, Mariner or any other person into this proxy statement/prospectus. Apache and Mariner are providing only the information about how to obtain certain documents that are incorporated by reference into this proxy statement/prospectus at these websites for the convenience of Mariner stockholders.

**Apache and Mariner have not authorized anyone to give any information or make any representation about the merger or their companies that is different from, or in addition to, that contained in this proxy statement/prospectus or in any of the materials that are incorporated into this proxy statement/prospectus. Therefore, if anyone does give you information of this sort, you should not rely on it. If you are in a jurisdiction where offers to exchange or sell, or solicitations of offers to exchange or purchase, the securities offered by this proxy statement/prospectus or the solicitation of proxies is unlawful, or if you are a person to whom it is unlawful to direct these types of activities, then the offer presented in this proxy statement/prospectus does not extend to you. The information contained in this proxy statement/prospectus is accurate only as of the date of this document unless the information specifically indicates that another date applies.**

**AGREEMENT AND PLAN OF MERGER  
APACHE CORPORATION,  
ZMZ ACQUISITIONS LLC  
and  
MARINER ENERGY, INC.  
Dated April 14, 2010**

---

**Table of Contents****TABLE OF CONTENTS**

<b>ARTICLE I THE MERGER</b>		<b>A-1</b>
Section 1.1	<i>The Merger</i>	A-1
Section 1.2	<i>Effective Time; Closing</i>	A-1
Section 1.3	<i>Effect of the Merger</i>	A-1
Section 1.4	<i>Governing Instruments</i>	A-2
Section 1.5	<i>Directors and Officers of Surviving Company</i>	A-2
Section 1.6	<i>Conversion of Securities</i>	A-2
Section 1.7	<i>Employee Stock Options; Restricted Shares</i>	A-3
Section 1.8	<i>Dissenting Shares</i>	A-4
Section 1.9	<i>Election Procedures; Allocation of Merger Consideration</i>	A-4
Section 1.10	<i>Surrender of Shares; Stock Transfer Books</i>	A-6
Section 1.11	<i>Withholding Taxes</i>	A-8
Section 1.12	<i>No Liability</i>	A-9
<b>ARTICLE II REPRESENTATIONS AND WARRANTIES OF THE COMPANY</b>		<b>A-9</b>
Section 2.1	<i>Organization and Qualification; Subsidiaries</i>	A-9
Section 2.2	<i>Charter and Bylaws</i>	A-10
Section 2.3	<i>Capitalization</i>	A-10
Section 2.4	<i>Authority; Due Authorization; Binding Agreement; Approval</i>	A-11
Section 2.5	<i>No Violation; Consents</i>	A-11
Section 2.6	<i>Compliance</i>	A-12
Section 2.7	<i>SEC Filings; Financial Statements</i>	A-13
Section 2.8	<i>Internal Controls and Procedures</i>	A-13
Section 2.9	<i>No Undisclosed Liabilities</i>	A-14
Section 2.10	<i>Absence of Certain Changes or Events</i>	A-14
Section 2.11	<i>Litigation</i>	A-14
Section 2.12	<i>Employee Benefit Plans</i>	A-14
Section 2.13	<i>Proxy Statement</i>	A-16
Section 2.14	<i>Properties; Oil and Gas Matters</i>	A-16
Section 2.15	<i>Hedging</i>	A-18
Section 2.16	<i>Taxes</i>	A-19
Section 2.17	<i>Environmental Matters</i>	A-19
Section 2.18	<i>Labor Matters</i>	A-20
Section 2.19	<i>Interested Party Transactions</i>	A-21
Section 2.20	<i>Intellectual Property</i>	A-21
Section 2.21	<i>Material Contracts</i>	A-21
Section 2.22	<i>Insurance</i>	A-22
Section 2.23	<i>Brokers; Transaction Fees</i>	A-23
Section 2.24	<i>Takeover Provisions</i>	A-23
Section 2.25	<i>Rights Agreement</i>	A-23
Section 2.26	<i>Tax Treatment</i>	A-23
Section 2.27	<i>Agents</i>	A-23
Section 2.28	<i>Owned Real Property</i>	A-23
Section 2.29	<i>Leased Real Property</i>	A-23



