

MARINER ENERGY INC

Form S-4/A

February 08, 2006

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As filed with the Securities and Exchange Commission on February 8, 2006

Registration No. 333-129096

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

**Amendment No. 3
to
Form S-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

Mariner Energy, Inc.

(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)*

86-0460233

*(I.R.S. Employer
Identification No.)*

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

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

Teresa Bushman

Vice President and General Counsel

Mariner Energy, Inc.

**One BriarLake Plaza, Suite 2000
2000 West Sam Houston Parkway South
Houston, Texas 77042
(713) 954-5505**

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

Copies to:

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

**Cyrus D. Marter IV
Forest Oil Corporation
707 Seventeenth Street
Suite 3600
Denver, CO 80202
(303) 812-1400**

**Alan P. Baden
Shelley A. Barber
Vinson & Elkins L.L.P.
666 Fifth Avenue, 26th Floor
New York, NY 10103-0040
(212) 237-0000**

Approximate date of commencement of proposed sale of the securities to the public: As soon as practicable after this registration statement becomes effective and upon consummation of the merger described in the enclosed

proxy statement/ prospectus-information statement.

If the securities being registered on this Form are to be offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. o

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act of 1933, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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The information in this proxy statement/prospectus-information statement is not complete and may be changed. Mariner Energy, Inc. may not distribute or issue the shares of Mariner Energy, Inc. common stock being registered pursuant to this registration statement until the registration statement filed with the Securities and Exchange Commission is effective. This proxy statement/prospectus-information statement is not an offer to distribute these securities and Mariner Energy, Inc. is not soliciting offers to receive these securities in any state where such offer or distribution is not permitted.

SUBJECT TO COMPLETION DATED FEBRUARY 8, 2006

Houston, Texas
February 9, 2006

Fellow Stockholder:

We invite you to attend the annual meeting of stockholders of Mariner Energy, Inc. to be held on Thursday, March 2, 2006 at 8:30 a.m., Central Standard Time, at One BriarLake Plaza, Suite 2000, 2000 West Sam Houston Parkway South, Houston, Texas 77042. At the meeting, you will be asked to consider and vote upon a proposal to adopt the merger agreement entered into among Mariner, Forest Oil Corporation, Forest Energy Resources, Inc. and MEI Sub, Inc., to consider and vote upon a proposal to amend Mariner's certificate of incorporation to increase its authorized shares of stock, to consider and vote upon a proposed amendment and restatement of Mariner's stock incentive plan, to elect one director to serve until the annual meeting of stockholders in 2009 and to elect two directors to serve until the annual meeting of stockholders in 2007.

If the merger agreement is adopted and the merger consummated, Forest Energy Resources will become a wholly owned subsidiary of Mariner, and Mariner will be a publicly traded company. Mariner's common stock has been approved for listing on the New York Stock Exchange upon the completion of the merger. Each Forest shareholder will be entitled to receive one share of common stock of Mariner in exchange for each share of Forest Energy Resources common stock they own. Mariner stockholders will not receive consideration in the merger.

We believe that this transaction will increase Mariner's scale and balance our portfolio in the Gulf of Mexico, provide a strong financial platform for our exploration and development efforts, and enlarge our stockholder base for greater liquidity. **There are, however, risks associated with the proposed transaction, some of which are described under Risk Factors beginning on page 24 of the accompanying proxy statement/prospectus-information statement.**

The Mariner board of directors has determined that the merger is fair to and in the best interests of Mariner and its stockholders, and that the merger agreement is advisable. The Mariner board of directors has unanimously approved the merger agreement and recommends that the Mariner stockholders vote *for* the adoption of the merger agreement.

In order to consummate the merger, Mariner's certificate of incorporation must be amended to increase the number of shares of stock Mariner is authorized to issue. Mariner proposes to increase its authorized shares to 200 million, of which 180 million will be shares of common stock and 20 million will be shares of preferred stock, subject to the completion of the merger. The merger cannot be completed unless Mariner's authorized shares are increased. **The Mariner board of directors has unanimously approved the amendment to the certificate of incorporation, and recommends that the Mariner stockholders vote *for* the amendment.**

Mariner also proposes to amend and restate its stock incentive plan to, among other things, add 4.5 million shares of common stock, or approximately 5% of its outstanding shares following the completion of the merger, to the plan, subject to the completion of the merger. **The Mariner board of directors has unanimously approved the amended and restated stock incentive plan, and recommends that the Mariner stockholders vote *for* the amended and restated plan.**

In considering the recommendations of the Mariner board of directors, stockholders of Mariner should be aware that members of the Mariner board of directors and executive officers of Mariner have agreements and arrangements that provide them with interests in the merger that differ from, or are in addition to, those of Mariner stockholders. Please read *The Mariner Annual Meeting Interests of Certain Persons in the Merger* beginning on page 39 of the accompanying proxy statement/prospectus-information statement.

