

ASV INC /MN/
Form SC TO-T/A
February 20, 2008

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO

(Amendment No. 2)

Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)

of the Securities Exchange Act of 1934

A.S.V., INC.

(Name of Subject Company (Issuer))

TEREX MINNESOTA, INC.

(Offeror)

TEREX CORPORATION

(a direct Parent of Offeror)

(Names of Filing Persons—Offerors)

COMMON STOCK, PAR VALUE \$0.01 PER SHARE

(Title of Class of Securities)

001963107

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(CUSIP Number of Class of Securities)

Eric I Cohen, Esq.

Senior Vice President, Secretary and General Counsel

Terex Corporation

200 Nyala Farm Road

Westport, CT 06880

with a copy to:

Peter S. Golden, Esq.

Fried, Frank, Harris, Shriver & Jacobson

One New York Plaza

New York, NY 10004

(212) 859-8000

(Name, address and telephone number of person authorized to receive notices and communications on behalf of filing persons)

CALCULATION OF FILING FEE

| | |
|------------------------|-----------------------|
| Transaction Valuation* | Amount of Filing Fee* |
| \$519,639,390 | \$20,421.83 |

* Estimated solely for purposes of calculating the filing fee in accordance with Rule 0-11 under the Securities Exchange Act of 1934. The amount of the filing fee is calculated by multiplying the transaction value by 0.0000393. The transaction value was determined by multiplying the purchase price of \$18.00 per share by 28,868,855 shares of common stock, par value \$0.01 per share, of A.S.V. Inc. (based upon the representation by A.S.V., Inc. in the Merger Agreement (as defined herein) that 26,733,552 shares and options to acquire an aggregate of 2,135,303 shares were outstanding as of January 7, 2008).

Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) of the Exchange Act and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

| | | | |
|---------------------------|-------------|---------------|---|
| Amount Previously Paid: | \$20,421.83 | Filing Party: | Terex Minnesota, Inc./Terex Corporation |
| Form or Registration No.: | SC TO-T | Date Filed: | January 28, 2008 |

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- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer:
- Check the appropriate boxes below to designate any transactions to which the statement relates.
 - third-party tender offer subject to Rule 14d-1.
 - issuer tender offer subject to Rule 13e-4.
 - going-private transaction subject to Rule 13e-3.
 - amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

(Continued on following pages)

SCHEDULE TO

This Amendment No. 2 amends and supplements the Tender Offer Statement on Schedule TO (the "Schedule TO") filed on January 28, 2008, by Terex Minnesota, Inc. (the "Purchaser"), a wholly owned subsidiary of Terex Corporation ("Terex"), as previously amended. The Schedule TO relates to a tender offer by the Purchaser to purchase all of the outstanding shares of common stock, par value \$0.01 per share (the "Shares"), of A.S.V., Inc., a Minnesota corporation (the "Company"), at a price of \$18.00 per Share, net to the sellers in cash, without interest. The terms and conditions of the offer are described in the Offer to Purchase, dated January 28, 2008 (the "Offer to Purchase"), and the related Letter of Transmittal (which, together with any supplements or amendments, collectively constitute the "Offer"). Capitalized terms used and not otherwise defined in this Amendment shall have the meanings assigned to them in the Schedule TO. Except as specifically provided herein, this Amendment does not modify any of the information previously reported in the Schedule TO.

This Amendment is being filed by the Purchaser and Terex and also constitutes an amendment to the Schedule 13D initially filed by the Purchaser and Terex on January 18, 2008, as amended by the Schedule TO.

ITEM 11. ADDITIONAL INFORMATION

Item 11 of the Schedule TO is hereby amended and supplemented as follows:

The fifth paragraph of Section 16 – "Certain Legal Matters; Required Regulatory Approvals" of the Offer to Purchase is hereby amended and restated as follows:

"German Antitrust Compliance. Under the provisions of the German Act against Restraints on Competition of 1958, as amended ("ARC"), the acquisition of Shares pursuant to the Offer may be consummated only if the acquisition is approved by the German Federal Cartel Office ("FCO"), either by written approval or by expiration of a one-month waiting period commenced by the filing by Parent of a complete notification (the "German Notification") with respect to the Offer, unless the FCO notifies Parent within the one-month waiting period of the initiation of an in-depth investigation. Parent filed the German Notification on January 22, 2008. On Friday, February 15, 2008, the FCO approved, without conditions, the acquisition of the Shares pursuant to the Offer."

ITEM 12. MATERIALS TO BE FILED AS EXHIBITS.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibit:

"(a)(10) Press Release dated February 20, 2008"

SIGNATURE

After due inquiry and to the best of their knowledge and belief, the undersigned hereby certify as of February 20, 2008 that the information set forth in this statement is true, complete and correct.

TEREX MINNESOTA, INC.

By:

/s/ Phillip C. Widman

Name: Phillip C. Widman

Title: Vice President - Finance

TEREX CORPORATION

By:

/s/ Phillip C. Widman

Name: Phillip C. Widman

Title: Senior Vice President and Chief Financial Officer