**Table of Contents**

<b>ARTICLE III REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB</b>	<b>A-24</b>	
Section 3.1	<i>Organization and Qualification; Subsidiaries</i>	A-24
Section 3.2	<i>Charter; Bylaws and Organizational Documents</i>	A-25
Section 3.3	<i>Capitalization</i>	A-25
Section 3.4	<i>Authority; Due Authorization; Binding Agreement</i>	A-26
Section 3.5	<i>No Violation; Consents</i>	A-26
Section 3.6	<i>Compliance</i>	A-27
Section 3.7	<i>SEC Filings; Financial Statements</i>	A-28
Section 3.8	<i>Internal Controls and Procedures</i>	A-28
Section 3.9	<i>No Undisclosed Liabilities</i>	A-28
Section 3.10	<i>Absence of Certain Changes or Events</i>	A-29
Section 3.11	<i>Litigation</i>	A-29
Section 3.12	<i>Employee Benefit Plans</i>	A-29
Section 3.13	<i>Proxy Statement</i>	A-31
Section 3.14	<i>Properties; Oil and Gas Matters</i>	A-31
Section 3.15	<i>Hedging</i>	A-32
Section 3.16	<i>Taxes</i>	A-33
Section 3.17	<i>Environmental Matters</i>	A-33
Section 3.18	<i>Labor Matters</i>	A-34
Section 3.19	<i>Interested Party Transactions</i>	A-34
Section 3.20	<i>Intellectual Property</i>	A-34
Section 3.21	<i>Insurance</i>	A-35
Section 3.22	<i>Brokers</i>	A-35
Section 3.23	<i>Ownership of Shares</i>	A-35
Section 3.24	<i>Solvency; Surviving Company After the Merger</i>	A-35
Section 3.25	<i>Tax Treatment</i>	A-35
Section 3.26	<i>No Vote Required</i>	A-35
Section 3.27	<i>Financing</i>	A-35
<b>ARTICLE IV CONDUCT OF BUSINESS PENDING THE EFFECTIVE TIME</b>	<b>A-35</b>	
Section 4.1	<i>Conduct of the Company Business</i>	A-35
Section 4.2	<i>Conduct of Parent Business</i>	A-38
<b>ARTICLE V ADDITIONAL AGREEMENTS</b>	<b>A-38</b>	
Section 5.1	<i>Proxy Statement; Stockholders Meeting</i>	A-38
Section 5.2	<i>Access to Information; Confidentiality</i>	A-40
Section 5.3	<i>No Solicitation</i>	A-40
Section 5.4	<i>Directors and Officers Indemnification and Insurance</i>	A-42
Section 5.5	<i>Notification of Certain Matters</i>	A-43
Section 5.6	<i>Governmental Filings; Efforts</i>	A-44
Section 5.7	<i>Public Announcements</i>	A-45
Section 5.8	<i>Parent Guarantee</i>	A-45
Section 5.9	<i>Employee Matters</i>	A-45
Section 5.10	<i>Rule 16b-3</i>	A-46
Section 5.11	<i>Stockholder Litigation</i>	A-46
Section 5.12	<i>Takeover Statute</i>	A-46
Section 5.13	<i>Reorganization</i>	A-46
Section 5.14	<i>Comfort Letters</i>	A-46





**Table of Contents**

<b>ARTICLE VI CONDITIONS TO THE MERGER</b>		<b>A-47</b>
Section 6.1	<i>Conditions to the Obligations of Each Party to Effect the Merger</i>	A-47
Section 6.2	<i>Conditions to the Obligations of Parent and Merger Sub</i>	A-47
Section 6.3	<i>Conditions to the Obligations of the Company</i>	A-48
Section 6.4	<i>Frustration of Conditions</i>	A-48
<b>ARTICLE VII TERMINATION, AMENDMENT AND WAIVER</b>		<b>A-48</b>
Section 7.1	<i>Termination</i>	A-48
Section 7.2	<i>Effect of Termination</i>	A-49
Section 7.3	<i>Fees and Expenses</i>	A-50
Section 7.4	<i>Amendment</i>	A-50
Section 7.5	<i>Waiver</i>	A-51
<b>ARTICLE VIII GENERAL PROVISIONS</b>		<b>A-51</b>
Section 8.1	<i>Survival</i>	A-51
Section 8.2	<i>Scope of Representations and Warranties</i>	A-51
Section 8.3	<i>Notices</i>	A-51
Section 8.4	<i>Certain Definitions</i>	A-52
Section 8.5	<i>Severability</i>	A-53
Section 8.6	<i>Entire Agreement; Assignment</i>	A-53
Section 8.7	<i>Parties in Interest</i>	A-53
Section 8.8	<i>Specific Performance</i>	A-53
Section 8.9	<i>Governing Law; Jurisdiction and Venue</i>	A-54
Section 8.10	<i>Headings</i>	A-54
Section 8.11	<i>Interpretation</i>	A-54
Section 8.12	<i>Counterparts</i>	A-54

