NephroGenex, Inc.
Form 10-K
March 31, 2014

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Table of Contents

# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

# FORM 10-K

**(Mark One)**

ý **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the fiscal year ended December 31, 2013**

**OR**

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from to**
**Commission file number: 001-36303**

# NephroGenex, Inc.

(Exact name of registrant as specified in its charter)

| **Delaware** | **20-1295171** |
|---|---|
| (State or other jurisdiction of incorporation or organization) | (I.R.S. Employer Identification No.) |
| **79 T.W. Alexander Drive 4401 Research Commons Building Suite 290 P.O. Box 14188 Research Triangle Park, NC** | **27709** (Zip Code) |
| (Address of principal executive offices) | |

**(609) 986-1780**
Registrant's telephone number, including area code

Securities registered pursuant to Section 12(b) of the Exchange Act:

| **Title of each class** | **Name of each exchange on which registered** |
|---|---|
| Common Stock, $0.001 Par Value Per Share | NASDAQ Capital Market |

Securities registered pursuant to Section 12(g) of the Exchange Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes o No ý

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes o No ý

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ý No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. o

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

| Large accelerated filer o | Accelerated filer o | Non-accelerated filer o [Do not check if a smaller reporting company] | Smaller reporting company ý |
|---|---|---|---|

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No ý

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates of the registrant (without admitting that any person whose shares are not included in such calculation is an affiliate) computed by reference to the price at which the common stock was last sold as of March 17, 2014 was $25,182,571. The registrant has provided this information as of March 17, 2014 because its common stock was not publicly traded as of the last business day of its most recently completed second fiscal quarter.

As of March 17, 2014, the registrant had 8,855,114 shares of common stock outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE**

The following documents (or parts thereof) are incorporated by reference into the following parts of this Form 10-K: Certain information required in Part III of this Annual Report on Form 10-K is incorporated from the Registrant's Proxy Statement for the Annual Meeting of Stockholders to be held on May 15, 2014.

Table of Contents

**TABLE OF CONTENTS**

Table of Contents

**Forward-Looking Statements**

This Annual Report on Form 10-K contains forward-looking statements. All statements other than statements of historical facts contained in this Annual Report on Form 10-K, including statements regarding our strategy, future operations, future financial position, future revenue, projected costs, prospects, plans, objectives of management and expected market growth are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

The words "anticipate," "believe," "could," "estimate," "expect," "intend," "may," "plan," "potential," "predict," "project," "should," "target," "will," "would" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. These forward-looking statements include, among other things, statements about:

- our ability to obtain additional financing;
- our use of net proceeds from our recently completed initial public offering;
- the accuracy of our estimates regarding expenses, future revenues and capital requirements;
- the success and timing of our preclinical studies and clinical trials;
- our ability to obtain and maintain regulatory approval of Pyridorin and any other product candidates we may develop, and the labeling under any approval we may obtain;
- regulatory developments in the United States and other countries;
- the performance of third-party manufacturers;
- our plans to develop and commercialize our product candidates;
- our ability to obtain and maintain intellectual property protection for our product candidates;
- the successful development of our sales and marketing capabilities;
- the potential markets for our product candidates and our ability to serve those markets;
- the rate and degree of market acceptance of any future products;
- the success of competing drugs that are or become available; and
- the loss of key scientific or management personnel.

These forward-looking statements are only predictions and we may not actually achieve the plans, intentions or expectations disclosed in our forward-looking statements, so you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions and expectations disclosed in the forward-looking statements we make. We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our business, financial condition and operating results. We have included important factors in the cautionary statements included in this Annual Report on Form 10-K, particularly in Item 1.A. Risk Factors, that could cause actual future results or events to differ materially from the forward-looking statements that we make. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make.

Table of Contents

You should read this Annual Report on Form 10-K and the documents that we have filed as exhibits to the Annual Report on Form 10-K with the understanding that our actual future results may be materially different from what we expect. We do not assume any obligation to update any forward-looking statements whether as a result of new information, future events or otherwise, except as required by applicable law.

Table of Contents

**PART I**

*All brand names or trademarks appearing in this report are the property of their respective holders. Unless the context requires otherwise, references in this report to "NephroGenex," the "Company," "we," "us," and "our" refer to NephroGenex, Inc.*

## Item 1. BUSINESS

### Overview

We are a pharmaceutical company focused on the development of therapeutics to treat kidney disease, an area of significant unmet medical need. Since our inception, we have collaborated with the world's leading experts in kidney disease and leveraged our knowledge of pathogenic oxidative chemistries to build a strong portfolio of intellectual property and to advance the development of our drug candidates. We believe that our comprehensive effort to develop a new generation of therapeutics that target kidney disease provides us with a leadership position in this large and attractive market.

Pathogenic oxidative chemistries are collectively a group of oxygen-based chemical reactions that occur in the body during stress, injury, or disease, to form compounds that can induce pathological changes in tissues that effect normal physiological function. These include (i) advanced glycation end-products (AGE's), which are oxidative end products of glucose-modified biomolecules which adversely affect their function; (ii) reactive oxygen species (ROS), which are chemically reactive molecules containing oxygen such as oxygen ions and peroxides that when elevated in the body can induce pathology; and (iii) toxic carbonyls which are reactive compounds that can modify biomolecules and affect their function. These chemistries are generally agreed to be involved in the etiology of diabetic nephropathy, a common complication of diabetes. We are developing Pyridorin ("Pyridorin"), a small molecule drug that is a unique and broadly acting inhibitor of the pathogenic oxidative chemistries which are elevated in diabetic patients.

We licensed patents covering methods of use and synthesis of Pyridorin from BioStratum, Inc. in May of 2006. We subsequently acquired Pyridorin-related patents from BioStratum through a Series A financing completed in May of 2007. At the time of acquisition, BioStratum, through its contracted investigators, contract research organizations, and collaborators had completed 5 preclinical efficacy studies, 36 preclinical safety studies, 4 Phase 1 studies and 5 Phase 2 studies with Pyridorin. After the acquisition, we conducted a multi-center, randomized, placebo-controlled Phase 2b study, namely PYR-210. In addition, we worked with the FDA to establish a new regulatory pathway for Pyridorin approval.

Pyridorin has demonstrated preliminary evidence of efficacy in slowing the progression of diabetic nephropathy in relevant patient populations in three Phase 2 clinical studies. Based on these results, Pyridorin will be further developed in a Phase 3 program agreed to by the U.S. Food and Drug Administration (FDA) under a Special Protocol Assessment (SPA). This Phase 3 program will use a novel endpoint based on a novel, events-based endpoint based on end stage renal disease (ESRD) or a 50% increase in serum creatinine (SCr). We believe this change will significantly reduce the cost and time for completion of the Phase 3 program compared to the traditional endpoint used in previous pivotal trials for diabetic nephropathy. The traditional renal endpoint used in previous pivotal trials for diabetic nephropathy is a 100% increase in SCr from baseline or ESRD. Based on an analysis of the Irbesartan Type II Diabetic Nephropathy Trial (IDNT) used for the approval of the drug irbesartan, the follow-up time required to reach the new endpoint of a 50% SCr increase would be approximately 50% less than the follow-up time required to reach the traditional endpoint in a similar patient population. We believe that we will be the first company to use this novel endpoint in a Phase 3 trial.

Table of Contents

We are also studying the application of an intravenous formulation of Pyridorin to specific types of acute kidney injury (AKI) where pathogenic oxidative chemistries have been identified as a possible contributing factor to the severity of this condition.

**Corporate Objectives**

There is a large medical need and market opportunity for treatments that can (1) slow the progression of renal disease and thus delay or avoid the onset of end stage renal disease (ESRD); or (2) reduce the severity of acute kidney injury and its associated potential treatment costs and long term complications.

Our principal corporate objective is the maximization of shareholder value by advancing Pyridorin through Phase 3 development and approval. In order to maximize the market potential of Pyridorin, we intend to consider entering into a partnership for the launch and marketing of the product at the end of Phase 3 or possibly earlier, based on interim clinical data. We also intend to consider acquisitions and the development of other clinical candidates as we see appropriate.

We acquired commercial rights to Pyridorin in 2007 and, since then, have been investigating the safety and efficacy of Pyridorin therapy for diseases in which pathogenic oxidative chemistries are an established and/or causative and contributing factor in kidney disease. These include diabetic nephropathy and acute kidney injury.

We anticipate seeking corporate partners to aid us in commercialization and market entry.

**Our Strategy**

There is a large medical need and market opportunity for treatments that can (1) slow the progression of renal disease and thus delay or prevent the onset of end stage renal disease (ESRD); or (2) reduce the severity of acute kidney injury and potentially its associated treatment costs and long term complications.

We are committed to applying our leadership position in the field of kidney disease to transform the lives of patients with debilitating, costly diseases or conditions. Each of our ongoing and planned development projects addresses kidney diseases or conditions with high unmet medical need that presents a significant market opportunity. The core elements of our strategy include:

- advancing Pyridorin through Phase 3 development for the treatment of diabetic nephropathy in patients with type 2 diabetes;
- submission and approval of a new drug application (NDA) in the United States and a Market Authorization Application (MAA) in Europe;
- commercializing Pyridorin using a highly-targeted sales force in the United States and the rest of the world;
- maximizing the value of our Pyridorin franchise by expanding into additional indications; and
- deploying capital strategically to develop our portfolio of product candidates and create shareholder value.

**Rationale for Development of Pyridorin**

Diabetic microvascular complications arise in tissues that are not under direct insulin control and are thus exposed to elevated levels of glucose in hyperglycemic conditions. This exposure leads to a perturbation or deviation of many metabolic pathways and the emergence of non-enzymatic oxidative chemistries that form pathogenic reactive compounds including: (1) reactive oxygen species; (2) reactive carbonyl intermediates (which are reactive compounds containing a carbonyl function group that can

Table of Contents

react with biomolecules and modify their function, a process collectively referred to as carbonyl stress); and (3) glycated protein amino groups and their subsequent advanced glycation end-products (AGEs).

One pathway of particular interest is the post-Amadori pathway of AGE formation. The study of this pathway led to the discovery of Pyridorin as a promising drug candidate for diabetic nephropathy. Our founding scientists first isolated protein-Amadori intermediates and utilized them to search for compounds that could specifically block the degradation of protein-Amadori intermediates into AGEs. They examined many previously studied AGE inhibitors in this screening assay, including aminoguanidine (pimagedine). The majority of such AGE inhibitors, including aminoguanidine (Graph 2), did not exhibit inhibitory activity towards formation of the AGE carboxymethlylysine (CML) under these conditions. However, Pyridorin uniquely exhibited potent post-Amadori inhibitory activity (Graph 1). Due to the possible importance of this AGE pathway, this inhibitory activity may form the basis for the activity of Pyridorin in inhibiting the progression of diabetic nephropathy, as evidenced in nonclinical studies and as summarized below.

Chronic hyperglycemia is directly associated with end-organ damage in patients with diabetes. The major target organs affected, namely the kidney, peripheral nerves, retina, and the vasculature, are all exposed to glucose fluctuations since they are not under insulin regulation. This hyperglycemia damage may be initiated by direct chemical reaction of glucose (an aldehyde) with protein amino groups, leading to the formation of harmful products collectively designated as AGEs. It has been established that circulating and tissue levels of AGEs are elevated in patients with poorly controlled diabetes and

Table of Contents

increase dramatically when the glomerular filtration rate (GFR) declines. GFR is the calculation of the flow rate of filtered fluid through the glomerulus that determines how well the kidney is filtering the blood.

In extensive in-vitro studies, Pyridorin has been shown to inhibit AGE formation and scavenge ROS and toxic carbonyl compounds. For example, Pyridorin has been shown to:

- inhibit the degradation of glycated proteins to AGEs;
- inhibit lipoxidation (lipid oxidation) by trapping lipoxidation intermediates, (reactive lipid compounds that form during the oxidation of lipids that normally proceed to lipid oxidation end-products), particularly 1,4-dicarbonyls;
- scavenge glycoaldehyde and dicarbonyls intermediates of carbonyl stress such as glyoxal and methylglyoxal;
- trap the hydroxyl radical (which is a highly reactive and short-lived neutral form of the hydroxide ion (HO-); and
- bind redox transition metal ions (such as Cu2+, Mn2+, and Fe 2+),which interfere with their catalytic role in oxidative reactions (redox chemical reactions are common physiological chemical reactions involving the transfer of electrons).

All of the above processes and reactive compounds have been implicated directly or indirectly in the development of diabetic microvascular disease, the basis of diabetic complications.

**Pyridorin Targets Specific**
**Pathogenic Oxidative Chemistries**

*The above graphic is for illustrative purposes only.*

Table of Contents

**Preclinical Efficacy Results**

The ability of Pyridorin to slow the progression of diabetic nephropathy in animals has been examined in several preventative and interventional preclinical studies. These include a "proof-of-principle" rat model of AGE-albumin induced nephropathy (Khalifah, et al, J. Am. Soc. Nephrol. 1997 Sep; 8:641A), an STZ-treated rat classical model of type 1 diabetic nephropathy (Degenhardt, et al, Kidney Int. 2002; 61:939-950), a db/db mouse spontaneous model of type 2 diabetic nephropathy Zheng, et al, Kidney Int. 2006; 70: 507-514), the Zucker fa/fa rat model of non-diabetic, hyperlipidemic nephropathy (Alderson, et al, Kidney Int. 2003; 63:2123-2133), and the type 2 diabetic KK-Ay/Ta mouse (Tanimoto, et al, Metabolism. 56:160-7, 2007).

In the first model, AGE-modified rat serum albumin (RSA), which is the most abundant protein in rat blood plasma, was injected daily for 6 weeks into normoglycemic rats to mimic damage from circulating AGE-modified plasma proteins. These normoglycemic rats were given daily tail vein injections of AGE-modified RSA at 50 mg/kg/day with and without concomitant treatment with 25 mg/kg/day Pyridorin in the drinking water. Another AGE inhibitor, aminoguanidine (pimagedine) was also evaluated in this model for comparative purposes. At the time of this study, aminoguanidine was being developed by Alteon for the treatment of diabetic nephropathy. Previous studies have demonstrated that such daily injections of AGE-modified RSA induce pathological changes in the kidney consistent with the onset of diabetic nephropathy. As expected, overt nephropathy did not develop during this short-term study. However, statistically significant early diabetic-like morphological changes were observed in the glomerulus, such as an increase in glomerular volume, an increase in albumin deposition (Graph 3), and a decrease in heparin sulfate, a component of the kidney anionic filtration barrier (Graph 4).

Treatment with Pyridorin protected the animals from the damaging effects of AGE-albumin with regard to all three parameters mentioned above. All of the results were statistically significant when compared to untreated animals. Treatment with similar amounts of aminoguanidine did not lead to significant amelioration except for a partial reduction in albumin deposition.

Table of Contents

Results from an STZ-treated rat model of type 1 diabetic nephropathy are shown in Graphs 5 and 6 below. Pyridorin inhibited the development of albuminuria compared to untreated animals ($p = 0.0001$ at 27 weeks). It also inhibited the increase in plasma creatinine levels compared to untreated animals ($p = 0.0001$ at 28 weeks). Increases in albuminuria and plasma creatinine levels are indications of decreasing kidney function. Additionally, at equal doses, Pyridorin exhibited an improvement over aminoguanidine in preventing increases in plasma creatinine ($p = 0.021$ at 28 weeks) and albuminuria.

In addition to these results on kidney function, this study demonstrated that Pyridorin significantly inhibited AGE formation in skin collagen, as measured by standard methods of quantifying AGE levels (i.e. pepsin digestibility, AGE fluorescence, and carboxymethyllysine AGE content).

In a second STZ study similar in design to the above, treatment with Pyridorin at 1 g/L drinking water was compared to treatment with the ACE inhibitor enalapril (the standard of care treatment for diabetic nephropathy) dosed at 50 mg/L drinking water (Alderson, et al, Diabetologia 2004; 47:1385-1395). At 28 weeks, Pyridorin significantly inhibited the development of albuminuria relative to both untreated diabetic controls (43 mg/24 hr versus 12mg/24 hr) and diabetic animals treated with enalapril (26 mg/24 hr versus 12 mg/24 hr). The differences were statistically significant. Pyridorin also significantly reduced the increases in plasma creatinine relative to both untreated diabetic controls (110 µmol/L versus 45 µmol/L) and diabetic animals treated with enalapril (70 µmol/L versus 45 µmol/L). The differences were statistically significant.

Pyridorin has also been evaluated in a standard model of type 2 diabetic nephropathy. The db/db mouse is a commonly used mouse model of type 2 diabetes and develops histologic changes in the kidney which are very similar to those observed in humans with diabetic nephropathy. The study was designed to evaluate the effects of Pyridorin in established diabetic nephropathy. In mice with biopsy-proven diabetic nephropathy, Pyridorin orally administered at 250 mg/kg/day for 2 months resulted in a 43% reduction in the urinary albumin/creatinine ratio. In contrast, the placebo group albumin/creatinine ratio increased 215% ($p<0.05$). The ACE inhibitor treated group increased 40%.

Table of Contents

Microscopic lesions of glomerulosclerosis in the kidney were also reduced in the Pyridorin group when compared with control animals ($p<0.05$).

A second db/db mouse study of 16-week treatment duration was conducted to assess the combination of Pyridorin plus the ACE inhibitor enalapril versus enalapril alone. As in the initial study, there were significant effects on urinary albumin/creatinine ratio. In the placebo group albumin/creatinine ratio increased approximately 350% over 16 weeks. The enalapril treated group increased approximately 220%. The Pyridorin plus enalapril group increased approximately 50% ($p<0.05$ compared to control). There was also a reduction in glomerular lesions in the Pyridorin plus ACE inhibitor group ($p<0.05$ compared to control). In addition, Pyridorin plus enalapril significantly improved survival versus the control or enalapril alone ($p<0.05$).

Pyridorin has also been studied in a non-diabetic, "syndrome X-like" model to assess its effects on the development of nephropathy in the absence of diabetes. In this study, the development of nephropathy and dyslipidemia in treated and untreated obese fa/fa rats was compared to those in lean Fa/fa littermates. Pyridorin, administered at 1 g/L in the drinking water, markedly inhibited the development of dyslipidemia and nephropathy in the fa/fa rats. A 10-fold increase in albuminurea was observed in the untreated obese fa/fa rats over 32 weeks as well as an increase in plasma creatinine from 0.9 mg/dL to 1.5 mg/dL. Pyridorin provided nearly complete protection against increases in both of these parameters ($p<0.0001$). Pyridorin also inhibited the thickening of the aortic and coronary vasculature observed in the untreated obese fa/fa rats by approximately 90% ($p<0.05$). Furthermore, Pyridorin significantly reduced AGE levels in the rat skin collagen when compared to the untreated fa/fa group ($p<0.05$).

Pyridorin was also studied in the type 2 diabetic KK-Ay/Ta mouse. KK-Ay/Ta mice were given Pyridorin (200 or 400 mg/kg per day) starting at 8 weeks of age for 12 weeks. Pyridorin therapy, especially at 400 mg/kg per day, prevented an increase in albuminuria relative to untreated controls (increase of 6.4 mg/L versus 43.5 mg/L, $p<0.05$). Accumulations or Carboxymethyllysine (an AGE) and nitrotyrosine in the kidney were also decreased ($p<0.05$). TGF-β1 and laminin-β1 messenger RNA expressions in kidneys were significantly lower than those in the controls ($p<0.05$).

**Preclinical Safety Summary**

Pyridorin was studied in acute and chronic rat, rabbit and dog studies for up to one year. Acute and chronic toxicology studies were conducted by Quintiles Preclinical Services. Developmental & reproductive toxicology studies were conducted by Charles River Laboratories Inc. All of these studies were sponsored by BioStratum, Inc. There were no observable side effects seen at blood levels as high 100x over therapeutic blood levels in humans. In a full battery of genotoxicity tests, no mutagenicity or clastogenicity was observed. These studies were conducted by Bioreliance Labs, Quintiles Toxicology/Pathology Services, and Sequani Ltd and sponsored by BioStratum, Inc. Human hepatic cytochrome P450 enzymes are involved in the metabolism and elimination of many widely used drugs. Any induction or inhibition of these enzymes can potentially lead to drug-drug interactions. In human hepatic cell assays, Pyridorin had no effect on cytochrome P450 enzymes. Thus, the potential for Pyridorin to interact with the metabolism of other drugs in-vivo is unlikely. The P450 enzyme studies were conducted by RTI International and sponsored by BioStratum, Inc.

Table of Contents

**Clinical Safety Summary**

An investigational new drug application (IND) was filed for Pyridorin by BioStratum, Inc. on July 30, 1999. The sponsorship of the IND was transferred to NephroGenex on July 10, 2007.

The safety, tolerability, and pharmacokinetics of Pyridorin was investigated in four Phase 1 studies conducted in healthy male volunteers. A summary of these studies is provided in the table below:

| **Protocol #** | **440-01 (PO)** | **440-01 (IV)** | **440-02** | **PYR-103** |
|---|---|---|---|---|
| Conducted | Sep 99 - Nov 99 | Sep 99 - Nov 99 | Nov 99 - Dec 99 | Mar 2001 |
| CRO/Sponsor | MDS Harris/BioStratum | MDS Harris/BioStratum | MDS Harris/BioStratum | PPD Development/BioStratum |
| Location(s) | Lincoln, NE | Lincoln, NE | N. Ireland | Morrisville, NC |
| Active/Placebo | 16/8 | 4/2 | 18/6 | 6/0 |
| Type of Subject M/F | Healthy 24/0 | Healthy 6/0 | Healthy 24/0 | Healthy 6/0 |
| Age range | 19 - 41 yrs | 19 - 41 yrs | 18 - 45 yrs | 19 - 50 yrs |
| Study Design | Ascending<br>Single dose<br>Randomized<br>Double Blind<br>Placebo control | Single dose<br>Randomized<br>Double Blind | Ascending<br>Multiple dose<br>Randomized<br>Double Blind<br>Placebo control | Single dose<br>High fat meal vs fasted<br>2-way crossover |
| Route of admin. | Oral | I.V. | Oral | Oral |
| Dose | 3 mg/kg<br>10 mg/kg<br>30 mg/kg<br>50 mg/kg | 10 mg/kg | 5mg/kg BID<br>15 mg/kg BID<br>25 mg/kg BID | 500 mg |
| Duration | Single dose | Single dose | 7 days | Single dose |
| Results | No safety signal | No safety signal | No safety signal | No safety signal |

In all four of these studies, Pyridorin was well tolerated with no drug-related toxicity observed in any patients. Based on its benign profile in healthy patients, the decision was made by BioStratum to advance Pyridorin into Phase 2 testing in patients with diabetic nephropathy. The safety, tolerability, and pharmacokinetics of Pyridorin was investigated by BioStratum in a Phase 2 study conducted in patients with Type 1 diabetic nephropathy. In addition, the safety, tolerability and biological activity of Pyridorin was investigated in another Phase 2 study conducted in Type 2 diabetic patients with microalbuminuria (ACR≤ 300 mg/g). This study was conducted in Japan under the sponsorship and management of Kowa Company Ltd.

Table of Contents

A summary of these two studies is provided in the table below:

| Protocol # | PYR-202 | K-163-04 |
|---|---|---|
| Conducted | Nov 2000 - Mar 2001 | 2005 - 2006 |
| CRO/Sponsor | PPD Development/BioStratum | Kowa |
| Location(s) | USA (5 sites) | Japan |
| Active/Placebo | 9/3 | 68/67 |
| Type of Subject M/F | Type 1 Diabetic nephropathy 8/4 | Type 2 Diabetes w/microalbuminurea 107/28 |
| Age range | 28 - 54 yrs | 20 - 70 yrs |
| Study Design | Multiple dose<br>Randomized<br>Escalating dose<br>Double Blind<br>Placebo control | Multiple dose<br>Randomized<br>Double Blind<br>Placebo control |
| Route of admin. | Oral | Oral |
| Dose | 50 mg BID for 7 days then<br>250 mg BID for 7 days then<br>500 mg BID for 28 days | 300 mg BID |
| Duration | 6 weeks | 26 weeks |
| Results | No safety signal | No safety signal<br>No effect on microalbuminuria |

In both of these studies, Pyridorin was well tolerated with no drug-related toxicity observed in any patients. Based on its benign profile in diabetic nephropathy patients, the decision was made by BioStratum to continue evaluation of the safety, tolerability and biological activity of Pyridorin in type 1 and type 2 diabetic nephropathy patients with macroalbuminuria (ACR >300 mg/g).

In two randomized, placebo-controlled, Phase 2 studies of 24-week treatment duration, patients with nephropathy due to either type 1 or type 2 diabetes showed no consistent across-study differences between Pyridorin and placebo groups in the type or incidence of adverse event reporting or in vital signs, weight, blood pressure, electrocardiograms (ECGs), general chemistry, urinalysis, hematology or special laboratories (coagulation and thyroid function tests). In the first study, the adverse events defined as definitely, probably, or possibly related to the study drug as determined by the investigator, were reported in 26.2% and 33.3% Pyridorin and Placebo patients respectively. In the second study, the adverse events defined as definitely, probably, or possibly related to the study drug as determined by the investigator, were reported in 35.1% and 44.4% Pyridorin and Placebo patients respectively. The types of serious adverse events (SAEs) observed were quite varied and very similar to what is typically observed in diabetic nephropathy patients. Cardiac related events were the most common followed by infections. While a numerical imbalance in SAE reporting was seen, the lack of a specific type of SAE reported in patients receiving Pyridorin, the similarity to the types of SAEs reported in other diabetic nephropathy studies, and the significant baseline medical conditions in these patients suggest that the SAEs were related to the underlying medical conditions, not an effect attributable to Pyridorin. In a retrospective ECG analysis using pooled data from the two 24-week studies, there was no evidence for an effect of Pyridorin on the QT/QTc interval, either at the group level or at the individual patient

Table of Contents

level (using Fridericia's and Bazett's formulae). The QT/QTc interval is a measure of the time between the start of the Q wave and the end of the T wave in the heart's electrical cycle. In general, the QT interval represents electrical depolarization and repolarization of the left and right ventricles. A lengthened QT interval is a biomarker for ventricular tachyarrhythmias and a risk factor for sudden death. Fridericia's and Bazett's formulae are two different correction methods commonly used to correct for heart rate differences when calculating the QT interval.

In a 12-month Phase 2 study treatment with Pyridorin, up to 300 mg twice daily (BID) was generally well tolerated. Most of the AEs were mild or moderate in severity and there was a slight increase in the incidence of diarrhea and constipation in the 300 mg BID group relative to placebo. The pattern and occurrence of AEs were consistent with the patient population under study. The overall incidence of AEs and AEs deemed drug-related was similar among the treatment groups. The types of serious adverse events (SAEs) observed were quite varied and very similar to what is observed in diabetic nephropathy patients. Cardiac related events were the most common followed by infections. There were no meaningful differences in SAEs between the placebo group and the Pyridorin group. The observed SAEs were attributed to underlying baseline medical conditions in these patients and not attributed to Pyridorin therapy.

**Phase 2 Efficacy Results**

**PYR-206**

PYR-206 was a Phase 2, multi-center, placebo-controlled, randomized, double-blind study which evaluated the safety and tolerability of Pyridorin administered orally via 50 mg capsules BID for 24 weeks to patients with nephropathy due to type 1 or type 2 diabetes.This study was conducted by BioStratum Inc. which utilized the services of the contract research organization Pharmaceutical Product Development (PPD). The study was conducted from October 2001 to January 2003 in the United States.

Although PYR-206 was designed as a safety and tolerability study, post-hoc analyses were performed on various efficacy parameters, including serum creatinine (SCr), urinary creatinine clearance, and TGF-β1. Creatinine is a breakdown product of creatine. Its level in serum reflects the efficiency of the kidney to remove waste products from the blood. Serum creatinine is the most commonly used indicator of renal function. The SCr change from baseline was analyzed for all patients and for the patient subgroups listed in Table 1 below using a repeated measures mixed model with baseline SCr as a fixed covariate.

Treatment with Pyridorin reduced the change in SCr concentration from baseline by 27% for all patients (65 Pyridorin and 63 placebo). While the treatment was not statistically significant in the Intent to Treat (ITT) patient population, which included all patients that received at least one dose of study drug, this effect was statistically significant for a subgroup of patients with type 2 diabetes and a starting baseline SCr ≥ 1.3 mg/dL (Table 1 and Figure 1).

Table of Contents

Table 1: PYR-206 Serum Creatinine Change from Baseline Analysis

| Patient Population | Treatment Group | N | Baseline SCr(1) | SCr Change from Baseline(2) | Treatment Effect(3) |
|---|---|---|---|---|---|
| **All Patients** | Pyridorin | 65 | 1.27 ± 0.34 | 0.12 ± 0.40 | -27% |
| | Placebo | 63 | 1.33 ± 0.38 | 0.16 ± 0.28 | |
| **Type 2 Diabetes** | Pyridorin | 40 | 1.28 ± 0.34 | 0.08 ± 0.29 | -53% |
| | Placebo | 40 | 1.30 ± 0.36 | 0.17 ± 0.30 | |
| **Baseline SCr ≥ 1.3 mg/dL** | Pyridorin | 34 | 1.54 ± 0.21 | 0.13 ± 0.53 | -50% |
| | Placebo | 30 | 1.65 ± 0.28 | 0.26 ± 0.33 | |
| **Type 2, Baseline SCr ≥ 1.3 mg/dL** | Pyridorin | 22 | 1.53 ± 0.20 | 0.06 ± 0.37 | -79%** |
| | Placebo | 19 | 1.59 ± 0.73 | 0.29 ± 0.35 | |

(1) Mean ± SD in mg/dL

(2) Unadjusted mean within group change from baseline in mg/dL

(3) Difference relative to placebo in unadjusted mean change from baseline where a negative value indicates a lesser change from baseline in Pyridorin patients (*i.e.* reno-protection)

** Statistically significant, p<0.01

Figure 1. PYR-206 Serum Creatinine Change from Baseline Analysis in Patients with Type 2 Diabetes and a Baseline SCr ≥ 1.3 mg/dL

(1) Mean ± SEM; P= 0.0074 (Repeated measures mixed model analysis with baseline serum creatinine as a fixed covariate)

In the total patient population, Pyridorin also reduced the rate of rise in SCr levels by 23% relative to placebo. The rise in SCr was 0.161 mg/dL/yr and 0.210 mg/dL/yr in the Pyridorin (n=65) and placebo (n=63) groups, respectively. In the sub-population of patients with more substantial renal impairment as evidenced by a baseline SCr level of ≥ 1.3 mg/dL, the ability of Pyridorin to preserve renal function was more pronounced with a 59% reduction in the rate of rise in SCr relative to placebo. In this sub-population of patients, the rise in SCr was 0.183 mg/dL/yr and 0.445 mg/dL/yr in the Pyridorin (n=34) and placebo (n=31) groups, respectively. This result suggests Pyridorin therapy may be slowing the progression of kidney disease in diabetic patients with more substantial renal

Table of Contents

impairment exhibiting a larger increase in SCr over the treatment period. However, it is part of a post-hoc analysis, and this effect may not be observed in a subsequent study.

Urinary creatinine clearance findings were consistent with the beneficial effects of Pyridorin on slowing the decline of renal function with an 18% reduction in the decline of creatinine clearance in the Pyridorin group relative to patients treated with placebo in the total patient population.

Urinary excretion of TGF-β1, a factor implicated in the pathogenesis of chronic renal failure in diabetic nephropathy, was also assessed. The mean change from baseline to endpoint in urinary TGF-β1 levels was -9.34 and 14.38 pg/mg creatinine in the Pyridorin and placebo patients respectively, with a relative change from baseline of -24.7% and 41.8%, respectively, in the total patient population. As in the case of the observed changes in SCr and urinary creatinine clearance, these results on urinary TGF-β1 are part of a post-hoc analysis, and they may not repeat in a subsequent clinical study.

**PYR-205/207**

PYR-205 and PYR-207 were identical in design, with the exception of the patient entrance criteria for SCr (≤ 2.0 mg/dL and > 2.0 mg/dL but ≤ 3.5 mg/dL, respectively). The data were merged, as prespecified in the Statistical Analysis Plan, and analyzed as a single study. PYR-205 and 207 were Phase 2, international, multi-center, randomized, double-blind, placebo-controlled, escalating dose studies to evaluate the safety, tolerability, and biologic activity of Pyridorin given orally in a sequential fashion to patients with diabetic nephropathy due to type 1 or type 2 diabetes at:

50 mg BID for two weeks,

100 mg BID for two weeks, and

250 mg BID for 20 weeks.

This study was conducted by BioStratum Inc. which utilized the services of the contract research organizations Pharmaceutical Product Development (PPD), Cato Research, and PharmaNet. The study was conducted from July 2002 to September 2003 in the United States, Belgium, the United Kingdom, Canada and South Africa.

In PYR-205/207, baseline renal function was more impaired than patients studied in PYR-206. In PYR-205/207, Pyridorin reduced the change from baseline SCr in either a statistically significant fashion or trending toward a significant p-value close to 0.05 in all prospectively defined patient sub-groups. The reno-protective effect of Pyridorin as compared to placebo was seen to an equal degree across all patient groups with an approximate 70% reduction relative to placebo in the increase of baseline SCr (Table 2 and Figure 2).

Table of Contents

Table 2: PYR-205/207 Serum Creatinine Change from Baseline Analysis

| Patient Population | Treatment Group | N | Baseline SCr(1) | SCr Change from Baseline(2) | Treatment Effect(3) |
|---|---|---|---|---|---|
| **All Patients** | Pyridorin | 57 | 1.75 ± 0.64 | 0.11 ± 0.26 | -68%* |
| | Placebo | 27 | 1.96 ± 0.86 | 0.34 ± 0.92 | |
| **Type 2 Diabetes** | Pyridorin | 45 | 1.74 ± 0.67 | 0.12 ± 0.27 | -68%* |
| | Placebo | 22 | 1.94 ± 0.92 | 0.38 ± 1.02 | |
| **Baseline SCr ≥ 1.3 mg/dL** | Pyridorin | 42 | 2.00 ± 0.55 | 0.12 ± 0.30 | -74%* |
| | Placebo | 19 | 2.37 ± 0.67 | 0.47 ± 1.09 | |
| **Type 2, Baseline SCr ≥ 1.3 mg/dL** | Pyridorin | 33 | 2.00 ± 0.58 | 0.14 ± 0.31 | -75% |
| | Placebo | 15 | 2.40 ± 0.73 | 0.55 ± 1.22 | |

(1) Mean ± SD in mg/dL

(2) Unadjusted mean within group change from baseline in mg/dL

(3) Difference relative to placebo in unadjusted mean change from baseline, where a negative value indicates a lesser change from baseline in Pyridorin patients (*i.e.*, reno-protection)

(4) Determined using repeated measures mixed model analysis with baseline SCr as a fixed covariate and treatment effect being the difference relative to placebo in change from baseline measured in mg/dL.

* Statistically significant, $p<0.05$

Figure 2. PYR-206 Serum Creatinine Change from Baseline Analysis in Patients with Type 2 Diabetes and a Baseline SCr ≥ 1.3 mg/dL

(1)

Mean ± SEM; P= 0.058 (Repeated measures mixed model analysis with baseline serum creatinine as a fixed covariate)

Relative to placebo, Pyridorin treatment also slowed the rate of SCr increase (slope analysis) by approximately 70% in all populations analyzed. The rise in SCr was 0.177 mg/dL/yr in Pyridorin group (n=57) and 0.629 mg/dL/yr in the placebo group (n=27), with a P value of 0.062.

Table of Contents

No significant between-group differences were observed in urinary albumin excretion. Short term effects on proteinuria are usually only seen with anti-hypertensive drugs that improve renal hemodynamics. Pyridorin treatment did not affect blood pressure.

AGE measurements were performed in plasma of patients with more advanced renal disease (all PYR-207 patients) using gas chromatography-mass spectrometry. Whereas carboxymethyllysine (CML) and carboxyethyllysine (CEL) levels increased from baseline by 0.02 and 0.015 mmol/mol Lys, respectively, in the placebo group, CML and CEL levels were decreased from baseline by 0.04 and 0.01 mmol/mol Lys in the Pyridorin-treated group. These data suggest that Pyridorin-induced inhibition of AGE formation occurs concomitantly with the beneficial effects of Pyridorin on renal function, thus lending support to the hypothesis that Pyridorin exerts beneficial effects on renal function via an AGE-dependent mechanism.

The mean change from baseline to endpoint in urinary TGF-β1 levels was -9.7 pg/mg creatinine in Pyridorin patients and +14.2 pg/mg creatinine in placebo patients with a relative change from baseline of -13.1% and 55.7% in the Pyridorin and placebo groups, respectively. These relative differences in TGF-β1 levels could represent one of the mechanisms by which Pyridorin could potentially slow the progressive decline in renal function.

**PYR-210**

PYR-210 was a randomized, double-blind, placebo-controlled study of Pyridorin at doses of 150 mg BID, 300 mg twice daily (BID) or placebo for 12 months. PYR-210 was designed to further study the efficacy and safety of Pyridorin in patients with overt nephropathy due to type 2 diabetes and to identify the appropriate dose and patient population for Phase 3 pivotal trials.

We conducted the study and utilized the services of the contract research organization Medpace. The study was conducted from August 2008 to August 2010 in the United States, Australia and Israel.

The population selected had macroalbuminuria and impaired renal function. Although previous pivotal trials for diabetic nephropathy (notably, the IDNT study of the drug Irbesartan and the RENAAL study of the drug Losartan) have excluded patients with baseline SCr values ≥ 3.0 mg/dL, patients with higher bSCr values (up to 3.7 mg/dL) were included in the PYR-210 study in order to evaluate Pyridorin safety in more advanced renal disease patients. Pre-specified efficacy analyses according to starting baseline SCr levels were included in the statistical analysis plan. Patients were required to be on an established diabetic nephropathy standard of care (SOC) at screening. Specifically, patients must have received a renin-aldosterone-angiotensin-system (RAAS) inhibitor (ACE-I) or an ARB for at least 3 months prior to screening where the dose of the ACE-I or the ARB was considered appropriate for that patient and had been stable for at least 2 months. Patients were also required to be on stable blood pressure medications (other than an ACE-I or ARB) for 2 months prior to screening.