All stockholders are invited to attend the meeting. **Your participation at the meeting, in person or in proxy, is important.** Even if you only own a few shares, we want your shares to be represented at the meeting. The merger cannot be completed without the approval of the holders of a majority of the outstanding shares of common stock of Mariner. Whether or not you expect to attend the meeting in person, please complete, sign, date and promptly return the enclosed proxy card in the enclosed postage-prepaid envelope. Stockholders of record also have the option of voting via the Internet or by telephone. Specific instructions on how to vote via the Internet or by telephone are included on the proxy card. Each proxy is revocable and will not affect your right to vote in person if you attend the meeting.

The proxy statement/ prospectus-information statement that accompanies this letter contains detailed information about the proposed merger and the other proposals, and we urge you to read it carefully. **In particular, you should read the Risk Factors section beginning on page 24 for a description of various risks you should consider in evaluating the proposed merger.**

Thank you and we look forward to seeing you at the meeting.

Sincerely yours,

Scott D. Josey

Chairman, Chief Executive Officer and President

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved the new shares of Mariner common stock to be issued in the merger or determined that this proxy statement/ prospectus-information statement is accurate or complete. Any representation to the contrary is a criminal offense.

This proxy statement/ prospectus-information statement is dated February 9, 2006, and is first being mailed to stockholders on or about February 10, 2006.

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Denver, Colorado
February 9, 2006

To the Shareholders of Forest Oil Corporation:

On September 12, 2005, we announced that we would spin-off to our shareholders our offshore Gulf of Mexico operations, and that the Gulf of Mexico operations would immediately thereafter be acquired in a merger transaction by Mariner Energy, Inc. After the spin-off and merger, Mariner will be a separately traded public company that will own and operate the combination of Mariner's business and our Gulf of Mexico operations.

As a result of the transaction, in addition to retaining all of your shares of Forest common stock, you will receive approximately 0.8 shares of Mariner common stock for each Forest share you own on the record date of the transaction. You will not be required to pay for the shares of Mariner common stock that you receive. Forest shareholders will receive approximately 58% of the common stock of Mariner on a pro forma basis. Mariner's common stock has been approved for listing on the New York Stock Exchange upon the completion of the merger.

This transaction represents a significant strategic step that we believe will sharpen Forest's focus on its onshore businesses and will provide operational clarity. While we believe the spin-off will also allow Forest shareholders to benefit from the success and upside potential of Mariner, there are risks that are described under Risk Factors beginning on page 24 of the accompanying proxy statement/ prospectus-information statement.

Forest's board of directors has determined that the spin-off of the Gulf of Mexico operations and the combination of these operations with Mariner are advisable and in the best interests of Forest and its shareholders, and has approved the proposed transaction. **You need not take any action to participate in the spin-off or the merger. No vote of Forest shareholders is required in connection with this transaction. Following the completion of the merger, you will receive information explaining how to obtain your shares of Mariner common stock.**

The following document constitutes an information statement of Forest relating to the spin-off and contains important information describing the terms of the spin-off, the merger, Forest, Mariner, the Forest Gulf of Mexico operations and the combined businesses. We encourage you to read it carefully.

We look forward to completing the spin-off and merger and to the exciting opportunities this transaction presents for our shareholders.

Sincerely,

H. Craig Clark
President and Chief Executive Officer

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Houston, Texas
February 9, 2006

Notice of Annual Meeting of Stockholders

To the Stockholders of Mariner Energy, Inc.