**Table of Contents****SCHEDULE OF DEFINED TERMS**

<b>Defined Term</b>	<b>Section</b>
Acquisition Proposal	Section 5.3(a)
Affiliate	Section 8.4(a)
Affiliate Transaction	Section 2.19
Agreement	Preamble
beneficial owner	Section 8.4(b)
Book-Entry Shares	Section 1.10(b)
business day	Section 8.4(c)
Cash Amount Per Share	Section 1.6(d)
Cash Designated Shares	Section 1.9(e)(iii)(B)
Cash Election Shares	Section 1.9(b)
Certificate of Merger	Section 1.2
Certificates	Section 1.10(b)
Change in the Company Recommendation	Section 5.3(b)
Closing	Section 1.2
Closing Date	Section 1.2
Code	Recitals
Company	Preamble
Company Benefit Plan	Section 2.12(a)
Company Board of Directors	Section 2.4(d)
Company Board Meeting	Section 2.4(d)
Company Common Stock	Recitals
Company Employees	Section 2.18
Company ERISA affiliate	Section 2.12(b)
Company Financial Advisors	Section 2.4(d)
Company Group	Section 2.12(a)
Company Material Adverse Effect	Section 2.1
Company Material Contracts	Section 2.21(a)
Company Material Subsidiaries	Section 2.1
Company Permits	Section 2.6(c)
Company Preferred Stock	Section 2.3
Company Recommendation	Section 5.1(e)
Company Reserve Reports	Section 2.14(c)
Company Rights Plan	Section 2.3
Company Schedule	Article II
Company SEC Reports	Section 2.7(a)
Company Stockholder Approval	Section 5.1(e)
Company Termination Fee	Section 7.3(a)
Confidentiality Agreement	Section 5.2(b)
control	Section 8.4(d)
controlled by	Section 8.4(d)
Credit Agreement	Section 2.21(a)(B)
Current Policy	Section 5.4(c)
Deemed Shares Outstanding	Section 1.6(d)



**Table of Contents**

<b>Defined Term</b>	<b>Section</b>
Delaware Law	Recitals
Dissenting Share	Section 1.8(a)
Effective Time	Section 1.2
Election Deadline	Section 1.9(b)
Election Form	Section 1.9(a)
Election Form Record Date	Section 1.9(a)
Environmental Laws	Section 2.17(a)
ERISA	Section 2.12(a)
Exchange Act	Section 2.5(b)
Exchange Agent	Section 1.10(a)
Exchange Fund	Section 1.10(a)
Exchange Ratio	Section 1.6(d)
Expenses	Section 7.3(d)
GAAP	Section 2.7(b)
good and defensible title	Section 2.14(e)
governmental authority	Section 8.4(e)
Hazardous Substance	Section 2.17(a)
HIPAA	Section 2.12(e)(iv)
HSR Act	Section 2.5(b)
Hydrocarbons	Section 2.14(b)
Indemnified Parties	Section 5.4(b)
Intellectual Property	Section 2.20
IRS	Section 2.12(b)
Mailing Date	Section 1.9(a)
Merger	Recitals
Merger Consideration	Section 1.6(a)
Merger Sub	Preamble
Mixed Consideration Election Shares	Section 1.9(b)
Notice of Intended Change in the Company Recommendation	Section 5.3(b)
Non-Election Shares	Section 1.9(b)
Oil and Gas Properties	Section 2.14(b)
Option	Section 1.7(a)
Outside Date	Section 7.1(b)(i)
Parent	Preamble
Parent Benefit Plan	Section 3.12(a)
Parent Board of Directors	Section 3.4(d)
Parent Common Stock	Section 3.3
Parent Employees	Section 3.18
Parent Financial Advisor	Section 3.4(d)
Parent Group	Section 3.12(a)
Parent Material Adverse Effect	Section 3.1
Parent Material Subsidiaries	Section 3.3
Parent Parties	Preamble
Parent Permits	Section 3.6(c)