Patients not on an established, stable regimen of SOC were allowed to enter a screening phase (designated the "run-in period") during which ACE-I/ARB or blood pressure dosing was initiated or adjusted to establish SOC. This was followed by a run-in period of at least 2 months at these same doses before patients could be randomized. These patients were required to meet the other entry criteria at the screening visit. Because changes in ACE-I/ARB or blood pressure medications are known to affect baseline SCr values, a pre-specified analysis of patients on an established standard of care at screening, excluding run-in patients, was included in the statistical analysis plan.

Eligible patients also had:

- a history of overt diabetic nephropathy defined by a SCr measurement of 1.3 mg/dl to 3.3 mg/dl (women) or 1.5 mg/dl to 3.5 mg/dl (men), inclusive, and

Table of Contents

a 24-hour urine collection Protein to Creatinine Ratio (PCR) > 1200 mg/g.

The trial did not reach its primary endpoint on the intent to treat (ITT) population. In the overall patient population, Pyridorin did not demonstrate a significant treatment effect on the progressive increase in serum creatinine concentration that these patients experienced over one year. However, results from the pre-specified analysis of patients on established SOC at screening showed a treatment effect of 45% for Pyridorin 300 mg BID and 21% for Pyridorin 150 mg BID treatment as compared to placebo treatment. This analysis included patients with a baseline SCr ≥ 3.0 mg/dL, which is higher than the baseline SCr used in the precedent IDNT and RENAAL clinical studies and represents patients who are not appropriate for a pivotal trial in diabetic nephropathy due to their baseline instability and advanced stage of renal insufficiency. Nonetheless, these patients were included in PYR-210 for the purposes of a broad safety assessment. When patients with a baseline SCr < 3.0 mg/dL (the patient population studied in the RENAAL trial of Losartan) that were on established SOC at screening were analyzed, a statistically significant treatment effect of 57% for the Pyridorin 300 mg dose (p=0.0094) and 45% for the Pyridorin 150 mg dose (p=0.0414) was observed. The more robust treatment effect observed in the Pyridorin 300 mg BID group over the Pyridorin 150 mg BID group suggests a potential dose response in this patient population. This subgroup is the patient population that will be studied in the Phase 3 trial. Our subgroup analysis carries the inherent risk that the results may not be repeatable in a subsequent trial. It is possible that the treatment effect observed in this subgroup of PYR-210 may not be repeated in the Phase 3 trials.

A summary of these results is shown in Table 3.

Table 3: Change in Serum Creatinine (mg/dl) From Baseline to Endpoint in Various Subgroups from PYR-210

| Patient Population | Treatment Group | N | Baseline SCr | SCr Change from Baseline | Treatment Effect |
|---|---|---|---|---|---|
| **ITT Population** | Pyridorin 300mg | 105 | 2.17 ± 0.57 | 0.36 ± 0.57 | N/A |
| | Pyridorin 150mg | 99 | 2.22 ± 0.55 | 0.42 ± 0.72 | N/A |
| | Placebo | 103 | 2.20 ± 0.56 | 0.36 ± 0.70 | |
| **Patients requiring a run-in period(1)** | Pyridorin 300mg | 36 | 2.32 ± 0.59 | 0.62 ± 0.75 | N/A |
| | Pyridorin 150mg | 30 | 2.33 ± 0.56 | 0.73 ± 0.90 | N/A |
| | Placebo | 34 | 2.34 ± 0.67 | 0.31 ± 0.68 | |
| **Patients on SOC @ screening in the RENAAL population (bSCr < 3.0)(1)** *(FDA approved patient population for Phase 3)* | Pyridorin 300mg | 64 | 2.01 ± 0.49 | 0.18 ± 0.34 | -57%** |
| | Pyridorin 150mg | 60 | 2.03 ± 0.40 | 0.23 ± 0.45 | -45%* |
| | Placebo | 63 | 2.04 ± 0.40 | 0.42 ± 0.70 | |

(1) A separate analysis of this group was pre-specified in the statistical analysis plan.

(2) The patient population used in the RENAAL clinical trial of Losartan is considered to be the established population used for pivotal trials in diabetic nephropathy.

* Statistically significant, p<0.05

** Statistically significant, p<0.01

Patients who were not on a stable regimen of SOC at screening, and required a run-in period, are also shown in Table 3. These patients did not show a Pyridorin treatment effect. The analysis of the ITT patient population also showed no Pyridorin treatment effect. Since the patients on SOC did show a Pyridorin treatment effect, it is possible that inclusion of patients requiring a run-in period

Table of Contents

confounded the analysis of the ITT population. It is generally accepted that the initiation or change in ACEi/ARB or blood pressure medication dosing in overt diabetic nephropathy patients with established renal insufficiency can result in an increase in SCr levels (or a decrease in GFR). A recently published post-hoc analysis of the RENAAL study showed that patients assigned to Losartan (an ARB marketed by Merck & Co. Inc.) had a greater acute fall in eGFR during the first three months compared to patients assigned to placebo. A post-hoc analysis of the database of the IDNT study indicates that this effect of a blood pressure medication can persist for up to 6 months. Since the run-in period in PYR-210 only required stable doses of ACEi/ARB or blood pressure medications for 2 months prior to randomization, it is likely that some run-in patients had not reached a stable SCr baseline value prior to randomization. In addition, there was an increased number of post-randomization blood pressure medication changes in the run-in patients as compared to patients on established SOC at screening. For future Pyridorin studies, the FDA has agreed that all patients will need to be on stable SOC for at least 6 months prior to screening.

When the subgroup of patients that will be studied in the Phase 3 trials was examined (the RENAAL patient population with bSCr < 3.0 mg/dL on stable SOC @ screening) a dose dependent statistically significant treatment effect of 57% at 300 mg BID was observed.

In addition to the primary efficacy endpoint of change from baseline in SCr, the changes in serum cystatin C were also measured based on the demonstration of a 50% reduction in serum cystatin C by Pyridorin relative to placebo in all patients in Study PYR-205/207. The cystatin C results in PYR-210 followed similar trends to what was observed in the subgroups analyzed for SCr changes. A 26% treatment effect was observed in both treated arms (300 mg BID and 150 mg BID) of patients on SOC at screening in the RENAAL population (bSCr < 3.0 mg/dL).

Changes in urinary TGF-β1 were measured based on the demonstration of a reduction in TGF-β1 in PYR 206 and PYR 205/207. The mean change from baseline to endpoint in urinary TGF-β1 levels was -5.8 pg/mg for the Pyridorin 300 mg BID group, +21.4 pg/mg for the Pyridorin 150 mg BID group and +264 pg/mg for the placebo group. Although a dose dependent trend of decreasing TGF-β1 was observed in treated patients, the differences did not reach statistical significance.

Changes in 24 hour urinary protein creatinine ratio (PCR) were also measured. The mean change from baseline to endpoint in urinary PCR was -118 mg/g for the Pyridorin 300 mg BID group, +182 mg/g for the Pyridorin 150 mg BID group and +179 mg/g for the placebo group. Although there was evidence of a possible reduction in the 300 mg BID group relative to the placebo group, the difference was not statistically significant. The average baseline PCR was extremely high in this patient population (~3000 mg/gm) making the likelihood of observing significant effects within one year very low. It is possible that Pyridorin would further reduce urinary PCR with exposures longer than those in the PYR-210 study. Shorter term effects on proteinuria are usually only seen with anti-hypertensive drugs that improve renal hemodynamics. Pyridorin treatment did not affect blood pressure.

In summary, treatment with Pyridorin up to 300 mg BID was well tolerated. No safety signals were observed in this study. Treatment with Pyridorin for 1 year demonstrated a statistically significant treatment effect of 57% for the Pyridorin 300 mg dose (p=0.0094) and 45% for the Pyridorin 150 mg dose (p=0.0414) in the subgroup of patients with a baseline SCr < 3.0 that were on established SOC at screening. The more robust treatment effect observed in the Pyridorin 300 mg BID group over the Pyridorin 150 mg BID group indicates evidence for a dose response in this patient population. Pyridorin also demonstrated evidence of a reduction in serum cystatin C and urinary TGF-β1.

The efficacy data from PYR-210 was consistent with the previous Phase 2 trials PYR-206 and PYR-205/207. These results support the use of the 300 mg BID dose for pivotal studies, as all doses were well tolerated and there was a suggestion of a better treatment effect with the highest dose.

Table of Contents

We have reached agreement with the FDA in a Special Protocol Assessment (SPA) on the patient population to be studied in the pivotal Phase 3 studies: type 2 diabetic patients with overt nephropathy and a bSCr < 3.0 mg/dL that are on an established and stable SOC regimen at screening. In this specific patient population, Pyridorin dosed at 300 mg BID demonstrated a 57% treatment effect in PYR-210 in the endpoint of SCr change from baseline relative to placebo.

**Clinical Development Strategy**

The clinical development path for a drug to treat diabetic nephropathy has traditionally been very long and associated with significant risk. In the past few years there have been four drug candidates that failed in Phase 3 clinical trials: Pimagedine, Sulonex, Avosantan and Bardoxalone. These drug candidates all looked promising in their respective Phase 2 studies, but all four failed in pivotal trials. A close examination of these clinical development programs reveals that in each case the Phase 3 studies were conducted in a different patient population using a different endpoint than was studied in their respective Phase 2 programs. This unusual circumstance arose because of the very challenging regulatory pathway that previously existed in this field. The long term endpoint that the FDA previously required in Phase 3 (time to SCr doubling or ESRD) made it nearly impossible to evaluate the drug against a similar endpoint in a Phase 2 trial. For example, the recruitment and patient follow-up time for the IDNT study totaled 60 months or 5 years. Bearing in mind trial costs and patent lifetime, this is very long and expensive for a Phase 2 study. Companies chose to use Phase 2 trials to study surrogate endpoints. They also chose patient populations where a treatment effect on the surrogate endpoint would be the most pronounced. Since the FDA did not accept these surrogate endpoints and narrow patient populations for the Phase 3 program, the transition to a Phase 3 trial was quite risky. All four companies ended up evaluating a significant number of types of patients in Phase 3 that they had never evaluated before, using an endpoint for which they had relatively little data.

We took a different approach in our clinical development strategy for Pyridorin. Specifically, during the Phase 2 program, working closely with the FDA, we examined broader patient populations under different conditions of standard of care to identify those patients most appropriate for the Phase 3 program. The pre-specified subgroup analyses of the Phase 2b study indicate that the appropriate diabetic nephropathy patient population to study in Phase 3 is patients on long term establish standard of care at screening with a baseline SCr >1.3 and < 3.0 mg/dL. In this patient population, Pyridorin therapy produced a greater than a 50% treatment effect that was statistically significant (P = 0.009) at the 300 mg bid dose. The Phase 2b study also indicated that patients that would not be appropriate to include in the Phase 3 pivotal study are those not on a stable regimen of standard of care at screening. These patients did not demonstrate a Pyridorin treatment effect and very likely did not reach a stable blood pressure and stable SCr baseline prior to the start of the study which would confound the treatment effect analysis.

We also used a SCr increase-based endpoint that would correlate with a potentially approvable endpoint. Simultaneously, we provided the FDA with analyses from previously completed Phase 3 clinical studies in diabetic nephropathy that supported a new, lower SCr increase-based endpoint. As a result, we potentially significantly reduced the cost of the Phase 3 trials and made our Phase 2b endpoint even closer to the Phase 3 endpoint.

As agreed to in the SPA, the Pyridorin Phase 3 study will be conducted in the specific patient population where Pyridorin has previously shown greater than a 50% treatment effect on a year-1 SCr endpoint (PYR-210).

**Phase 3 Development Plan**

Based on these clinical results and the SPA agreement with the FDA, we intend to commence the first of two Pyridorin Phase 3 diabetic nephropathy clinical trials (PYR-311) in the first half of 2014.

Table of Contents

We intend to commence the second of the Phase 3 trials (PYR-312) during the first half of 2016. These two clinical trials (PYR-311 and PYR-312), if successful, will serve as the basis for the product registration application.

PYR-311 and PYR-312 are identical Phase 3 randomized, double-blind, placebo-controlled, international multi-center studies to evaluate the efficacy of Pyridorin 300 mg twice daily (BID) compared to placebo in reducing the rate of progression of renal disease due to type 2 diabetes. Each study will provide approximately 90% power to detect a 28% treatment effect. This progression rate will be estimated by the time to the composite endpoint consisting of the earliest event amongst:

A SCr increase of ≥ 50% from baseline that occurs during follow-up; or

End Stage Renal Disease (ESRD).

The FDA has agreed to the SCr increase of ≥ 50% from baseline endpoint as indicated in our SPA agreement with the FDA which covers the design of the Pyridorin Phase 3 program and the endpoint to be used for drug approval. This endpoint was previously validated by an FDA-NKF (National Kidney Foundation) Workshop held in December of 2012 that included leading nephrology clinical investigators and extensive analyses of completed kidney disease clinical studies demonstrating a highly significant correlation between time to a 50% SCr increase and time to ESRD.

The key secondary objective of the studies is to determine the safety of Pyridorin compared to placebo, as assessed by adverse events, 12-lead ECGs, vital signs, physical examination, clinical chemistries, glycosylated hemoglobin (HbA1c), and hematology.

Each study will enroll approximately 600 patients with a history of overt diabetic nephropathy defined by a SCr measurement of ≥ 1.3 mg/dL for female patients or ≥ 1.5 mg/dL for male patients, < 3.0 mg/dL for all patients, and a urine PCR ≥ 1200 mg/g at screening. Patients must be on stable standard of care (SOC) regimen which is defined as an ACE-I or ARB at a constant dose for at least 26 weeks prior to randomization.

PYR-311 will include one interim analysis that will be conducted approximately 18 months following study initiation. At that time, an independent Data and Safety Monitoring Board (DSMB) will assess the general safety of Pyridorin and will perform an analysis of its effect on the rate of SCr progression. If the DSMB determines that Pyridorin is not safe or that it is futile to continue the trial because of lack of efficacy, the trial will be terminated. On the other hand, if the DSMB determines Pyridorin is safe and it is not futile to continue the study, the study will be continued until the necessary number of events have accrued per the study design.

We have had extensive discussions with the FDA regarding this new clinical endpoint as well as the protocol design, inclusion-exclusion criteria, and the trial population. These discussions culminated in an agreement with the FDA on a SPA. The new primary endpoint for this study has the potential to provide for a significantly shorter clinical development path at a substantially reduced cost as compared to the previous clinical endpoint of SCr doubling or ESRD. We believe that we will be the first company to conduct a Phase 3 clinical trial for diabetic nephropathy using this new endpoint.

**Acute Kidney Injury (AKI)**

Pyridorin targets specific pathogenic oxidative chemistries that emerge in diabetes. These same pathogenic oxidative chemistries emerge with the onset of AKI and are believed to contribute to the severity of the AKI. An intravenous formulation of Pyridorin could provide significant benefit in this acute setting. Because of its benign safety profile, Pyridorin could also be used as preventative therapy in patients at high risk.

Table of Contents

AKI constitutes a very significant market opportunity for Pyridorin. Since this would be an intravenous product used in an acute setting, it would not compete with an oral Pyridorin product used for the chronic treatment of diabetic nephropathy.

AKI is characterized by a rapid reduction in kidney function resulting in a failure to maintain fluid, electrolyte and acid-base homoeostasis. It covers a wide spectrum of disease ranging from less severe forms of injury to more advanced injury when acute kidney failure may require renal replacement therapy (RRT). The incidence of AKI varies from 20% to 40% in critical care patients. In the U.S., it is estimated that up to 7% of all patients who visit the hospital will experience AKI. Patients with uncomplicated AKI have a mortality rate of up to 10%. If RRT is required, the mortality rate rises to as high as 80%.

The most common causes of AKI include:

- Sepsis
- Cardiovascular surgery
- Ischemic reperfusion injury
- Contrast dye induced AKI
- Chemotherapy induced AKI
- Trauma
- Serious Burns

Severe AKI is characterized by surge in pathogenic oxidative chemistries. These oxidative chemistries can lead to further damage to the kidneys and ultimately result in acute renal failure (ARF). Even if ARF does not occur, there is evidence that patients who experience AKI have a much higher incidence of subsequent chronic kidney disease.

Table of Contents

New biomarkers have been identified that allow for earlier detection of AKI. One such biomarker is neutrophil gelatinase-associated lipocalin (NGAL). Early detection of AKI would allow therapeutic intervention with an agent like Pyridorin that could inhibit these pathogenic oxidative chemistries and prevent further damage to the kidneys. Because of its benign safety profile, Pyridorin is an attractive candidate for early intervention (e.g. elevated NGAL). Pyridorin may also have application as a preventative therapy in patients at high risk such as those patient undergoing cardiovascular surgery, receiving contrast dye or undergoing chemotherapy.

We will conduct additional preclinical studies to identify those indications where Pyridorin would be most effective. This will form the basis for our clinical development plan.

**Commercialization**

Given our stage of development, we have not yet established a commercial organization or distribution capabilities. Pyridorin, if approved, is intended to be prescribed to patients with diabetic nephropathy. These patients are normally under the care of a nephrologist, an endocrinologist, and/or a primary care physician (PCP). All of these specialties prescribe therapy for diabetic nephropathy, with the endocrinologist or the PCP typically treating patients in the earlier stage of the disease and the nephrologist typically treating patients in the later stages of the disease (overt diabetic nephropathy). Our current plan is to evaluate a possible partnership to commercialize Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes in the United States and Europe if it is approved. We may also build our own commercial infrastructure or utilize contract reimbursement specialists, sales people and medical education specialists, and take other steps to establish the necessary commercial infrastructure at such time as we believe that Pyridorin is approaching marketing approval. Outside of the United States and Europe, subject to obtaining necessary marketing approvals, we will likely seek to commercialize Pyridorin through distribution or other collaboration arrangements for kidney disease in patients with type 2 diabetes. As a result of our ongoing clinical work, we have been engaged in dialogue with specialists who treat patients with kidney disease. We believe that these activities have provided us with a growing knowledge of the physicians we plan to target for commercial launch of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes, subject to marketing approval in the United States and Europe.

**Competition**

The biopharmaceutical industry is characterized by intense competition and rapid innovation. Although we believe that Pyridorin is one of the few drug candidates in advanced clinical trials for diabetic kidney disease, our competitors may be able to develop other compounds or drugs that are able to achieve similar or better results. Our potential competitors include major multinational pharmaceutical companies, established biotechnology companies, specialty pharmaceutical companies and universities and other research institutions. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large, established companies. We believe the key competitive factors that will affect the development and commercial success of our product candidates are efficacy, safety and tolerability profile, reliability, convenience of dosing, price and reimbursement.

***Diabetic Nephropathy***

As of 2010, the Center for Disease Control and U.S. Census data estimate the prevalence of diabetic nephropathy across all stages of disease to be approximately 6 million patients in the U.S. and this population is expected to grow. According to a 2010 study commissioned by us, approximately 2.8 million diabetic patients have overt nephropathy, approximately 3.5 million patients have early stage diabetic nephropathy and approximately 3.6 million patients are at high risk of progressing to diabetic nephropathy.

Table of Contents

While the market opportunity for drugs to treat diabetic nephropathy is large and growing, the availability of drugs to treat this condition is very limited. There are two classes of drugs currently approved to slow the progression of diabetic nephropathy: ACE-Inhibitors and ARBs. These agents target the renin-angiotensin system. Approved initially as anti-hypertension drugs, these agents are now considered standard of care (SOC) for patients with diabetic nephropathy. Pyridorin is intended to be given in conjunction with these therapies; therefore, actual competition will not come from drugs targeting the renin-angiotensin system. Instead, it may come from companies seeking to treat diabetic nephropathy through some other mechanism of action. The table below summarizes the competitive landscape.

**COMPANIES WITH CLINICAL PROGRAMS IN DIABETIC NEPHROPATHY**

| Company | Agent | Phase | Program Status |
|---|---|---|---|
| AbbVie | Endothelin receptor antagonist | 3 | Active |
| Bayer Healthcare | Mineralcorticoid Receptor Antagonist | 2 | Active |
| Pfizer | Chemokine CCR2/5 Receptor Antagonist | 2 | Active |
| | Phosphodiesterase type 5 inhibitor | 2 | Active |
| ChemoCentryx | Chemokine CCR2 Receptor Antagonist | 2 | Active |
| Eli Lilly | Transforming Growth Factor B Monoclonal Antibody (IV) | 2 | Active |
| | MR Antagonist | 2 | Active |
| Mitsubishi Tanabe Pharma | Unknown | 1 | Active |

*Competition for Phase 3 Recruitment*

AbbVie's Phase 3 trial is actively recruiting over 4,100 patients worldwide. While the eligible patient population is not identical, it is similar enough to potentially affect enrollment goals set by our Pyridorin Phase 3 program.

***Acute Kidney Injury***

In the U.S., the incidence of AKI varies from 20% to 40% in critical care patients. It is estimated that up to 7% of all patients who visit the hospital will experience AKI. Patients with uncomplicated AKI have a mortality rate of up to 10%. If RRT is required, the mortality rate rises to as high as 80%.

The current treatment for AKI is mainly supportive in nature; no therapeutic modalities to date have shown efficacy in treating the condition.

The market opportunity for effective treatments for AKI is large. There are a small number of industry drug trials in later stage development. Companies with an active AKI agent or program include AbbVie, Novartis, Thrasos Innovation, and AlloCure.

**Sales of Pyridoxamine as a Dietary Supplement**

Following the publication of the initial Phase 2 studies that evaluated pyridoxamine therapy in diabetic nephropathy patients, a number of dietary supplement companies began selling pyridoxamine over the internet.

In January 2009, the FDA ruled that pyridoxamine is an investigational drug candidate not eligible for sale as a dietary supplement. A significant decline in product availability occurred after the issuance of the above mentioned FDA ruling. We believe this decline was in response to the FDA ruling, and not a result of subsequent specific FDA letters to these vendors.

Table of Contents

In the case of Pyridorin, we believe that illegal sales of pyridoxamine will have little if any effect on Pyridorin sales for the following reasons:

1. The FDA has a track record of enforcing the regulations against dietary supplement companies that attempt to sell the active ingredient of an FDA approved drug. Since pyridoxamine will be approved for diabetic patients with substantial kidney disease, it is likely the FDA will continue this policy for pyridoxamine.

2. NephroGenex has issued patents covering pyridoxamine as an agent to treat diabetic nephropathy patients and other diabetic complications, and also as an agent to inhibit pathogenic oxidative chemistries that emerge in diabetes. This intellectual property makes it difficult to effectively market pyridoxamine as a dietary supplement without infringing on these issued patents.

3. A significant investment in pyridoxamine production capacity would be required by the dietary supplement industry just to impact a small percentage of Pyridorin drug sales. Furthermore, a non-oxidative method of pyridoxamine production would have to be developed, since the commonly used oxidative method cannot be scaled up due to safety and environmental concerns. We have already developed and patented a non-oxidative method of pyridoxamine production (used in the Phase 2b study), thus making the task of developing a new, non-infringing, non-oxidative method of pyridoxamine production that much more difficult and expensive.

Food and dietary supplements in Europe are regulated by Directive 2002/46/EC, European Commission, Health and Consumers Directorate-General. Those approved are listed in Annex I and II of this directive. Pyridoxamine is not included on either list, and therefore the sale of pyridoxamine in foods and supplements in Europe is not permitted. We have kept the European Commission Health and Consumers Protection Directorate-General up to date on the clinical status of Pyridorin, and plans for Phase 3 trials.

This office has indicated to NephroGenex as recently as April of this year, that no applications for pyridoxamine have been received and that any new product intended for preventing, curing or treating diseases, would fall under the scope of medicinal products and not dietary supplements products.

**Intellectual Property**

The proprietary nature of, and protection for, our product candidates and our discovery programs, processes and know-how are important to our business. We have sought patent protection in the United States and internationally for Pyridorin and our discovery programs, and any other inventions to which we have rights, where available and when appropriate. Our policy is to pursue, maintain and defend patent rights, whether developed internally or licensed from third parties, and to protect the technology, inventions and improvements that are commercially important to the development of our business. We also rely on trade secrets that may be important to the development of our business. However, we do not have composition of matter patent protection for Pyridorin which may result in competitors being able to offer and sell products including pyridoxamine so long as these competitors do not infringe any other patents that we or third parties hold, including synthesis and method of use patents.

Our commercial success will depend in part on obtaining and maintaining patent protection and trade secret protection of our current and future product candidates and the methods used to develop and manufacture them, as well as successfully defending these patents against third-party challenges. Our ability to stop third parties from making, using, selling, offering to sell or importing our products depends on the extent to which we have rights under valid and enforceable patents or trade secrets that cover these activities. We cannot be sure that patents will be granted with respect to any of our pending patent applications or with respect to any patent applications filed by us in the future, nor can we be sure that any of our existing patents or any patents that may be granted to us in the future will

Table of Contents

be commercially useful in protecting our product candidates, discovery programs and processes. For this and more comprehensive risks related to our intellectual property, please see "Risk Factors  Risks Relating to Our Intellectual Property."

***Patents and Proprietary Rights Covering Our Drug Candidates***

We strive to protect our product candidates and exclusivity rights, as well as both maintain and fortify our position in the field of kidney disease therapeutics. We believe our intellectual property portfolio consists of early and broad filings in the area. We have focused on patents and patent applications covering, where possible, use of our products in disease treatment. We have sought and continue to seek the strongest possible intellectual property protection available to us in order to prevent others from directly competing with us, as well as to exclude competition around our products where possible, their manufacture, and methods for use of the products in disease treatment. Our intellectual property portfolio contains 28 issued patents and at least 8 pending patent applications in the U.S. and worldwide of both in-licensed and NephroGenex-owned inventions. This portfolio includes patents and proprietary rights around:

(i) Methods for using Pyridorin (pyridoxamine dihydrochoride) as a therapeutic agent to treat diabetic nephropathy;

(ii) Methods for manufacture of Pyridorin;

(iii) Methods for using Pyridorin as a therapeutic agent to treat a variety of other kidney diseases and other disorders; and

(iv) Pyridorin analog drug candidates, and their use for treating kidney disease.

We own patents covering methods for using Pyridorin to treat diabetic nephropathy in patients with type 2 diabetes and elevated levels of SCr, and thus closely track the anticipated drug label for an approved Pyridorin drug. These patents consist of an issued U.S. patent (U.S. Patent 8067444) and corresponding issued patents in Canada and Europe, which will expire in 2024 absent any extension to the patent term. As discussed in more detail herein, if and when our pharmaceutical products receive FDA approval, we expect to apply for patent term extensions on patents covering those products.

We also have a worldwide, exclusive license from Kansas University Medical Center to an earlier set of patents covering methods for using Pyridorin to treat diabetic nephropathy. These patents include an issued patent in the U.S. (US Patent 5985857) and corresponding patents in Europe and Japan, which will expire in 2016 absent any extension to the patent term. We expect that expiration in 2016 of some of our method-of-use patents, or their foreign equivalents, covering use of Pyridorin for treating diabetic nephropathy will have a limited impact on our ability to protect our intellectual property in the United States, Europe, and Canada, where we have additional issued patents covering this use that extend until 2024. In other countries, our patent protection covering use of Pyridorin for treating diabetic nephropathy will expire in 2016. We will attempt to mitigate the effect of patent expiration by seeking data exclusivity, or the foreign equivalent thereof, in conjunction with product approval, as well as by filing additional patent applications covering improvements in our intellectual property.

We also own patents covering Methods for manufacture of Pyridorin; these patents consist of two issued U.S. patents (U.S. Patents 7214799 and 8431712), which will expire in 2025.

We also have worldwide, exclusive licenses from Kansas University Medical Center, the University of South Carolina, and Vanderbilt University to patents covering methods for using Pyridorin to treat a variety of other disorders. These patents include patents for treating urinary stone disease (US Patent 6521645), proteinuria (U.S. Patent 6472400), retinopathy (U.S. Patent 6750209), neuropathy (U.S. Patents 6750209 and 7030146), oxidative protein modification (U.S. Patent No. 6730686),

Table of Contents

oxidative stress-related disorders (U.S. Patent No. 6716858), hypercholesterolemia (U.S. Patent No. 6740668), and some corresponding foreign patents. The term of these patents will expire at various times, but all would expire by 2021. These patents further include pending applications in the United States for treating symptoms of kidney disorders, and inflammatory disorders. If granted, patents issuing from these patent applications would expire at different times, but all would expire by 2032.

We own pending patent applications in the United States and Europe covering Pyridorin analogs, and uses of such analogs as therapeutics to treat a variety of disorders, including kidney disorders such as nephropathy. Patent protection, to the extent it issues, would be expected to extend to 2027.

***Intellectual Property Strategy***

We continually assess our intellectual property strategy in order to fortify our position in our market space. To that end, we are prepared to file additional patent applications in any of the above families should our intellectual property strategy require such filings and/or where we seek to adapt to competition or seize business opportunities. Further, we are prepared to file patent applications relating to the other products in our pipeline soon after the experimental data necessary for a strong application become available and our cost-benefit analyses justify filing such applications. In addition to filing and prosecuting patent applications in the United States, we typically file counterpart patent applications in Europe and additional countries where we think such foreign filing is likely to be beneficial.

We do not know if patents will be issued for all of the patent applications in our portfolio. Furthermore, for patent claims now issued and for claims to be issued in the future, we do not know if such claims will provide significant proprietary protection to our drug candidates and proprietary technologies or if they will be challenged, circumvented, or invalidated. Our success will in part depend on our ability to obtain and maintain patents protecting our drug candidates, technologies and inventions, to operate without infringing the proprietary rights of third parties, and to enforce and defend our patents and ensure others do not infringe on our proprietary rights.

The term of individual patents depends upon the legal term of the patents in the countries in which they are obtained. In most countries in which we file, the patent term is 20 years from the earliest date of filing a non-provisional patent application. In the United States, a patent's term may be shortened if a patent is terminally disclaimed over another patent or as a result of delays in patent prosecution by the patentee, and a patent's term may be lengthened by patent term adjustment, which compensates a patentee for administrative delays by the U.S. Patent and Trademark Office in granting a patent.

The patent term of a patent that covers an FDA-approved drug or biologic may also be eligible for patent term extension, which permits patent term restoration as compensation for the patent term lost during the FDA regulatory review process. The Drug Price Competition and Patent Term Restoration Act of 1984, or the Hatch-Waxman Act, permits a patent term extension of up to five years beyond the expiration of the patent. The length of the patent term extension is related to the length of time the drug or biologic is under regulatory review. Patent extension cannot extend the remaining term of a patent beyond a total of 14 years from the date of product approval and only one patent applicable to an approved drug or biologic may be extended. Similar provisions are available in Europe and other foreign jurisdictions to extend the term of a patent that covers an approved drug or biologic. In the future, if and when our pharmaceutical products receive FDA approval we expect to apply for patent term extensions on patents covering those products. We anticipate that some of our issued patents may be eligible for patent term extensions. For more information regarding U.S. patent laws, see "Business  Government Regulation."

In addition to the patent term extension rights described above, any of our product candidates that receive FDA approval may also be eligible for market exclusivity protection under the Federal Food,

Table of Contents

Drug and Cosmetic Act or the Biologics Price Competition and Innovation Act of 2009. For more information regarding market exclusivity laws, see "Business  Government Regulation."

Many pharmaceutical companies, biotechnology companies and academic institutions are competing with us in the field of diabetic nephropathy and filing patent applications potentially relevant to our business. In order to contend with the inevitable possibility of third party intellectual property conflicts, from time to time, we review and assess the third-party intellectual property landscape for competitive and other developments that may inform or impact our intellectual property development and commercialization strategies. From time to time, we may find it necessary or prudent to obtain licenses from third party intellectual property holders. Where licenses are readily available at reasonable cost, such licenses are considered a normal cost of doing business. In other instances, however, where a third party holds relevant intellectual property and is a direct competitor, a license might not be available on commercially reasonable terms or available at all. Accordingly, we attempt to manage the risk that such third party intellectual property may pose by conducting, among other measures, freedom-to-operate studies to guide our early-stage research away from areas where we are likely to encounter obstacles in the form of third party intellectual property. As our programs advance, we continue to monitor the intellectual property landscape in an effort to assess the advisability of licensing third party intellectual property or taking other appropriate steps to address such freedom-to-operate or development issues in the manner we deem in the best interests of the Company.

With respect to third party intellectual property, it is impossible to establish with certainty that our product candidates will be free of claims by third party intellectual property holders or whether we will require licenses from such third parties. Even with modern databases and on-line search engines, literature searches are imperfect and may fail to identify relevant patents and published applications. Even when a third party patent is identified, we may conclude upon a thorough analysis, that we do not infringe the patent or that the patent is invalid. If the third party patent owner disagrees with our conclusion and we continue with the business activity in question, we might have patent litigation thrust upon us. Alternatively, we might decide to initiate litigation in an attempt to have a court declare the third party patent invalid or not infringed by our activity. In either scenario, patent litigation typically is costly and time-consuming, and the outcome is uncertain. The outcome of patent litigation is subject to uncertainties that cannot be quantified in advance, for example, the credibility of expert witnesses who may disagree on technical interpretation of scientific data. Ultimately, in the case of an adverse outcome in litigation, we could be prevented from commercializing a product or using certain aspects of our discovery platform as a result of patent infringement claims asserted against us. This could have a material adverse effect on our business.

To protect our competitive position, it may be necessary to enforce our patent rights through litigation against infringing third parties. Litigation to enforce our own patent rights is subject to the same uncertainties discussed above. In addition, however, litigation involving our patents carries the risk that one or more of our patents will be held invalid (in whole or in part, on a claim-by-claim basis) or held unenforceable. Such an adverse court ruling could allow third parties to commercialize our products, and then compete directly with us, without payment to us.

***Trade Secrets***

In addition to patents, we rely on trade secrets and know-how to develop and maintain our competitive position. Trade secrets and know-how can be difficult to protect. We seek to protect our proprietary processes, in part, by confidentiality agreements and invention assignment agreements with our employees, consultants, scientific advisors, contractors and commercial partners. These agreements are designed to protect our proprietary information. We also seek to preserve the integrity and confidentiality of our data, trade secrets and know-how by maintaining physical security of our premises and physical and electronic security of our information technology systems.

Table of Contents

**License Agreements**

***Licensing Payments***

Set forth below is a summary chart outlining various potential license payments due under our license agreements referenced below:

| Indication | Diabetic Nephropathy<br>*Phase III* | Acute Kidney Injury, Chemotherapy Protection, or Radiation Damage<br>*Pre-clinical AKI* | Diabetic Neuropathy or Hyperlipedemia<br>*Not in current pipeline* |
|---|---|---|---|
| Institution | Kansas University Medical Center | Vanderbilt University | South Carolina Research Foundation |
| FDA Approval of SPA | $25,000 | | |
| Filing of IND | | $75,000 | |
| Commencement of first Phase 1 | | $100,000 | |
| Commencement of first Phase 2 | | $150,000 | $325,000 |
| Commencement of first Phase 3 | | $250,000 | $500,000 |
| File NDA or foreign equivalent | | | $750,000 |
| FDA Approval of NDA | $200,000 | $500,000 ($250,000 credited against royalty) | $2,000,000 |
| First commercial sale | | | $2,500,000 |
| Royalty on Net Sales | None | 5% (minus $250,000 credit) | None |
| Licensing Fee | None | None | $112,000 due 3/31/14<br>$30,000 per quarter thereafter (credited against milestone payments & upfront sublicense fees) |
| Upon execution of a sublicense | | 25% of any sublicense fees or milestone payments | $35,000 plus 25% of upfront sublicense fees |

***License Agreements***

***Kansas University Medical Center (KUMC) Exclusive License Agreement***

In May 2007, we entered into an amended license agreement with KUMC. Under the agreement, KUMC grants us an exclusive, royalty-free, worldwide license, with a right to grant sublicenses, to make, have made, use, distribute, sell, have sold, have distributed, offer to sell, market, import, have imported or otherwise dispose of licensed products for diagnostic testing and palliative, prophylactic and therapeutic treatments which incorporate the use of the technology relating to the licensed patents and improvements. The patents licensed from KUMC include claims reciting methods for using Pyridorin to: (a) treat diabetic nephropathy (expires by 2016 absent any extension); (b) treat proteinuria or albuminuria associated with elevated blood sugar levels (expires by 2016 absent any extension); (c) treat retinopathy or neurodegenerative disease (expires by 2016 absent any extension); (d) inhibiting oxidative modification of proteins or treating atherosclerosis in a non-hyperglycemic mammal (expires by 2016 in the U.S. and 2019 outside the U.S. absent any extension); (e) treat a condition associated with oxidative stress in a hyperglycemic mammal (expires by 2016 absent any extension); (f) treat diabetes-associated increases in hypercholesterolemia or hypertriglyceridemia in a diabetic mammal; (expires by 2016 in the U.S. and 2019 outside the U.S. absent any extension);

Table of Contents

(g) treat diabetic neuropathy (expires by 2016 absent any extension); (h) decrease dialysis-related amyloidosis or dialysis-related increases in permeability of the peritoneal membrane in a dialysis patient (expires by 2016 absent any extension); and (i) urinary stone disease (expires by 2021 absent any extension).

The patents licensed from KUMC also include patents with claims reciting novel Pyridorin analogues, and methods for using them to treat AGE-related pathologies, diabetic nephropathy, proteinuria, albuminuria; diabetes-associated increases in hypercholesterolemia or hypertriglyceridemia in a diabetic mammal; and for inhibiting oxidative modification of proteins or treating atherosclerosis in a non-hyperglycemic mammal (expire by 2016 in the U.S. and 2019 outside the U.S. absent any extension). The granted license is subject to certain rights and license granted to the United States and to foreign governments pursuant to U.S. government patent laws and regulations.

We must pay KUMC milestone payments related to milestones met in the FDA regulatory approval process. These milestone payments include $25,000 upon receipt of FDA approval of our SPA for our first licensed product and $200,000 upon receipt of FDA approval of our submitted NDA for our first licensed product in respect to the first primary indication. We must exercise commercially reasonable efforts to seek regulatory approval for the marketing of a licensed product for at least one primary indication, effect the introduction of a licensed product for at least one primary indication into the commercial market and to maximize these sales. Primary indications are the diagnosis, treatment, palliation or prophylaxis of diabetic nephropathy, diabetic retinopathy and diabetic neuropathy.

The agreement survives until expiration of the last to expire licensed patent, or in November 2018, whichever occurs last. We may terminate the license for any reason upon 90 days written notice. If either we or KUMC breach a material obligation under the agreement the non-breaching party may terminate the agreement upon an additional written notice.