The annual meeting of holders of common stock of Mariner Energy, Inc. will be held on Thursday, March 2, 2006 at 8:30 a.m., Central Standard Time, at One BriarLake Plaza, Suite 2000, 2000 West Sam Houston Parkway South, Houston, Texas 77042,

to consider and vote upon the adoption of the Agreement and Plan of Merger, dated as of September 9, 2005, as amended, among Forest Oil Corporation, Forest Energy Resources, Inc., Mariner Energy, Inc. and MEI Sub, Inc., subject to the approval of the proposed amendment to Mariner's certificate of incorporation described below,

to consider and vote upon a proposed amendment to Mariner's Second Amended and Restated Certificate of Incorporation to increase the number of authorized shares of stock from 90 million to 200 million, subject to the completion of the merger,

to consider and vote upon the proposed amendment and restatement of the Mariner Energy, Inc. Stock Incentive Plan,

to elect one director to serve until the annual meeting of stockholders in 2009,

to elect two directors to serve until the annual meeting of stockholders in 2007,

to grant to the proxyholders the authority to vote in their discretion with respect to the approval of any proposal to postpone or adjourn the annual meeting to a later date to solicit additional proxies in favor of the other proposals, if there are not sufficient votes for approval of the other proposals at the annual meeting, and

to transact any other business that may properly come before the annual meeting.

The board of directors of Mariner has determined that owners of record of Mariner's common stock at the close of business on February 1, 2006 are entitled to notice of, and have the right to vote at, the Mariner annual meeting and any reconvened meeting following any adjournment or postponement of the meeting.

The Mariner board of directors has determined that the merger is fair to and in the best interests of Mariner and its stockholders, and that the merger agreement is advisable. The Mariner board of directors has unanimously approved the merger agreement and the other proposals and recommends that the Mariner stockholders vote *for* the adoption of the merger agreement and the other proposals.

In considering the recommendations of the Mariner board of directors, stockholders of Mariner should be aware that members of the Mariner board of directors and executive officers of Mariner have agreements and arrangements that provide them with interests in the merger that differ from, or are in addition to, those of Mariner stockholders. Please read "The Mariner Annual Meeting - Interests of Certain Persons in the Merger" beginning on page 39 of the accompanying proxy statement/prospectus-information statement.

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

Teresa Bushman
Vice President and General Counsel
Your Vote is Important.

Whether or Not You Plan to Attend the Annual Meeting, Please Complete, Sign, Date and Return Your Proxy Card

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QUESTIONS AND ANSWERS ABOUT THE SPIN-OFF AND MERGER

These questions and answers, together with the section titled Summary immediately following this section, provide a summary of the material terms of the spin-off and the merger and the other proposals to be acted upon at the annual meeting. To better understand the proposed spin-off and merger and the other proposals, you should read this entire proxy statement/prospectus-information statement carefully, as well as those additional documents to which we refer you.

This proxy statement/prospectus-information statement is:

a proxy statement of Mariner for use in the solicitation of proxies for Mariner's annual meeting of stockholders;

a prospectus of Mariner relating to the issuance of shares of Mariner common stock in connection with the merger; and

an information statement of Forest relating to the spin-off of the Forest Gulf of Mexico operations to the shareholders of Forest.

For an explanation of oil and gas abbreviations and terms used in this proxy statement/prospectus-information statement, see Glossary of Oil and Natural Gas Terms on page 187.

In this proxy statement/prospectus-information statement:

The terms we, us, our and like terms, and the term Mariner, refer to Mariner Energy, Inc.;

MEI Sub refers to MEI Sub, Inc.;

Forest refers to Forest Oil Corporation;

Forest Energy Resources refers to Forest Energy Resources, Inc.; and

Forest Gulf of Mexico operations refers to the offshore Gulf of Mexico operations conducted by Forest that have been contributed to Forest Energy Resources and the shares of which will be spun-off to Forest shareholders.

Q: Please briefly describe the proposed merger and related transactions.

A: Forest has transferred and contributed the assets and certain liabilities associated with its offshore Gulf of Mexico operations to Forest Energy Resources, a newly formed subsidiary of Forest. Immediately prior to the merger, Forest will distribute all of the outstanding shares of Forest Energy Resources to Forest shareholders on a pro rata basis. Forest Energy Resources will then merge with a newly formed subsidiary of Mariner, and become a new wholly owned subsidiary of Mariner. When the merger is complete, approximately 58% of the Mariner common stock will be held by shareholders of Forest and approximately 42% of Mariner common stock will be held by the pre-merger stockholders of Mariner, each on a pro forma basis.

Following the merger, Mariner will:

be an independent public company;

own both the Mariner operations and the Forest Gulf of Mexico operations; and

have total assets of approximately \$2.1 billion and total debt of approximately \$279.0 million on a pro forma combined basis, assuming the spin-off and the merger occurred on September 30, 2005.

Q: What are Mariner stockholders being asked to vote upon?