**Table of Contents**

<b>Defined Term</b>	<b>Section</b>
Parent Preferred Stock	Section 3.3
Parent Reserve Reports	Section 3.14(c)
Parent Rights Plan	Section 3.3
Parent Schedule	Article III
Parent SEC Reports	Section 3.7(a)
PBGC	Section 2.12(b)
Per Share Cash Consideration	Section 1.6(d)
Per Share Mixed Consideration	Section 1.6(d)
Per Share Stock Consideration	Section 1.6(d)
person	Section 8.4(f)
Proxy Statement/Prospectus	Section 2.13
Real Property Leases	Section 2.29
reasonable best efforts	Section 8.4(g)
Registration Statement	Section 2.13
Restricted Shares	Section 1.7(b)
Returns	Section 2.16(a)
Rights	Section 2.3
Sarbanes-Oxley Act	Section 2.8(a)
SEC	Section 1.10(a)
Securities Act	Section 2.5(b)
Shares	Recitals
Stock Designated Shares	Section 1.9(e)(ii)(B)
Stock Election Shares	Section 1.9(b)
Stock Incentive Plan	Section 1.7(a)
Stockholders Meeting	Section 5.1(e)
subsidiaries	Section 8.4(h)
subsidiary	Section 8.4(h)
Superior Proposal	Section 5.3(b)
Surviving Company	Section 1.1
Taxes	Section 2.16
Total Cash Amount	Section 1.6(d)
Treasury Regulations	Recitals
under common control with	Section 8.4(d)
WARN Act	Section 2.18

**Table of Contents**

**AGREEMENT AND PLAN OF MERGER**

THIS AGREEMENT AND PLAN OF MERGER, executed this 14<sup>th</sup> day of April, 2010 (this **Agreement** ), is by and among APACHE CORPORATION, a Delaware corporation ( **Parent** ), ZMZ ACQUISITIONS LLC, a Delaware limited liability company and a wholly owned subsidiary of Parent ( **Merger Sub**, and together with Parent, the **Parent Parties** ), and MARINER ENERGY, INC., a Delaware corporation (the **Company** ).

**RECITALS:**

A. The respective boards of directors of Parent, Merger Sub and the Company have approved this Agreement, and deem it advisable and in the best interests of their respective stockholders to merge the Company with and into Merger Sub (the **Merger** ) with Merger Sub surviving the Merger upon the terms and subject to the conditions set forth herein.

B. As a result of the Merger, and in accordance with the General Corporation Law and the Limited Liability Company Act of the State of Delaware ( **Delaware Law** ), each issued and outstanding share (the **Shares** ) of common stock, par value \$.0001 per share of the Company (the **Company Common Stock** ), other than the Company Common Stock owned by Parent, Merger Sub or the Company (or any of their respective direct or indirect wholly owned subsidiaries) and other than the Dissenting Shares (as defined in Section 1.8), shall be converted into the right to receive the Merger Consideration as set forth herein.

C. For federal income tax purposes, it is intended by the parties hereto that (i) the Merger qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the **Code** ), and the rules and regulations promulgated thereunder (the **Treasury Regulations** ), (ii) Merger Sub be disregarded as an entity separate from Parent and (iii) this Agreement constitute a plan of reorganization within the meaning of Section 368 of the Code and such Treasury Regulations.

**AGREEMENT:**

In consideration of the mutual promises contained herein, the benefits to be derived by each party hereunder and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Parent, Merger Sub and the Company agree as follows:

ARTICLE I

**THE MERGER**

Section 1.1 *The Merger*. Upon the terms and subject to the conditions set forth in Article VI, and in accordance with Delaware Law, at the Effective Time (as defined in Section 1.2), the Company shall be merged with and into Merger Sub with Merger Sub surviving the Merger. As a result of the Merger, the separate corporate existence of the Company shall cease and Merger Sub shall continue as the surviving limited liability company of the Merger (the **Surviving Company** ).

Section 1.2 *Effective Time; Closing*. As promptly as practicable after the satisfaction or, if permissible, waiver of the conditions set forth in Article VI (other than conditions that by their nature can only be satisfied at the Closing), the parties hereto shall cause the Merger to be consummated by duly filing a certificate of merger (the **Certificate of Merger** ) with the Secretary of State of the State of Delaware in such form as is required by, and executed in accordance with the relevant provisions of, Delaware Law (the date and time of such filing or such later time as may be agreed to by Parent and the Company specified in the Certificate of Merger being the **Effective Time** ). In



connection with such filing, a closing (the **Closing** ) shall be held at the offices of Andrews Kurth LLP in Houston, Texas, or such other place as the parties shall agree. The date of the Closing is herein called the **Closing Date**.