***The South Carolina Research Foundation (SCRF) Exclusive License Agreement***

In April 2012, we entered into an amended license agreement with SCRF. Under the agreement, SCRF grants us an exclusive, royalty-free, worldwide license, under certain patent rights and related technology (including know-how) with a right to sub-license to utilize the patent rights and the technology during the term of the agreement and to practice under the patent rights to make, have made, use, sell, have sold, offer to sell, market, import, lease, or otherwise dispose of licensed products for all uses covered under the patent rights. The licensed product is Pyridorin or any other pharmaceutical compound labeled for an FDA-approved indication that would infringe a valid claim of the patent rights in the absence of the license.

The patents licensed from SCRF include claims reciting methods for using Pyridorin to: (a) inhibit oxidative modification of proteins or treating atherosclerosis in a non-hyperglycemic mammal (expires by 2016 in the U.S. and 2019 outside the U.S. absent any extension); (b) treat diabetes-associated increases in hypercholesterolemia or hypertriglyceridemia in a diabetic mammal; (expires by 2016 in the U.S. and 2019 outside the U.S. absent any extension); and (c) treat diabetic neuropathy (expires by 2016 in the U.S. and 2019 outside the U.S. absent any extension). The patents licensed from SCRF also include patents with claims reciting novel Pyridorin analogues, and methods for using them to treat diabetes-associated increases in hypercholesterolemia or hypertriglyceridemia in a diabetic mammal, and for inhibiting oxidative modification of proteins or treating atherosclerosis in a non-hyperglycemic mammal; (expire in 2016 in the U.S. and 2019 outside the U.S. absent any extension).

Under the license, SCRF retains the right to practice under the patents in the field solely for non-profit, educational, research, and academic purposes. The license also is subject to any U.S. government rights in the patent rights, if the technology or patent rights were developed with the support of the U.S. government or an agency thereof.

Table of Contents

We must exercise commercially reasonable efforts to develop and commercialize one or more licensed products. If we fail to comply with our diligence obligations with respect to at least one licensed product, then SCRF may terminate the license. If we develop Pyridorin for the treatment of hyperlipidemia or diabetic *neuro*pathy, we must pay SCRF milestone payments related to milestones met in the FDA regulatory approval process in the aggregate amount of $6,075,000. We must pay SCRF an annual license fee each year that we are actively marketing Pyridorin or have an active sublicense for Pyridorin for the treatment of hyperlipidemia or diabetic *neuro*pathy, which are creditable only against Licensed Product Sublicense upfront fees and milestone payments earned and payable in the same calendar year. We must pay SCRF an annual fee of $122,000 for 2013 and $120,000 for 2014 and the years thereafter. We must pay SCRF a one-time fee of $35,000 upon execution of a sub-license between NephroGenex and a third party, and must pay to SCRF 25% of any non-royalty sublicense payments made by such sub-licensee to NephroGenex. The planned phase 3 program for Pyridorin is for the treatment of diabetic nephropathy. Hyperlipidemia and diabetic neuropathy are not being evaluated in the current trial.

The agreement survives until the expiration or other disposition of the licensed patent rights. We may terminate the license at any time on three months prior written notice to SCRF. If we breach a material obligation under the agreement, and such obligation is not cured within 90 days after we receive written notice of the breach, then SCRF may terminate the agreement upon an additional written notice. SCRF may also terminate the license if (i) we cease operations and have not assigned the license to a third party; (ii) we become insolvent or make a general assignment of substantially all of our assets for the benefit of creditors, or if a petition of bankruptcy or any reorganization shall be commenced by, against, or in respect of us; or (iii) we fail to make a payment due under the license and the default is not cured within 30 days after written notice of such default, and SCRF has provided additional written notice.

***Vanderbilt University (VU) Exclusive License Agreement***

In connection with our additional pipeline opportunities for specific types of acute kidney injury, in July 2012, we entered into a license agreement with VU, which was amended on November 6, 2013. Under the agreement, VU grants us an exclusive, royalty-bearing, worldwide license, under certain patent rights, and a corresponding nonexclusive license under related know-how, with a right to sub-license, to make, have made, use, offer to sell, sell, and import licensed products incorporating the technology embodied in the licensed VU patent rights for use of pyridoxamine in the field of use, which is defined as treatment of acute renal failure or acute renal injury, use for radiation protection, and use for chemotherapy protection. The patent applications licensed from VU include claims reciting methods for using Pyridorin to: (a) ameliorate at least one symptom of a kidney disorder associated with oxidative stress, carbonyl stress, or combinations thereof (if issued, would expire by 2026); (b) treat or prevent acute renal injury or acute renal failure (if issued, would expire by 2026); and (c) treat an inflammatory disorder (if issued, would expire by 2032).

The patent applications licensed from VU also include claims reciting intravenous formulations of Pyridorin (if issued, would expire by 2026). Federal government rights in the licensed patents are reserved, as are VU's right to use the subject matter of the licensed patents for academic research or other not-for-profit scholarly purposes, and to grant to other academic, governmental, or not-for-profit organizations a non-exclusive right, non-transferable, non-sublicensable right to practice the licensed patent rights for academic research or other not-for-profit scholarly research purposes, expressly excluding any human use.

We must pay VU milestone payments related to milestones met in the FDA regulatory approval process in the aggregate amount of $1,075,000. We must also pay VU a 5% royalty on net sales of licensed products in the field of use. We must also pay VU 25% of non-royalty sublicense payments to us such as milestone payments we recoup from sub licensees. We must exercise commercially

Table of Contents

reasonable efforts to develop and commercialize a licensed product for at least one indication. Our diligence obligations include a series of patent prosecution and clinical trial milestones. If we fail to comply with our diligence obligations with respect to at least one licensed product, then VU may terminate the license.

The agreement survives until the last to expire of the licensed patent rights. We may terminate the agreement upon 60 days written notice to VU. If either we or VU breach a material obligation under the agreement, and such obligation, then the non-breaching party may terminate the agreement upon an additional written notice. VU may also terminate the license if we become insolvent or suspend business, or file a voluntary petition or an answer admitting the jurisdiction of the court, or consent to an involuntary petition pursuant to any reorganization or insolvency law of any jurisdiction, or make an assignment for the benefit of creditors, or apply for or consent to the appointment of a receiver or trustee of a substantial part of our property.

***BioStratum, Inc. (BioStratum) Grant Back License Agreement***

In May 2007, we entered into a grant-back license agreement with BioStratum as part of our acquisition of certain of BioStratum's assets, including certain patent rights. The licensed patent rights include all patents and patent applications licensed by NephroGenex from BioStratum under an earlier, terminated license agreement between the parties. These rights include all patents owned or licensed by us with the exception of the patent applications that we license from VU. Under this agreement, we grant BioStratum an exclusive, sublicensable license and sublicense under those patent rights to make, have made, use, sell, offer for sale and import licensed products solely in Japan, Taiwan, Korea and China. The licensed products are Pyridorin or AGE inhibitor products that are covered by the licensed patents. As this license has been fully paid, there are no milestone payments under this agreement. In this agreement, we also agreed not to modify the Kansas or USC license agreements in a manner that would adversely affect BioStratum's rights.

The license grant to BioStratum was made solely to enable BioStratum to exercise its rights and perform its obligations pursuant to a license agreement with Kowa Company, Ltd. (Kowa) pursuant to which BioStratum granted Kowa an exclusive license (the Kowa Agreement) to manufacture and use licensed products in Japan, Taiwan, Korea, and China. The Kowa Agreement was terminated by Kowa on December 5, 2007.

After termination of the BioStratum grant-back license agreement for any reason other than assignment or transfer of the Kowa Agreement to NephroGenex, we are required to obtain the written consent of BioStratum to grant a license to any third party to develop, make, have made, use, sell, offer for sale, or import Licensed Products in Japan, Taiwan, Korea or China.

**Manufacturing**

We do not own or operate manufacturing facilities for the production of any of our product candidates, nor do we have plans to develop our own manufacturing operations in the foreseeable future. We currently rely on third-party contract manufacturers for all of our required raw materials, active pharmaceutical ingredient (API) and finished product for our preclinical research and clinical trials, including the Phase 3 trials for Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes. In December 2013, we entered into a manufacturing agreement with Patheon Pharmaceuticals Inc. to manufacture pyridoxamine dihydrochloride, the API in Pyridorin. At our direction, Patheon will manufacture clinical trial material batches of pyridoxamine dihydrochloride capsules and placebo for our clinical supply. We do not have any current contractual relationships for the manufacture of commercial supplies of any of our product candidates if they are approved. If any of our products are approved by any regulatory agency, we intend to enter into agreements with a third-party contract manufacturer and one or more back-up manufacturers for the commercial

Table of Contents

production of those products. Development and commercial quantities of any products that we develop will need to be manufactured in facilities, and by processes, that comply with the requirements of the FDA and the regulatory agencies of other jurisdictions in which we are seeking approval. We currently employ internal resources to manage our manufacturing contractors.

The typical route for the chemical synthesis of Pyridorin (pyridoxamine) uses oxidative methods where the starting material is the readily and economically available pyridoxine (vitamin B6). Although such oxidative manufacturing methods are usable at a small scale, oxidative methods are not viable for large-scale production and commercialization. For example, the first step in the metabolism of pyridoxine is an enzymatic oxidation of the alcohol group to an aldehyde, thus converting pyridoxine to pyridoxal. The oxidative chemical synthetic parallels this by utilizing oxidizing agents such as manganese dioxide to convert pyridoxine to pyridoxal. However, the oxidation of pyridoxine is problematic at the scale required for commercial manufacturing for several reasons, including the need to rapidly remove large amounts of solid oxidants to minimize the potential for continuing oxidation reactions. Such overoxidation not only can convert pyridoxal to pyridoxic acid but can also lead to non-selective oxidation of the second hydroxymethyl group at the 5-position. Other difficulties can be encountered subsequent to the formation of pyridoxal. For example, in order to form the desired amine, pyridoxal is conveniently reacted with hydroxylamine to form an intermediate oxime that must be subsequently reduced. Hydroxylamine is a dangerous reagent to handle on an industrial scale due to its instability, its high reactivity and its toxicity. Reduction of the oxime is known and can be performed by methods such as using zinc. However, this is also an unfavorable reagent for large scale manufacturing. Reduction with hydrogen catalysts such as platinum or palladium is possible, but this route is expensive, difficult to control, and difficult to scale up. Over-reduction can lead to the generation of deoxy impurities that may be toxic anti-metabolites contaminating the API.

To overcome this barrier to commercialization, we have developed and patented a non-oxidative method for the synthesis of pyridoxamine and all of its intermediate compounds and salts. This method provides for large scale synthesis at a fraction of the price required using traditional oxidative methods. It also eliminates the safety and environmental hazards associated with these oxidative methods.

**Government Regulation and Product Approval**

Governmental authorities in the United States, at the federal, state and local level, and other countries extensively regulate, among other things, the research, development, testing, manufacture, labeling, packaging, promotion, storage, advertising, distribution, marketing and export and import of products such as those we are developing. Our product candidates must be approved by the FDA through the NDA process before they may be legally marketed in the United States and by the EMA through the MAA process before they may be legally marketed in Europe. Our product candidates will be subject to similar requirements in other countries prior to marketing in those countries. The process of obtaining regulatory approvals and the subsequent compliance with applicable federal, state, local and foreign statutes and regulations require the expenditure of substantial time and financial resources.

***United States Government Regulation***

*NDA Approval Processes*

In the United States, the FDA regulates drugs under the Federal Food, Drug, and Cosmetic Act (the FDCA) and implementing regulations. Failure to comply with the applicable U.S. requirements at any time during the product development process or approval process, or after approval, may subject an applicant to administrative or judicial sanctions, any of which could have a material adverse effect on us. These sanctions could include:

- refusal to approve pending applications;

Table of Contents

withdrawal of an approval;

imposition of a clinical hold;

warning letters;

product seizures;

total or partial suspension of production or distribution; or

injunctions, fines, disgorgement, or civil or criminal penalties.

The process required by the FDA before a drug may be marketed in the United States generally involves the following:

completion of nonclinical laboratory tests, animal studies and formulation studies conducted according to Good Laboratory Practices (GLPs) or other applicable regulations;

submission to the FDA of an IND, which must become effective before human clinical trials may begin;

performance of adequate and well-controlled human clinical trials according to Good Clinical Practices (GCPs) to establish the safety and efficacy of the proposed drug for its intended use;

submission to the FDA of a NDA;

satisfactory completion of an FDA inspection of the manufacturing facility or facilities at which the product is produced to assess compliance with current Good Manufacturing Practices (cGMPs) to assure that the facilities, methods and controls are adequate to preserve the drug's identity, strength, quality and purity; and

FDA review and approval of the NDA.

Once a pharmaceutical candidate is identified for development, it enters the preclinical or nonclinical testing stage. Nonclinical tests include laboratory evaluations of product chemistry, toxicity and formulation, as well as animal studies. An IND sponsor must submit the results of the nonclinical tests, together with manufacturing information and analytical data, to the FDA as part of the IND. Some nonclinical testing may continue even after the IND is submitted. In addition to including the results of the nonclinical studies, the IND will also include a protocol detailing, among other things, the objectives of the clinical trial, the parameters to be used in monitoring safety and the effectiveness criteria to be evaluated if the first phase lends itself to an efficacy determination. The IND automatically becomes effective 30 days after receipt by the FDA, unless the FDA, within the 30-day time period, places the IND on clinical hold. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before clinical trials can begin. A clinical hold may occur at any time during the life of an IND, and may affect one or more specific studies or all studies conducted under the IND.

All clinical trials must be conducted under the supervision of one or more qualified investigators in accordance with GCPs. They must be conducted under protocols detailing the objectives of the trial, dosing procedures, research subject selection and exclusion criteria and the safety and effectiveness criteria to be evaluated. Each protocol must be submitted to the FDA as part of the IND, and progress reports detailing the status of the clinical trials must be submitted to the FDA annually. Sponsors also must timely report to FDA serious and unexpected adverse reactions, any clinically important increase in the rate of a serious suspected adverse reaction over that listed in the protocol or investigation

brochure, or any findings from other studies or animal or in vitro testing that suggest a significant risk in humans exposed to the drug. An institutional review board, or IRB, at each institution participating in the clinical trial must review and approve the protocol before a clinical trial commences at that institution and must also approve the information regarding the trial and the consent form that must be

Table of Contents

provided to each research subject or the subject's legal representative, monitor the study until completed and otherwise comply with IRB regulations.

Human clinical trials are typically conducted in three sequential phases that may overlap or be combined:

*Phase 1.* The drug is initially introduced into healthy human subjects and tested for safety, dosage tolerance, absorption, metabolism, distribution and elimination. In the case of some products for severe or life-threatening diseases, such as cancer, especially when the product may be inherently too toxic to ethically administer to healthy volunteers, the initial human testing is often conducted in patients.

*Phase 2.* Clinical trials are performed on a limited patient population intended to identify possible adverse effects and safety risks, to preliminarily evaluate the efficacy of the product for specific targeted diseases and to determine dosage tolerance and optimal dosage.

*Phase 3.* Clinical trials are undertaken to further evaluate dosage, clinical efficacy and safety in an expanded patient population at geographically dispersed clinical study sites. These studies are intended to establish the overall risk-benefit ratio of the product and provide an adequate basis for product labeling.

Human clinical trials are inherently uncertain and Phase 1, Phase 2 and Phase 3 testing may not be successfully completed. The FDA or the sponsor may suspend a clinical trial at any time for a variety of reasons, including a finding that the research subjects or patients are being exposed to an unacceptable health risk. Similarly, an IRB can suspend or terminate approval of a clinical trial at its institution if the clinical trial is not being conducted in accordance with the IRB's requirements or if the drug has been associated with unexpected serious harm to patients.

During the development of a new drug, sponsors are given opportunities to meet with the FDA at certain points. These points may be prior to the submission of an IND, at the end of Phase 2 and before a NDA is submitted. Meetings at other times may be requested. These meetings can provide an opportunity for the sponsor to share information about the data gathered to date and for the FDA to provide advice on the next phase of development. Sponsors typically use the meeting at the end of Phase 2 to discuss their Phase 2 clinical results and present their plans for the pivotal Phase 3 clinical trial that they believe will support the approval of the new drug. If a Phase 2 clinical trial is the subject of discussion at the end of Phase 2 meeting with the FDA, a sponsor may be able to request a Special Protocol Assessment, or SPA, the purpose of which is to reach agreement with the FDA on the Phase 3 clinical trial protocol design and analysis that will form the primary basis of an efficacy claim.

According to published guidance on the SPA process, a sponsor which meets the prerequisites may make a specific request for a SPA and provide information regarding the design and size of the proposed clinical trial. The FDA is supposed to evaluate the protocol within 45 days of the request to assess whether the proposed trial is adequate, and that evaluation may result in discussions and a request for additional information. A SPA request must be made before the proposed trial begins, and all open issues must be resolved before the trial begins. If a written agreement is reached, it will be documented and made part of the record. The agreement will be binding on the FDA and may not be changed by the sponsor or the FDA after the trial begins except with the written agreement of the sponsor and the FDA or if the FDA determines that a substantial scientific issue essential to determining the safety or efficacy of the drug was identified after the testing began.

Concurrent with clinical trials, sponsors usually complete additional animal safety studies and also develop additional information about the chemistry and physical characteristics of the drug and finalize a process for manufacturing commercial quantities of the product in accordance with cGMP requirements. The manufacturing process must be capable of consistently producing quality batches of the drug and the manufacturer must develop methods for testing the quality, purity and potency of the

Table of Contents

drug. Additionally, appropriate packaging must be selected and tested and stability studies must be conducted to demonstrate that the drug candidate does not undergo unacceptable deterioration over its proposed shelf-life.

The results of product development, nonclinical studies and clinical trials, along with descriptions of the manufacturing process, analytical tests and other control mechanisms, proposed labeling and other relevant information are submitted to the FDA as part of a NDA requesting approval to market the product. The submission of a NDA is subject to the payment of user fees, but a waiver of such fees may be obtained under specified circumstances. The FDA reviews all NDAs submitted to ensure that they are sufficiently complete for substantive review before it accepts them for filing. It may request additional information rather than accept a NDA for filing. In this event, the NDA must be resubmitted with the additional information. The resubmitted application also is subject to review before the FDA accepts it for filing.

Once the submission is accepted for filing, the FDA begins an in-depth review. NDAs receive either standard or priority review. A drug representing a significant improvement in treatment, prevention or diagnosis of disease may receive priority review. The FDA may refuse to approve a NDA if the applicable regulatory criteria are not satisfied or may require additional clinical or other data. Even if such data are submitted, the FDA may ultimately decide that the NDA does not satisfy the criteria for approval. The FDA reviews a NDA to determine, among other things, whether a product is safe and effective for its intended use and whether its manufacturing is cGMP-compliant. The FDA may refer the NDA to an advisory committee for review and recommendation as to whether the application should be approved and under what conditions. The FDA is not bound by the recommendation of an advisory committee, but it generally follows such recommendations. Before approving a NDA, the FDA will inspect the facility or facilities where the product is manufactured and tested.

*Expedited Review and Approval*

The FDA has various programs, including Fast Track, priority review, and accelerated approval, which are intended to expedite or simplify the process for reviewing drugs, and/or provide for the approval of a drug on the basis of a surrogate endpoint. Even if a drug qualifies for one or more of these programs, the FDA may later decide that the drug no longer meets the conditions for qualification or that the time period for FDA review or approval will be shortened. Generally, drugs that are eligible for these programs are those for serious or life-threatening conditions, those with the potential to address unmet medical needs and those that offer meaningful benefits over existing treatments. For example, Fast Track is a process designed to facilitate the development and expedite the review of drugs to treat serious or life-threatening diseases or conditions and fill unmet medical needs. Priority review is designed to give drugs that offer major advances in treatment or provide a treatment where no adequate therapy exists an initial review within six months as compared to a standard review time of ten months.

Although Fast Track and priority review do not affect the standards for approval, the FDA will attempt to facilitate early and frequent meetings with a sponsor of a Fast Track designated drug and expedite review of the application for a drug designated for priority review. Accelerated approval, which is described in Subpart H of 21 CFR Part 314, provides for an earlier approval for a new drug that is intended to treat a serious or life-threatening disease or condition and that fills an unmet medical need based on a surrogate endpoint. A surrogate endpoint is a laboratory measurement or physical sign used as an indirect or substitute measurement representing a clinically meaningful outcome. As a condition of approval, the FDA may require that a sponsor of a product candidate receiving accelerated approval perform post-marketing clinical trials.

Table of Contents

In the Food and Drug Administration Safety and Innovation Act, or FDASIA, which was signed into law in July 2012, Congress encouraged the FDA to utilize innovative and flexible approaches to the assessment of products under accelerated approval. The law required the FDA to issue related draft guidance within a year after the law's enactment and also promulgate confirming regulatory changes. In June 2013, the FDA published a draft Guidance for Industry entitled, "Expedited Programs for Serious Conditions  Drugs and Biologics" which provides guidance on FDA programs that are intended to facilitate and expedite development and review of new drugs as well as threshold criteria generally applicable to concluding that a drug is a candidate for these expedited development and review programs. In addition to the Fast Track, accelerated approval and priority review programs discussed above, the FDA also provided guidance on a new program for Breakthrough Therapy designation. A request for Breakthrough Therapy designation should be submitted concurrently with, or as an amendment to an IND. FDA has already granted this designation to around 30 new drugs and recently approved the first Breakthrough Therapy designated drug.

*Patent Term Restoration and Marketing Exclusivity*

Depending upon the timing, duration and specifics of FDA approval of the use of our drug candidates, some of our U.S. patents may be eligible for limited patent term extension under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Act. The Hatch-Waxman Act permits a patent restoration term of up to five years as compensation for patent term lost during product development and the FDA regulatory review process. However, patent term restoration cannot extend the remaining term of a patent beyond a total of 14 years from the product's approval date. The patent term restoration period is generally one-half the time between the effective date of an IND, and the submission date of a NDA, plus the time between the submission date of a NDA and the approval of that application. Only one patent applicable to an approved drug is eligible for the extension and the application for extension must be made prior to expiration of the patent. The United States Patent and Trademark Office, in consultation with the FDA, reviews and approves the application for any patent term extension or restoration. In the future, we intend to apply for restorations of patent term for some of our currently owned or licensed patents to add patent life beyond their current expiration date, depending on the expected length of clinical trials and other factors involved in the submission of the relevant NDA.

Market exclusivity provisions under the FDCA also can delay the submission or the approval of certain applications. The FDCA provides a five-year period of non-patent marketing exclusivity within the United States to the first applicant to gain approval of a NDA for a new chemical entity. A drug is a new chemical entity if the FDA has not previously approved any other new drug containing the same active moiety, which is the molecule or ion responsible for the action of the drug substance. During the exclusivity period, the FDA may not accept for review an abbreviated new drug application, or ANDA, or a 505(b)(2) NDA submitted by another company for another version of such drug where the applicant does not own or have a legal right of reference to all the data required for approval. However, an application may be submitted after four years if it contains a certification of patent invalidity or non-infringement. The FDCA also provides three years of marketing exclusivity for a NDA, 505(b)(2) NDA or supplement to an approved NDA if new clinical investigations, other than bioavailability studies, that were conducted or sponsored by the applicant are deemed by the FDA to be essential to the approval of the application, for example, for new indications, dosages or strengths of an existing drug. This three-year exclusivity covers only the conditions associated with the new clinical investigations and does not prohibit the FDA from approving ANDAs for drugs containing the original active agent. Five-year and three-year exclusivity will not delay the submission or approval of a full NDA; however, an applicant submitting a full NDA would be required to conduct or obtain a right of reference to all of the preclinical studies and adequate and well-controlled clinical trials necessary to demonstrate safety and effectiveness.

Table of Contents

*Pediatric Exclusivity and Pediatric Use*

Under the Best Pharmaceuticals for Children Act (BPCA) certain drugs may obtain an additional six months of exclusivity, if the sponsor submits information requested in writing by the FDA (a Written Request) relating to the use of the active moiety of the drug in children. The FDA may not issue a Written Request for studies on unapproved or approved indications or where it determines that information relating to the use of a drug in a pediatric population, or part of the pediatric population, may not produce health benefits in that population.

We have not received a Written Request for such pediatric studies, although we may ask the FDA to issue a Written Request for such studies in the future. To receive the six-month pediatric market exclusivity, we would have to receive a Written Request from the FDA, conduct the requested studies in accordance with a written agreement with the FDA or, if there is no written agreement, in accordance with commonly accepted scientific principles, and submit reports of the studies. A Written Request may include studies for indications that are not currently in the labeling if the FDA determines that such information will benefit the public health. The FDA will accept the reports upon its determination that the studies were conducted in accordance with and are responsive to the original Written Request or commonly accepted scientific principles, as appropriate, and that the reports comply with the FDA's filing requirements.

In addition, the Pediatric Research Equity Act (PREA) requires all applications (or supplements to an application) submitted under section 505 of the FDCA (21 U.S.C. Section 355) for a new active ingredient, new indication, new dosage form, new dosing regimen or new route of administration to contain a pediatric assessment unless the applicant has obtained a waiver or deferral. It also authorizes the FDA to require holders of approved NDAs for marketed drugs to conduct pediatric studies under certain circumstances. In general, PREA applies only to those drugs developed for diseases and/or conditions that occur in both the adult and pediatric populations. Products intended for pediatric-specific indications will be subject to the requirements of PREA only if they are initially developed for a subset of the relevant pediatric population.

As part of the FDASIA, Congress reauthorized both BPCA and PREA, which were slated to expire on September 30, 2012, and made both laws permanent.

*Post-approval Requirements*

Once an approval is granted, the FDA may withdraw the approval if compliance with regulatory requirements is not maintained or if problems occur after the product reaches the market. Later discovery of previously unknown problems with a product may result in restrictions on the product or even complete withdrawal of the product from the market. After approval, some types of changes to the approved product, such as adding new indications, manufacturing changes and additional labeling claims, are subject to further FDA review and approval. In addition, the FDA may require testing and surveillance programs to monitor the effect of approved products that have been commercialized, and the FDA has the power to prevent or limit further marketing of a product based on the results of these post-marketing programs.

Any drug products manufactured or distributed by us pursuant to FDA approvals are subject to continuing regulation by the FDA, including, among other things:

- record-keeping requirements;
- reporting of adverse experiences with the drug;
- providing the FDA with updated safety and efficacy information;
- drug sampling and distribution requirements;
- notifying the FDA and gaining its approval of specified manufacturing or labeling changes; and

Table of Contents

complying with FDA promotion and advertising requirements.

Drug manufacturers and other entities involved in the manufacture and distribution of approved drugs are required to register their establishments with the FDA and certain state agencies, and are subject to periodic unannounced inspections by the FDA and some state agencies for compliance with cGMP and other laws.

We rely, and expect to continue to rely, on third parties for the production of clinical and commercial quantities of our products. Future FDA and state inspections may identify compliance issues at the facilities of our contract manufacturers that may disrupt production or distribution, or require substantial resources to correct.

From time to time, legislation is drafted, introduced and passed in Congress that could significantly change the statutory provisions governing the approval, manufacturing and marketing of products regulated by the FDA. In addition, FDA regulations and guidance are often revised or reinterpreted by the agency in ways that may significantly affect our business and our products. It is impossible to predict whether legislative changes will be enacted, or FDA regulations, guidance or interpretations changed or what the impact of such changes, if any, may be.

***Regulation Outside of the United States***

In addition to regulations in the United States, we will be subject to regulations of other countries governing clinical trials and commercial sales and distribution of our products. Whether or not we obtain FDA approval for a product, we must obtain approval by the comparable regulatory authorities of countries outside of the United States before we can commence clinical trials in such countries and approval of the regulators of such countries or economic areas, such as the European Union, before we may market products in those countries or areas. The approval process and requirements governing the conduct of clinical trials, product licensing, pricing and reimbursement vary greatly from place to place, and the time may be longer or shorter than that required for FDA approval.

Under European Union regulatory systems, a company may submit marketing authorization applications either under a centralized or decentralized procedure. The centralized procedure, which is compulsory for medicines produced by biotechnology or those medicines intended to treat AIDS, cancer, neurodegenerative disorders or diabetes and optional for those medicines which are highly innovative, provides for the grant of a single marketing authorization that is valid for all European Union member states. The decentralized procedure provides for mutual recognition of national approval decisions. Under this procedure, the holder of a national marketing authorization may submit an application to the remaining member states. Within 90 days of receiving the applications and assessments report, each member state must decide whether to recognize approval. If a member state does not recognize the marketing authorization, the disputed points are eventually referred to the European Commission, whose decision is binding on all member states.

***Reimbursement***

Sales of our products will depend, in part, on the extent to which the costs of our products will be covered by third-party payors, such as government health programs, commercial insurance and managed healthcare organizations. These third-party payors are increasingly challenging the prices charged for medical products and services. Additionally, the containment of healthcare costs has become a priority of federal and state governments and the prices of drugs have been a focus in this effort. The U.S. government, state legislatures and foreign governments have shown significant interest in implementing cost-containment programs, including price controls, restrictions on reimbursement and requirements for substitution of generic products. Adoption of price controls and cost-containment measures, and adoption of more restrictive policies in jurisdictions with existing controls and measures, could further limit our net revenue and results. If these third-party payors do not consider our products

Table of Contents

to be cost-effective compared to other therapies, they may not cover our products after approved as a benefit under their plans or, if they do, the level of payment may not be sufficient to allow us to sell our products on a profitable basis.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (the MMA) imposed new requirements for the distribution and pricing of prescription drugs for Medicare beneficiaries. Under Part D, Medicare beneficiaries may enroll in prescription drug plans offered by private entities which will provide coverage of outpatient prescription drugs. Part D plans include both stand-alone prescription drug benefit plans and prescription drug coverage as a supplement to Medicare Advantage plans. Unlike Medicare Part A and B, Part D coverage is not standardized. Part D prescription drug plan sponsors are not required to pay for all covered Part D drugs, and each drug plan can develop its own drug formulary that identifies which drugs it will cover and at what tier or level. However, Part D prescription drug formularies must include drugs within each therapeutic category and class of covered Part D drugs, though not necessarily all the drugs in each category or class. Any formulary used by a Part D prescription drug plan must be developed and reviewed by a pharmacy and therapeutic committee. Government payment for some of the costs of prescription drugs may increase demand for our products for which we receive marketing approval. However, any negotiated prices for our products covered by a Part D prescription drug plan will likely be lower than the prices we might otherwise obtain. Moreover, while the MMA applies only to drug benefits for Medicare beneficiaries, private payors often follow Medicare coverage policy and payment limitations in setting their own payment rates. Any reduction in payment that results from the MMA may result in a similar reduction in payments from non-governmental payors.

The American Recovery and Reinvestment Act of 2009 provides funding for the federal government to compare the effectiveness of different treatments for the same illness. A plan for the research will be developed by the Department of Health and Human Services, the Agency for Healthcare Research and Quality and the National Institutes for Health, and periodic reports on the status of the research and related expenditures will be made to Congress. Although the results of the comparative effectiveness studies are not intended to mandate coverage policies for public or private payors, it is not clear what effect, if any, the research will have on the sales of any product, if any such product or the condition that it is intended to treat is the subject of a study. It is also possible that comparative effectiveness research demonstrating benefits in a competitor's product could adversely affect the sales of our product candidates. If third-party payors do not consider our products to be cost-effective compared to other available therapies, they may not cover our products as a benefit under their plans or, if they do, the level of payment may not be sufficient to allow us to sell our products on a profitable basis.

The Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act of 2010 (collectively, the ACA), enacted in March 2010, is expected to have a significant impact on the health care industry. ACA is expected to expand coverage for the uninsured while at the same time containing overall healthcare costs. With regard to pharmaceutical products, among other things, ACA is expected to expand and increase industry rebates for drugs covered under Medicaid programs and make changes to the coverage requirements under the Medicare Part D program. We cannot predict the impact of ACA on pharmaceutical companies, as many of the ACA reforms require the promulgation of detailed regulations implementing the statutory provisions which has not yet occurred. In addition, some members of the U.S. Congress have been seeking to overturn at least portions of the legislation and we expect they will continue to review and assess this legislation and alternative health care reform proposals. Any legal challenges to ACA, as well as Congressional efforts to repeal ACA, add to the uncertainty of the legislative changes enacted as part of ACA.

In addition, in some non-U.S. jurisdictions, the proposed pricing for a drug must be approved before it may be lawfully marketed. The requirements governing drug pricing vary widely from country

Table of Contents

to country. For example, the European Union provides options for its member states to restrict the range of medicinal products for which their national health insurance systems provide reimbursement and to control the prices of medicinal products for human use. A member state may approve a specific price for the medicinal product or it may instead adopt a system of direct or indirect controls on the profitability of the company placing the medicinal product on the market. There can be no assurance that any country that has price controls or reimbursement limitations for pharmaceutical products will allow favorable reimbursement and pricing arrangements for any of our products. Historically, products launched in the European Union do not follow price structures of the United States and generally tend to be significantly lower.

**Legal Proceedings**

From time to time, we are involved in various legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings the outcome of which, if determined adversely to us, would individually or in the aggregate have a material adverse effect on our business, operating results or financial condition.

**Facilities**

Our corporate headquarters and clinical development operations are located in Research Triangle Park, North Carolina where we lease and occupy approximately 3,100 square feet of space. The lease for our office expired in December 2013 and is currently leased on a month-to-month basis. We intend to enter into a long-term lease in the near future. We believe that our facility is suitable and adequate for our current needs.

**Employees**

As of March 17, 2014, we had 6 employees, of which all are involved in our drug development operations and in general and administrative functions. None of our employees are represented by a labor union and we consider our employee relations to be good. In addition, we are or have engaged with a sizable number of consultants and companies that provide expertise in each of the key functions involved with the development of Pyridorin, including in the fields of regulatory, non-clinical, clinical and CMC. In addition, from time to time, we consult with scientific and clinical advisors.

The Company's Internet address is www.nephrogenex.com. The Company's annual reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to reports filed pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, are available free of charge through the Investor Relations section of our website as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission, or the SEC. The SEC maintains an internet site that contains our public filings with the SEC and other information regarding the Company, at www.sec.gov. These reports and other information concerning the Company may also be accessed at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The contents of these websites are not incorporated into this Annual Report. Further, our references to the URLs for these websites are intended to be inactive textual reference only.

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012. We will remain an "emerging growth company" until the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of $1 billion or more; (ii) December 31, 2019; (iii) the date on which we have issued more than $1 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the Securities and Exchange Commission. We refer to the Jumpstart Our Business Startups Act of 2012 herein as the "JOBS Act," and references herein to "emerging growth company" shall have the meaning associated with it in the JOBS Act.

Table of Contents

## Item 1A. RISK FACTORS

*Except for the historical information contained herein or incorporated by reference, this report and the information incorporated by reference contains forward-looking statements that involve risks and uncertainties. These statements include projections about our accounting and finances, plans and objectives for the future, future operating and economic performance and other statements regarding future performance. These statements are not guarantees of future performance or events. Our actual results could differ materially from those discussed in this report. Factors that could cause or contribute to these differences include, but are not limited to, those discussed in the following section, as well as those discussed in Part II, Item 7 entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and elsewhere throughout this report and in any documents incorporated in this report by reference.*

*You should consider carefully the following risk factors, together with all of the other information included or incorporated in this report. If any of the following risks, either alone or taken together, or other risks not presently known to us or that we currently believe to not be significant, develop into actual events, then our business, financial condition, results of operations or prospects could be materially adversely affected. If that happens, the market price of our common stock could decline, and stockholders may lose all or part of their investment.*

### Risks Relating to Our Financial Position and Need for Additional Capital

***We have never been profitable. Currently, we have no products approved for commercial sale, and to date we have not generated any revenue from product sales. As a result, our ability to reduce our losses and reach profitability is unproven, and we may never achieve or sustain profitability.***

We have never been profitable and do not expect to be profitable in the foreseeable future. We have not yet submitted any product candidates for approval by regulatory authorities in the United States or elsewhere for our lead indication, the treatment of diabetic nephropathy in patients with type 2 diabetes, or any other indication. We have incurred net losses in each year since our inception, including net losses of $6.3 million and $2.9 million for the years ended December 31, 2013 and 2012, respectively. We had an accumulated deficit of approximately $41.0 million as of December 31, 2013. Our working capital and cash and cash equivalents as of December 31, 2013 were $(14.7) million and $2.1 million, respectively.

To date, we have devoted most of our financial resources to our corporate overhead and research and development, including our drug discovery research, preclinical development activities and clinical trials. We have not generated any revenues from product sales. We expect to continue to incur losses for the foreseeable future, and we expect these losses to increase as we continue our development of, and seek regulatory approvals for, Pyridorin, which is our lead product candidate, and our other product candidates, prepare for and begin the commercialization of any approved products, and add infrastructure and personnel to support our product development efforts and operations as a public company. We anticipate that any such losses could be significant for the next several years as we begin our Phase 3 clinical program of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes, which we call the Pyridorin program, and related activities required for regulatory approval of Pyridorin and pursuing an intravenous formulation of Pyridorin for AKI in clinical trials. If Pyridorin or any of our other product candidates fails in clinical trials or does not gain regulatory approval, or if our product candidates do not achieve market acceptance, we may never become profitable. As a result of the foregoing, we expect to continue to experience net losses and negative cash flows for the foreseeable future. These net losses and negative cash flows have had, and will continue to have, an adverse effect on our stockholders' equity and working capital.

Because of the numerous risks and uncertainties associated with pharmaceutical product development, we are unable to accurately predict the timing or amount of increased expenses or when,

Table of Contents

or if, we will be able to achieve profitability. In addition, our expenses could increase if we are required by the FDA or the EMA, to perform studies or trials in addition to those currently expected, or if there are any delays in completing our clinical trials or the development of any of our product candidates. The amount of future net losses will depend, in part, on the rate of future growth of our expenses and our ability to generate revenues.

***We will require substantial additional funding, which may not be available to us on acceptable terms, or at all, and, if not so available, may require us to delay, limit, reduce or cease our operations.***

We are currently advancing Pyridorin through clinical development for diabetic nephropathy and an intravenous formulation of Pyridorin for AKI through preclinical development. Developing pharmaceutical products, including conducting preclinical studies and clinical trials, is expensive. We will require substantial additional future capital in order to complete clinical development and commercialize Pyridorin, and to conduct the research and development and clinical and regulatory activities necessary to bring other product candidates to market. If the FDA or EMA requires that we perform additional nonclinical studies or clinical trials, our expenses would further increase beyond what we currently expect and the anticipated timing of any potential New Drug Application (NDA) or Marketing Authorization Application (MAA) would likely be delayed. Further, there can be no assurance that the costs to obtain regulatory approval of Pyridorin as a treatment for diabetic nephropathy in patients with type 2 diabetes will not increase.