A: Mariner stockholders are being asked to:
adopt the merger agreement entered into among Forest, Forest Energy Resources, Mariner and MEI Sub, Inc., subject to the approval of the proposed amendment to Mariner's certificate of incorporation;

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approve the proposed amendment to Mariner's certificate of incorporation to increase the number of authorized shares of stock from 90 million to 200 million, subject to completion of the merger;

approve the proposed amendment and restatement of Mariner's stock incentive plan;

to elect one director to serve until the annual meeting of stockholders of Mariner in 2009;

to elect two directors to serve until the annual meeting of stockholders of Mariner in 2007; and

approve the proposed granting of authority to the proxyholders to vote in their discretion on a motion to adjourn or postpone the meeting.

Q: What changes to Mariner's stock incentive plan am I being asked to approve?

A: You are being asked to approve an amendment and restatement of the plan whereby 4.5 million shares of common stock would be added to the plan, the plan would be extended to October 12, 2015 and the number of shares subject to stock options or shares of restricted stock issuable under the plan to any individual would be limited to 2.85 million, subject to the completion of the merger.

Q: Why am I being asked to grant to the proxy holders the authority to vote in their discretion on a motion to adjourn or postpone the meeting?

A: We may determine to adjourn or postpone the meeting, for example, to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the merger agreement.

Q: What will Forest shareholders receive in the merger?

A: If the merger is completed, each Forest shareholder will ultimately receive shares of Mariner common stock. As a result of the spin-off, Forest shareholders will initially receive shares of Forest Energy Resources, which will then be converted in the merger into the right to receive shares of Mariner. After the merger, Forest shareholders will be entitled to receive approximately 0.8 shares of Mariner for each Forest share that they own. Forest shareholders will not be required to pay for the shares of Forest Energy Resources distributed in the spin-off transaction or the shares of Mariner issued in the merger. Shareholders will receive cash in lieu of any fractional shares of Mariner common stock. All shares of Forest Energy Resources common stock distributed in the spin-off and Mariner common stock issued in the merger will be issued in book-entry form, meaning that, although Forest shareholders will own the shares, they will not be issued physical share certificates.

Q: What will Mariner stockholders receive in the merger?

A: Mariner stockholders will keep the shares of Mariner common stock they currently own, but will not receive any additional shares in the merger.

Q: Does the Mariner board of directors support the merger and the other proposals?

A: Yes. The Mariner board of directors has determined that the merger is fair to and in the best interests of Mariner and its stockholders, and that the merger agreement is advisable. **The Mariner board of directors has unanimously approved the merger agreement and the other proposals and recommends that the Mariner stockholders vote for the adoption of the merger agreement and the other proposals.** A more detailed description of the background and reasons for the merger is set forth under "The Spin-Off and Merger" beginning on page 41.

Q: Do the directors and executive officers of Mariner have interests in the merger that are different from mine?

A: When considering the recommendations of the Mariner board of directors, you should be aware that the directors and executive officers of Mariner have interests and arrangements that may be different from your interests as stockholders, including:

arrangements regarding the appointment of directors and officers of Mariner following the merger; and

arrangements whereby the executive officers of Mariner will receive a cash payment of \$1,000 each in exchange for the waiver of certain rights under their employment agreements, including the automatic

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vesting or acceleration of restricted stock and options upon the completion of the merger and the right to receive a lump sum cash payment if the officer voluntarily terminates employment without good reason within nine months following the completion of the merger.

At the close of business on February 1, 2006, directors and executive officers of Mariner and their affiliates as a group beneficially owned and were entitled to vote approximately 3.7 million shares of Mariner common stock (including restricted stock subject to vesting), representing approximately 10.4% of the shares of Mariner common stock outstanding on that date. All of the directors and executive officers of Mariner who are entitled to vote at the meeting have indicated that they intend to vote their shares of Mariner common stock in favor of adoption of the merger agreement.

Q: What factors did the Mariner board of directors consider in reaching its decision on the merger?

A: In reaching its decision on the merger, the Mariner board of directors considered a number of factors, including the following among others:

the increased size of the combined company could reduce volatility and allow it to participate in larger scale drilling projects and acquisition opportunities;

the merger would be expected to increase Mariner's estimated proved reserves and undeveloped acreage;

the merger could generate increased visibility in the capital markets and trading liquidity for the combined company;

the merger would increase the number of Mariner's producing fields, thereby reducing Mariner's dependence on a concentrated number of properties;

the merger would be consummated only if approved by the holders of a majority of the Mariner common stock; and

the merger is structured as a tax-free reorganization for U.S. federal income tax purposes and, accordingly, would not be taxable either to Mariner or its stockholders.