Section 1.3 *Effect of the Merger*. At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of Delaware Law. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers and franchises of the Company and

**Table of Contents**

Merger Sub shall vest in the Surviving Company, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Company.

Section 1.4 *Governing Instruments.*

(a) At the Effective Time, the certificate of formation of Merger Sub as in effect immediately prior to the Effective Time shall be the certificate of formation of the Surviving Company until duly amended in accordance with its terms and applicable law.

(b) At the Effective Time, the limited liability company agreement of Merger Sub as in effect immediately prior to the Effective Time shall be the limited liability company agreement of the Surviving Company until duly amended in accordance with its terms and applicable law.

Section 1.5 *Directors and Officers of Surviving Company.* The directors and officers of Merger Sub at the Effective Time shall be the initial directors and officers, respectively, of the Surviving Company from the Effective Time until their respective successors have been duly elected or appointed. To the fullest extent permitted by law, the Company shall cause all directors of the Company to resign immediately prior to the Effective Time.

Section 1.6 *Conversion of Securities.* At the Effective Time, by virtue of the Merger and without any action on the part of Merger Sub, the Company or the holders of any of the Shares:

(a) Each Share issued and outstanding immediately prior to the Effective Time (other than any Shares to be canceled pursuant to Section 1.6(b) and any Dissenting Shares (as herein defined)) shall be canceled and shall be converted automatically into the right to receive, at the election of the holder as provided in and subject to Sections 1.9 and 1.10, either (i) the Per Share Stock Consideration, (ii) the Per Share Cash Consideration or (iii) the Per Share Mixed Consideration (together, the **Merger Consideration**), payable, without interest, to the holder of such Share, upon surrender, in the manner provided in Section 1.10, of the certificate that formerly evidenced such Share. As of the Effective Time, all such Shares shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a Certificate representing any such Shares shall cease to have any rights with respect thereto, except the right to receive (i) the Merger Consideration; (ii) any cash in lieu of fractional shares of Parent Common Stock, if any, to be issued or paid in consideration therefor upon surrender of such Certificate in accordance with Section 1.10; and (iii) any dividends or distributions in accordance with Section 1.10(e);

(b) Each Share held in the treasury of the Company and each Share owned by Merger Sub, Parent or any direct or indirect wholly owned subsidiary of Parent or of the Company immediately prior to the Effective Time shall be canceled without any conversion thereof and no payment or distribution shall be made with respect thereto;

(c) The Merger Consideration shall be adjusted to reflect fully the effect of any stock split, reverse split, stock dividend, reorganization, recapitalization, consolidation, exchange or other like change with respect to Parent Common Stock or Company Common Stock occurring after the date hereof and prior to the Effective Time (including any dividend or distribution on the Parent Common Stock or the Company Common Stock of securities convertible into Parent Common Stock or Company Common Stock, as applicable); and

(d) For purposes of this Agreement, each of the following terms has the meaning set forth below:

*Cash Amount Per Share* shall mean \$7.80 per share.

*Deemed Shares Outstanding* means the total number of shares of the Company Common Stock outstanding; *provided, however*, that regardless of the actual number of shares of the Company Common Stock outstanding, in no event shall

the Deemed Shares Outstanding exceed the sum of (a) 102,045,275 (103,241,493 shares issued and outstanding on April 14, 2010 less 1,196,218 shares of restricted Company Common Stock granted by the Company pursuant to the 2008 Long-Term Performance-Based Restricted Stock Program), (b) the aggregate number of shares of the Company Common Stock, if any, that are issued after the date hereof by the Company upon the exercise of Options (all as disclosed in Section 2.3 and as exercised or

**Table of Contents**

vested in accordance with their terms), (c) the number of shares approved by Parent for grant pursuant to Section 4.1, (d) shares issued in accordance with Section 4.1 of the Company Schedule, and (e) the number of shares with respect to which restrictions shall lapse pursuant to Section 1.7(c).

*Exchange Ratio* means 0.24347 shares of Parent Common Stock.

*Per Share Cash Consideration* means \$26.00 in cash.

*Per Share Mixed Consideratio*