We intend to use substantially all of the net proceeds from our recently completed initial public offering to fund (i) the continued clinical development of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes, including our anticipated Phase 3 trial and (ii) further development of an intravenous formulation of Pyridorin for AKI. Any remaining amounts will be used for general corporate purposes, general and administrative expenses, capital expenditures, working capital and prosecution and maintenance of our intellectual property. As such, our net proceeds from our recently completed initial public offering will not be sufficient to complete clinical development of any of our product candidates. Accordingly, we will continue to require substantial additional capital to continue our clinical development and commercialization activities. Because successful development of our product candidates is uncertain, we are unable to estimate the actual funds we will require to complete research and development and commercialize our products under development.

The amount and timing of our future funding requirements will depend on many factors, including but not limited to:

- the progress, costs, results of and timing of our Phase 3 Pyridorin program for the treatment of diabetic nephropathy in patients with type 2 diabetes, and the clinical development of an intravenous formulation of Pyridorin for AKI;
- the willingness of the EMA or other regulatory agencies outside the U.S. to accept our Phase 3 Pyridorin program, as well as our other completed and planned clinical and nonclinical studies and other work, as the basis for review and approval of Pyridorin in the European Union for the treatment of diabetic nephropathy in patients with type 2 diabetes;
- the outcome, costs and timing of seeking and obtaining FDA, EMA and any other regulatory approvals;
- the number and characteristics of product candidates that we pursue, including our product candidates in preclinical development;
- the ability of our product candidates to progress through clinical development successfully;
- our need to expand our research and development activities;

Table of Contents

the costs associated with securing and establishing commercialization and manufacturing capabilities;

market acceptance of our product candidates;

the costs of acquiring, licensing or investing in businesses, products, product candidates and technologies;

our ability to maintain, expand and defend the scope of our intellectual property portfolio, including the amount and timing of any payments we may be required to make, or that we may receive, in connection with the licensing, filing, prosecution, defense and enforcement of any patents or other intellectual property rights;

our need and ability to hire additional management and scientific and medical personnel;

the effect of competing technological and market developments;

our need to implement additional internal systems and infrastructure, including financial and reporting systems; and

the economic and other terms, timing of and success of our existing licensing arrangements and any collaboration, licensing or other arrangements into which we may enter in the future.

Some of these factors are outside of our control. Based upon our currently expected level of operating expenditures, we believe that we will be able to fund our operations into 2016. This period could be shortened if there are any significant increases in planned spending on development programs or more rapid progress of development programs than anticipated. We do not expect our existing capital resources to be sufficient to enable us to complete the commercialization of Pyridorin, if approved, or to initiate any clinical trials or additional development work needed for any of our other product candidates, other than as described above. Accordingly, we expect that we will need to raise additional funds in the future.

We may seek additional funding through a combination of equity offerings, debt financings, government or other third-party funding, commercialization, marketing and distribution arrangements and other collaborations, strategic alliances and licensing arrangements. Additional funding may not be available to us on acceptable terms or at all. In addition, the terms of any financing may adversely affect the holdings or the rights of our stockholders. In addition, the issuance of additional shares by us, or the possibility of such issuance, may cause the market price of our shares to decline.

If we are unable to obtain funding on a timely basis, we may be required to significantly curtail one or more of our research or development programs. We also could be required to seek funds through arrangements with collaborative partners or otherwise that may require us to relinquish rights to some of our technologies or product candidates or otherwise agree to terms unfavorable to us.

***We have a limited operating history and we expect a number of factors to cause our operating results to fluctuate on a quarterly and annual basis, which may make it difficult to predict our future performance.***

We are a development stage pharmaceutical company with a limited operating history. Our operations to date have been limited to developing our technology and undertaking preclinical studies and clinical trials of our product candidates. We have not yet obtained regulatory approvals for any of our product candidates. Consequently, any predictions made about our future success or viability may not be as accurate as they could be if we had a longer operating history or approved products on the market. Our financial condition and operating results have varied significantly in the past and are expected to continue to significantly fluctuate from quarter-to-quarter or year-to-year due to a variety

Table of Contents

of factors, many of which are beyond our control. Factors relating to our business that may contribute to these fluctuations include:

- any delays in regulatory review and approval of our product candidates in clinical development, including our ability to receive approval from the FDA and the EMA for Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes based on our Phase 3 Pyridorin program, and our other completed and planned clinical and nonclinical studies and other work, as the basis for review and approval of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes;

- delays in the commencement, enrollment and timing of clinical trials;

- difficulties in identifying and treating patients suffering from our target indications, and kidney disease in patients with type 2 diabetes in particular;

- the success of our clinical trials through all phases of clinical development, including our Phase 3 trial of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes;

- potential side effects of our product candidates that could delay or prevent approval or cause an approved drug to be taken off the market;

- our ability to obtain additional funding to develop our product candidates;

- our ability to identify and develop additional product candidates;

- market acceptance of our product candidates;

- our ability to establish an effective sales and marketing infrastructure directly or through collaborations with third parties;

- competition from existing products or new products that may emerge;

- the ability of patients or healthcare providers to obtain coverage or sufficient reimbursement for our products;

- our ability to adhere to clinical study requirements directly or with third parties such as contract research organizations (CROs);

- our dependency on third-party manufacturers to manufacture our products and key ingredients;

- our ability to establish or maintain collaborations, licensing or other arrangements;

- the costs to us, and our ability and our third-party collaborators' ability to obtain, maintain and protect our intellectual property rights;

costs related to and outcomes of potential intellectual property litigation;

our ability to adequately support future growth;

our ability to attract and retain key personnel to manage our business effectively; and

potential product liability claims.

Accordingly, the results of any quarterly or annual periods should not be relied upon as indications of future operating performance.

***Our recurring losses from operations may raise substantial doubt regarding our ability to continue as a going concern.***

Our recurring losses from operations may raise substantial doubt about our ability to continue as a going concern. There is no assurance that sufficient financing will be available when needed to allow us

Table of Contents

to continue as a going concern. The perception that we may not be able to continue as a going concern may cause others to choose not to deal with us due to concerns about our ability to meet our contractual obligations.

**Risks Relating to Regulatory Review and Approval of Our Product Candidates**

***We cannot be certain that Pyridorin will receive regulatory approval, and without regulatory approval we will not be able to market Pyridorin.***

Our business currently depends entirely on the successful development and commercialization of Pyridorin. Our ability to generate revenue related to product sales, if ever, will depend on the successful development and regulatory approval of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes or an intravenous formulation of Pyridorin for AKI.

We currently have no products approved for sale and we cannot guarantee that we will ever have marketable products. The development of a product candidate and issues relating to its approval and marketing are subject to extensive regulation by the FDA in the United States, the EMA in Europe and regulatory authorities in other countries, with regulations differing from country to country. We are not permitted to market our product candidates in the United States or Europe until we receive approval of a NDA from the FDA or a MAA from the EMA, respectively. We have not submitted any marketing applications for any of our product candidates.

NDAs and MAAs must include extensive preclinical and clinical data and supporting information to establish the product candidate's safety and effectiveness for each desired indication. NDAs and MAAs must also include significant information regarding the chemistry, manufacturing and controls for the product. Obtaining approval of a NDA or a MAA is a lengthy, expensive and uncertain process, and we may not be successful in obtaining approval. The FDA and the EMA review processes can take years to complete and approval is never guaranteed. If we submit a NDA to the FDA, the FDA must decide whether to accept or reject the submission for filing. We cannot be certain that any submissions will be accepted for filing and review by the FDA. Regulators of other jurisdictions, such as the EMA, have their own procedures for approval of product candidates. Even if a product is approved, the FDA or the EMA, as the case may be, may limit the indications for which the product may be marketed, require extensive warnings on the product labeling or require expensive and time-consuming clinical trials or reporting as conditions of approval. Regulatory authorities in countries outside of the United States and Europe also have requirements for approval of drug candidates with which we must comply prior to marketing in those countries. Obtaining regulatory approval for marketing of a product candidate in one country does not ensure that we will be able to obtain regulatory approval in any other country. In addition, delays in approvals or rejections of marketing applications in the United States, Europe or other countries may be based upon many factors, including regulatory requests for additional analyses, reports, data, preclinical studies and clinical trials, regulatory questions regarding different interpretations of data and results, changes in regulatory policy during the period of product development and the emergence of new information regarding our product candidates or other products. Also, regulatory approval for any of our product candidates may be withdrawn.

We have completed three Phase 2 trials for Pyridorin. Before we submit a NDA to the FDA or a MAA to the EMA for Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes, we must successfully conduct two Phase 3 trials. In addition, we must complete other nonclinical and clinical studies, such as a thorough QT interval (TQT) clinical study, two nonclinical carcinogenicity studies and a nonclinical cardiac safety study. We cannot predict whether our future trials and studies will be successful or whether regulators will agree with our conclusions regarding the preclinical studies and clinical trials we have conducted to date.

If we are unable to obtain approval from the FDA, the EMA or other regulatory agencies for Pyridorin and our other product candidates, or if, subsequent to approval, we are unable to successfully commercialize Pyridorin or our other product candidates, we will not be able to generate sufficient revenue to become profitable or to continue our operations.

Table of Contents

Any statements in this document indicating that Pyridorin has demonstrated preliminary evidence of efficacy are our own and are not based on the FDA's or any other comparable governmental agency's assessment of Pyridorin and do not indicate that Pyridorin will achieve favorable efficacy results in any later stage trials or that the FDA or any comparable agency will ultimately determine that Pyridorin is effective for purposes of granting marketing approval.

***Although the FDA has agreed to our endpoint for approval, other regulatory agencies outside the United States, such as the EMA, may not agree to our proposed endpoint for approval of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes, in which case we would need to complete an additional clinical trial in order to seek approval outside the United States.***

The EMA and regulatory authorities in other countries in which we may seek approval for and market Pyridorin may require additional nonclinical studies and/or clinical trials prior to granting approval. It may be expensive and time consuming to conduct and complete additional nonclinical studies and clinical trials that the EMA and other regulatory authorities may require us to perform. As such, any requirement by the EMA or other regulatory authorities that we conduct additional nonclinical studies or clinical trials could materially and adversely affect our business, financial condition and results of operations. Furthermore, even if we receive regulatory approval of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes, the labeling for Pyridorin in the United States, Europe or other countries in which we seek approval may include limitations that could impact the commercial success of Pyridorin.

***Delays in the commencement, enrollment and completion of clinical trials could result in increased costs to us and delay or limit our ability to obtain regulatory approval for Pyridorin and our other product candidates.***

Delays in the commencement, enrollment and completion of clinical trials could increase our product development costs or limit the regulatory approval of our product candidates. We do not know whether any future trials or studies of our other product candidates will begin on time or will be completed on schedule, if at all. The start or end of a clinical study is often delayed or halted due to changing regulatory requirements, manufacturing challenges, required clinical trial administrative actions, slower than anticipated patient enrollment, changing standards of care, availability or prevalence of use of a comparative drug or required prior therapy, clinical outcomes or financial constraints. For instance, delays or difficulties in patient enrollment or difficulties in retaining trial participants can result in increased costs, longer development times or termination of a clinical trial. Clinical trials of a new product candidate require the enrollment of a sufficient number of patients, including patients who are suffering from the disease the product candidate is intended to treat and who meet other eligibility criteria. Rates of patient enrollment are affected by many factors, including the size of the patient population, the eligibility criteria for the clinical trial, the age and condition of the patients, the stage and severity of disease, the nature of the protocol, the proximity of patients to clinical sites and the availability of effective treatments for the relevant disease.

A product candidate can unexpectedly fail at any stage of preclinical and clinical development. The historical failure rate for product candidates is high due to scientific feasibility, safety, efficacy, changing standards of medical care and other variables. The results from preclinical testing or early clinical trials of a product candidate may not predict the results that will be obtained in later phase clinical trials of the product candidate. We, the FDA or other applicable regulatory authorities may suspend clinical trials of a product candidate at any time for various reasons, including a belief that subjects participating in such trials are being exposed to unacceptable health risks or adverse side effects. We may not have the financial resources to continue development of, or to enter into collaborations for, a product candidate if we experience any problems or other unforeseen events that delay or prevent regulatory approval of, or our ability to commercialize, product candidates, including:

- inability to obtain sufficient funds required for a clinical trial;

Table of Contents

inability to reach agreements on acceptable terms with prospective CROs and trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;

negative or inconclusive results from our clinical trials or the clinical trials of others for product candidates similar to ours, leading to a decision or requirement to conduct additional preclinical testing or clinical trials or abandon a program;

serious and unexpected drug-related side effects experienced by participants in our clinical trials or by individuals using drugs similar to our product candidates;

inability to obtain approval from institutional review boards (IRBs), to conduct a clinical trial at their respective sites;

conditions imposed by the FDA or comparable foreign authorities regarding the scope or design of our clinical trials;

delays in enrolling research subjects in clinical trials;

high drop-out rates of research subjects;

inadequate supply or quality of product candidate components or materials or other supplies necessary for the conduct of our clinical trials;

greater than anticipated clinical trial costs;

poor effectiveness of our product candidates during clinical trials;

unfavorable FDA or other regulatory agency inspection and review of a clinical trial site;

failure of our third-party contractors or investigators to comply with regulatory requirements or otherwise meet their contractual obligations in a timely manner, or at all;

delays and changes in regulatory requirements, policy and guidelines, including the imposition of additional regulatory oversight around clinical testing generally or with respect to our technology in particular; or

varying interpretations of data by the FDA and similar foreign regulatory agencies.

***Clinical failure can occur at any stage of clinical development and we have never conducted a Phase 3 trial or submitted a NDA or MAA before. The results of earlier clinical trials are not necessarily predictive of future results and any product candidate we or our potential future collaborators advance through clinical trials may not have favorable results in later clinical trials or receive regulatory approval.***

Clinical failure can occur at any stage of our clinical development. Clinical trials may produce negative or inconclusive results, and we or our collaborators may decide, or regulators may require us, to conduct additional clinical trials or nonclinical studies. In addition, data obtained from trials and studies are susceptible to varying interpretations, and regulators may not interpret our data as favorably as we do, which may delay, limit or prevent regulatory approval. Success in preclinical studies and early clinical trials does not ensure that subsequent clinical trials will generate the same or similar results or otherwise provide adequate data to demonstrate the efficacy and safety of a product candidate. A

number of companies in the pharmaceutical industry, including those with greater resources and experience than us, have suffered significant setbacks in Phase 3 clinical trials, even after seeing promising results in earlier clinical trials.

Pyridorin did not reach its primary endpoint in the intent to treat (ITT) population in the Phase 2b study (PYR-210). However, in a subgroup of patients on stable long term standard of care, Pyridorin showed a dose dependent treatment effect of approximately 50%. This subgroup is the

Table of Contents

patient population that will be studied in the Phase 3 program. Subgroup analysis carries the inherent risk that the results may not be repeatable in a subsequent trial. It is possible that the treatment effect observed in this subgroup of PYR-210 may not repeat in our Phase 3 trials.

Pyridorin has demonstrated a promising treatment effect in Phase 2 clinical trials using a rate of change in SCr endpoint. The Phase 3 trial will utilize a new 50% SCr increase event endpoint. While there is a strong correlation between the rate of change of SCr and the 50% SCr increase event endpoint, no clinical trials have been conducted using this new endpoint. We cannot assure you that our Pyridorin program will achieve positive results using this new endpoint.

In addition, the design of a clinical trial can determine whether its results will support approval of a product and flaws in the design of a clinical trial may not become apparent until the clinical trial is well-advanced. We may be unable to design and execute a clinical trial to support regulatory approval. Further, clinical trials of potential products often reveal that it is not practical or feasible to continue development efforts.

If Pyridorin is found to be unsafe or lack efficacy, we will not be able to obtain regulatory approval for it and our business would be harmed. For example, if the results of our Phase 3 Pyridorin program do not achieve the primary efficacy endpoints or demonstrate expected safety, the prospects for approval of Pyridorin would be materially and adversely affected.

In some instances, there can be significant variability in safety and/or efficacy results between different trials of the same product candidate due to numerous factors, including changes in trial protocols, differences in composition of the patient populations, adherence to the dosing regimen and other trial protocols and the rate of dropout among clinical trial participants. We do not know whether any Phase 2, Phase 3 or other clinical trials we or any of our potential future collaborators may conduct will demonstrate the consistent or adequate efficacy and safety that would be required to obtain regulatory approval and market Pyridorin. If we are unable to bring Pyridorin to market, or to acquire other products that are on the market or can be developed, our ability to create long-term stockholder value will be limited.

***Our product candidates may have undesirable side effects which may delay or prevent marketing approval, or, if approval is received, require them to be taken off the market, require them to include safety warnings or otherwise limit their sales.***

Pyridorin targets a broad range of pathogenic oxidative chemistries, including advanced glycation end-products, toxic carbonyls, and reactive oxygen species that develop in patients with diabetes and are considered a principal causative factor in the development and progression of diabetic microvascular disease. Unforeseen side effects from any of our product candidates could arise either during clinical development or, if approved, after the approved product has been marketed. The most common side effects observed in clinical trials of Pyridorin were a slight increase in diarrhea and constipation. No patients were withdrawn from the study for these side effects. Additional or unforeseen side effects from these or any of our other product candidates could arise either during clinical development or, if approved, after the approved product has been marketed.

The range and potential severity of possible side effects from systemic therapies is significant. The results of future clinical trials may show that Pyridorin causes undesirable or unacceptable side effects, which could interrupt, delay or halt clinical trials, and result in delay of, or failure to obtain, marketing approval from the FDA and other regulatory authorities, or result in marketing approval from the FDA and other regulatory authorities with restrictive label warnings.

Table of Contents

If any of our product candidates receives marketing approval and we or others later identify undesirable or unacceptable side effects caused by such products:

- regulatory authorities may require the addition of labeling statements, specific warnings, a contraindication or field alerts to physicians and pharmacies;
- we may be required to change instructions regarding the way the product is administered, conduct additional clinical trials or change the labeling of the product;
- we may be subject to limitations on how we may promote the product;
- sales of the product may decrease significantly;
- regulatory authorities may require us to take our approved product off the market;
- we may be subject to litigation or product liability claims; and
- our reputation may suffer.

Any of these events could prevent us or our potential future collaborators from achieving or maintaining market acceptance of the affected product or could substantially increase commercialization costs and expenses, which in turn could delay or prevent us from generating significant revenues from the sale of our products.

***Reimbursement decisions by third-party payors may have an adverse effect on pricing and market acceptance. If there is not sufficient reimbursement for our products, it is less likely that they will be widely used.***

Market acceptance and sales of Pyridorin or any other product candidates that we develop, if approved, will depend on reimbursement policies and may be affected, among other things, by future healthcare reform measures. Government authorities and third-party payors, such as private health insurers and health maintenance organizations, decide which drugs they will cover and establish payment levels. We cannot be certain that reimbursement will be available for Pyridorin or any other product candidates that we develop. Also, we cannot be certain that reimbursement policies will not reduce the demand for, or the price paid for, our products. If reimbursement is not available or is available on a limited basis, we may not be able to successfully commercialize Pyridorin or any other product candidates that we develop.

In the United States, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) changed the way Medicare covers and pays for pharmaceutical products. The legislation established Medicare Part D, which expanded Medicare coverage for outpatient prescription drug purchases by the elderly but provided authority for limiting the number of drugs that will be covered in any therapeutic class. The MMA also introduced a new reimbursement methodology based on average sales prices for physician- administered drugs. Any negotiated prices for our products covered by a Part D prescription drug plan will likely be lower than the prices we might otherwise obtain in the United States. Moreover, while the MMA applies only to drug benefits for Medicare beneficiaries, private payors often follow Medicare coverage policy and payment limitations in setting their own payment rates. Any reduction in payment that results from the MMA may result in a similar reduction in payments from non-governmental payors.

The United States and several other jurisdictions are considering, or have already enacted, a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell our products profitably. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality and/or expanding access to healthcare. In the United States, the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives. We expect to experience pricing pressures in

Table of Contents

connection with the sale of Pyridorin and any other products that we develop, due to the trend toward managed healthcare, the increasing influence of health maintenance organizations and additional legislative proposals.

In March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act (collectively, ACA) became law in the United States. The goal of ACA is to reduce the cost of health care and substantially change the way health care is financed by both governmental and private insurers. While we cannot predict what impact on federal reimbursement policies this legislation will have in general or on our business specifically, the ACA may result in downward pressure on pharmaceutical reimbursement, which could negatively affect market acceptance of Pyridorin or any future product candidates. In addition, some members of the U.S. Congress have been seeking to overturn at least portions of the legislation and we expect they will continue to review and assess this legislation and alternative health care reform proposals. We cannot predict whether new proposals will be made or adopted, when they may be adopted or what impact they may have on us if they are adopted.

***If we do not obtain protection under the Hatch-Waxman Act and similar legislation outside of the United States by extending the patent terms and obtaining data exclusivity for our product candidates, our business may be materially harmed.***

Depending upon the timing, duration and specifics of FDA marketing approval of Pyridorin and our other product candidates, if any, one or more of our U.S. patents may be eligible for limited patent term restoration under the Drug Price Competition and Patent Term Restoration Act of 1984, referred to as the Hatch-Waxman Act. The Hatch-Waxman Act permits a patent restoration term of up to five years as compensation for patent term lost during product development and the FDA regulatory review process. However, we may not be granted an extension because of, for example, failing to apply within applicable deadlines, failing to apply prior to expiration of relevant patents or otherwise failing to satisfy applicable requirements. Moreover, the applicable time period or the scope of patent protection afforded could be less than we request. If we are unable to obtain patent term extension or restoration or the term of any such extension is less than we request, the period during which we will have the right to exclusively market our product will be shortened and our competitors may obtain approval of competing products following our patent expiration, and our revenue could be reduced, possibly materially. In the event that we are unable to obtain any patent term extensions, the issued patents for methods of using Pyridorin are expected to expire in June 2024 assuming they withstand any challenge.

***If we market products in a manner that violates healthcare fraud and abuse laws, or if we violate government price reporting laws, we may be subject to civil or criminal penalties.***

In addition to FDA restrictions on marketing of pharmaceutical products, several other types of state and federal healthcare laws, commonly referred to as "fraud and abuse" laws, have been applied in recent years to restrict certain marketing practices in the pharmaceutical industry. Other jurisdictions such as Europe have similar laws. These laws include false claims and anti-kickback statutes. If we market our products and our products are paid for by governmental programs, it is possible that some of our business activities could be subject to challenge under one or more of these laws.

Federal false claims laws prohibit any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government or knowingly making, or causing to be made, a false statement to get a false claim paid. The federal healthcare program anti-kickback statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration to induce, or in return for, purchasing, leasing, ordering or arranging for the purchase, lease or order of any healthcare item or service covered by Medicare, Medicaid or other federally financed healthcare programs. This statute has been interpreted to apply to arrangements between pharmaceutical manufacturers on the one hand and prescribers, purchasers or formulary managers on

Table of Contents

the other. Although there are several statutory exemptions and regulatory safe harbors protecting certain common activities from prosecution, the exemptions and safe harbors are drawn narrowly, and practices that involve remuneration intended to induce prescribing, purchasing or recommending may be subject to scrutiny if they do not qualify for an exemption or safe harbor. Most states also have statutes or regulations similar to the federal anti-kickback law and federal false claims laws, which apply to items and services covered by Medicaid and other state programs, or, in several states, apply regardless of the payor. Administrative, civil and criminal sanctions may be imposed under these federal and state laws.

Over the past few years, a number of pharmaceutical and other healthcare companies have been prosecuted under these laws for a variety of promotional and marketing activities, such as: providing free trips, free goods, sham consulting fees and grants and other monetary benefits to prescribers; reporting inflated average wholesale prices that were then used by federal programs to set reimbursement rates; engaging in off-label promotion; and submitting inflated best price information to the Medicaid Rebate Program to reduce liability for Medicaid rebates.

***If the FDA and EMA and other regulatory agencies do not approve the manufacturing facilities of our future contract manufacturers for commercial production, we may not be able to commercialize any of our product candidates.***

We do not intend to manufacture the pharmaceutical products that we plan to sell. We currently have agreements with contract manufacturers for the production of the active pharmaceutical ingredients and the formulation of sufficient quantities of drug product for our Phase 3 trial of Pyridorin for the treatment of diabetic nephropathy in patients with type 2 diabetes and the other trials and nonclinical studies that we believe we will need to conduct prior to seeking regulatory approval. However, we do not have agreements for commercial supplies of Pyridorin or any of our other product candidates and we may not be able to reach agreements with these or other contract manufacturers for sufficient supplies to commercialize Pyridorin if it is approved. Additionally, the facilities used by any contract manufacturer to manufacture Pyridorin or any of our other product candidates must be the subject of a satisfactory inspection before the FDA or the regulators in other jurisdictions approve the product candidate manufactured at that facility. We are completely dependent on these third-party manufacturers for compliance with the requirements of U.S. and non-U.S. regulators for the manufacture of our finished products. If our manufacturers cannot successfully manufacture material that conform to our specifications and current good manufacturing practice requirements of any governmental agency whose jurisdiction to which we are subject, our product candidates will not be approved or, if already approved, may be subject to recalls. Reliance on third-party manufacturers entails risks to which we would not be subject if we manufactured the product candidates, including:

- the possibility that we are unable to enter into a manufacturing agreement with a third party to manufacture our product candidates;
- the possible breach of the manufacturing agreements by the third parties because of factors beyond our control; and
- the possibility of termination or nonrenewal of the agreements by the third parties before we are able to arrange for a qualified replacement third-party manufacturer.

Any of these factors could cause the delay of approval or commercialization of our product candidates, cause us to incur higher costs or prevent us from commercializing our product candidates successfully. Furthermore, if any of our product candidates are approved and contract manufacturers fail to deliver the required commercial quantities of finished product on a timely basis and at commercially reasonable prices and we are unable to find one or more replacement manufacturers capable of production at a substantially equivalent cost, in substantially equivalent volumes and quality and on a timely basis, we would likely be unable to meet demand for our products and could lose

Table of Contents

potential revenue. It may take several years to establish an alternative source of supply for our product candidates and to have any such new source approved by the government agencies that regulate our products.

***Even if our product candidates receive regulatory approval, we may still face future development and regulatory difficulties.***

Our product candidates, if approved, will also be subject to ongoing regulatory requirements for labeling, packaging, storage, advertising, promotion, record-keeping and submission of safety and other post-market information. In addition, approved products, manufacturers and manufacturers' facilities are required to comply with extensive FDA and EMA requirements and requirements of other similar agencies, including ensuring that quality control and manufacturing procedures conform to current Good Manufacturing Practices (cGMPs). As such, we and our contract manufacturers are subject to continual review and periodic inspections to assess compliance with cGMPs. Accordingly, we and others with whom we work must continue to expend time, money and effort in all areas of regulatory compliance, including manufacturing, production and quality control. We will also be required to report certain adverse reactions and production problems, if any, to the FDA and EMA and other similar agencies and to comply with certain requirements concerning advertising and promotion for our products. Promotional communications with respect to prescription drugs are subject to a variety of legal and regulatory restrictions and must be consistent with the information in the product's approved label. Accordingly, we may not promote our approved products, if any, for indications or uses for which they are not approved.

If a regulatory agency discovers previously unknown problems with a product, such as adverse events of unanticipated severity or frequency, or problems with the facility where the product is manufactured, or disagrees with the promotion, marketing or labeling of a product, it may impose restrictions on that product or us, including requiring withdrawal of the product from the market. If our product candidates fail to comply with applicable regulatory requirements, a regulatory agency may:

issue warning letters;

mandate modifications to promotional materials or require us to provide corrective information to healthcare practitioners;

require us or our potential future collaborators to enter into a consent decree or permanent injunction, which can include imposition of various fines, reimbursements for inspection costs, required due dates for specific actions and penalties for noncompliance;

impose other administrative or judicial civil or criminal penalties;

withdraw regulatory approval;

refuse to approve pending applications or supplements to approved applications filed by us or our potential future collaborators;

impose restrictions on operations, including costly new manufacturing requirements; or

seize or detain products.

Table of Contents

**Risks Relating to the Commercialization of Our Products**

***Even if approved, our product candidates may not achieve broad market acceptance among physicians, patients and healthcare payors, and as a result our revenues generated from their sales may be limited.***

The commercial success of Pyridorin, if approved, will depend upon its acceptance among the medical community, including physicians, health care payors and patients. The degree of market acceptance of Pyridorin or future product candidates will depend on a number of factors, including:

limitations or warnings contained in our product candidates' FDA-approved labeling;

changes in the standard of care or availability of alternative therapies at similar or lower costs for the targeted indications for any of our product candidates;

limitations in the approved clinical indications for our product candidates;

demonstrated clinical safety and efficacy compared to other products;

lack of significant adverse side effects;

sales, marketing and distribution support;

availability of reimbursement from managed care plans and other third-party payors;

timing of market introduction and perceived effectiveness of competitive products;

the degree of cost-effectiveness;

availability of alternative therapies at similar or lower cost, including generics and over-the-counter products;

enforcement by the FDA and EMA of laws and rulings that prohibit the illegal sale of pyridoxamine as a dietary supplement;

the extent to which our product candidates are approved for inclusion on formularies of hospitals and managed care organizations;

whether our product candidates are designated under physician treatment guidelines for the treatment of the indications for which we have received regulatory approval;

adverse publicity about our product candidates or favorable publicity about competitive products;

convenience and ease of administration of our product candidates; and

potential product liability claims.

If our product candidates are approved, but do not achieve an adequate level of acceptance by physicians, patients, the medical community and healthcare payors, sufficient revenue may not be generated from these products and we may not become or remain profitable. In addition, efforts to educate the medical community and third-party payors on the benefits of our product candidates may require significant resources and may never be successful.

***We have no sales, marketing or distribution experience and we will have to invest significant resources to develop those capabilities or enter into acceptable third-party sales and marketing arrangements.***

We have no sales, marketing or distribution experience. To develop sales, distribution and marketing capabilities, we will have to invest significant amounts of financial and management resources, some of which will be committed prior to any confirmation that Pyridorin or any of our other product candidates will be approved. For product candidates where we decide to perform sales,

Table of Contents

marketing and distribution functions ourselves or through third parties, we could face a number of additional risks, including:

- we or our third-party sales collaborators may not be able to attract and build an effective marketing or sales force;
- the cost of securing or establishing a marketing or sales force may exceed the revenues generated by any products; and
- our direct sales and marketing efforts may not be successful.

We may have limited or no control over the sales, marketing and distribution activities of these third parties. Our future revenues may depend heavily on the success of the efforts of these third parties.

***We may not be successful in establishing and maintaining development and commercialization collaborations, which could adversely affect our ability to develop certain of our product candidates and our financial condition and operating results.***

Because developing pharmaceutical products, conducting clinical trials, obtaining regulatory approval, establishing manufacturing capabilities and marketing approved products are expensive, we may seek to enter into collaborations with companies that have more experience. Additionally, if any of our product candidates receives marketing approval, we may enter into sales and marketing arrangements with third parties with respect to our unlicensed territories. If we are unable to enter into arrangements on acceptable terms, if at all, we may be unable to effectively market and sell our products in our target markets. We expect to face competition in seeking appropriate collaborators. Moreover, collaboration arrangements are complex and time consuming to negotiate, document and implement and they may require substantial resources to maintain. We may not be successful in our efforts to establish and implement collaborations or other alternative arrangements for the development of our product candidates.

When we collaborate with a third party for development and commercialization of a product candidate, we can expect to relinquish some or all of the control over the future success of that product candidate to the third party. For example, we may relinquish the rights to Pyridorin in jurisdictions outside of the United States. Our collaboration partner may not devote sufficient resources to the commercialization of our product candidates or may otherwise fail in their commercialization. The terms of any collaboration or other arrangement that we establish may not be favorable to us. In addition, any collaboration that we enter into may be unsuccessful in the development and commercialization of our product candidates. In some cases, we may be responsible for continuing preclinical and initial clinical development of a product candidate or research program under a collaboration arrangement, and the payment we receive from our collaboration partner may be insufficient to cover the cost of this development. If we are unable to reach agreements with suitable collaborators for our product candidates, we would face increased costs, we may be forced to limit the number of our product candidates we can commercially develop or the territories in which we commercialize them and we might fail to commercialize products or programs for which a suitable collaborator cannot be found. If we fail to achieve successful collaborations, our operating results and financial condition will be materially and adversely affected.

***The success of the company depends greatly on the success of Pyridorin's development in diabetic nephropathy, and the company's pipeline of product candidates beyond this lead indication is limited.***

We are evaluating the application of an intravenous formulation of Pyridorin to specific types of acute renal injury in which pathogenic oxidative chemistries have been identified as likely causative factors in the onset, severity and progression of this condition. These include contrast-dye-induced

Table of Contents

acute renal failure and ischemia-reperfusion acute renal injury, which can arise in cardiac and vascular surgeries. However, the intravenous formulation of Pyridorin has never been evaluated in a clinical setting and there is no clinical evidence that the therapy will be effective in additional indications. Moreover, the completion of development, securing of approval and commercialization of an intravenous formulation of Pyridorin for additional indications will require substantial additional funding beyond the net proceeds of our recently completed initial public offering and is prone to the risks of failure inherent in drug development. We cannot provide you any assurance that we will be able to successfully advance any of these indications through the development process. Even if we receive FDA approval to market an intravenous formulation of Pyridorin for additional indications, we cannot assure you that this will be successfully commercialized, widely accepted in the marketplace or more effective than other commercially available alternatives.

***If serious adverse events or other undesirable side effects are identified during the development of Pyridorin for one indication, we may need to abandon our development of Pyridorin for other indications.***

Product candidates in clinical stages of development have a high risk of failure. We cannot predict when or if Pyridorin will prove effective or safe in humans or will receive regulatory approval. To date, the most common side effects observed in clinical trials of Pyridorin were a slight increase in diarrhea and constipation. New side effects could, however, be identified as we expand our clinical trials for Pyridorin to other indications. If new side effects are found during the development of Pyridorin for any indication, if known side effects are shown to be more severe than previously observed or if Pyridorin is found to have other unexpected characteristics, we may need to abandon our development of Pyridorin for kidney disease in patients with type 2 diabetes and other potential indications. We cannot assure you that additional or more severe adverse side effects with respect to Pyridorin will not develop in future clinical trials, which could delay or preclude regulatory approval of Pyridorin or limit its commercial use.

**Risks Relating to Our Business and Strategy**

***We face competition from other biotechnology and pharmaceutical companies and our operating results will suffer if we fail to compete effectively.***

The biotechnology and pharmaceutical industries are intensely competitive and subject to rapid and significant technological change. We have competitors in the United States, Europe and other jurisdictions, including major multinational pharmaceutical companies, established biotechnology companies, specialty pharmaceutical and generic drug companies and universities and other research institutions. Many of our competitors have greater financial and other resources, such as larger research and development staff and more experienced marketing and manufacturing organizations. Large pharmaceutical companies, in particular, have extensive experience in clinical testing, obtaining regulatory approvals, recruiting patients and manufacturing pharmaceutical products. These companies also have significantly greater research, sales and marketing capabilities and collaborative arrangements in our target markets with leading companies and research institutions. Established pharmaceutical companies may also invest heavily to accelerate discovery and development of novel compounds or to in-license novel compounds that could make the product candidates that we develop obsolete. As a result of all of these factors, our competitors may succeed in obtaining patent protection and/or FDA approval or discovering, developing and commercializing drugs for the diseases that we are targeting before we do. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large, established companies. Some of the pharmaceutical and biotechnology companies we expect to compete with include AbbVie Inc., Bayer Corporation, Pfizer Inc., Chemocentryx, Inc., Eli Lilly and Company, and Mitsubishi Tanabe Pharma. In addition, many universities and private and public research institutes may become active in our target disease areas. Our competitors may succeed in developing, acquiring or licensing on an exclusive basis,

Table of Contents

technologies and drug products that are more effective or less costly than Pyridorin or any other product candidates that we are currently developing or that we may develop, which could render our products obsolete and noncompetitive.

We believe that our ability to successfully compete will depend on, among other things:

- the results of our and our potential strategic collaborators' clinical trials and preclinical studies;
- our ability to recruit and enroll patients for our clinical trials;
- the efficacy, safety and reliability of our product candidates;
- the speed at which we develop our product candidates;
- our ability to design and successfully execute appropriate clinical trials;
- our ability to maintain a good relationship with regulatory authorities;
- the timing and scope of regulatory approvals, if any;
- our ability to commercialize and market any of our product candidates that receive regulatory approval;
- the price of our products;
- adequate levels of reimbursement under private and governmental health insurance plans, including Medicare;
- our ability to protect intellectual property rights related to our products;
- our ability to manufacture and sell commercial quantities of any approved products to the market; and
- acceptance of our product candidates by physicians and other health care providers.

If our competitors market products that are more effective, safer or less expensive than our future products, if any, or that reach the market sooner than our future products, if any, we may not achieve commercial success. In addition, the biopharmaceutical industry is characterized by rapid technological change. Because our research approach integrates many technologies, it may be difficult for us to stay abreast of the rapid changes in each technology. If we fail to stay at the forefront of technological change, we may be unable to compete effectively. Technological advances or products developed by our competitors may render our technologies or product candidates obsolete, less competitive or not economical.

***We depend on third-party contractors for a substantial portion of our operations and may not be able to control their work as effectively as if we performed these functions ourselves.***

We outsource substantial portions of our operations to third-party service providers, including the conduct of preclinical studies and clinical trials, collection and analysis of data, and manufacturing. Our agreements with third-party service providers and CROs are on a study-by-study

and project-by-project basis. Typically, we may terminate the agreements with notice and are responsible for the supplier's previously incurred costs. In addition, any CRO that we retain will be subject to the FDA's and EMA's regulatory requirements and similar standards outside of the United States and Europe and we do not have control over compliance with these regulations by these providers. Consequently, if these providers do not adhere to applicable governing practices and standards, the development and commercialization of our product candidates could be delayed or stopped, which could severely harm our business and financial condition.