The Mariner board of directors also identified and considered some risks and potential disadvantages associated with the merger, including, among others, the following:

the risk that there may be difficulties in combining the business of Mariner and the Forest Gulf of Mexico operations;

the risk that the potential benefits sought in the merger might not be fully realized;

the risk that the proved undeveloped, probable and possible reserves of the Forest Gulf of Mexico operations may never be converted to proved developed reserves; and

the fact that, in order to preserve the tax-free treatment of the spin-off, Mariner would be required to abide by restrictions that could reduce its ability to engage in certain business transactions.

In the judgment of the Mariner board of directors, the potential benefits of the merger outweigh the risks and the potential disadvantages.

Q: Did Mariner's financial advisor render its opinion with respect to the fairness from a financial point of view of the exchange ratio in the merger?

A: Yes. Lehman Brothers Inc., Mariner's financial advisor, has delivered to Mariner's board of directors a written opinion that, as of September 9, 2005, based upon and subject to the factors and assumptions set forth in the

opinion, the exchange ratio in the merger was fair from a financial point of view to Mariner. This opinion is attached as Annex B to this proxy statement/prospectus-information statement.

Q: Are there risks that Mariner stockholders should consider in deciding whether to vote on the merger?

A: Yes. Mariner stockholders should read the Risk Factors beginning on page 24 for a description of various risks Mariner stockholders should carefully consider in evaluating the proposed merger.

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Q: Can Mariner stockholders dissent and require appraisal of their shares of Mariner common stock?

A: No. Mariner stockholders are not entitled to dissenters' rights or appraisal rights in connection with the merger.

Q: Why does Mariner want to increase the number of authorized Mariner shares?

A: Mariner's certificate of incorporation currently does not authorize a sufficient number of shares of common stock to complete the merger. Mariner currently is authorized to issue 70 million shares of Mariner common stock and 20 million shares of Mariner preferred stock. As of February 1, 2006, approximately 35.6 million shares of Mariner common stock were issued and outstanding. Under the terms of the merger agreement, Mariner must issue approximately 50.6 million shares (representing approximately 0.8 shares of Mariner common stock for each share of Forest common stock) of common stock in the merger, which would result in approximately 86 million shares of Mariner common stock outstanding. **Therefore, the number of authorized shares of Mariner common stock must be increased in order to complete the merger.**

Q: What vote is required to adopt the merger agreement and the other proposals?

A: For the merger to occur, the holders of a majority of the outstanding Mariner common stock must adopt the merger agreement and approve the amendment to the certificate of incorporation. The amendment to Mariner's stock incentive plan must be approved by a majority of votes cast by stockholders present in person or by proxy, a quorum being present. Director nominees receiving a plurality of all votes cast at the meeting will be elected to Mariner's board of directors. Mariner stockholders will have one vote for each share of Mariner common stock they own. On February 1, 2006, the record date for Mariner's annual meeting, 35,615,400 shares of Mariner common stock were issued and outstanding and entitled to vote at the meeting. The approval of Forest shareholders is not required for the spin-off or the merger.

Q: Where will Mariner's common stock be listed?

A: Mariner's common stock has been approved for listing on the New York Stock Exchange upon the completion of the merger.

Q: Who will be the executive officers of Mariner?

A: The current executive officers of Mariner will remain in their current positions following the merger.

Q: Who will be the directors of Mariner?

A: If the merger is completed, Mariner's board will consist of seven members, five of whom will be the current directors of Mariner, and two of whom will be mutually agreed between Mariner and Forest prior to the completion of the merger. The Chairman of the Mariner board will be Mr. Scott D. Josey, the current Chairman, Chief Executive Officer and President of Mariner.

Q: Who are the new directors of Mariner, as mutually agreed by Forest and Mariner?

A: The two Mariner directors to be mutually agreed by Forest and Mariner pursuant to the terms of the merger agreement have not yet been designated.

Q: When do you expect to complete the spin-off and the merger?

A: If the merger agreement and the proposed amendment to the certificate of incorporation are adopted and approved by the stockholders of Mariner, then Mariner, Forest, Forest Energy Resources and MEI Sub expect to complete the spin-off and the merger as soon as possible after the satisfaction (or waiver, where permissible) of the other conditions to the spin-off and the merger. We currently anticipate that the merger will be completed during the first calendar quarter of 2006.

Q: Who is entitled to vote at the meeting of Mariner stockholders?

A: Holders of Mariner common stock of record at the close of business on February 1, 2006.