Table of Contents

Because we have relied on third parties, our internal capacity to perform these functions is limited to management oversight. Outsourcing these functions involves the risk that third parties may not perform to our standards, may not produce results in a timely manner or may fail to perform at all. Although we have not experienced any significant difficulties with our third-party contractors, it is possible that we could experience difficulties in the future. In addition, the use of third-party service providers requires us to disclose our proprietary information to these parties, which could increase the risk that this information will be misappropriated. There are a limited number of third-party service providers that specialize or have the expertise required to achieve our business objectives. Identifying, qualifying and managing performance of third-party service providers can be difficult, time consuming and cause delays in our development programs. We currently have a small number of employees, which limits the internal resources we have available to identify and monitor third-party service providers. To the extent we are unable to identify, retain and successfully manage the performance of third-party service providers in the future, our business may be adversely affected, and we may be subject to the imposition of civil or criminal penalties if their conduct of clinical trials violates applicable law.

***A variety of risks associated with our possible international business relationships could materially adversely affect our business.***

We may enter into agreements with other third parties for the development and commercialization of Pyridorin or our other product candidates in international markets. International business relationships subject us to additional risks that may materially adversely affect our ability to attain or sustain profitable operations, including:

differing regulatory requirements for drug approvals internationally;

potentially reduced protection for intellectual property rights;

potential third-party patent rights in countries outside of the United States;

the potential for so-called "parallel importing," which is what occurs when a local seller, faced with relatively high local prices, opts to import goods from another jurisdiction with relatively low prices, rather than buying them locally;

unexpected changes in tariffs, trade barriers and regulatory requirements;

economic weakness, including inflation, or political instability, particularly in non-U.S. economies and markets, including several countries in Europe;

compliance with tax, employment, immigration and labor laws for employees traveling abroad;

taxes in other countries;

foreign currency fluctuations, which could result in increased operating expenses and reduced revenue, and other obligations incident to doing business in another country;

workforce uncertainty in countries where labor unrest is more common than in the United States;

production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad; and

business interruptions resulting from geo-political actions, including war and terrorism, or natural disasters, including earthquakes, volcanoes, typhoons, floods, hurricanes and fires.

55

Table of Contents

***We will need to expand our operations and increase the size of our company, and we may experience difficulties in managing growth.***

As of March 17, 2014, we had 6 employees. As we increase the number of ongoing product development programs and advance our product candidates through preclinical studies and clinical trials, we will need to increase our product development, scientific and administrative headcount to manage these programs. In addition, to meet our obligations as a public company, we will need to increase our general and administrative capabilities. Our management, personnel and systems currently in place may not be adequate to support this future growth. Our need to effectively manage our operations, growth and various projects requires that we:

- successfully attract and recruit new employees or consultants with the expertise and experience we will require;
- manage our clinical programs effectively, which we anticipate being conducted at numerous clinical sites;
- develop a marketing and sales infrastructure; and
- continue to improve our operational, financial and management controls, reporting systems and procedures.

If we are unable to successfully manage this growth and increased complexity of operations, our business may be adversely affected.

***We may not be able to manage our business effectively if we are unable to attract and retain key personnel and consultants.***

We may not be able to attract or retain qualified management, finance, scientific and clinical personnel and consultants due to the intense competition for qualified personnel and consultants among biotechnology, pharmaceutical and other businesses. If we are not able to attract and retain necessary personnel and consultants to accomplish our business objectives, we may experience constraints that will significantly impede the achievement of our development objectives, our ability to raise additional capital and our ability to implement our business strategy.

Our industry has experienced a high rate of turnover of management personnel in recent years. We are highly dependent on the development, regulatory, commercialization and business development expertise of Pierre Legault, our chief executive officer; John P. Hamill, our chief financial officer; J. Wesley Fox, our president and chief scientific officer; Bob Peterson, our vice president of product development and regulatory affairs; Pepper Landson, our vice president of clinical operations; and our other key employees and consultants. If we lose one or more of our executive officers or key employees or consultants, our ability to implement our business strategy successfully could be seriously harmed. Any of our executive officers or key employees or consultants may terminate their employment at any time. Replacing executive officers, key employees and consultants may be difficult and may take an extended period of time because of the limited number of individuals in our industry with the breadth of skills and experience required to develop, gain regulatory approval of and commercialize products successfully. Competition to hire and retain employees and consultants from this limited pool is intense, and we may be unable to hire, train, retain or motivate these additional key personnel and consultants. Our failure to retain key personnel or consultants could materially harm our business.

In addition, we have scientific and clinical advisors and consultants who assist us in formulating our research, development and clinical strategies. These advisors are not our employees and may have commitments to, or consulting or advisory contracts with, other entities that may limit their availability to us and typically they will not enter into non-compete agreements with us. If a conflict of interest arises between their work for us and their work for another entity, we may lose their services. In

Table of Contents

addition, our advisors may have arrangements with other companies to assist those companies in developing products or technologies that may compete with ours.

***Failure to build our finance infrastructure and improve our accounting systems and controls could impair our ability to comply with the financial reporting and internal controls requirements for publicly traded companies.***

As a public company, we operate in an increasingly demanding regulatory environment, which requires us to comply with the Sarbanes-Oxley Act of 2002, and the related rules and regulations of the Securities and Exchange Commission, expanded disclosure requirements, accelerated reporting requirements and more complex accounting rules. Company responsibilities required by the Sarbanes-Oxley Act include establishing corporate oversight and adequate internal control over financial reporting and disclosure controls and procedures. Effective internal controls are necessary for us to produce reliable financial reports and are important to help prevent financial fraud.

We have begun implementing our system of internal controls over financial reporting and preparing the documentation necessary to perform the evaluation needed to comply with Section 404(a) of the Sarbanes-Oxley Act. We anticipate that we will need to retain additional finance capabilities and build our financial infrastructure as a public company, including complying with the requirements of Section 404 of the Sarbanes-Oxley Act. We plan to continue improving our financial infrastructure with the retention of additional financial and accounting capabilities, the enhancement of internal controls and additional training for our financial and accounting staff.

Section 404(a) of the Sarbanes-Oxley Act requires annual management assessments of the effectiveness of our internal control over financial reporting, starting with the second annual report that we would expect to file with the Securities and Exchange Commission. However, for as long as we remain an "emerging growth company" as defined in the JOBS Act, we have and intend to continue to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act. We may continue to take advantage of these reporting exemptions until we are no longer an "emerging growth company." We will remain an "emerging growth company" until the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of $1 billion or more; (ii) December 31, 2019; (iii) the date on which we have issued more than $1 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the Securities and Exchange Commission.

Until we are able to expand our finance and administrative capabilities and establish necessary financial reporting infrastructure, we may not be able to prepare and disclose, in a timely manner, our financial statements and other required disclosures or comply with the Sarbanes-Oxley Act or existing or new reporting requirements. If we cannot provide reliable financial reports or prevent fraud, our business and results of operations could be harmed and investors could lose confidence in our reported financial information.

***Our employees may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements and insider trading, which could significantly harm our business.***

We are exposed to the risk of employee fraud or other misconduct. Misconduct by employees could include intentional failures to comply with the regulations of the FDA and non-U.S. regulators, provide accurate information to the FDA and non-U.S. regulators, comply with health care fraud and abuse laws and regulations in the United States and abroad, report financial information or data accurately or disclose unauthorized activities to us. In particular, sales, marketing and business arrangements in the health care industry are subject to extensive laws and regulations intended to

Table of Contents

prevent fraud, misconduct, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Employee misconduct could also involve the improper use of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. We have adopted a code of conduct, but it is not always possible to identify and deter employee misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to comply with these laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of significant fines or other sanctions.

***We face potential product liability exposure, and if successful claims are brought against us, we may incur substantial liability for a product candidate and may have to limit its commercialization.***

The use of our product candidates in clinical trials and the sale of any products for which we may obtain marketing approval expose us to the risk of product liability claims. Product liability claims may be brought against us or our potential future collaborators by participants enrolled in our clinical trials, patients, health care providers or others using, administering or selling our products. If we cannot successfully defend ourselves against any such claims, we would incur substantial liabilities. Regardless of merit or eventual outcome, product liability claims may result in:

withdrawal of clinical trial participants;

termination of clinical trial sites or entire trial programs;

costs of related litigation;

substantial monetary awards to patients or other claimants;

decreased demand for our product candidates and loss of revenues;

impairment of our business reputation;

diversion of management and scientific resources from our business operations; and

the inability to commercialize our product candidates.

We currently maintain products liability insurance ($10 million coverage) which covers our clinical trials liability. Our insurance coverage may not reimburse us or may not be sufficient to reimburse us for any expenses or losses we may suffer. Moreover, insurance coverage is becoming increasingly expensive, and, in the future, we may not be able to maintain insurance coverage at a reasonable cost or in sufficient amounts to protect us against losses due to product liability. We intend to expand our insurance coverage for products to include the sale of commercial products if we obtain marketing approval for our product candidates in development, but we may be unable to obtain commercially reasonable product liability insurance for any products approved for marketing. Large judgments have been awarded in class action lawsuits based on drugs that had unanticipated side effects. A successful product liability claim or series of claims brought against us, particularly if judgments exceed our insurance coverage, could decrease our cash resources and adversely affect our business.

***We purchase commercially available insurance at limits provided by our insurance broker based on our business operations. Our insurance policies do not cover all of our business exposures thus leaving us exposed to significant uninsured liabilities.***

We do not carry insurance for all categories of risk that our business may encounter. Some of the policies we currently maintain include general liability ($1 million coverage), umbrella liability

58

Table of Contents

($2 million coverage), employment practices liability, property, auto, workers' compensation, and directors' and officers' insurance. We currently maintain products liability insurance ($10 million coverage) which covers our clinical trials liability. Any significant uninsured liability may require us to pay substantial amounts, which would adversely affect our financial position and results of operations.

***If we engage in an acquisition, reorganization or business combination, we will incur a variety of risks that could adversely affect our business operations or our stockholders.***

From time to time we have considered, and we will continue to consider in the future, strategic business initiatives intended to further the expansion and development of our business. These initiatives may include acquiring businesses, technologies or products or entering into a business combination with another company. If we pursue such a strategy, we could, among other things:

- issue equity securities that would dilute our current stockholders' percentage ownership;
- incur substantial debt that may place strains on our operations;
- spend substantial operational, financial and management resources to integrate new businesses, technologies and products;
- assume substantial actual or contingent liabilities;
- reprioritize our development programs and even cease development and commercialization of our product candidates; or
- merge with, or otherwise enter into a business combination with, another company in which our stockholders would receive cash and/or shares of the other company on terms that certain of our stockholders may not deem desirable.

Although we intend to evaluate and consider acquisitions, reorganizations and business combinations in the future, we have no agreements or understandings with respect to any acquisition, reorganization or business combination at this time.

## Risks Relating to Our Intellectual Property

***It is difficult and costly to protect our proprietary rights, and we may not be able to ensure their protection. If our patent position does not adequately protect our product candidates, others could compete against us more directly, which would harm our business, possibly materially.***

Our commercial success will depend in part on obtaining and maintaining patent protection and trade secret protection of our current and future product candidates and the methods used to develop and manufacture them, as well as successfully defending these patents against third-party challenges. Our ability to stop third parties from making, using, selling, offering to sell or importing our products depends on the extent to which we have rights under valid and enforceable patents or trade secrets that cover these activities. We cannot be sure that patents will be granted with respect to any of our pending patent applications or with respect to any patent applications filed by us in the future, nor can we be sure that any of our existing patents or any patents that may be granted to us in the future will be commercially useful in protecting our product candidates, discovery programs and processes.

***The patent positions of biotechnology and pharmaceutical companies can be highly uncertain and involve complex legal and factual questions for which important legal principles remain unresolved.***

No consistent policy regarding the breadth of claims allowed in pharmaceutical patents has emerged to date in the United States or in many jurisdictions outside of the United States. Changes in either the patent laws or interpretations of patent laws in the United States and other countries may diminish the value of our intellectual property. Accordingly, we cannot predict the breadth of claims

Table of Contents

that may be enforced in the patents that may be issued from the applications we currently or may in the future own or license from third parties. Further, if any patents we obtain or license are deemed invalid and unenforceable, our ability to commercialize or license our technology could be adversely affected.

In the future others may file patent applications covering products and technologies that are similar, identical or competitive to ours or important to our business. We cannot be certain that any patent application owned by a third party will not have priority over patent applications filed or in-licensed by us, or that we or our licensors will not be involved in interference, opposition or invalidity proceedings before U.S. or non-U.S. patent offices.

The degree of future protection for our proprietary rights is uncertain because legal means afford only limited protection and may not adequately protect our rights or permit us to gain or keep our competitive advantage. For example:

- others may be able to develop a platform similar to, or better than, ours in a way that is not covered by the claims of our patents;
- others may be able to make compounds that are similar to our product candidates but that are not covered by the claims of our patents;
- we might not have been the first to make the inventions covered by our pending patent applications;
- we might not have been the first to file patent applications for these inventions;
- others may independently develop similar or alternative technologies or duplicate any of our technologies;
- any patents that we obtain may not provide us with any competitive advantages;
- we may not develop additional proprietary technologies that are patentable; or
- the patents of others may have an adverse effect on our business.

As of December 31, 2013, we were the owner of record or the licensee of 28 issued or granted U.S. and non-U.S. patents relating to Pyridorin with claims directed to methods of making Pyridorin, and methods of using Pyridorin in various indications. We were also the owner of record or licensee of 4 pending U.S. and non-U.S. patent applications relating to Pyridorin in these areas. In addition, as of December 31, 2013, we were the owner of record of 2 pending U.S. and non-U.S. applications relating to our product candidates other than Pyridorin, with claims directed to pharmaceutical compounds, pharmaceutical compositions and methods of using these compounds in various indications.

Patents covering methods of using Pyridorin expire in 2024 if the appropriate maintenance fee renewal, annuity, or other government fees are paid, unless a patent term extension based on regulatory delay is obtained. We expect that expiration in 2016 of some of our method-of-use patents, or their foreign equivalents, covering use of Pyridorin for treating diabetic nephropathy will have a limited impact on our ability to protect our intellectual property in the United States, Europe, and Canada, where we have additional issued patents covering this use that extend until 2024. In other countries, our patent protection covering use of Pyridorin for treating diabetic nephropathy will expire in 2016. We will attempt to mitigate the effect of patent expiration by seeking data exclusivity, or the foreign equivalent thereof, in conjunction with product approval, as well as by filing additional patent applications covering improvements in our intellectual property.

We expect that the other patents and patent applications for the Pyridorin portfolio, if issued, and if the appropriate maintenance, renewal, annuity or other governmental fees are paid, would expire from 2016 to 2032. We own pending applications in the United States and Europe covering Pyridorin

Table of Contents

analogs, and uses of such analogs as therapeutics to treat a variety of disorders, including kidney disorders such as nephropathy. Patent protection, to the extent it issues, would be expected to extend to 2027, unless a patent term extension based on regulatory delay is obtained.

Due to the patent laws of a country, or the decisions of a patent examiner in a country, or our own filing strategies, we may not obtain patent coverage for all of our product candidates or methods involving these candidates in the parent patent application. We plan to pursue divisional patent applications or continuation patent applications in the United States and other countries to obtain claim coverage for inventions which were disclosed but not claimed in the parent patent application.

We may also rely on trade secrets to protect our technology, especially where we do not believe patent protection is appropriate or feasible. However, trade secrets are difficult to protect. Although we use reasonable efforts to protect our trade secrets, our employees, consultants, contractors, outside scientific collaborators and other advisors may unintentionally or willfully disclose our information to competitors. Enforcing a claim that a third party illegally obtained and is using any of our trade secrets is expensive and time consuming, and the outcome is unpredictable. In addition, courts outside the United States are sometimes less willing to protect trade secrets. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how.

***Pyridorin does not have composition of matter patent protection.***

Although we own and exclusively license patents and patent applications with claims directed to the methods of use of Pyridorin (pyridoxamine) to treat particular diabetic nephropathy and other conditions, and methods for its synthesis, we are unaware of any composition of matter patent protection for Pyridorin in the United States or elsewhere. As a result, competitors may be able to offer and sell products including pyridoxamine so long as these competitors do not infringe any other patents that we or third parties hold, including synthesis and method of use patents. However, method of use patents, in particular, are more difficult to enforce than composition of matter patents because of the risk of off-label sale or use of the subject compounds. Physicians are permitted to prescribe an approved product for uses that are not described in the product's labeling. Although off-label prescriptions may infringe our method of use patents, the practice is common across medical specialties and such infringement is difficult to prevent or prosecute. Off-label sales would limit our ability to generate revenue from the sale of Pyridorin, if approved for commercial sale.

In addition, other third parties have obtained patents in the United States and elsewhere relating to methods of use of pyridoxamine for the treatment of certain diseases. As a result, it is possible that we could face competition from third party products that have pyridoxamine as the active pharmaceutical ingredient. If a third party were to obtain FDA approval in the United States for the use of pyridoxamine, or regulatory approval in another jurisdiction, for an indication before we did, such third party would be first to market and could establish the price for pyridoxamine in these jurisdictions. This could adversely impact our ability to implement our pricing strategy for the product and may limit our ability to maximize the commercial potential of Pyridorin in the United States and elsewhere. The presence of a lower priced competitive product with the same active pharmaceutical ingredients as our product could lead to use of the competitive product for our diabetic nephropathy indication. This could lead to pricing pressure for Pyridorin, which would adversely affect our ability to generate revenue from the sale of Pyridorin for treating diabetic nephropathy.

***We may incur substantial costs as a result of litigation or other proceedings relating to patent and other intellectual property rights.***

If we choose to go to court to stop another party from using the inventions claimed in any patents we obtain, that individual or company has the right to ask the court to rule that such patents are invalid or should not be enforced against that third party. These lawsuits are expensive and would

Table of Contents

consume time and resources and divert the attention of managerial and scientific personnel even if we were successful in stopping the infringement of such patents. In addition, there is a risk that the court will decide that such patents are not valid and that we do not have the right to stop the other party from using the inventions. There is also the risk that, even if the validity of such patents is upheld, the court will refuse to stop the other party on the ground that such other party's activities do not infringe our rights to such patents. In addition, the U.S. Supreme Court has recently modified some tests used by the U.S. Patent and Trademark Office (USPTO) in granting patents over the past 20 years, which may decrease the likelihood that we will be able to obtain patents and increase the likelihood of challenge of any patents we obtain or license.

***We may infringe the intellectual property rights of others, which may prevent or delay our product development efforts and stop us from commercializing or increase the costs of commercializing our product candidates.***

Our success will depend in part on our ability to operate without infringing the proprietary rights of third parties. We cannot guarantee that our products, or manufacture or use of our product candidates, will not infringe third-party patents. Furthermore, a third party may claim that we or our manufacturing or commercialization collaborators are using inventions covered by the third party's patent rights and may go to court to stop us from engaging in our normal operations and activities, including making or selling our product candidates. These lawsuits are costly and could affect our results of operations and divert the attention of managerial and scientific personnel. There is a risk that a court would decide that we or our commercialization collaborators are infringing the third party's patents and would order us or our collaborators to stop the activities covered by the patents. In that event, we or our commercialization collaborators may not have a viable way around the patent and may need to halt commercialization of the relevant product. In addition, there is a risk that a court will order us or our collaborators to pay the other party damages for having violated the other party's patents. In the future, we may agree to indemnify our commercial collaborators against certain intellectual property infringement claims brought by third parties. The pharmaceutical and biotechnology industries have produced a proliferation of patents, and it is not always clear to industry participants, including us, which patents cover various types of products or methods of use. The coverage of patents is subject to interpretation by the courts, and the interpretation is not always uniform. If we are sued for patent infringement, we would need to demonstrate that our products or methods either do not infringe the patent claims of the relevant patent or that the patent claims are invalid, and we may not be able to do this. Proving invalidity is difficult. For example, in the United States, proving invalidity requires a showing of clear and convincing evidence to overcome the presumption of validity enjoyed by issued patents. Even if we are successful in these proceedings, we may incur substantial costs and divert management's time and attention in pursuing these proceedings, which could have a material adverse effect on us. If we are unable to avoid infringing the patent rights of others, we may be required to seek a license, which may not be available, defend an infringement action or challenge the validity of the patents in court. Patent litigation is costly and time consuming. We may not have sufficient resources to bring these actions to a successful conclusion. In addition, if we do not obtain a license, develop or obtain non-infringing technology, fail to defend an infringement action successfully or have infringed patents declared invalid, we may incur substantial monetary damages, encounter significant delays in bringing our product candidates to market and be precluded from manufacturing or selling our product candidates.

We cannot be certain that others have not filed patent applications for technology covered by our pending applications, or that we were the first to invent the technology, because:

- some patent applications in the United States may be maintained in secrecy until the patents are issued;
- patent applications in the United States are typically not published until 18 months after the priority date; and

Table of Contents

publications in the scientific literature often lag behind actual discoveries.

Our competitors may have filed, and may in the future file, patent applications covering technology similar to ours. Any such patent application may have priority over our patent applications, which could further require us to obtain rights to issued patents covering such technologies. If another party has filed a U.S. patent application on inventions similar to ours, we may have to participate in an interference proceeding declared by the USPTO to determine priority of invention in the United States. The costs of these proceedings could be substantial, and it is possible that such efforts would be unsuccessful if, unbeknownst to us, the other party had independently arrived at the same or similar invention prior to our own invention, resulting in a loss of our U.S. patent position with respect to such inventions. Other countries have similar laws that permit secrecy of patent applications, and may be entitled to priority over our applications in such jurisdictions.

Some of our competitors may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise the funds necessary to continue our operations.

***Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.***

Periodic maintenance fees, renewal fees, annuity fees and various other governmental fees on patents and/or applications will be due to be paid to the USPTO and various governmental patent agencies outside of the United States in several stages over the lifetime of the patents and/or applications. We employ an outside firm and rely on our outside counsel to pay these fees due to non-U.S. patent agencies and this outside firm has systems in place to ensure compliance on payment of fees. The USPTO and various non-U.S. governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. We employ reputable law firms and other professionals to help us comply, and in many cases, an inadvertent lapse can be cured by payment of a late fee or by other means in accordance with the applicable rules. However, there are situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, our competitors might be able to enter the market and this circumstance would have a material adverse effect on our business.

***We may be subject to claims that our employees have wrongfully used or disclosed alleged trade secrets of their former employers. If we are not able to adequately prevent disclosure of trade secrets and other proprietary information, the value of our technology and products could be significantly diminished.***

As is common in the biotechnology and pharmaceutical industries, we employ individuals who were previously employed at other biotechnology or pharmaceutical companies, including our competitors or potential competitors. We may be subject to claims that these employees, or we, have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management.

We rely on trade secrets to protect our proprietary technologies, especially where we do not believe patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. We rely in part on confidentiality agreements with our employees, consultants, outside scientific collaborators, sponsored researchers and other advisors to protect our trade secrets and other proprietary information. These agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of

Table of Contents

confidential information. In addition, others may independently discover our trade secrets and proprietary information. For example, the FDA, as part of its Transparency Initiative, is currently considering whether to make additional information publicly available on a routine basis, including information that we may consider to be trade secrets or other proprietary information, and it is not clear at the present time how the FDA's disclosure policies may change in the future, if at all. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to obtain or maintain trade secret protection could adversely affect our competitive business position.

***Failure to secure trademark registrations could adversely affect our business.***

If we seek to register additional trademarks, our trademark applications may not be allowed for registration or our registered trademarks may not be maintained or enforced. During trademark registration proceedings, we may receive rejections. Although we are given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in the USPTO and in comparable agencies in many other jurisdictions, third parties are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our trademarks, and our trademarks may not survive such proceedings. If we do not secure registrations for our trademarks, we may encounter more difficulty in enforcing them against third parties than we otherwise would.

***If the FDA, EMA or other regulatory agencies fail to monitor and enforce the illegal sale of pyridoxamine as a dietary supplement, the commercial success of Pyridorin may be limited.***

Following the publication of the initial Phase 2 studies that evaluated pyridoxamine therapy in diabetic nephropathy patients, a number of dietary supplement companies began selling pyridoxamine over the internet. In January 2009, the FDA ruled that pyridoxamine is an investigational drug candidate not eligible for sale as a dietary supplement. A significant decline in product availability occurred after the issuance of the above mentioned FDA ruling. However, approximately 5 sites on the internet can be found that continue to illegally sell pyridoxamine. In at least one example, the FDA has taken action against a dietary supplement company and prohibited such company from selling an FDA approved active drug ingredient in a dietary supplement. However, there is no guarantee that the FDA will take action against other companies that illegally sell pyridoxamine after its approval. Food and dietary supplements in Europe are regulated by Directive 2002/46/EC, European Commission, Health and Consumers Directorate-General. Those approved are listed in Annex I and II of Directive 2002/46/EC. Pyridoxamine is not included on either list, and therefore the sale of pyridoxamine in foods and supplements in Europe is not permitted. The European Commission, Health and Consumers Directorate-General has indicated to us in April of this year that no applications for pyridoxamine have been received and that any new product intended for preventing, curing or treating diseases, would fall under the scope of medicinal products and not dietary supplements products. We are not aware of any direct action that this agency has taken against a company illegally selling an EMA approved drug for preventing, curing or treating disease, in the European Union. It is possible that this agency would not be successful in prohibiting such sales. We will rely on the FDA, EMA and other regulatory agencies to enforce laws and rulings that prohibit the illegal sale of pyridoxamine as a dietary supplement. If these agencies fail to enforce such laws and rulings, the commercial success of Pyridorin may be limited.

Table of Contents

**Risks Relating to Owning Our Common Stock**

***The trading market in our common stock has been extremely limited and substantially less liquid than the average trading market for a stock quoted on the NASDAQ Capital Market.***

Since our initial listing on the NASDAQ Capital Market on February 11, 2014, the trading market in our common stock has been extremely limited and substantially less liquid than the average trading market for companies quoted on the NASDAQ Capital Market. The quotation of our common stock on the NASDAQ Capital Market does not assure that a meaningful, consistent and liquid trading market currently exists. We cannot predict whether a more active market for our common stock will develop in the future. An absence of an active trading market could adversely affect our stockholders' ability to sell our common stock at current market prices in short time periods, or possibly at all. Additionally, market visibility for our common stock may be limited and such lack of visibility may have a depressive effect on the market price for our common stock. As of March 17, 2014, approximately 69.0% of our outstanding shares of common stock was held by our officers, directors, beneficial owners of 5% or more of our securities and their respective affiliates, which adversely affects the liquidity of the trading market for our common stock, in as much as federal securities laws restrict sales of our shares by these stockholders. If our affiliates continue to hold their shares of common stock, there will be limited trading volume in our common stock, which may make it more difficult for investors to sell their shares or increase the volatility of our stock price. In addition, as of March 17, 2014, 6,624,907 shares of common stock, or 74.8% of our outstanding shares, were restricted from resale under securities laws or as a result of lock-up agreements, further limiting the liquidity of our common stock; however, such lock-up agreements will expire at the close of business on August 10, 2014.

***Our share price may be volatile, which could subject us to securities class action litigation and result in substantial losses to our stockholders.***

The trading price of our common stock is highly volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control. Since our initial public offering which occurred in February 2014 until March 26, 2014, the price of our common stock on the NASDAQ Capital Market has ranged from $7.26 per share to $12.88 per share. In addition to the factors discussed in this "Risk Factors" section and elsewhere in this Annual Report on Form 10-K, these factors include:

results of our clinical trials;

results of clinical trials of our competitors' products;

regulatory actions with respect to our products or our competitors' products;

actual or anticipated fluctuations in our financial condition and operating results;

actual or anticipated changes in our growth rate relative to our competitors;

actual or anticipated fluctuations in our competitors' operating results or changes in their growth rate;

competition from existing products or new products that may emerge;

announcements by us, our potential future collaborators or our competitors of significant acquisitions, strategic collaborations, joint ventures, or capital commitments;

issuance of new or updated research or reports by securities analysts;

fluctuations in the valuation of companies perceived by investors to be comparable to us;

share price and volume fluctuations attributable to inconsistent trading volume levels of our shares;

Table of Contents

additions or departures of key management or scientific personnel;

disputes or other developments related to proprietary rights, including patents, litigation matters and our ability to obtain patent protection for our technologies;

announcement or expectation of additional financing efforts;

sales of our common stock by us, our insiders or our other stockholders;

market conditions for biopharmaceutical stocks in general; and

general economic and market conditions.

Furthermore, the stock markets have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions such as recessions, interest rate changes or international currency fluctuations, may negatively impact the market price of shares of our common stock, regardless of our actual operating performance. In addition, such fluctuations could subject us to securities class action litigation, which could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business. As a result of this volatility, our stockholders could incur substantial losses.

***We have a significant stockholder, which will limit your ability to influence corporate matters and may give rise to conflicts of interest.***

Care Capital III LLC, together with its affiliates (collectively, Care Capital) is our largest stockholder. As of March 17, Care Capital beneficially owned 4,241,097 shares of our common stock. The shares of common stock beneficially owned by Care Capital represent approximately 47.9% of our outstanding shares of common stock. Accordingly, Care Capital exerts significant influence over us and any action requiring the approval of the holders of our common stock, including the election of directors and approval of significant corporate transactions. This concentration of voting power makes it less likely that any other holder of common stock or directors of our business will be able to affect the way we are managed and could delay or prevent an acquisition of us on terms that other stockholders may desire. In addition, if Care Capital obtains a majority of our common stock, Care Capital would be able to control all matters submitted to our stockholders for approval, as well as our management and affairs. For example, Care Capital would be able to control the election of directors, amendments to our organizational documents and approval of any merger, consolidation, sale of all or substantially all of our assets or other business combination or reorganization. In addition, if Care Capital obtains a majority of our common stock, we would be deemed a "controlled company" for purposes of NASDAQ listing requirements. Under NASDAQ rules, a "controlled company" may elect not to comply with certain NASDAQ corporate governance requirements, including (i) the requirement that a majority of our board of directors consist of independent directors, (ii) the requirement that the compensation of our officers be determined or recommended to the board by a majority of independent directors or a compensation committee that is composed entirely of independent directors, and (iii) the requirement that director nominees be selected or recommended to the board by a majority of independent directors or a nominating committee that is composed of entirely independent directors.

Furthermore, the interests of Care Capital may not always coincide with your interests or the interests of other stockholders and Care Capital may act in a manner that advances its best interests and not necessarily those of other stockholders, including seeking a premium value for its common stock, and might affect the prevailing market price for our common stock. Our board of directors, which currently consists of six directors, including two designated by Care Capital, has the power to set

Table of Contents

the number of directors on our board from time to time. Richard Markham and Robert R. Seltzer, partners at Care Capital, were elected to our board of directors as nominees of Care Capital.

***Being a public company has increased our expenses and administrative burden.***

As a public company, we are incurring, and will continue to incur significant legal, insurance, accounting and other expenses that we did not incur as a private company. In addition, our administrative staff is required to perform additional tasks and we are required to bear all of the internal and external costs of preparing and distributing periodic public reports in compliance with our obligations under the securities laws.

In addition, laws, regulations and standards applicable to public companies relating to corporate governance and public disclosure, including the Sarbanes-Oxley Act and related regulations implemented by the Securities and Exchange Commission and the NASDAQ Stock Market, are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment will result in increased general and administrative expenses and may divert management's time and attention from product development activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us and our business may be harmed. In connection with our initial public offering, we increased our directors' and officers' insurance coverage, which increased our insurance cost. In the future, it will be more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

***We are an "emerging growth company" and we will continue to avail ourselves of the reduced disclosure requirements applicable to emerging growth companies, which could make our common stock less attractive to investors.***

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012 (the JOBS Act) and we have and intend to continue to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including not being required to comply with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved. We cannot predict if investors will find our common stock less attractive because we have and may continue to rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

We may take advantage of these reporting exemptions until we are no longer an "emerging growth company." We will remain an "emerging growth company" until the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of $1 billion or more; (ii) December 31, 2019; (iii) the date on which we have issued more than $1 billion in nonconvertible debt during the previous

Table of Contents

three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the Securities and Exchange Commission.

***If we fail to maintain an effective system of internal control over financial reporting in the future, we may not be able to accurately report our financial condition, results of operations or cash flows, which may adversely affect investor confidence in us and, as a result, the value of our common stock.***

The Sarbanes-Oxley Act requires, among other things, that we maintain effective internal controls for financial reporting and disclosure controls and procedures. Commencing with our annual report on Form 10-K for the year ending December 31, 2014, we will be required, under Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. A material weakness is a control deficiency, or combination of control deficiencies, in internal control over financial reporting that results in more than a reasonable possibility that a material misstatement of annual or interim financial statements will not be prevented or detected on a timely basis. Section 404 of the Sarbanes-Oxley Act also generally requires an attestation from our independent registered public accounting firm on the effectiveness of our internal control over financial reporting. However, for as long as we remain an emerging growth company, as defined in the JOBS Act, we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies including, but not limited to, not being required to comply with the independent registered public accounting firm's requirement to attest to the effectiveness of our internal controls over financial reporting.

Our compliance with Section 404 will require that we incur substantial accounting expense and expend significant management efforts. We currently do not have an internal audit group, and we will need to hire additional accounting and financial staff with appropriate public company experience and technical accounting knowledge, and compile the system and process documentation necessary to perform the evaluation needed to comply with Section 404. We may not be able to complete our evaluation, testing and any required remediation in a timely fashion. During the evaluation and testing process, if we identify one or more material weaknesses in our internal control over financial reporting, we will be unable to assert that our internal control over financial reporting is effective. We cannot assure you that there will not be material weaknesses or significant deficiencies in our internal control over financial reporting in the future. Any failure to maintain internal control over financial reporting could severely inhibit our ability to accurately report our financial condition, results of operations or cash flows. If we are unable to conclude that our internal control over financial reporting is effective, or if our independent registered public accounting firm determines we have a material weakness or significant deficiency in our internal control over financial reporting once that firm begin its Section 404 reviews, we could lose investor confidence in the accuracy and completeness of our financial reports, the market price of our common stock could decline, and we could be subject to sanctions or investigations by the NASDAQ, the SEC or other regulatory authorities. Failure to remedy any material weakness in our internal control over financial reporting, or to implement or maintain other effective control systems required of public companies, could also restrict our future access to the capital markets.

***Our disclosure controls and procedures may not prevent or detect all errors or acts of fraud.***

We are subject to the periodic reporting requirements of the Exchange Act. Our disclosure controls and procedures are designed to reasonably assure that information required to be disclosed by us in reports we file or submit under the Exchange Act is accumulated and communicated to management, recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. We believe that any disclosure controls and procedures or internal controls

Table of Contents

and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met.

These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by an unauthorized override of the controls. Accordingly, because of the inherent limitations in our control system, misstatements or insufficient disclosure due to error or fraud may occur and not be detected.

***A significant portion of our total outstanding shares of common stock is restricted from immediate resale but may be sold into the market in the near future. This could cause the market price of our common stock to drop significantly, even if our business is doing well.***

Sales of a substantial number of shares of our common stock in the public market could occur in the future. These sales, or the perception in the market that the holders of a large number of shares of common stock intend to sell shares, could reduce the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. We are unable to predict the effect that sales may have on the prevailing market price of our common stock.

As of March 17, 2014, we had 8,855,114 shares of common stock outstanding. Of these shares, 2,389,787 shares may be resold in the public market immediately and the remaining 6,465,333 shares are currently restricted under securities laws or as a result of lock-up agreements entered into in connection with our initial public offering but will be able to be resold on August 10, 2014, the first day after the lock-up expires, subject to Rule 144. Sales of stock by these stockholders could have a material adverse effect on the trading price of our common stock.

Moreover, holders of an aggregate of 5,747,951 shares of our common stock will have rights, subject to certain conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. We also intend to register all 676,923 shares of common stock that we may issue under our equity compensation plans. Once we register these shares, they can be freely sold in the public market upon issuance and once vested, subject to the 180 day lock-up periods under the lock-up agreements entered into in connection with our initial public offering.

***Future sales and issuances of our common stock or rights to purchase common stock pursuant to our equity incentive plans could result in additional dilution of the percentage ownership of our stockholders and could cause our share price to fall.***

We expect that significant additional capital will be needed in the future to continue our planned operations. To the extent we raise additional capital by issuing equity securities, our stockholders may experience substantial dilution. We may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in a manner we determine from time to time. If we sell common stock, convertible securities or other equity securities in more than one transaction, investors may be materially diluted by subsequent sales. Such sales may also result in material dilution to our existing stockholders, and new investors could gain rights superior to our existing stockholders.

In connection with our initial public offering, we agreed, subject to limited exceptions, not to issue, sell or transfer any shares of common stock for 180 days after the date of the prospectus without the consent of Aegis Capital Corp. Our officers, directors and certain stockholders agreed prior to the commencement of our initial public offering, subject to limited exceptions, not to sell or transfer any shares of common stock for 180 days after the date of the prospectus without the consent of Aegis Capital Corp. However, Aegis Capital Corp. may release these shares from any restrictions at any time. We cannot predict what effect, if any, market sales of shares held by any stockholder or the availability of shares for future sale will have on the market price of our common stock.

Table of Contents

As of December 31, 2013, we had 563,855 options outstanding under our 2005 Plan. Sales of shares granted under our equity incentive plans may result in material dilution to our existing stockholders, which could cause our share price to fall.

As of December 31, 2013, we had 24,000 restricted stock units outstanding that were approved by our stockholders. In addition, we registered shares of our common stock underlying the warrants issued to the representative of the underwriters in connection with our initial public offering.

***If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our share price and trading volume could decline.***

The trading market for our common stock will depend on the research and reports that securities or industry analysts publish about us or our business. We do not have any control over these analysts. There can be no assurance that analysts will continue to cover us or provide favorable coverage. If one or more of the analysts who cover us downgrade our stock or change their opinion of our stock, our share price would likely decline. If one or more of these analysts cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our share price or trading volume to decline.

***NASDAQ may delist our securities from its exchange, which could limit investors' ability to make transactions in our securities and subject us to additional trading restrictions.***

If we fail to maintain the listing of our common stock on the NASDAQ Global Market, the liquidity for our common stock would be significantly impaired, which may substantially decrease the trading price of our common stock. We cannot assure you that, in the future, our securities will meet the continued listing requirements to be listed on NASDAQ. If NASDAQ delists our common stock from trading on its exchange, we could face significant material adverse consequences, including:

a limited availability of market quotations for our securities;

a determination that our common stock is a "penny stock" which will require brokers trading in our common stock to adhere to more stringent rules and possibly resulting in a reduced level of trading activity in the secondary trading market for our common stock;

a limited amount of news and analyst coverage for our company; and

a decreased ability to issue additional securities or obtain additional financing in the future.

***If our shares become subject to the penny stock rules, it would become more difficult to trade our shares.***

The SEC has adopted rules that regulate broker-dealer practices in connection with transactions in penny stocks. Penny stocks are generally equity securities with a price of less than $5.00, other than securities registered on certain national securities exchanges or authorized for quotation on certain automated quotation systems, provided that current price and volume information with respect to transactions in such securities is provided by the exchange or system. If we do not obtain or retain a listing on The NASDAQ Capital Market and if the price of our common stock is less than $5.00, our common stock will be deemed a penny stock. The penny stock rules require a broker-dealer, before a transaction in a penny stock not otherwise exempt from those rules, to deliver a standardized risk disclosure document containing specified information. In addition, the penny stock rules require that before effecting any transaction in a penny stock not otherwise exempt from those rules, a broker-dealer must make a special written determination that the penny stock is a suitable investment for the purchaser and receive (i) the purchaser's written acknowledgment of the receipt of a risk disclosure statement; (ii) a written agreement to transactions involving penny stocks; and (iii) a signed and dated copy of a written suitability statement. These disclosure requirements may have the effect of reducing

Table of Contents

the trading activity in the secondary market for our common stock, and therefore stockholders may have difficulty selling their shares.

***Some provisions of our charter documents and Delaware law may have anti-takeover effects that could discourage an acquisition of us by others, even if an acquisition would be beneficial to our stockholders, and may prevent attempts by our stockholders to replace or remove our current management.***

Provisions in our restated certificate of incorporation and bylaws, as well as provisions of Delaware law, could make it more difficult for a third party to acquire us or increase the cost of acquiring us, even if doing so would benefit our stockholders. These provisions include:

- authorizing the issuance of "blank check" convertible preferred stock, the terms of which may be established and shares of which may be issued without stockholder approval;
- limiting the removal of directors by the stockholders;
- creating a staggered board of directors;
- prohibiting stockholder action by written consent, thereby requiring all stockholder actions to be taken at a meeting of our stockholders;
- eliminating the ability of stockholders to call a special meeting of stockholders;
- permitting our board of directors to accelerate the vesting of outstanding equity awards upon certain transactions that result in a change of control; and
- establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon at stockholder meetings.

These provisions may also frustrate or prevent any attempts by our stockholders to replace or remove our current management or members of our board of directors. In addition, we are subject to Section 203 of the Delaware General Corporation Law (DGCL), which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with an interested stockholder for a period of three years following the date on which the stockholder became an interested stockholder, unless such transactions are approved by our board of directors. This provision could have the effect of delaying or preventing a change of control, whether or not it is desired by or beneficial to our stockholders. Further, other provisions of Delaware law may also discourage, delay or prevent someone from acquiring us or merging with us.

***Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful stockholder claims against us and may reduce the amount of money available to us.***

As permitted by Section 102(b)(7) of the DGCL, our restated certificate of incorporation limits the liability of our directors to the fullest extent permitted by law. In addition, as permitted by Section 145 of the DGCL, our restated certificate of incorporation and restated bylaws provide that we shall indemnify, to the fullest extent authorized by the DGCL, each person who is involved in any litigation or other proceeding because such person is or was a director or officer of our company or is or was serving as an officer or director of another entity at our request, against all expense, loss or liability reasonably incurred or suffered in connection therewith. Our restated certificate of incorporation provides that the right to indemnification includes the right to be paid expenses incurred in defending any proceeding in advance of its final disposition, provided, however, that such advance payment will only be made upon delivery to us of an undertaking, by or on behalf of the director or officer, to repay all amounts so advanced if it is ultimately determined that such director is not entitled to indemnification. If we do not pay a proper claim for indemnification in full within 60 days after we receive a written claim for such indemnification, except in the case of a claim for an advancement of expenses, in which case such period is 20 days, our restated certificate of incorporation and our

Table of Contents

restated bylaws authorize the claimant to bring an action against us and prescribe what constitutes a defense to such action.

Section 145 of the DGCL permits a corporation to indemnify any director or officer of the corporation against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred in connection with any action, suit or proceeding brought by reason of the fact that such person is or was a director or officer of the corporation, if such person acted in good faith and in a manner that 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, if he or she had no reason to believe his or her conduct was unlawful. In a derivative action, (i.e., one brought by or on behalf of the corporation), indemnification may be provided only for expenses actually and reasonably incurred by any director or officer in connection with the defense or settlement of such an action or suit if such person acted in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification shall be provided if such person shall have been adjudged to be liable to the corporation, unless and only to the extent that the court in which the action or suit was brought shall determine that the defendant is fairly and reasonably entitled to indemnity for such expenses despite such adjudication of liability.

The rights conferred in the restated certificate of incorporation and the restated bylaws are not exclusive, and we are authorized to enter into indemnification agreements with our directors, officers, employees and agents and to obtain insurance to indemnify such persons. We have entered into or plan to enter into indemnification agreements with each of our officers and directors.

The above limitations on liability and our indemnification obligations limit the personal liability of our directors and officers for monetary damages for breach of their fiduciary duty as directors by shifting the burden of such losses and expenses to us. Although we have increased the coverage under our directors' and officers' liability insurance, certain liabilities or expenses covered by our indemnification obligations may not be covered by such insurance or the coverage limitation amounts may be exceeded. As a result, we may need to use a significant amount of our funds to satisfy our indemnification obligations, which could severely harm our business and financial condition and limit the funds available to stockholders who may choose to bring a claim against our company.

***We do not anticipate paying cash dividends, and accordingly, stockholders must rely on stock appreciation for any return on their investment.***

We do not anticipate paying cash dividends in the future. As a result, only appreciation of the market price of our common stock, which may never occur, will provide a return to stockholders. Investors seeking cash dividends should not invest in our common stock.

***Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.***

As of December 31, 2013, we had federal net operating loss carryforwards (NOLs) of $23.9 million which expire from 2024 through 2033. Our ability to utilize our NOLs may be limited under Section 382 of the Internal Revenue Code. The limitations apply if an ownership change, as defined by Section 382, occurs. Generally, an ownership change occurs when certain shareholders increase their aggregate ownership by more than 50 percentage points over their lowest ownership percentage in a testing period (typically three years). Although we have not undergone a Section 382 analysis, it is possible that the utilization of the NOLs, could be substantially limited. Additionally, U.S. tax laws limit the time during which these carryforwards may be utilized against future taxes. As a result, we may not be able to take full advantage of these carryforwards for federal and state tax purposes. Future changes in stock ownership may also trigger an ownership change and, consequently, a Section 382 limitation.

Table of Contents

**Item 1B. UNRESOLVED STAFF COMMENTS**

None.

**Item 2. PROPERTIES**

Our corporate headquarters and clinical development operations are located in Research Triangle Park, North Carolina where we lease and occupy approximately 3,100 square feet of space. The lease for our office expired in December 2013 and is currently leased on a month-to-month basis. We intend to enter into a long-term lease in the near future. We believe that our facility is suitable and adequate for our current needs.

**Item 3. LEGAL PROCEEDINGS**

We are not a party to any legal proceedings and we are not aware of any claims or actions pending or threatened against us. In the future, we might from time to time become involved in litigation relating to claims arising from our ordinary course of business.

**Item 4. MINE SAFETY DISCLOSURES**

Not applicable.

**PART II**

**Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

**Market Information**

Our Common Stock began trading on the NASDAQ Capital Market on February 11, 2014 under the symbol "NRX". Prior to that there was no public market for our common stock. Shares sold in our initial public offering on February 10, 2014 were priced at $12.00 per share.

On March 17, 2014, the trading price for the common stock as reported on the NASDAQ Capital Market was $9.16. The following table sets forth the high and low sales prices for the Common Stock, as reported on the NASDAQ Capital Market since our common stock commenced public trading on February 11, 2014:

**Year Ended December 31, 2014 man" SIZE="2">** 12

| **Estimated proved reserves:** [3] | | | | | |
|---|---|---|---|---|---|
| Natural gas (Bcf) | 2,571 | 1,675 | 1,233 | 774 | 851 |
| Oil (MMBbls) | 191 | 189 | 156 | 102 | 84 |
| NGL (MMBbls) | 179 | 94 | 71 | 54 | 51 |
| Total (Bcfe) | 4,796 | 3,370 | 2,597 | 1,712 | 1,660 |

(3) In accordance with SEC regulations, reserves at December 31, 2012, December 31, 2011, December 31, 2010, and December 31, 2009, were estimated using the average price during the 12-month period, determined as an unweighted average of the first-day-of-the-month price for each month, excluding escalations based upon future conditions. In accordance with SEC regulations, reserves at December 31, 2008, were estimated using year-end prices. The price used to estimate reserves is held constant over the life of the reserves.

Table of Contents

Index to Financial Statements

**SUMMARY UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION**

The acquisition of Berry will be accounted for under the acquisition method of accounting for business combinations in accordance with U.S. generally accepted accounting principles ( GAAP ). Under the acquisition method of accounting, the assets acquired and liabilities assumed from Berry will be recorded as of the acquisition date at their respective fair values. LinnCo s contribution of Berry to LINN will be accounted for as a sale by LinnCo.

The pro forma financial information does not give effect to the costs of any integration activities or benefits that may result from the realization of future cost savings from operating efficiencies, or any other synergies that may result from the transactions and changes in commodity and share prices.

The summary selected unaudited pro forma condensed combined financial information has been prepared for informational purposes only and does not purport to represent what the actual results of operations or the financial position of LinnCo or LINN would have been had the transactions, the Green River Acquisition and the Hugoton Acquisition been completed as of the dates assumed, nor is this information necessarily indicative of future consolidated results of operations or financial position. The following information has been derived from, and should be read in conjunction with, the unaudited pro forma condensed combined financial statements and the related notes included in this joint proxy statement/prospectus.

*LinnCo:*

The unaudited pro forma condensed combined balance sheet gives effect to the acquisition of Berry as if the transactions had been completed as of September 30, 2013. The unaudited pro forma condensed combined statement of operations gives effect to the acquisition of Berry as if the transactions had been completed as of April 30, 2012 (the date of LinnCo s inception).

| | At or for the Nine Months Ended September 30, 2013 | For the Year Ended December 31, 2012 |
|---|---|---|
| | (in thousands, except per share amounts) | |
| **Statement of operations data:** | | |
| Equity income from investment in Linn Energy, LLC | $ 86,223 | $ 21,713 |
| Expenses | 1,694 | 1,230 |
| Income tax expense | 30,678 | 7,703 |
| Net income | 53,851 | 12,780 |
| Net income per share, basic and diluted | $ 0.52 | $ 0.16 |
| Weighted average shares outstanding, basic and diluted | 104,032 | 79,991 |
| **Balance sheet data:** | | |
| Total assets | $ 3,196,020 | |
| Total liabilities | 523,612 | |
| Shareholders equity | 2,672,408 | |

**Table of Contents**

**Index to Financial Statements**

*LINN:*

The unaudited pro forma condensed combined balance sheet gives effect to LinnCo s contribution of Berry to LINN as if the transactions had been completed as of September 30, 2013. The unaudited pro forma condensed combined statement of operations gives effect to (i) LinnCo s contribution of Berry to LINN as if the transactions had been completed as of January 1, 2012, and (ii) LINN s acquisitions of certain oil and natural gas properties located in the Green River Basin area of southwest Wyoming in July 2012 (the Green River Acquisition ) and in the Hugoton Basin area of southwestern Kansas in March 2012 (the Hugoton Acquisition ), as if they had been completed as of January 1, 2012.

| | At or for the Nine Months Ended September 30, 2013 | For the Year Ended December 31, 2012 |
|---|---|---|
| | (in thousands, except per unit amounts) | |
| **Statement of operations data:** | | |
| Oil, natural gas and natural gas liquids sales | $ 2,336,280 | $ 2,701,821 |
| Gains on oil and natural gas derivatives | 135,453 | 197,953 |
| Depreciation, depletion and amortization | 857,526 | 948,161 |
| Interest expense, net of amounts capitalized | 377,655 | 489,168 |
| Net income (loss) | 259,783 | (171,297) |
| Net income (loss) per unit, basic | 0.84 | (0.64) |
| Net income (loss) per unit, diluted | $ 0.84 | $ (0.64) |
| Weighted average units outstanding, basic | 305,314 | 275,696 |
| Weighted average units outstanding, diluted | 305,686 | 275,696 |
| **Balance sheet data:** | | |
| Cash and cash equivalents | $ 51,535 | |
| Total assets | 16,236,145 | |
| Long-term debt | 8,074,757 | |
| Unitholders capital | 6,530,088 | |

Table of Contents

Index to Financial Statements

**UNAUDITED COMPARATIVE PER SHARE DATA**

The following tables set forth certain historical, pro forma and pro forma equivalent per share financial information for LinnCo common shares, LINN units and Berry common stock.

*LinnCo:*

The pro forma and pro forma-equivalent per share information gives effect to the transactions as if the transactions had been completed as of the dates presented, in the case of the book value data, and as if the transactions had been completed as of April 30, 2012 (the date of LinnCo s inception), in the case of the net income and dividends declared data.

*LINN:*

The pro forma and pro forma-equivalent per share information gives effect to the transactions as if the transactions had been completed as of the dates presented, in the case of the book value data, and as if the transactions had been completed as of January 1, 2012, and the Green River and Hugoton Acquisitions had been completed as of January 1, 2012, in the case of the net income and distributions declared data.

The pro forma data in the tables assumes that the transactions are accounted for using the acquisition method of accounting and represents a current estimate based on available information of the combined company s results of operations. The pro forma financial adjustments record the assets acquired and liabilities assumed from Berry at their estimated fair values and are subject to adjustment as additional information becomes available and as additional analyses are performed. See Accounting Treatment. The information in the following table is based on, and should be read together with, the Berry audited financial statements and related notes incorporated by reference in this joint proxy statement/prospectus, the LinnCo and LINN audited financial statements and related notes included elsewhere in this joint proxy statement/prospectus and the unaudited pro forma condensed combined financial statements included under Unaudited Pro Forma Condensed Combined Financial Information. See Where You Can Find More Information.

The pro forma information set forth below, while helpful in illustrating the financial characteristics of the combined company under one set of assumptions, does not reflect the possible impact on the combined company that may result as a consequence of the transactions and, accordingly, does not attempt to predict or suggest future results. It also does not necessarily reflect what the historical results of the combined company would have been had Berry and LINN been combined during these periods. The Comparative Per Share Data Table for the year ended December 31, 2012 combines the historical income per share data of Berry and its subsidiaries and LINN and its subsidiaries giving effect to the transactions as if the transactions had been completed as of January 1, 2012, and the Green River and Hugoton Acquisitions had been completed as of January 1, 2012, using the acquisition method of accounting. Upon completion of the transactions, the operating results of Berry will be reflected in the consolidated financial statements of LINN on a prospective basis.

Table of Contents

Index to Financial Statements

*LinnCo:*

| | LinnCo Historical | Berry Historical | Pro Forma | Pro Forma Equivalent Berry [a] |
|---|---|---|---|---|
| **Net income for the nine months ended September 30, 2013:** | | | | |
| Basic | $ 0.42 | $ 2.20 | $ 0.52 | $ 0.65 |
| Diluted | 0.42 | 2.19 | 0.52 | 0.65 |
| **Net income for the period from April 30, 2012 (LinnCo s inception) to December 31, 2012:** | | | | |
| Basic | 1.92 | NM | 0.16 | 0.20 |
| Diluted | 1.92 | NM | 0.16 | 0.20 |
| **Dividends declared:** | | | | |
| During the nine months ended September 30, 2013 | 2.16 | 0.24 | 2.16[b] | 2.70 |
| **Book Value:** | | | | |
| As of September 30, 2013 | 33.44 | 20.81 | 25.69 | 32.11 |

NM refers to not meaningful.

[a] The equivalent Berry amounts are calculated by multiplying the pro forma amounts by the exchange ratio of 1.25.
[b] Pro forma dividends per share are based solely on historical dividends for LinnCo.

*LINN:*

| | LINN Historical | Berry Historical | Pro Forma | Pro Forma Equivalent Berry [a] |
|---|---|---|---|---|
| **Net income for the nine months ended September 30, 2013:** | | | | |
| Basic | $ 0.38 | $ 2.20 | $ 0.84 | $ 1.05 |
| Diluted | 0.38 | 2.19 | 0.84 | 1.05 |
| **Net income (loss) for the year ended December 31, 2012:** | | | | |
| Basic | (1.92) | 3.11 | (0.64) | (0.80) |
| Diluted | (1.92) | 3.09 | (0.64) | (0.80) |
| **Distributions declared:** | | | | |
| During the nine months ended September 30, 2013 | 2.175 | 0.24 | 2.175[b] | 2.72 |
| **Book Value:** | | | | |
| As of September 30, 2013 | 17.18 | 20.81 | 21.26 | 26.58 |

[a] The equivalent Berry amounts are calculated by multiplying the pro forma amounts by the exchange ratio of 1.25.
[b] Pro forma distributions per unit are based solely on historical distributions for LINN.

Table of Contents

Index to Financial Statements

## COMPARATIVE MARKET PRICES AND DIVIDENDS

Shares of Berry Class A common stock are listed on the NYSE, and LinnCo common shares are listed on the NASDAQ. The following table sets forth the high and low closing sales prices of Berry Class A common stock as reported on the NYSE and LinnCo common shares as reported on the NASDAQ, and the cash dividends declared per share for the periods indicated.

| | LinnCo Common Shares | | | Berry Class A Common Stock | | |
|---|---|---|---|---|---|---|
| | High | Low | Dividend | High | Low | Dividend |
| **2013** | | | | | | |
| Fourth Quarter (through October 25, 2013) | $ 32.11 | $ 29.19 | | $ 48.06 | $ 42.85 | |
| Third Quarter | $ 37.07 | $ 25.18 | $ 0.725[1][2] | $ 45.08 | $ 39.86 | $ 0.08 |
| Second Quarter | $ 42.84 | $ 34.84 | $ 0.725[1][3] | $ 48.59 | $ 42.16 | $ 0.08 |
| First Quarter | $ 40.16 | $ 36.66 | $ 0.71 | $ 47.63 | $ 34.56 | $ 0.08 |
| **2012** | | | | | | |
| Fourth Quarter [4] | $ 39.48 | $ 35.27 | $ 0.71 | $ 42.18 | $ 30.21 | $ 0.08 |
| Third Quarter | | | | $ 43.25 | $ 35.45 | $ 0.08 |
| Second Quarter | | | | $ 49.27 | $ 31.93 | $ 0.08 |
| First Quarter | | | | $ 57.20 | $ 42.55 | $ 0.08 |
| **2011** | | | | | | |
| Fourth Quarter | | | | $ 47.92 | $ 30.62 | $ 0.08 |
| Third Quarter | | | | $ 61.17 | $ 36.53 | $ 0.08 |
| Second Quarter | | | | $ 53.76 | $ 44.13 | $ 0.075 |
| First Quarter | | | | $ 52.32 | $ 42.61 | $ 0.075 |

(1) In April 2013, LINN s and LinnCo s boards of directors approved a change in the distribution and dividend policy that provides a distribution and dividend with respect to any quarter may be made, at the discretion of the boards of directors, (i) within 45 days following the end of each quarter or (ii) in three equal installments within 15, 45 and 75 days following the end of each quarter. The first monthly dividend was paid by LinnCo in July 2013.

(2) With respect to the third quarter 2013, LinnCo paid the first monthly dividend in the amount of $0.2416 per share in October 2013.

(3) With respect to the second quarter 2013, LinnCo paid the first monthly dividend in the amount of $0.2416 per share in July 2013, the second monthly dividend in the amount of $0.2416 per share in August 2013 and the third monthly dividend in the amount of $0.2416 per share in September 2013.

(4) From October 12, 2012, the day LinnCo common shares began trading on the NASDAQ.

On February 20, 2013, the last full trading day before the public announcement of the merger agreement, the high and low sales prices of LinnCo common shares as reported on the NASDAQ were $37.70 and $36.77, respectively. On , the last practicable date before the date of this joint proxy statement/prospectus, the high and low sale prices of LinnCo common shares as reported on the NASDAQ were $ and $ , respectively.

On February 20, 2013, the last full trading day before the public announcement of the merger agreement, the high and low sales prices of shares of Berry Class A common stock as reported on NYSE were $40.85 and $38.48, respectively. On , the last practicable date before the date of this joint proxy statement/prospectus, the high and low sale prices of shares of Berry Class A common stock as reported on the NYSE were $ and $ , respectively.

Berry stockholders and LinnCo shareholders are advised to obtain current market quotations for Berry common stock and LinnCo common shares. The market price of Berry common stock and LinnCo common shares will fluctuate between the date of this joint proxy statement/prospectus and the completion of the merger. No assurance can be given concerning the market price of Berry common stock or LinnCo common shares before or after the effective date of the merger.

34

Table of Contents

Index to Financial Statements

## RISK FACTORS

**In addition to the other information included or incorporated by reference into this document, including the matters under the caption Cautionary Statement Regarding Forward-Looking Statements, you should carefully consider the following risks before deciding whether to vote for the proposals set forth in this joint proxy statement/prospectus. In addition, you should read and consider the risks associated with each of the businesses of Berry, LinnCo and LINN because these risks will also affect LinnCo and LINN after the transactions. With respect to Berry, these risks can be found in Berry s Annual Report on Form 10-K for the year ended December 31, 2012, as updated by subsequent filings with the SEC and are incorporated by reference into this document. Because LinnCo s only significant assets are the units issued by LINN, its success is dependent solely upon the operation and management of LINN and its resulting performance. Because the risk factors that affect LINN also affect LinnCo, you should carefully consider the risks under the caption Risks Relating to LINN s Business below. For further information regarding the documents incorporated into this document by reference, see Where You Can Find More Information. In addition, definitions for certain terms relating to the oil and natural gas business can be found in Glossary of Certain Oil and Natural Gas Terms.**

### Risks Inherent in an Investment in LinnCo

***LinnCo s cash flow consists exclusively of distributions from LINN.***

LinnCo s only significant assets are LINN units representing limited liability company interests in LINN that it owns. Its cash flow is, therefore, completely dependent upon the ability of LINN to make distributions to its unitholders. The amount of cash that LINN can distribute to its unitholders, including LinnCo, each quarter principally depends upon the amount of cash it generates from its operations, which will fluctuate from quarter to quarter based on, among other things:

- produced volumes of oil, natural gas and NGL;
- prices at which oil, natural gas and NGL production is sold;
- level of its operating costs;
- payment of interest, which depends on the amount of its indebtedness and the interest payable thereon; and
- level of its capital expenditures.

In addition, the actual amount of cash that LINN will have available for distribution will depend on other factors, some of which are beyond its control, including:

- availability of borrowings on acceptable terms under LINN s Fifth Amended and Restated Credit Agreement (the Credit Facility ) to pay distributions;
- the costs of acquisitions, if any;
- fluctuations in its working capital needs;

timing and collectability of receivables;

restrictions on distributions contained in the Credit Facility and the indentures governing LINN s 6.25% senior notes due November 2019 (the November 2019 Senior Notes ), the 6.5% senior notes due May 2019 (the May 2019 Senior Notes ), the 8.625% senior notes due 2020 (the 2020 Senior Notes ), the 7.75% senior notes due 2021 (the 2021 Senior Notes ), the 11.75% senior notes due 2017 (the 2017 Senior Notes ) and the 9.875% senior notes due 2018 (the 2018 Senior Notes and, together with the 2017 Senior Notes, the Original Senior Notes, and the Original Senior Notes together with the November 2019 Senior Notes, the May 2019 Senior Notes, the 2020 Senior Notes and the 2021 Senior Notes, the Senior Notes );

Table of Contents

Index to Financial Statements

prevailing economic conditions;

access to credit or capital markets; and

the amount of cash reserves established by the LINN board of directors for the proper conduct of its business.

Because of these factors, LINN may not have sufficient available cash each quarter to pay a distribution at the current level or at all. Furthermore, the amount of cash that LINN has available for distribution depends primarily upon its cash flow, including cash flow from financial reserves and working capital borrowings, and is not solely a function of profitability, which will be affected by noncash items. As a result, LINN may be able to make cash distributions during periods when it records net losses and may not be able to make cash distributions during periods when it records net income. For a discussion of risks relating to LINN s business, including factors that could cause LINN to have insufficient cash to make distributions, please read Risks Relating to LINN s Business.

***LinnCo will incur corporate income tax liabilities on income allocated to LinnCo by LINN with respect to LINN units it owns, which may be substantial.***

LinnCo is classified as a corporation for U.S. federal income tax purposes and, in most states in which LINN does business, for state income tax purposes. Under current law, LinnCo will be subject to U.S. federal income tax at rates of up to 35% (and a 20% alternative minimum tax in certain cases), and to state income tax at rates that vary from state to state, on the net income allocated to LinnCo by LINN with respect to the LINN units it owns. The amount of cash available for distribution to shareholders will be reduced by the amount of any such income taxes payable by LinnCo for which it establishes reserves.

The amount of income taxes payable by LinnCo depends on a number of factors, including LINN s earnings from its operations, the amount of those earnings allocated to LinnCo and the amount of distributions paid to LinnCo by LINN. LinnCo s income tax liabilities could be substantial if any of the following occurs:

LINN significantly decreases its drilling activity;

an issuance of significant additional units by LINN without a corresponding increase in the aggregate tax deductions generated by LINN;

proposed legislation is enacted that eliminates or limits the current deduction of intangible drilling costs and other tax incentives to the oil and natural gas industry; or

there is a significant increase in oil and natural gas prices.

In addition, distributions that LinnCo receives with respect to its LINN units in excess of the net income allocated to LinnCo by LINN with respect to those units will decrease LinnCo s tax basis in those units. When LinnCo s tax basis in the LINN units is reduced to zero and any losses or other carryovers are fully utilized, the distributions LinnCo receives from LINN in excess of net income allocated to LinnCo by LINN will be fully taxable to LinnCo.

Furthermore, if the assumptions LinnCo used to estimate income taxes are incorrect, LinnCo s income tax liabilities could be substantially higher than estimated and its dividends could be substantially lower than the distributions on LINN units.

Under the contribution agreement, LINN has agreed to pay LinnCo $6 million per year for three years (2013, 2014 and 2015) to reasonably compensate LinnCo for the anticipated actual increase in tax liability resulting from the allocation of depreciation, depletion and amortization and other cost recovery deductions using the remedial allocation method pursuant to Treasury Regulation Section 1.704-3(d) with respect to the

assets acquired in the Contribution. Taking into account these payments and based on current projections and assumptions the transaction is not currently expected to give rise to any additional unreimbursed tax liability for LinnCo for the next three years over and above its previously disclosed estimates.

Table of Contents

Index to Financial Statements

In addition, although LINN does not have any obligations to reimburse LinnCo for any additional tax liability, as part of the contribution agreement LINN and LinnCo have agreed (i) to work in good faith at the end of each of calendar year 2014 and 2015 to evaluate whether the amount distributed to LinnCo as discussed above has reasonably compensated LinnCo for the actual increase in tax liability to LinnCo, if any, resulting from the allocation of amortization, depletion, depreciation and other cost recovery deductions using the remedial allocation method pursuant to Treasury Regulations Section 1.704-3(d), with respect to the assets acquired in the Contribution and (ii) to make any adjustment to such distribution as mutually agreed.

LinnCo s deferred income tax liability for financial accounting purposes will be required to be adjusted to account for the transactions. After giving effect to the transactions as if they occurred on September 30, 2013, LinnCo s pro forma deferred income tax liability as of September 30, 2013 would have been approximately $516 million. Upon closing of the transactions, LinnCo will recognize the deferred income tax liability as a loss in its statement of operations. If LinnCo were to sell or otherwise liquidate the LINN units acquired, the deferred tax liability of $516 million would be payable.

***Changes to current U.S. federal income tax laws may affect LinnCo s ability to claim certain tax deductions.***

Substantive changes to the existing U.S. federal income tax laws have been proposed that, if adopted, would affect, among other things, LinnCo s ability to claim certain deductions related to LINN s operations, including deductions for intangible drilling costs and percentage depletion and deductions for costs associated with U.S. production activities. LinnCo is unable to predict whether any changes, or other proposals to such laws, ultimately will be enacted. Any such changes could negatively impact the value of an investment in LinnCo common shares.

***LinnCo common shareholders are only able to indirectly vote on matters on which LINN unitholders are entitled to vote, and LinnCo common shareholders are not entitled to vote to elect LinnCo directors.***

LinnCo common shareholders are only able to indirectly vote on matters on which LINN unitholders are entitled to vote, and LinnCo common shareholders are not entitled to vote to elect LinnCo directors. Therefore, LinnCo common shareholders will only be able to indirectly influence the management and board of directors of LINN, and will not be able to directly influence or change LinnCo s management or board of directors. If LinnCo common shareholders are dissatisfied with the performance of LinnCo s directors, they will have no ability to remove the directors and have no right on an annual or ongoing basis to elect the LinnCo board of directors. Rather, the LinnCo board of directors is appointed by the holder of LinnCo s voting share, which is LINN. LinnCo s limited liability company agreement also contains provisions limiting the ability of holders of its common shares to call meetings or to obtain information about its operations, as well as other provisions limiting the ability of holders of its common shares to influence the manner or direction of management.

***LINN may issue additional units without LinnCo shareholder approval or other classes of units, and LinnCo may issue additional shares, which would dilute LinnCo s direct and LinnCo common shareholders indirect ownership interest in LINN and LinnCo shareholders ownership interest in LinnCo.***

LINN s limited liability company agreement does not limit the number of additional limited liability company interests, including interests that rank senior to the LINN units, that it may issue at any time without the approval of its unitholders. The issuance by LINN of additional units or other equity securities of equal or senior rank will have the following effects:

- LinnCo s proportionate ownership interest in LINN will decrease;
- the amount of cash available for distribution on each LINN unit may decrease, resulting in a decrease in the amount of cash available to pay dividends to LinnCo common shareholders;
- the relative voting strength of each previously outstanding unit, including the LINN units that LinnCo holds and votes in accordance with the vote of its common shareholders, will be diminished; and

37

Table of Contents

Index to Financial Statements

the market price of the LINN units may decline, resulting in a decline in the market price of LinnCo common shares.

In addition, LinnCo s limited liability company agreement does not limit the number of additional shares that it may issue at any time without shareholder approval. The issuance by LinnCo of additional shares will have the following effects:

a LinnCo shareholder s proportionate ownership interest in LinnCo will decrease;

the relative voting strength of each previously outstanding share shareholders own will be diminished; and

the market price of LinnCo common shares may decline.

***LinnCo shareholders common shares are subject to limited call rights that could result in them having to involuntarily sell their shares at a time or price that may be undesirable. Shareholders who are not Eligible Holders will not be entitled to receive distributions on or allocations of income or loss on their shares and their shares will be subject to redemption.***

If LINN or any of its affiliates owns 80% or more of LinnCo s outstanding common shares, LINN has the right, which it may assign to any of its affiliates, to purchase all of LinnCo s remaining outstanding common shares, at a purchase price not less than the greater of the then-current market price of LinnCo common shares and the highest price paid for LinnCo common shares by LINN or one of its affiliates during the prior 90 days. If LINN exercises any of its rights to purchase LinnCo common shares, common shareholders may be required to sell their shares at a time or price that may be undesirable, and common shareholders could receive less than they paid for their shares. Any sale of LinnCo common shares, to LINN or otherwise, for cash will be a taxable transaction to the owner of the shares sold. Accordingly, a gain or loss will be recognized on the sale equal to the difference between the cash received and the owner s tax basis in the shares sold.

In addition, if at any time a person owns more than 90% of the outstanding LINN units, such person may elect to purchase all, but not less than all, of the remaining outstanding LINN units at a price equal to the higher of the current market price (as defined in LINN s limited liability company agreement) and the highest price paid by such person or any of its affiliates for any LINN units purchased during the 90-day period preceding the date notice was mailed to the LINN unitholders informing them of such election. In this case, LinnCo will be required to tender all of its outstanding LINN units and distribute the cash it receives, net of income taxes payable by it, to its shareholders. Following such distribution, LinnCo will dissolve and wind up its affairs. Thus, upon the election of a holder of 90% of the outstanding LINN units, common shareholders may receive a distribution that is effectively less than the price at which they would prefer to sell their shares.

In order to comply with U.S. laws with respect to the ownership of interests in oil and gas leases on federal lands, LinnCo has adopted certain requirements regarding those investors who may own LinnCo common shares. As used herein, an Eligible Holder means a person or entity qualified to hold an interest in oil and gas leases on federal lands. As of the date hereof, Eligible Holder means: (1) a citizen of the United States; (2) a corporation organized under the laws of the United States or of any state thereof; or (3) an association of United States citizens, such as a partnership or limited liability company, organized under the laws of the United States or of any state thereof, but only if such association does not have any direct or indirect foreign ownership, other than foreign ownership of stock in a parent corporation organized under the laws of the United States or of any state thereof. For the avoidance of doubt, onshore mineral leases or any direct or indirect interest therein may be acquired and held by aliens only through stock ownership, holding or control in a corporation organized under the laws of the United States or of any state thereof and only for so long as the alien is not from a country that the United States federal government regards as denying similar privileges to citizens or corporations of the United States. Common shareholders who are not persons or entities who meet the requirements to be an Eligible Holder will not be entitled to receive distributions in kind on their shares in a liquidation and they run the risk of having their shares redeemed by LinnCo at the then-current market price.

Table of Contents

Index to Financial Statements

***The terms of LinnCo common shares may be changed in ways shareholders may not like, because the LinnCo board of directors has the power to change the terms of LinnCo common shares in ways the LinnCo board of directors determines are not materially adverse to shareholders.***

As an owner of LinnCo common shares, shareholders may not like the changes made to the terms of the LinnCo common shares, if any, and shareholders may disagree with the LinnCo board of directors decision that the changes are not materially adverse to a shareholder. LinnCo common shareholders recourse if they disagree is limited because LinnCo s limited liability company agreement gives broad latitude and discretion to the LinnCo board of directors and limits the fiduciary duties that LinnCo s officers and directors otherwise would owe to shareholders.

***LinnCo s limited liability company agreement limits the fiduciary duties owed by LinnCo s officers and directors to its shareholders, and LINN s limited liability company agreement limits the fiduciary duties owed by LINN s officers and directors to its unitholders, including LinnCo.***

LinnCo s limited liability company agreement has modified, waived and limited the fiduciary duties of LinnCo s directors and officers that would otherwise apply at law or in equity and replaced such duties with a contractual duty requiring LinnCo s directors and officers to act in good faith. For purposes of LinnCo s limited liability company agreement, a person will be deemed to have acted in good faith if the person subjectively believes that the action or omission of action is in, or not opposed to, the best interests of LinnCo. In addition, any action or omission will be deemed to be in, or not opposed to, the best interests of LinnCo and its shareholders if the person making the determination subjectively believes that such action or omission of action is in, or not opposed to, the best interest of LINN and all its unitholders, taken together, and such person may take into account the totality of the relationship between LINN and LinnCo. In addition, when acting in any capacity other than as one of LinnCo s directors or officers, including when acting in their individual capacities or as officers or directors of LINN or any affiliate of LINN, LinnCo s directors and officers will not be required to act in good faith and will have no obligation to take into account LinnCo s interests or the interests of its shareholders.

The above modifications of fiduciary duties are expressly permitted by Delaware law. Thus, LinnCo and its shareholders will only have recourse and be able to seek remedies against the LinnCo board of directors if they breach their obligations pursuant to LinnCo s limited liability company agreement. Furthermore, even if there has been a breach of the obligations set forth in LinnCo s limited liability company agreement, that agreement provides that LinnCo s directors and officers will not be liable to LinnCo or its shareholders, except for acts or omissions not in good faith.

These provisions restrict the remedies available to the LinnCo shareholders for actions that without those limitations might constitute breaches of duty, including fiduciary duties. In addition, LINN s limited liability company agreement also limits the fiduciary duties owed by LINN s officers and directors to its unitholders, including LinnCo.

***LinnCo s limited liability company agreement prohibits a shareholder who acquires 15% or more of its shares or voting power with respect to 15% or more of the outstanding LINN units without the approval of the LinnCo board of directors or the LINN board of directors from engaging in a business combination with LinnCo or with LINN for three years. This provision could discourage a change of control of LinnCo or of LINN that LinnCo shareholders may favor, which could negatively affect the price of its shares.***

LinnCo s limited liability company agreement effectively adopts Section 203 of the DGCL. Section 203 of the DGCL as it applies to LinnCo prevents an interested shareholder, defined as a person who owns 15% or more of LinnCo s outstanding shares or voting power with respect to 15% or more of the outstanding LINN units, from engaging in business combinations with LinnCo or with LINN for three years following the time such person becomes an interested shareholder. Section 203 broadly defines business combination to encompass a wide variety of transactions with or caused by an interested shareholder, including mergers, asset sales and other

Table of Contents

Index to Financial Statements

transactions in which the interested shareholder receives a benefit on other than a pro rata basis with other shareholders. This provision of LinnCo s limited liability company agreement could have an anti-takeover effect with respect to transactions not approved in advance by the LinnCo board of directors, including discouraging takeover attempts that might result in a premium over the market price for its shares or LINN units.

***LinnCo common shares may trade at a substantial discount to the trading price of LINN units.***

LinnCo cannot predict whether its common shares will trade at a discount or premium to the trading price of LINN units. If LinnCo incurs substantial corporate income tax liabilities on income allocated to LinnCo by LINN with respect to LINN units LinnCo owns, the dividend of cash shareholders receive per share will be substantially less than the per unit distribution of cash that LinnCo receives from LINN. LINN has agreed to pay LinnCo $6 million per year for three years (2013, 2014 and 2015) or roughly $0.06 per LinnCo common share to reasonably compensate LinnCo for the anticipated actual increase in tax liability resulting from the allocation of depreciation, depletion and amortization and other cost recovery deductions using the remedial allocation method pursuant to Treasury Regulation Section 1.704-3(d) with respect to the Berry assets acquired in the transaction. Taking into account these payments and assuming no other relevant changes, the transaction is not currently expected to give rise to any additional unreimbursed tax liability for LinnCo over and above its prior estimates. However, in the event of a merger, tender offer, going private transaction with respect to LINN or sale of all or substantially all of LinnCo s assets, the net proceeds shareholders receive from LinnCo per share may, as a result of its corporate income tax liabilities on such transaction and other factors, be substantially lower than the net proceeds per unit received by a direct LINN unitholder. As a result of these considerations, LinnCo common shares may trade at a substantial discount to the trading price of LINN units.

***LinnCo is a controlled company within the meaning of the NASDAQ rules and relies on exemptions from various corporate governance requirements.***

LinnCo common shares are listed on the NASDAQ. A company of which more than 50% of the voting power for the election of directors is held by an individual, a group or another company is a controlled company within the meaning of the NASDAQ rules. A controlled company may elect not to comply with various corporate governance requirements of the NASDAQ, including the requirement that a majority of its board of directors consist of independent directors, the requirement that its nominating and governance committee consist of all independent directors and the requirement that its compensation committee consist of all independent directors.

LinnCo is a controlled company since LINN holds the sole voting share and has the sole power to elect the LinnCo board of directors. Because LinnCo relies on certain of the controlled company exemptions and does not have a compensation committee or a nominating and corporate governance committee, LinnCo common shareholders may not have the same corporate governance advantages afforded to stockholders of companies that are subject to all of the corporate governance requirements of the NASDAQ.

**Risks Relating to the Merger**

***The exchange ratio is fixed and will not be adjusted in the event of any change in either LinnCo s share price or Berry s stock price.***

Upon the consummation of the merger, each share of Berry common stock will be converted into the right to receive 1.25 LinnCo common shares, with cash paid in lieu of fractional shares. This exchange ratio was fixed in the merger agreement and will not be adjusted for changes in the market price of either LinnCo common shares or Berry common stock. Changes in the price of LinnCo common shares prior to the merger will affect the market value of the merger consideration that the Berry stockholders will receive on the date of the merger. Stock price changes may result from a variety of factors (many of which are beyond the control of Berry, LinnCo and LINN), including the following factors:

- market reaction to the announcement of the merger and the prospects of the combined company;

Table of Contents

Index to Financial Statements

changes in Berry s, LinnCo s and LINN s respective businesses, operations, assets, liabilities and prospects;

changes in market assessments of the business, operations, financial position and prospects of Berry, LinnCo or LINN;

market assessments of the likelihood that the merger will be completed;

interest rates, general market and economic conditions and other factors generally affecting the price of LinnCo common shares and Berry common stock;

federal, state and local legislation, governmental regulation and legal developments in the businesses in which Berry, LinnCo and LINN operate; and

other factors beyond the control of Berry, LinnCo and LINN, including those described or referred to elsewhere in this Risk Factors section.

The price of LinnCo common shares at the closing of the merger may vary from its price on the date the merger agreement was executed, on the date of this joint proxy statement/prospectus and on the date of the Berry special meeting and the LinnCo annual meeting. As a result, the market value of the merger consideration represented by the exchange ratio will also vary. For example, based on the range of closing prices of LinnCo common shares during the period from February 20, 2013, the last day of trading before public announcement of the proposed transactions, through , 2013, the latest practicable date before the date of this joint proxy statement/prospectus, the exchange ratio of 1.25 LinnCo common shares represented a market value ranging from a low of $ to a high of $ .

Because the merger will be completed after the dates of the Berry special meeting, the LinnCo annual meeting and the LINN annual meeting at the time of your respective meeting, you will not know the exact market value of the LinnCo common shares that the Berry stockholders will receive upon completion of the merger. You should consider the following two risks:

If the price of LinnCo common shares increases between the date the merger agreement was signed or the date of the LinnCo annual meeting and the effective time of the merger, the Berry stockholders will receive LinnCo common shares that have a market value upon completion of the merger that is greater than the market value of such shares calculated pursuant to the exchange ratio when the merger agreement was signed or the date of the LinnCo annual meeting, respectively. Therefore, while the number of LinnCo common shares to be issued per share of Berry common stock is fixed, the LinnCo common shareholders cannot be sure of the market value of the consideration that will be paid to the Berry stockholders upon completion of the merger.

If the price of LinnCo common shares declines between the date the merger agreement was signed or the date of the Berry special meeting and the effective time of the merger, including for any of the reasons described above, the Berry stockholders will receive LinnCo common shares that have a market value upon completion of the merger that is less than the market value of such shares calculated pursuant to the exchange ratio on the date the merger agreement was signed or on the date of the Berry special meeting, respectively. Therefore, while the number of LinnCo common shares to be issued per share of Berry common stock is fixed, the Berry stockholders cannot be sure of the market value of the LinnCo common shares they will receive upon completion of the merger or the market value of LinnCo common shares at any time after the completion of the merger.

Table of Contents

Index to Financial Statements

***The merger and related transactions are subject to approval by Berry stockholders, LinnCo shareholders and LINN unitholders.***

In order for the merger to be completed, the Berry stockholders must adopt the merger agreement and approve the merger and the other transactions contemplated by the merger agreement, which requires approval by a majority of the votes entitled to be cast by all outstanding shares of Berry common stock as of the record date for the Berry special meeting. While a vote of the LinnCo common shareholders is not required to approve the merger, the approval of the LinnCo common shareholders is required under NASDAQ Marketplace Rule 5635(a) in order for LinnCo to be authorized to issue LinnCo common shares to the Berry stockholders in connection with the merger. Approval of the issuance of LinnCo common shares to the Berry stockholders under NASDAQ rules requires the affirmative vote of a majority of votes cast by holders of LinnCo common shares at the LinnCo annual meeting. Additionally, the LinnCo common shareholders must approve certain amendments to the limited liability company agreement of LinnCo, which requires the affirmative vote of a majority of outstanding LinnCo voting shares and a majority of outstanding LinnCo common shares, voting as separate classes. In addition, in order for the merger to be completed, the LINN unitholders must approve the issuance of LINN units to LinnCo in connection with the Contribution, which requires the affirmative vote of a majority of the votes cast by holders of LINN units at the LINN annual meeting under NASDAQ Marketplace Rule 5635(a).

***LINN may experience difficulties in integrating the Berry business, which could cause the combined company to fail to realize many of the anticipated potential benefits of the merger.***

LINN entered into the merger agreement because it believes that the transaction will be beneficial to Berry and its stockholders, LinnCo and its shareholders and LINN and its unitholders. Achieving the anticipated benefits of the transaction will depend in part upon whether LINN is able to integrate the business of Berry in an efficient and effective manner. LINN may not be able to accomplish this integration process smoothly or successfully. The difficulties of integrating Berry s business with that of LINN potentially will include, among other things, the necessity of coordinating geographically separated organizations and addressing possible differences incorporating cultures and management philosophies, and the integration of certain operations following the transaction, which will require the dedication of significant management resources and which may temporarily distract management s attention from the day-to-day business of the combined company.

An inability to realize the full extent of the anticipated benefits of the transaction, as well as any delays encountered in the transition process, could have an adverse effect upon the revenues, level of expenses and operating results of LINN after the acquisition of Berry, which may affect the value of LINN units and thus LinnCo common shares after the closing of the merger.

***The terms of Berry s indebtedness may restrict Berry s ability to make distributions to LINN.***

Berry s credit facility and the indentures governing its outstanding notes contain, and any future indebtedness may also contain, a number of restrictive covenants that impose operating restrictions on Berry, including restrictions on Berry s ability to make distributions to LINN. Any such restrictions on Berry s ability to make distributions to LINN would adversely affect LINN s ability to make distributions to its unitholders, including LinnCo.

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

Berry stockholders currently have the right to vote in the election of the Berry board of directors and other matters affecting Berry. When the merger occurs, each Berry stockholder that receives LinnCo common shares will become a shareholder of LinnCo with a percentage ownership of the combined organization (including LINN) that is much smaller than such stockholder s current percentage ownership of Berry. LinnCo shareholders are not entitled to elect the LinnCo board of directors. In addition, LinnCo shareholders have only limited voting

Table of Contents

Index to Financial Statements

rights on matters affecting LinnCo s business and, therefore, limited ability to influence management s decisions regarding LinnCo s business. Because of this, Berry stockholders will have less influence on the management and policies of LinnCo than they now have on the management and policies of Berry.

***LinnCo common shares to be received by the Berry stockholders as a result of the merger will have different rights from the Berry common stock.***

Upon completion of the merger, Berry stockholders who receive the merger consideration will become LinnCo shareholders and their rights as shareholders will be governed by the certificate of formation and limited liability company agreement of LinnCo. There are important differences between the rights of the Berry stockholders and the rights of the LinnCo shareholders, including that LinnCo shareholders are not entitled to elect the LinnCo board of directors. See Comparison of Securityholders Rights for a discussion of the different rights associated with LinnCo common shares.

***The market price of LinnCo common shares after the merger may be affected by factors different from those affecting the shares of LinnCo or Berry currently.***

The businesses of Berry, LinnCo and LINN differ and, accordingly, the results of operations of LINN after the acquisition of Berry and the market price of LinnCo common shares and LINN units after the merger may be affected by factors that differ from those currently affecting the independent results of operations of Berry, LinnCo or LINN. For a discussion of the businesses of Berry, LinnCo and LINN and of certain factors to consider in connection with those businesses, see Additional Information About LinnCo, LLC and Additional Information About Linn Energy, LLC and the documents incorporated by reference in this document regarding Berry and LINN and referred to under Where You Can Find More Information.

***The pendency of the merger could adversely affect the business and operations of Berry, LinnCo and LINN.***

In connection with the pending merger, some customers or vendors of each of Berry and LINN may delay or defer decisions, which could negatively impact the revenues, earnings, cash flows and expenses of Berry, LinnCo and LINN, regardless of whether the merger is completed. In addition, due to operating covenants in the merger agreement, each of Berry, LinnCo and LINN may be unable, during the pendency of the merger, to pursue certain strategic transactions, undertake certain significant capital projects, undertake certain significant financing transactions and otherwise pursue other actions that are not in the ordinary course of business.

***The merger is subject to the receipt of consents and approvals from governmental entities that may impose conditions that could have an adverse effect on LinnCo.***

Before the merger may be completed, various waivers, approvals, clearances or consents must be obtained from the FTC, FERC and the Antitrust Division of the Department of Justice (the Antitrust Division ) and other authorities in the United States. These governmental entities may impose conditions on the completion of the merger or require changes to the terms of the merger. Although Berry and LinnCo do not currently expect that any such conditions or changes will be imposed, there can be no assurance that they will not be, and such conditions or changes could have the effect of delaying completion of the merger or imposing additional costs on or limiting the revenues of LinnCo and LINN following the merger, any of which might have an adverse effect on LinnCo or LINN following the merger.

***Berry executive officers and directors have financial interests in the merger that may be different from, or in addition to, the interests of the Berry stockholders.***

Certain members of the Berry board of directors and executive officers of Berry may be deemed to have interests in the merger that are in addition to, or different from, the interests of other Berry stockholders. The

Table of Contents

Index to Financial Statements

Berry board of directors was aware of these interests and considered them, among other matters, in approving the merger and the merger agreement and in making the recommendations that the Berry stockholders adopt the merger agreement and approve the merger and the other transactions contemplated by the merger agreement. These interests include:

- The merger agreement provides for (a) the conversion of options and time-based RSUs held by Berry s executive officers into corresponding awards with respect to LINN units and (b) the vesting and settlement of all performance-based RSUs held by Berry s executive officers and all RSUs held by Berry s non-employee directors for LinnCo common shares;

- Employment agreements, change-in-control severance agreements and certain equity award agreements with Berry s executive officers provide for severance benefits (including accelerated vesting of certain equity-based awards) in the event of certain qualifying terminations of employment following the merger; and

- Berry s directors and executive officers are entitled to continued indemnification and insurance coverage under indemnification agreements and the merger agreement.

For information concerning these interests, see the discussion under the caption The Merger Interests of Berry s Directors and Executive Officers in the Merger.

***Failure to complete the merger could negatively affect the stock price of Berry, LinnCo and LINN, respectively, and their respective future businesses and financial results.***

If the merger is not completed, the ongoing businesses of Berry, LinnCo and LINN may be adversely affected and Berry, LinnCo and LINN will be subject to several risks and consequences, including the following:

- under the merger agreement, Berry may be required, under certain circumstances, to pay LinnCo a termination fee of $83.7 million or $25.7 million in respect of LinnCo s expenses;

- under the merger agreement, LinnCo may be required, under certain circumstances, to pay Berry a termination fee of $83.7 million or $25.7 million in respect of Berry s expenses;

- Berry, LinnCo and LINN will be required to pay certain costs relating to the merger, whether or not the merger is completed, such as legal, accounting, financial advisor and printing fees;

- Berry, LinnCo and LINN would not realize the expected benefits of the merger;

- under the merger agreement, each of Berry, LinnCo and LINN is subject to certain restrictions on the conduct of its business prior to completing the merger which may adversely affect its ability to execute certain of its business strategies;

- matters relating to the merger may require substantial commitments of time and resources by Berry, LinnCo and LINN management, which could otherwise have been devoted to other opportunities that may have been beneficial to Berry, LinnCo and LINN as independent companies; and

Berry, LinnCo or LINN may be responsible for the net losses resulting from the termination of the derivative transactions entered into by Berry on or after the date of the merger agreement, which net losses could be significant.

In addition, if the merger is not completed, Berry, LinnCo and LINN may experience negative reactions from the financial markets and from their respective customers and employees. Berry, LinnCo and/or LINN also could be subject to litigation related to any failure to complete the merger or to enforcement proceedings commenced against Berry, LinnCo or LINN to attempt to force them to perform their respective obligations under the merger agreement.

Table of Contents

Index to Financial Statements

***The merger will not be completed on or prior to October 31, 2013 (the End Date ). After the End Date, any of LINN, LinnCo or Berry may unilaterally terminate the merger agreement at any time prior to completion of the merger.***

The merger will not be completed on or prior to the End Date, and although the merger agreement does not automatically terminate as of such date, any of LINN, LinnCo or Berry may unilaterally terminate the merger agreement at any time following such date prior to completion of the merger. Recently, Berry common stock and LinnCo common shares have traded in relationship to each other at a ratio in excess of the exchange ratio. As a result, absent an amendment to the merger agreement that would increase the exchange ratio, it is possible that Berry could terminate the merger agreement after the End Date or that Berry stockholders would vote against the merger at the current exchange ratio at the meeting of Berry stockholders. Although LINN, LinnCo and Berry could potentially amend the merger agreement to, among other things, increase the exchange ratio and extend the End Date, there can be no assurances as to whether the parties will enter into negotiations with respect to or execute any such amendment or that the parties will refrain from exercising their rights to terminate the merger agreement.

***LinnCo and LINN expect to incur substantial expenses related to the merger.***

LinnCo and LINN expect to incur substantial expenses in connection with completing the merger and integrating the business, operations, networks, systems, technologies, policies and procedures of Berry with its own. There are a large number of systems that must be integrated, including billing, management information, purchasing, accounting and finance, sales, payroll and benefits, fixed assets, lease administration and regulatory compliance. Although LinnCo and LINN have assumed that a certain level of transaction and integration expenses would be incurred, there are a number of factors beyond their control that could affect the total amount or the timing of integration expenses. Many of the expenses that will be incurred, by their nature, are difficult to estimate accurately at the present time. Due to these factors, the transaction and integration expenses associated with the merger could, particularly in the near term, exceed the savings that the combined company expects to achieve from the elimination of duplicative expenses and the realization of economies of scale and cost savings related to the integration of the Berry business following the completion of the merger. As a result of these expenses, LinnCo and LINN expect to take charges against their earnings before and after the completion of the merger. The charges taken in connection with the merger are expected to be significant, although the aggregate amount and timing of such charges are uncertain at present.

***Following the merger, Berry and LINN may be unable to retain key employees.***

The success of LinnCo and LINN after the merger will depend in part upon LINN s ability to retain key Berry and LINN employees. Key employees may depart either before or after the merger because of issues relating to the uncertainty and difficulty of integration or a desire not to remain following the merger. Accordingly, no assurance can be given that LINN will be able to retain key Berry or LINN employees to the same extent as in the past.

***The unaudited pro forma financial statements included in this document are presented for illustrative purposes only and may not be an indication of LinnCo s or LINN s financial condition or results of operations following the merger.***

The unaudited pro forma financial statements contained in this document are presented for illustrative purposes only, are based on various adjustments, assumptions and preliminary estimates, and may not be an indication of LinnCo s or LINN s financial condition or results of operations following the merger for several reasons. See Unaudited Pro Forma Condensed Combined Financial Information. The actual financial condition and results of operations of LinnCo and LINN following the merger may not be consistent with, or evident from, these pro forma financial statements. In addition, the assumptions used in preparing the pro forma financial information may not prove to be accurate, and other factors may affect LinnCo s or LINN s financial condition

Table of Contents

Index to Financial Statements

or results of operations following the merger. Any potential decline in the combined company s financial condition or results of operations may cause significant variations in the price of LinnCo common shares after completion of the merger.

***Pending litigation against Berry, LinnCo and LINN could result in an injunction preventing completion of the merger, the payment of damages in the event that the merger is completed and/or may adversely affect the combined company s business, financial condition or results of operations following the merger.***

Purported stockholder class actions have been filed against, among others, Berry, LinnCo, LINN and the members of the Berry board of directors. Multiple actions seek an injunction barring or rescinding the merger and damages in connection with the proposed transactions. If a final settlement is not reached, or if dismissals of these actions are not obtained, these lawsuits could prevent or delay the completion of the merger, and result in substantial costs to Berry, LinnCo and LINN, including costs associated with the indemnification of directors. Additional lawsuits related to the merger may be filed against Berry, LinnCo, LINN and each of their directors. The defense or settlement of any lawsuit or claim that remains unresolved at the time the merger is completed may adversely affect the combined company s business, financial condition or results of operations. See The Merger Litigation Relating to the Merger.

**Risks Relating to the SEC Inquiry and Shareholder Litigation**

***LinnCo and LINN will incur significant costs associated with the pending SEC inquiry and other legal proceedings, and the ultimate outcome of these matters is uncertain.***

LinnCo, LINN and LinnCo and LINN s current and former directors and officers are the subjects of a number of purported class action lawsuits and derivative lawsuits, and there is an ongoing private SEC inquiry regarding LinnCo and LINN. LinnCo and LINN cannot predict the duration, outcome or impact of these pending matters, but the lawsuits could result in judgments against LinnCo and LINN and their respective directors and officers named as defendants. Furthermore, LINN and LinnCo are unable to predict the timing or outcome of the SEC inquiry or estimate the nature or amount of any possible sanction or enforcement action the SEC could seek to impose, which could include fines, penalties, damages, sanctions, administrative remedies and modifications to LinnCo and LINN s disclosure, accounting and business practices, including a prohibition on specific conduct or a potential restatement of LINN s or LinnCo s financial statements, any of which could be material. The SEC inquiry may continue after the effectiveness of the registration statement of which this joint proxy statement/prospectus forms a part and the closing of the transactions described in this joint proxy statement/prospectus; however, LinnCo and LINN can provide no assurance as to whether the registration statement of which this joint proxy statement/prospectus forms a part will be declared effective during the pendency of the SEC inquiry. Furthermore, LinnCo and LINN s legal expenses incurred in defending the lawsuits and responding to the SEC inquiry have been significant and LinnCo and LINN expect them to continue to be significant in the future. In addition, members of LinnCo and LINN s senior management have been required to divert significant attention and resources to these matters, reducing the time, attention and resources they have available to devote to managing LinnCo and LINN s respective businesses. These additional expenses and diversion of attention and resources, along with any reputational issues raised by these lawsuits and inquiry, may materially affect LinnCo and LINN s businesses and results of operations and consequently LINN s cash flow. Further, if LINN reduces its distributions to its unitholders, LinnCo s board of directors will be required by LinnCo s limited liability company agreement to reduce the cash dividend to LinnCo s shareholders to be equal to 100% of such distribution, net of reserves for income taxes payable by LinnCo as determined by LinnCo s board of directors.

***LinnCo s and LINN s abilities to grow and LINN s ability to increase cash flow are limited by reduced access to capital markets.***

LINN s business model depends on access to capital markets at an acceptable cost to fund acquisitions and its capital expenditures. Due to uncertainty regarding the timing, duration and subject matter of the SEC s inquiry and negative press related to such inquiry, LinnCo and LINN are limited in their abilities to access the capital

Table of Contents

Index to Financial Statements

markets. If this situation persists, LINN may not be able to access the capital markets on acceptable terms, or at all, to make acquisitions or fund its capital expenditures necessary to sustain or increase current production, which may reduce its ability to generate higher revenues and consequently its ability to increase cash flow and sustain or increase distributions. Further, if LINN is unable to increase its distributions to its unitholders, LinnCo s board of directors will be unable to independently increase the cash dividend to LinnCo shareholders because it is required to pay dividends equal to 100% of distributions from LINN, net of reserves for income taxes payable by LinnCo as determined by LinnCo s board of directors.

***Failure to complete or delays in completing LinnCo s pending merger with Berry could have an adverse impact on LINN s unit price and LINN s business.***

Due to the pending SEC inquiry, the timing of LinnCo s pending merger with Berry is uncertain. If the merger is not completed, or there are delays in completing the merger, LINN s unit price may decline and its business could be adversely affected and LINN would be subject to a number of risks, including the following:

- the current trading price of LINN units may reflect a market assumption that the merger will be completed and a failure to complete or delays in completing the merger could result in a further decline in the price of LINN units;
- LINN may not realize the benefits expected from the merger, including cost savings, increased production, enhanced financial and competitive position and diversification of operating locations and assets;
- LINN will be required to pay certain costs relating to the merger, including certain investment banking, financing, legal and accounting fees and expenses, whether or not the merger is completed; and
- LINN may be responsible, under certain circumstances, for the net losses resulting from the termination of the derivatives transactions entered into by Berry at LINN s request on or after the date of the merger agreement, which net losses could be significant.

There can be no assurance that these risks will not materialize, and if any of them do, they may have an adverse effect on LINN s financial position, results of operations and net cash provided by operating activities.

***The SEC inquiry, shareholder litigation and other factors may make the market price of LINN units and LinnCo common shares highly volatile.***

The market price of LINN units and LinnCo common shares could fluctuate substantially in the future due to the factors discussed in this Risk Factors section, including the risks relating to the SEC inquiry and shareholder litigation, and other factors including rumors or dissemination of false information; changes in coverage or earnings estimates by analysts; LINN s or LinnCo s ability to meet analysts or market expectations; and sales of LINN units or LinnCo common shares by existing unitholders or shareholders, respectively. For example, after the announcement of the SEC inquiry, the price of LINN units and LinnCo common shares dropped significantly. Currently a number of purported class action lawsuits have been filed against LINN and LinnCo as well as derivative demands on behalf of certain purchasers of LINN units and LinnCo common shares. Litigation of this kind could result in additional substantial litigation costs, a damages award against LINN and LinnCo, further diversion of management s attention and additional volatility in the market price of LINN units or LinnCo common shares.

***Negative press from the SEC inquiry and shareholder litigation or otherwise could have a material adverse effect on LINN s business, financial condition and results of operations.***

The negative press resulting from the SEC inquiry and shareholder litigation matters have harmed LINN s reputation and could otherwise result in a loss of future business with LINN s counterparties and business partners. It could also adversely affect the public s perception of LINN and lead to reluctance by new parties to

47

Table of Contents

Index to Financial Statements

do business with LINN. If LINN s business partners and customers curtail their relationships with LINN, LINN could experience higher costs of doing business due to less favorable terms and/or the need to find alternative partners. There can be no assurance that LINN s business partners and customers will not attempt to end or curtail their relationships with LINN.

**Risks Relating to LINN s Business**

***LINN may not have sufficient net cash provided by operating activities to pay the distribution at the current distribution level, or at all, and future distributions to its unitholders (including LinnCo) may fluctuate from quarter to quarter.***

LINN may not have sufficient net cash provided by operating activities each quarter to pay the distribution at the current distribution level or at all. Under the terms of LINN s limited liability company agreement, the amount of cash otherwise available for distribution will be reduced by its operating expenses and any cash reserve amounts that the LINN board of directors establishes to provide for future operations, future capital expenditures, future debt service requirements and future cash distributions to its unitholders. The amount of cash LINN can distribute on its units principally depends upon the amount of cash LINN generates from its operations, which will fluctuate from quarter to quarter based on, among other things:

- produced volumes of oil, natural gas and NGL;
- prices at which oil, natural gas and NGL production is sold;
- level of LINN s operating costs;
- payment of interest, which depends on the amount of LINN s indebtedness and the interest payable thereon; and
- level of LINN s capital expenditures.

In addition, the actual amount of cash LINN will have available for distribution will depend on other factors, some of which are beyond its control, including:

- availability of borrowings on acceptable terms under the Credit Facility to pay distributions;
- the costs of acquisitions, if any;
- fluctuations in LINN s working capital needs;
- timing and collectability of receivables;
- restrictions on distributions contained in the Credit Facility and the indentures governing the Senior Notes;

prevailing economic conditions;

access to credit or capital markets; and

the amount of cash reserves established by the LINN board of directors for the proper conduct of its business.

As a result of these factors, the amount of cash LINN distributes to its unitholders may fluctuate significantly from quarter to quarter and may be significantly less than the current distribution level, or the distribution may be suspended.

Table of Contents

Index to Financial Statements

***LINN may not have sufficient net cash provided by operating activities to pay its distribution at the current distribution level, or at all, and as a result, future dividends to LinnCo shareholders may be reduced or eliminated.***

LINN s net cash provided by operating activities is frequently less than cash distributions to its unitholders. While the LINN board of directors makes discretionary adjustments to net cash provided by operating activities when declaring a distribution for the current period, if LINN generates insufficient net cash provided by operating activities for a sustained period of time, the LINN board of directors may determine to reduce or eliminate LINN s distribution to unitholders. Any such reduction in distributions may cause the trading price of LINN units to decline. Factors that may cause LINN to generate net cash provided by operating activities that is insufficient to pay its current distribution to unitholders include, among other things, the following:

*Production from existing assets*: LINN s revenues are dependent on how much oil, natural gas and NGLs it produces. If LINN s existing assets under-perform for a prolonged period of time with respect to expected production volumes, LINN s revenues may be lower than expected, and net cash provided by operating activities could be insufficient to pay LINN s current distribution to unitholders.

*NGL commodity prices*: LINN has been and continues to be limited in its ability to effectively hedge its NGL production. As a result, LINN is subject to the current depressed price environment for NGLs, and in particular, ethane prices. If current price levels for NGLs continue into the future, LINN s revenues and results of operations will be affected, and net cash provided by operating activities could be insufficient to pay LINN s current distribution to its unitholders.

*Access to and cost of capital:* Accretive acquisitions are an integral component of LINN s business strategy. When revenues are expected to be lower as a result of under-performance of assets, weakening commodity prices on unhedged volumes or declining contract prices on hedged volumes, LINN seeks to make accretive acquisitions of oil and natural gas properties to cover potential shortfalls in net cash provided by operating activities in order to maintain its distribution level. As a result of the pending SEC inquiry, LINN may be limited in its ability to access the capital markets at an acceptable cost or at all; thus its ability to make accretive acquisitions may be limited.

As a result of these and other factors, the amount of cash LINN may distribute to its unitholders in the future may be significantly less than the current distribution level, or the distribution may be suspended or eliminated and future dividends to LinnCo shareholders may be suspended or eliminated.

***LINN actively seeks to acquire oil and natural gas properties. Acquisitions involve potential risks that could adversely impact its future growth and its ability to increase or pay distributions at the current level, or at all.***

Any acquisition involves potential risks, including, among other things:

the risk that reserves expected to support the acquired assets may not be of the anticipated magnitude or may not be developed as anticipated;

the risk of title defects discovered after closing;

inaccurate assumptions about revenues and costs, including synergies;

significant increases in LINN s indebtedness and working capital requirements;

an inability to transition and integrate successfully or timely the businesses LINN acquires;

the cost of transition and integration of data systems and processes;

the potential environmental problems and costs;

the assumption of unknown liabilities;

limitations on rights to indemnity from the seller;

Table of Contents

Index to Financial Statements

the diversion of management s attention from other business concerns;

increased demands on existing personnel and on the corporate structure;

disputes arising out of acquisitions;

customer or key employee losses of the acquired businesses; and

the failure to realize expected growth or profitability.

The scope and cost of these risks may ultimately be materially greater than estimated at the time of the acquisition. Further, LINN s future acquisition costs may be higher than those it has achieved historically. Any of these factors could adversely impact its future growth and its ability to increase or pay distributions.

***If LINN does not make future acquisitions on economically acceptable terms, then its growth and ability to increase distributions will be limited.***

LINN s ability to grow and to increase distributions to its unitholders is partially dependent on its ability to make acquisitions that result in an increase in net cash provided by operating activities. It may be unable to make such acquisitions because it is:

unable to identify attractive acquisition candidates or negotiate acceptable purchase contracts with them;

unable to obtain financing for these acquisitions on economically acceptable terms; or

outbid by competitors.

In any such case, LINN s future growth and ability to increase distributions will be limited. Furthermore, even if LINN does make acquisitions that it believes will increase net cash provided by operating activities, these acquisitions may nevertheless result in a decrease in available cash flow per unit.

***If LINN is unable to fully offset declines in production and proved developed producing reserves from discretionary reductions for a portion of its oil and natural gas development costs, LINN s net cash provided by operating activities could be reduced, which could adversely affect LINN s ability to pay a distribution at the current level or at all.***

In determining the amount of cash that it distributes to its unitholders, the LINN board of directors establishes at the end of each year the estimated amounts (which LINN refers to as discretionary reductions for a portion of oil and natural gas development costs) that LINN believes will be necessary during the following year to fully offset declines in production and proved developed producing reserves through drilling and development activities. In determining this portion of oil and natural gas development costs (which includes estimated drilling and development costs associated with projects to convert a portion of non-producing reserves to producing status but does not include the historical cost of acquired properties as those amounts have already been spent in prior periods and were financed primarily with external sources of funding), management evaluates historical results of LINN s drilling and development activities based on periodically revised and updated information from past years to assess the costs, adequacy and effectiveness of such activities and future assumptions regarding cost trends, production and decline rates and reserve recoveries. However, LINN s management does not conduct an analysis to evaluate historical amounts of capital actually spent on such drilling and development activities. LINN s ability to pursue projects with the intent to fully offset declines in production and proved developed producing reserves through drilling and development activities is limited to its inventory of development opportunities on its existing acreage position. Management s estimate of this discretionary portion of its oil and natural gas development costs does not include the

historical acquisition cost of projects pursued during the year or the acquisition of new oil and natural gas reserves. Moreover, LINN s assumptions regarding costs, production and decline rates and reserve recoveries may prove incorrect. If LINN is unable to fully offset declines in production and proved developed producing reserves from this discretionary portion of its oil and natural gas

Table of Contents

Index to Financial Statements

development costs, LINN s net cash provided by operating activities could be reduced, which could adversely affect its ability to pay a distribution at the current level or at all. Furthermore, LINN s existing reserves, inventory of drilling locations and production levels will decline over time as a result of development and production activities. Consequently, if LINN were to limit its total capital expenditures to this discretionary portion of its oil and natural gas development costs and not complete acquisitions of new reserves, total reserves would decrease over time, resulting in an inability to sustain production at current levels, which could adversely affect LINN s ability to pay a distribution at the current level or at all.

***LINN has significant indebtedness under the Senior Notes and from time to time, the Amended Credit Facility. The Amended Credit Facility and the indentures governing the Senior Notes have substantial restrictions and financial covenants and LINN may have difficulty obtaining additional credit, which could adversely affect its operations, its ability to make acquisitions and its ability to pay distributions to its unitholders, including LinnCo.***

As of September 30, 2013, LINN had an aggregate of approximately $6.5 billion outstanding under the Senior Notes and the Amended Credit Facility (with additional borrowing capacity of approximately $2.3 billion under the Amended Credit Facility, which includes a $5 million reduction in availability for outstanding letters of credit). As a result of its indebtedness, LINN will use a portion of its cash flow to pay interest and principal when due, which will reduce the cash available to finance its operations and other business activities and could limit its flexibility in planning for or reacting to changes in its business and the industry in which it operates.

In April 2013, LINN entered into the Sixth Amended and Restated Credit Agreement (the Amended Credit Facility ) which provides for a revolving credit facility up to the lesser of: (i) the then-effective borrowing base and (ii) the maximum commitment amount of $4.0 billion. The borrowing base remained unchanged at $4.5 billion and does not include any assets to be acquired in the pending transaction with Berry. The maturity date is April 2018. The amended and restated agreement is substantially similar to the previous Credit Facility with revisions to permit the transactions related to the acquisition of Berry and to designate Berry as an unrestricted subsidiary under the agreement.

The Amended Credit Facility restricts LINN s ability to obtain additional financing, make investments, lease equipment, sell assets, enter into commodity and interest rate derivative contracts and engage in business combinations. LINN is also required to comply with certain financial covenants and ratios under the Amended Credit Facility and the indentures governing the Senior Notes. Its ability to comply with these restrictions and covenants in the future is uncertain and will be affected by the levels of cash flow from its operations and events or circumstances beyond its control. LINN s failure to comply with any of the restrictions and covenants could result in an event of default, which, if it continues beyond any applicable cure periods, could cause all of its existing indebtedness to be immediately due and payable.

LINN depends, in part, on the Amended Credit Facility for future capital needs. LINN has drawn on the Amended Credit Facility to fund or partially fund cash distribution payments. Absent such borrowing, it would have at times experienced a shortfall in cash available to pay its declared cash distribution amount. If there is a default by LINN under the Amended Credit Facility that continues beyond any applicable cure period, it would be unable to make borrowings to fund distributions. In addition, LINN may finance acquisitions through borrowings under the Amended Credit Facility or the incurrence of additional debt. To the extent that LINN is unable to incur additional debt under the Amended Credit Facility or otherwise because it is not in compliance with the financial covenants in the Amended Credit Facility, it may not be able to complete acquisitions, which could adversely affect its ability to maintain or increase distributions. Furthermore, to the extent LINN is unable to refinance the Amended Credit Facility on terms that are as favorable as those in the existing Amended Credit Facility, or at all, its ability to fund its operations and its ability to pay distributions could be affected.

The borrowing base under the Amended Credit Facility is determined semi-annually at the discretion of the lenders and is based in part on oil, natural gas and NGL prices. Significant declines in oil, natural gas or NGL

Table of Contents

Index to Financial Statements

prices may result in a decrease in its borrowing base. The lenders can unilaterally adjust the borrowing base and therefore the borrowings permitted to be outstanding under the Amended Credit Facility. Any increase in the borrowing base requires the consent of all the lenders. Outstanding borrowings in excess of the borrowing base must be repaid immediately, or LINN must pledge other properties as additional collateral. LINN does not currently have substantial unpledged properties, and it may not have the financial resources in the future to make any mandatory principal prepayments required under the Amended Credit Facility. Significant declines in LINN s production or significant declines in realized oil, natural gas or NGL prices for prolonged periods and resulting decreases in its borrowing base may force it to reduce or suspend distributions to its unitholders.

***LINN s ability to access the capital and credit markets to raise capital and borrow on favorable terms will be affected by disruptions in the capital and credit markets, which could adversely affect its operations, its ability to make acquisitions and its ability to pay distributions to its unitholders.***

Disruptions in the capital and credit markets could limit LINN s ability to access these markets or significantly increase its cost to borrow. Some lenders may increase interest rates, enact tighter lending standards, refuse to refinance existing debt at maturity on favorable terms or at all and may reduce or cease to provide funding to borrowers. If LINN is unable to access the capital and credit markets on favorable terms, its ability to make acquisitions and pay distributions could be affected.

***LINN s variable rate indebtedness subjects it to interest rate risk, which could cause its debt service obligations to increase significantly.***

Borrowings under the Amended Credit Facility bear interest at variable rates and expose LINN to interest rate risk. If interest rates increase and LINN is unable to effectively hedge its interest rate risk, its debt service obligations on the variable rate indebtedness would increase even though the amount borrowed remained the same, and its net income and cash available for servicing its indebtedness would decrease.

***Increases in interest rates could adversely affect the demand for LINN s units.***

An increase in interest rates may cause a corresponding decline in demand for equity investments, in particular for yield-based equity investments such as LINN units. Any such reduction in demand for LINN units resulting from other more attractive investment opportunities may cause the trading price of LINN units to decline.

***LINN s commodity derivative activities could result in financial losses or could reduce its income, which may adversely affect its ability to pay distributions to its unitholders.***

To achieve more predictable net cash provided by operating activities and to reduce its exposure to adverse fluctuations in the prices of oil and natural gas, LINN enters into commodity derivative contracts for a significant portion of its production. Commodity derivative arrangements expose it to the risk of financial loss in some circumstances, including situations when production is less than expected. If LINN experiences a sustained material interruption in its production or if it is unable to perform its drilling activity as planned, it might be forced to satisfy all or a portion of its derivative obligations without the benefit of the cash flow from its sale of the underlying physical commodity, resulting in a substantial reduction of its liquidity, which may adversely affect its ability to pay distributions to its unitholders.

***LINN s limited ability to hedge its NGL production could adversely impact its net cash provided by operating activities and results of operations.***

A liquid, readily available and commercially viable market for hedging NGLs has not developed in the same way that exists for crude oil and natural gas. The current direct NGL hedging market is constrained in terms of price, volume, tenor and number of counterparties, which limits LINN s ability to hedge its NGL production effectively or at all. As a result, LINN s net cash provided by operating activities and results of operations could be adversely impacted by fluctuations in the market prices for NGL products.

Table of Contents

Index to Financial Statements

***Counterparty failure may adversely affect LINN s derivative positions.***

LINN cannot be assured that its counterparties will be able to perform under its derivative contracts. If a counterparty fails to perform and the derivative arrangement is terminated, LINN s net cash provided by operating activities and ability to pay distributions could be impacted.

***Commodity prices are volatile, and a significant decline in commodity prices for a prolonged period would reduce LINN s revenues, net cash provided by operating activities and profitability and it may have to lower its distribution or may not be able to pay distributions at all, which would in turn reduce or eliminate LinnCo s ability to pay dividends to shareholders.***

LINN s revenue, profitability and cash flow depend upon the prices of and demand for oil, natural gas and NGL. The oil, natural gas and NGL market is very volatile and a drop in prices can significantly affect LINN s financial results and impede its growth. Changes in oil, natural gas and NGL prices have a significant impact on the value of LINN s reserves and on its net cash provided by operating activities. Prices for these commodities may fluctuate widely in response to relatively minor changes in the supply of and demand for them, market uncertainty and a variety of additional factors that are beyond LINN s control, such as:

- the domestic and foreign supply of and demand for oil, natural gas and NGL;
- the price and level of foreign imports;
- the level of consumer product demand;
- weather conditions;
- overall domestic and global economic conditions;
- political and economic conditions in oil and natural gas producing countries;
- the ability of members of the Organization of Petroleum Exporting Countries to agree to and maintain price and production controls;
- the impact of the U.S. dollar exchange rates on oil, natural gas and NGL prices;
- technological advances affecting energy consumption;
- domestic and foreign governmental regulations and taxation;
- the impact of energy conservation efforts;

the proximity and capacity of pipelines and other transportation facilities; and

the price and availability of alternative fuels.

In the past, the prices of oil, natural gas and NGL have been extremely volatile, and LINN expects this volatility to continue. If commodity prices decline significantly for a prolonged period, LINN s net cash provided by operating activities will decline, and it may have to lower its distribution or may not be able to pay distributions at all, which would in turn reduce or eliminate LinnCo s ability to pay dividends to shareholders.

***Future price declines or downward reserve revisions may result in a write down of LINN s asset carrying values, which could adversely affect its results of operations and limit its ability to borrow funds.***

Declines in oil, natural gas and NGL prices may result in LINN having to make substantial downward adjustments to its estimated proved reserves. If this occurs, or if LINN s estimates of development costs increase, production data factors change or drilling results deteriorate, accounting rules may require it to write down, as a noncash charge to earnings, the carrying value of its properties for impairments. LINN capitalizes costs to acquire, find and develop its oil and natural gas properties under the successful efforts accounting method. LINN is required to perform impairment tests on its assets periodically and whenever events or changes in

Table of Contents

Index to Financial Statements

circumstances warrant a review of its assets. To the extent such tests indicate a reduction of the estimated useful life or estimated future cash flows of LINN s assets, the carrying value may not be recoverable and therefore would require a write down. LINN has incurred impairment charges in the past and may do so in the future. Any impairment could be substantial and have a material adverse effect on its results of operations in the period incurred and on its ability to borrow funds under the Amended Credit Facility, which in turn may adversely affect its ability to make cash distributions to its unitholders.

***Unless LINN replaces its reserves, its reserves and production will decline, which would adversely affect its net cash provided by operating activities and its ability to make distributions to its unitholders.***

Producing oil, natural gas and NGL reservoirs are characterized by declining production rates that vary depending upon reservoir characteristics and other factors. The overall rate of decline for LINN s production will change if production from its existing wells declines in a different manner than it has estimated and can change when it drills additional wells, makes acquisitions and under other circumstances. Thus, LINN s future oil, natural gas and NGL reserves and production and, therefore, its cash flow and income, are highly dependent on its success in efficiently developing its current reserves and economically finding or acquiring additional recoverable reserves. LINN may not be able to develop, find or acquire additional reserves to replace its current and future production at acceptable costs, which would adversely affect its net cash provided by operating activities and its ability to make distributions to its unitholders.

***LINN s estimated reserves are based on many assumptions that may prove to be inaccurate. Any material inaccuracies in these reserve estimates or underlying assumptions will materially affect the quantities and present value of LINN s reserves.***

No one can measure underground accumulations of oil, natural gas and NGL in an exact manner. Reserve engineering requires subjective estimates of underground accumulations of oil, natural gas and NGL and assumptions concerning future oil, natural gas and NGL prices, production levels and operating and development costs. As a result, estimated quantities of proved reserves and projections of future production rates and the timing of development expenditures may prove to be inaccurate. Independent petroleum engineering firms prepare estimates of LINN s proved reserves. Some of LINN s reserve estimates are made without the benefit of a lengthy production history, which are less reliable than estimates based on a lengthy production history. Also, LINN makes certain assumptions regarding future oil, natural gas and NGL prices, production levels and operating and development costs that may prove incorrect. Any significant variance from these assumptions by actual amounts could greatly affect LINN s estimates of reserves, the economically recoverable quantities of oil, natural gas and NGL attributable to any particular group of properties, the classifications of reserves based on risk of recovery and estimates of the future net cash flows. Numerous changes over time to the assumptions on which LINN s reserve estimates are based, as described above, often result in the actual quantities of oil, natural gas and NGL LINN ultimately recovers being different from its reserve estimates.

The present value of future net cash flows from LINN s proved reserves is not necessarily the same as the current market value of its estimated oil, natural gas and NGL reserves. LINN bases the estimated discounted future net cash flows from its proved reserves on an unweighted average of the first-day-of-the-month price for each month during the 12-month calendar year and year-end costs. However, actual future net cash flows from its oil and natural gas properties also will be affected by factors such as:

- actual prices LINN receives for oil, natural gas and NGL;
- the amount and timing of actual production;
- the timing and success of development activities;
- supply of and demand for oil, natural gas and NGL; and
- changes in governmental regulations or taxation.

54

Table of Contents

Index to Financial Statements

In addition, the 10% discount factor required to be used under the provisions of applicable accounting standards when calculating discounted future net cash flows, may not be the most appropriate discount factor based on interest rates in effect from time to time and risks associated with LINN or the oil and natural gas industry in general.

***LINN s development operations require substantial capital expenditures, which will reduce its cash available for distribution. LINN may be unable to obtain needed capital or financing on satisfactory terms, which could lead to a decline in its reserves.***

The oil and natural gas industry is capital intensive. LINN makes and expects to continue to make substantial capital expenditures in its business for the development and production of oil, natural gas and NGL reserves. These expenditures will reduce LINN s cash available for distribution. LINN intends to finance its future capital expenditures with net cash provided by operating activities and, to the extent necessary, with equity and debt offerings or bank borrowings. LINN s net cash provided by operating activities and access to capital are subject to a number of variables, including:

its proved reserves;

the level of oil, natural gas and NGL it is able to produce from existing wells;

the prices at which it is able to sell its oil, natural gas and NGL; and

its ability to acquire, locate and produce new reserves.

If LINN s revenues or the borrowing base under the Amended Credit Facility decrease as a result of lower oil, natural gas and NGL prices, operating difficulties, declines in reserves or for any other reason, it may have limited ability to obtain the capital necessary to sustain its operations at current levels. The Amended Credit Facility restricts its ability to obtain new financing. If additional capital is needed, it may not be able to obtain debt or equity financing on terms favorable to it, or at all. If net cash provided by operating activities or cash available under the Amended Credit Facility is not sufficient to meet LINN s capital requirements, the failure to obtain additional financing could result in a curtailment of its development operations, which in turn could lead to a possible decline in its reserves.

***LINN may decide not to drill some of the prospects it has identified, and locations that it decides to drill may not yield oil, natural gas and NGL in commercially viable quantities.***

LINN s prospective drilling locations are in various stages of evaluation, ranging from a prospect that is ready to drill to a prospect that will require additional geological and engineering analysis. Based on a variety of factors, including future oil, natural gas and NGL prices, the generation of additional seismic or geological information, the availability of drilling rigs and other factors, LINN may decide not to drill one or more of these prospects. As a result, LINN may not be able to increase or sustain its reserves or production, which in turn could have an adverse effect on its business, financial position, results of operations and its ability to pay distributions. In addition, the SEC s reserve reporting rules include a general requirement that, subject to limited exceptions, proved undeveloped reserves may only be booked if they relate to wells scheduled to be drilled within five years of the date of booking. As of December 31, 2012, LINN had 2,504 proved undeveloped drilling locations. To the extent that LINN does not drill these locations within five years of initial booking, they may not continue to qualify for classification as proved reserves, and LINN may be required to reclassify such reserves as unproved reserves. The reclassification of such reserves could also have a negative effect on the borrowing base under the Amended Credit Facility.

The cost of drilling, completing and operating a well is often uncertain, and cost factors can adversely affect the economics of a well. LINN s efforts will be uneconomic if it drills dry holes or wells that are productive but do not produce enough oil, natural gas and NGL to be commercially viable after drilling, operating and other costs. If LINN drills future wells that it identifies as dry holes, its drilling success rate would decline, which could have an adverse effect on its business, financial position or results of operations.

55

Table of Contents

Index to Financial Statements

***LINN s business depends on gathering and transportation facilities. Any limitation in the availability of those facilities would interfere with its ability to market the oil, natural gas and NGL it produces, and could reduce its cash available for distribution and adversely impact expected increases in oil, natural gas and NGL production from LINN s drilling program.***

The marketability of LINN s oil, natural gas and NGL production depends in part on the availability, proximity and capacity of gathering and pipeline systems. The amount of oil, natural gas and NGL that can be produced and sold is subject to limitation in certain circumstances, such as pipeline interruptions due to scheduled and unscheduled maintenance, excessive pressure, physical damage to the gathering or transportation system, or lack of contracted capacity on such systems. The curtailments arising from these and similar circumstances may last from a few days to several months. In many cases, LINN is provided only with limited, if any, notice as to when these circumstances will arise and their duration. In addition, some of its wells are drilled in locations that are not serviced by gathering and transportation pipelines, or the gathering and transportation pipelines in the area may not have sufficient capacity to transport additional production. As a result, LINN may not be able to sell the oil, natural gas and NGL production from these wells until the necessary gathering and transportation systems are constructed. Any significant curtailment in gathering system or pipeline capacity, or significant delay in the construction of necessary gathering and transportation facilities, would interfere with LINN s ability to market the oil, natural gas and NGL it produces, and could reduce its cash available for distribution and adversely impact expected increases in oil, natural gas and NGL production from its drilling program.

***LINN depends on certain key customers for sales of its oil, natural gas and NGL. To the extent these and other customers reduce the volumes they purchase from LINN or delay payment, LINN s revenues and cash available for distribution could decline. Further, a general increase in nonpayment could have an adverse impact on its financial position and results of operations.***

For the year ended December 31, 2012, Enbridge Energy Partners, L.P. and DCP Midstream Partners, LP accounted for approximately 24% and 13%, respectively, of LINN s total production volumes, or 37% in the aggregate. For the year ended December 31, 2011, Enbridge Energy Partners, L.P. and DCP Midstream Partners, LP accounted for approximately 21% and 19%, respectively, of LINN s total production volumes, or 40% in the aggregate. To the extent these and other customers reduce the volumes of oil, natural gas or NGL that they purchase from LINN, LINN s revenues and cash available for distribution could decline.

***Many of LINN s leases are in areas that have been partially depleted or drained by offset wells.***

LINN s key project areas are located in some of the most active drilling areas of the producing basins in the U.S. As a result, many of its leases are in areas that have already been partially depleted or drained by earlier offset drilling. This may inhibit its ability to find economically recoverable quantities of reserves in these areas.

LINN s identified drilling location inventories are scheduled out over several years, making them susceptible to uncertainties that could materially alter the occurrence or timing of their drilling, resulting in temporarily lower net cash provided by operating activities, which may impact LINN s ability to pay distributions.

LINN s management has specifically identified and scheduled drilling locations as an estimation of LINN s future multi-year drilling activities on its existing acreage. As of December 31, 2012, LINN had identified 10,981 drilling locations, of which 2,504 were proved undeveloped locations and 8,477 were other locations. These identified drilling locations represent a significant part of LINN s growth strategy. Its ability to drill and develop these locations depends on a number of factors, including the availability of capital, seasonal conditions, regulatory approvals, oil, natural gas and NGL prices, costs and drilling results. In addition, D&M has not estimated proved reserves for the 8,477 other drilling locations LINN has identified and scheduled for drilling, and therefore there may be greater uncertainty with respect to the success of drilling wells at these drilling locations. LINN s final determination on whether to drill any of these drilling locations will be dependent upon

Table of Contents

Index to Financial Statements

the factors described above as well as, to some degree, the results of its drilling activities with respect to its proved drilling locations. Because of these uncertainties, LINN does not know if the numerous drilling locations it has identified will be drilled within its expected timeframe or will ever be drilled or if it will be able to produce oil, natural gas and NGL from these or any other potential drilling locations. As such, LINN s actual drilling activities may materially differ from those presently identified, which could adversely affect its business.

***Drilling for and producing oil, natural gas and NGL are high risk activities with many uncertainties that could adversely affect LINN s financial position or results of operations and, as a result, its ability to pay distributions to its unitholders.***

LINN s drilling activities are subject to many risks, including the risk that it will not discover commercially productive reservoirs. Drilling for oil, natural gas and NGL can be uneconomic, not only from dry holes, but also from productive wells that do not produce sufficient revenues to be commercially viable. In addition, LINN s drilling and producing operations may be curtailed, delayed or canceled as a result of other factors, including:

the high cost, shortages or delivery delays of equipment and services;

unexpected operational events;

adverse weather conditions;

facility or equipment malfunctions;

title problems;

pipeline ruptures or spills;

compliance with environmental and other governmental requirements;

unusual or unexpected geological formations;

loss of drilling fluid circulation;

formations with abnormal pressures;

fires;

blowouts, craterings and explosions; and

uncontrollable flows of oil, natural gas and NGL or well fluids.

Any of these events can cause increased costs or restrict LINN s ability to drill the wells and conduct the operations which it currently has planned. Any delay in the drilling program or significant increase in costs could impact LINN s ability to generate sufficient net cash provided by operating activities to pay distributions to its unitholders at the current distribution level or at all. Increased costs could include losses from personal injury or loss of life, damage to or destruction of property, natural resources and equipment, pollution, environmental contamination, loss of wells and regulatory penalties. LINN ordinarily maintains insurance against certain losses and liabilities arising from its operations. However, it is impossible to insure against all operational risks in the course of LINN s business. Additionally, LINN may elect not to obtain insurance if it believes that the cost of available insurance is excessive relative to the perceived risks presented. Losses could therefore occur for uninsurable or uninsured risks or in amounts in excess of existing insurance coverage. The occurrence of an event that is not fully covered by insurance could have a material adverse impact on LINN s business activities, financial position and results of operations.

***LINN has limited control over the activities on properties it does not operate.***

Other companies operate some of the properties in which LINN has an interest. Nonoperated wells represented approximately 30% of LINN s total owned gross wells, or approximately 9% of its owned net wells, as of December 31, 2012. LINN has limited ability to influence or control the operation or future development of

Table of Contents

Index to Financial Statements

these nonoperated properties, including timing of drilling and other scheduled operations activities, compliance with environmental, safety and other regulations, or the amount of capital expenditures that LINN is required to fund with respect to them. The failure of an operator of LINN s wells to adequately perform operations, an operator s breach of the applicable agreements or an operator s failure to act in ways that are in LINN s best interest could reduce its production and revenues. LINN s dependence on the operator and other working interest owners for these projects and its limited ability to influence or control the operation and future development of these properties could materially adversely affect the realization of LINN s targeted returns on capital in drilling or acquisition activities and lead to unexpected future costs.

***Because LINN handles oil, natural gas and NGL and other hydrocarbons, it may incur significant costs and liabilities in the future resulting from a failure to comply with new or existing environmental regulations or an accidental release of hazardous substances into the environment.***

The operations of LINN s wells, gathering systems, turbines, pipelines and other facilities are subject to stringent and complex federal, state and local environmental laws and regulations. Failure to comply with these laws and regulations may trigger a variety of administrative, civil and criminal enforcement measures, including the assessment of monetary penalties, the imposition of remedial requirements, and the issuance of orders enjoining future operations. There is an inherent risk that LINN may incur environmental costs and liabilities due to the nature of its business and the substances it handles. Certain environmental statutes, including the RCRA, CERCLA and analogous state laws and regulations, impose strict, joint and several liability for costs required to clean up and restore sites where hazardous substances have been disposed of or otherwise released. In addition, an accidental release from one of LINN s wells or gathering pipelines could subject it to substantial liabilities arising from environmental cleanup and restoration costs, claims made by neighboring landowners and other third parties for personal injury and property damage and fines or penalties for related violations of environmental laws or regulations.

Moreover, the possibility exists that stricter laws, regulations or enforcement policies could significantly increase LINN s compliance costs and the cost of any remediation that may become necessary, and these costs may not be recoverable from insurance.

***LINN is subject to complex federal, state, local and other laws and regulations that could adversely affect the cost, manner or feasibility of doing business.***

LINN s operations are regulated extensively at the federal, state and local levels. Environmental and other governmental laws and regulations have resulted in delays and increased the costs to plan, design, drill, install, operate and abandon oil and natural gas wells. Under these laws and regulations, LINN could also be liable for personal injuries, property damage and other damages. Failure to comply with these laws and regulations may result in the suspension or termination of LINN s operations and subject it to administrative, civil and criminal penalties. Moreover, public interest in environmental protection has increased in recent years, and environmental organizations have opposed, with some success, certain drilling projects.

Part of the regulatory environment in which LINN operates includes, in some cases, legal requirements for obtaining environmental assessments, environmental impact studies and/or plans of development before commencing drilling and production activities. In addition, LINN s activities are subject to the regulations regarding conservation practices and protection of correlative rights. These regulations affect LINN s operations and limit the quantity of oil, natural gas and NGL it may produce and sell. A major risk inherent in LINN s drilling plans is the need to obtain drilling permits from state and local authorities. Delays in obtaining regulatory approvals or drilling permits, the failure to obtain a drilling permit for a well or the receipt of a permit with unreasonable conditions or costs could have a material adverse effect on LINN s ability to develop its properties. Additionally, the regulatory environment could change in ways that might substantially increase the financial and managerial costs of compliance with these laws and regulations and, consequently, adversely affect LINN s ability to pay distributions to its unitholders.

Table of Contents

Index to Financial Statements

***Federal and state legislation and regulatory initiatives related to hydraulic fracturing could result in increased costs and operating restrictions or delays.***

Hydraulic fracturing is an important and common practice that is used to stimulate production of hydrocarbons from tight formations. Due to concerns raised relating to potential impacts of hydraulic fracturing on groundwater quality, legislative and regulatory efforts at the federal level and in some states have been initiated to render permitting and compliance requirements more stringent for hydraulic fracturing or prohibit the activity altogether. For example, the EPA has asserted federal regulatory authority over hydraulic fracturing involving fluids that contain diesel fuel under the Safe Drinking Water Act s Underground Injection Control Program and has released draft permitting guidance for hydraulic fracturing operations that use diesel fuel in fracturing fluids in those states where the EPA is the permitting authority. In addition, both Texas and Louisiana have adopted disclosure regulations requiring varying degrees of disclosure of the constituents in hydraulic fracturing fluids. Such efforts could have an adverse effect on LINN s oil and natural gas production activities.

***LINN does not have the same flexibility as other types of organizations to accumulate cash and equity to protect against illiquidity in the future.***

Unlike a corporation, LINN s limited liability company agreement requires it to make distributions to its unitholders of all available cash reduced by any amounts of reserves for commitments and contingencies, including capital and operating costs and debt service requirements. The value of LINN s units may decrease in direct correlation with decreases in the amount it distributes per unit. Accordingly, if LINN experiences a liquidity problem in the future, it may have difficulty issuing more equity to recapitalize.

***LINN s tax treatment depends on its status as a partnership for federal income tax purposes, as well as it not being subject to a material amount of entity level taxation by individual states. If the Internal Revenue Service ( IRS ) were to treat LINN as a corporation for federal income tax purposes or if LINN was to become subject to entity level taxation for state tax purposes, taxes paid, if any, would reduce the amount of cash available for distribution.***

The anticipated after-tax economic benefit of an investment in LINN s units depends largely on LINN being treated as a partnership for federal income tax purposes. LINN has not requested, and does not plan to request, a ruling from the IRS on this or any other tax matter that affects LINN.

If LINN was treated as a corporation for federal income tax purposes, LINN would pay federal income tax on its taxable income at corporate tax rates, currently at a maximum rate of 35%. In such event, distributions would generally be taxed as corporate distributions, no income, gain, loss, deduction or credit would flow through to LINN s unitholders and LINN s cash available for distribution to its unitholders could be reduced. Therefore, treatment of LINN as a corporation would result in a material reduction in the anticipated cash flow and after-tax return to LINN s unitholders, likely causing a substantial reduction in the value of LINN s units.

Current law or LINN s business may change so as to cause LINN to be treated as a corporation for federal income tax purposes or otherwise subject LINN to entity level taxation. Any modification to current law or interpretations thereof may or may not be applied retroactively and could make it more difficult or impossible to meet the requirements for partnership status, affect or cause LINN to change its business activities, affect the tax considerations of an investment in LINN, change the character or treatment of portions of LINN s income and adversely affect an investment in LINN s units.

In addition, several states are evaluating ways to subject partnerships and limited liability companies to entity level taxation through the imposition of state income, franchise or other forms of taxation. For example, LINN is required to pay Texas franchise tax on LINN s total revenue apportioned to Texas at a maximum effective rate of 0.7%. Imposition of a tax on LINN by any other state would reduce the amount of cash available for distribution to LINN s unitholders.

Table of Contents

Index to Financial Statements

***A successful IRS contest of the federal income tax positions LINN takes may adversely affect the market for LINN s units, and the cost of an IRS contest will reduce LINN s cash available for distribution to its unitholders.***

The IRS may adopt tax positions that differ from the positions LINN takes. It may be necessary to resort to administrative or court proceedings to sustain some or all of the positions LINN takes. A court may not agree with some or all of the positions LINN takes. Any contest with the IRS may materially and adversely impact the market for LINN s units and the price at which they trade.

Table of Contents

Index to Financial Statements

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This document contains or incorporates by reference a number of forward-looking statements, including statements about the financial conditions, results of operations, earnings outlook and prospects of LinnCo, LINN, Berry and the potential combined company and may include statements for the period following the completion of the merger. Forward-looking statements are typically identified by words such as plan, believe, expect, anticipate, intend, outlook, estimate, forecast, project and other similar words and expressions.

The forward-looking statements involve certain risks and uncertainties. The ability of Berry, LinnCo or LINN to predict results or the actual effects of their respective plans and strategies, or those of the combined company, is subject to inherent uncertainty. Factors that may cause actual results or earnings to differ materially from such forward-looking statements include those set forth under Risk Factors, as well as, among others, the following:

- those discussed and identified in public filings with the SEC made by Berry, LinnCo or LINN;
- market prices for oil, natural gas and NGL;
- production volumes;
- estimates of proved reserves;
- capital expenditures;
- economic and competitive conditions;
- credit and capital market conditions;
- regulatory changes;
- the ability to achieve cost savings and revenue growth;
- the impact of distributions from Berry on the size of distributions made by LINN and LinnCo, and Berry s ability to make any such distributions;
- the risk that a condition to closing of the transactions may not be satisfied;
- the risk that a regulatory approval required for the transactions is not obtained or is obtained subject to conditions that are not anticipated;

effects of the pending SEC inquiry and other legal proceedings;

costs arising from potential negative investor reactions to the transactions;

other risks to consummation of the transactions;

the merger may be more expensive to complete than anticipated, including as a result of unexpected factors or events; and

the integration of Berry s business and operations with those of LinnCo and LINN may take longer than anticipated, may be more costly than anticipated and may have unanticipated adverse results relating to Berry s, LinnCo s or LINN s existing businesses.

Because these forward-looking statements are subject to assumptions and uncertainties, actual results may differ materially from those expressed or implied by these forward-looking statements. You are cautioned not to place undue reliance on these statements, which speak only as of the date of this document or the date of any document incorporated by reference in this document.

Table of Contents

Index to Financial Statements

## INFORMATION ABOUT BERRY PETROLEUM COMPANY

***Berry***

Berry is an independent energy company engaged in the production, development, exploitation and acquisition of oil and natural gas. Berry s principal reserves and producing properties are located in California (South Midway-Sunset Steam Floods, North Midway-Sunset Diatomite, North Midway-Sunset New Steam Floods), Texas (Permian and east Texas), Utah (Uinta) and Colorado (Piceance).

As of December 31, 2012, Berry s proved reserves were 275.1 million barrels of oil equivalent, of which 74.2% is comprised of oil and 54.6% is proved developed. Berry Class A common stock trades on the NYSE under the symbol BRY. Berry s principal executive offices are located at 1999 Broadway, Suite 3700, Denver, Colorado 80202, and its telephone number is (303) 999-4400.

Additional information about Berry and its subsidiaries is included in documents incorporated by reference in this joint proxy statement/prospectus. See Where You Can Find More Information.

***Bacchus HoldCo, Inc.***

Bacchus HoldCo, Inc., a Delaware corporation, is a direct wholly owned subsidiary of Berry that was formed solely in contemplation of the transactions, has not commenced any operations, has only nominal assets and has no liabilities or contingent liabilities, nor any outstanding commitments other than as set forth in the merger agreement. Bacchus HoldCo, Inc. has not incurred any obligations, engaged in any business activities or entered into any agreements or arrangements with any third parties other than the merger agreement. Its principal executive offices are located at 1999 Broadway, Suite 3700, Denver, Colorado 80202, and its telephone number is (303) 999-4400.

***Bacchus Merger Sub, Inc.***

Bacchus Merger Sub, Inc., a Delaware corporation, is a direct wholly owned subsidiary of Bacchus HoldCo, Inc. that was formed solely in contemplation of the transactions, has not commenced any operations, has only nominal assets and has no liabilities or contingent liabilities, nor any outstanding commitments other than as set forth in the merger agreement. Bacchus Merger Sub, Inc. has not incurred any obligations, engaged in any business activities or entered into any agreements or arrangements with any third parties other than the merger agreement. Its principal executive offices are located at 1999 Broadway, Suite 3700, Denver, Colorado 80202, and its telephone number is (303) 999-4400.

Table of Contents

Index to Financial Statements

**INFORMATION ABOUT LINNCO, LLC AND LINN ENERGY, LLC**

***LinnCo, LLC***

LinnCo is a limited liability company that completed its IPO in October 2012. As of September 30, 2013, its sole business consisted of owning units of LINN. LinnCo does not have any assets other than LINN units and reserves for income taxes payable by LinnCo. LinnCo does not have any cash flow other than distributions received in respect of its LINN units. As a result, LinnCo s financial condition and results of operations are dependent upon the operation and management of LINN and its resulting performance. As of September 30, 2013, LinnCo owned approximately 15% of LINN s outstanding units. LinnCo s principal executive offices are located at 600 Travis, Suite 5100, Houston, Texas 77002, and its telephone number is (281) 840-4000.

See Additional Information About LinnCo, LLC for additional information about LinnCo.

***Linn Energy, LLC***

LINN is an independent oil and natural gas company whose mission is to acquire, develop and maximize cash flow from a growing portfolio of long-life oil and natural gas assets. LINN began operations in March 2003 and completed its IPO in January 2006. LINN s properties are located in the U.S., in the Mid-Continent, the Hugoton Basin, the Green River Basin, the Permian Basin, Michigan, Illinois, the Williston/Powder River Basin, California and east Texas. LINN s principal executive offices are located at 600 Travis, Suite 5100, Houston, Texas 77002, and its telephone number is (281) 840-4000.

LINN s total proved reserves at December 31, 2012 were 4,796 Bcfe, of which approximately 24% were oil, 54% were natural gas and 22% were NGLs. Approximately 65% were classified as proved developed, with a total standardized measure of discounted future net cash flows of $6.1 billion. At December 31, 2012, LINN operated 11,048 or 70% of its 15,804 gross productive wells and had an average proved reserve-life index of approximately 16 years, based on the December 31, 2012 reserve report and fourth quarter 2012 annualized production.

See Additional Information About Linn Energy, LLC for additional information about LINN.

***Linn Acquisition Company, LLC***

Linn Acquisition Company, LLC, a Delaware limited liability company, is a direct wholly owned subsidiary of LinnCo that was formed solely in contemplation of the transactions, has not commenced any operations, has only nominal assets and has no liabilities or contingent liabilities, nor any outstanding commitments other than as set forth in the merger agreement. Linn Acquisition Company, LLC has not incurred any obligations, engaged in any business activities or entered into any agreements or arrangements with any third parties other than the merger agreement. Linn Acquisition Company, LLC s principal executive offices are located at 600 Travis, Suite 5100, Houston, Texas 77002, and its telephone number is (281) 840-4000.

Table of Contents

Index to Financial Statements

## THE BERRY SPECIAL MEETING

This section contains information about the special meeting of Berry stockholders that will be held at , at , local time, on , 2013, subject to any adjournments or postponements. Together with this document, we are also sending you a notice of the Berry special meeting and a form of proxy that is solicited by the Berry board of directors.

### Matters to Be Considered

The purpose of the Berry special meeting is to:

- adopt the Berry Merger Proposal;
- approve, on an advisory (non-binding) basis, the Berry Advisory Compensation Proposal;
- approve the Berry Adjournment Proposal; and
- transact such other business as may properly come before the Berry special meeting or any adjournment or postponement thereof.

### Proxies

Each copy of this document mailed to holders of Berry common stock is accompanied by a form of proxy with instructions for voting. If you hold stock in your name as a stockholder of record, you should complete and return the proxy card accompanying this document to ensure that your vote is counted at the Berry special meeting, or at any adjournment or postponement of the Berry special meeting, regardless of whether you plan to attend the Berry special meeting. You may also authorize a proxy to vote your shares by telephone or through the Internet as instructed on the proxy card.

If you hold your stock in street name through a bank or broker, you must direct your bank or broker to vote in accordance with the procedures you have received from your bank or broker.

If you hold stock in your name as a stockholder of record, you may revoke any proxy at any time before it is voted by (1) signing and returning a proxy card with a later date or submitting another proxy via the Internet or by telephone, (2) delivering a written revocation letter to Berry s Secretary or (3) attending the Berry special meeting in person, notifying the Secretary, and voting by ballot at the Berry special meeting. If you hold your stock in street name through a bank or broker, you must follow your bank s or broker s instructions to revoke your proxy.

Any stockholder entitled to vote in person at the Berry special meeting may vote in person regardless of whether a proxy has been previously given, and such vote will revoke any previous proxy but the mere presence (without notifying Berry s Secretary and voting by ballot) of a stockholder at the Berry special meeting will not constitute revocation of a previously given proxy.

Written notices of revocation and other communications about revoking your proxy should be addressed to:

Berry Petroleum Company

1999 Broadway, Suite 3700

Denver, Colorado 80202

Attention: Secretary

All shares represented by valid proxies that Berry receives through this solicitation, and that are not revoked, will be voted in accordance with your instructions on the proxy card. If you make no specification on your proxy card as to how you want your shares voted before signing and returning it, your proxy will be voted:

**FOR** the Berry Merger Proposal;

**FOR** the Berry Advisory Compensation Proposal; and

**FOR** the Berry Adjournment Proposal.

Table of Contents

Index to Financial Statements

**Solicitation of Proxies**

Berry will bear its own costs and expenses incurred in connection with the filing, printing and mailing of this joint proxy statement/prospectus and the retention of any information agent or other service provider in connection with the merger. This proxy solicitation is being made by Berry on behalf of the Berry board of directors. Berry has hired Innisfree M&A Incorporated and Georgeson Inc. to assist in the solicitation of proxies. In addition to this mailing, proxies may be solicited by directors, officers or employees of Berry or its affiliates in person or by telephone or electronic transmission. None of the directors, officers or employees will be directly compensated for such services.

**Record Date**

The close of business on , 2013 has been fixed as the record date for determining the Berry stockholders entitled to receive notice of and to vote at the Berry special meeting. At that time, approximately shares of Berry common stock were outstanding and held by approximately holders of record.

**Attending the Berry Special Meeting**

All holders of Berry common stock, including stockholders of record and stockholders who hold their shares through banks, brokers, nominees or any other holder of record, are invited to attend the Berry special meeting. Stockholders of record can vote in person at the Berry special meeting. If you are not a stockholder of record, you must obtain a proxy executed in your favor from the record holder of your shares, such as a broker, bank or other nominee, to be able to vote in person at the Berry special meeting. If you plan to attend the Berry special meeting, you must hold your shares in your own name or have a letter from the record holder of your shares confirming your ownership and you must bring a form of personal photo identification with you in order to be admitted. Berry reserves the right to refuse admittance to anyone without both proper proof of share ownership and proper photo identification.

**Berry Proposal No. 1 The Berry Merger Proposal**

Berry stockholders are being asked to approve a proposal to adopt the merger agreement, and approve the merger and the other transactions contemplated by the merger agreement.

The approval of a majority of the votes entitled to be cast by all outstanding shares of Berry common stock entitled to vote is required to approve the Berry Merger Proposal. The required vote is based on the number of outstanding shares not the number of shares actually voted. The failure of any Berry stockholder to submit a vote and any abstention from voting by a Berry stockholder will have the same effect as a vote against the Berry Merger Proposal. Likewise, broker non-votes will have the same effect as voting against the Berry Merger Proposal. Broker non-votes occur when a beneficial owner holding shares in street name does not instruct the broker, bank, trustee or other nominee that is the record owner of such stockholder s shares on how to vote those shares on a particular proposal, and the broker, bank, trustee or other nominee does not have discretionary voting power with respect to such proposal. In this case, brokers, banks, trustees and other nominees do not have discretionary authority to vote on this proposal, because this proposal is not routine. Consequently, the failure of a beneficial owner to provide voting instructions to its broker, bank, trustee or other nominee will have the same effect as a vote against this proposal.

The Berry board of directors has unanimously (i) determined that the merger agreement, the merger and the other transactions contemplated by the merger agreement are advisable, fair and reasonable to and in the best interests of Berry and its stockholders, and (ii) approved and adopted the merger agreement and approved the merger and the other transactions contemplated by the merger agreement. The Berry board of directors recommends that the Berry stockholders vote **FOR** the Berry Merger Proposal.

The Berry board of directors urges you to read the entire joint proxy statement/prospectus carefully, including the merger agreement, attached as Annex A to this joint proxy statement/prospectus, and any other

Table of Contents

Index to Financial Statements

annexes or documents incorporated by reference into this joint proxy statement/prospectus. For more information about the merger, see The Merger and The Merger Agreement below.

**Berry Proposal No. 2 Berry Advisory Compensation Proposal**

Berry is requesting the Berry stockholders approval, on an advisory (non-binding) basis, of specified compensation that may be payable to the Berry named executive officers in connection with the merger and therefore is asking stockholders to adopt the following resolution:

RESOLVED, that the compensation that may be paid or become payable to Berry s named executive officers in connection with the merger, as disclosed in the table in the section of the proxy statement entitled The Merger Interests of Berry s Directors and Executive Officers in the Merger including the associated narrative discussion, and the agreements and plans pursuant to which such compensation may be paid or become payable, are hereby APPROVED.

The advisory vote on specified compensation payable in connection with the merger is a vote separate and apart from the vote to adopt the merger agreement, and approval of such specified compensation is not a condition to completion of the merger. Accordingly, stockholders may vote to approve this proposal regarding specified compensation that may be received by Berry s named executive officers in connection with the merger and vote not to adopt the merger agreement and vice versa. Because the vote is advisory in nature only, it will not be binding on either Berry or LinnCo. Accordingly, to the extent Berry or LinnCo is contractually obligated to pay the compensation, the compensation will be payable to the named executive officers, subject only to the conditions applicable thereto, if the merger agreement is approved and adopted and the merger completed, regardless of the outcome of the advisory vote.

The affirmative vote of a majority of votes cast by Berry common stockholders entitled to vote is required to approve the Berry Advisory Compensation Proposal. The required vote is based on the number of votes cast not the number of outstanding shares. Broker non-votes and abstentions will not be included in the vote totals and therefore will not have an effect on the proposal.

The Berry board of directors unanimously recommends a vote **FOR** the Berry Advisory Compensation Proposal.

**Berry Proposal No. 3 Berry Adjournment Proposal**

Berry stockholders are being asked to approve a proposal that will give Berry authority to adjourn the Berry special meeting for the purpose of soliciting additional proxies in favor of the Berry Merger Proposal if there are not sufficient votes at the time of the Berry special meeting to approve such proposal. If the Berry Adjournment Proposal is approved, the Berry special meeting could be adjourned to any date; provided that, under the terms of the merger agreement, the adjournment may not be to a date more than 20 days after the date the Berry special meeting was originally scheduled without the consent of LinnCo (other than adjournments or postponements required by applicable law). If the Berry special meeting is adjourned, Berry stockholders who have already submitted their proxies will be able to revoke them at any time prior to their use. If you return a proxy and do not indicate how you wish to vote on any proposal, or if you indicate that you wish to vote in favor of the Berry Merger Proposal but do not indicate a choice on the Berry Adjournment Proposal, your shares will be voted in favor of the Berry Adjournment Proposal. If you indicate that you wish to vote against the Berry Merger Proposal, your shares will only be voted in favor of the Berry Adjournment Proposal if you indicate that you wish to vote in favor of that proposal.

The affirmative vote of a majority of votes cast by Berry common stockholders entitled to vote is required to approve the Berry Adjournment Proposal. The required vote is based on the number of votes cast not the number of outstanding shares. Broker non-votes and abstentions will not be included in the vote totals and therefore will not have an effect on the proposal.

The Berry board of directors unanimously recommends a vote **FOR** the Berry Adjournment Proposal.

Table of Contents

Index to Financial Statements

## THE LINNCO ANNUAL MEETING

This section contains information about the annual meeting of LinnCo shareholders. The LinnCo annual meeting will be held at , at , local time, on , 2013, subject to any adjournments or postponements. Together with this document, we are also sending you a notice of the LinnCo annual meeting and a form of proxy that is solicited by the LinnCo board of directors.

**Matters to Be Considered**

The purpose of the LinnCo annual meeting is:

*Merger-Related Proposals*

- to approve the LinnCo Share Issuance Proposal;
- to approve the LinnCo LLC Agreement Amendment Proposal A; and
- to approve the LinnCo LLC Agreement Amendment Proposal B.

*LINN Pass-Through Proposals*

- to approve the election of each of the six nominees for the LINN board of directors;
- to approve the ratification of the selection of KPMG LLP as independent public accountant for LINN for 2013;
- to approve the LINN Unit Issuance Proposal;
- to approve the LTIP Amendment Proposal; and
- to approve the LINN Adjournment Proposal.

*General*

- to approve the ratification of the selection of KPMG LLP as independent public accountant for LinnCo for 2013;
- to approve the LinnCo Adjournment Proposal; and
- to transact such other business as may properly come before the LinnCo annual meeting or any adjournment or postponement thereof.

**Quorum Required**

The presence, in person or by proxy, of the holders as of the record date of a majority of LinnCo outstanding common shares is necessary to constitute a quorum for purposes of voting on the proposals at the LinnCo annual meeting. Withheld votes, abstentions and broker non-votes will count as present for purposes of establishing a quorum on the proposals.

**How to Vote**

If you are a holder of LinnCo common shares, you are entitled to one vote at the LinnCo annual meeting for each share that you held as of the record date for each proposal. If you do not wish to vote for a particular director nominee, you must clearly identify such nominee on your proxy card. If shares are held in street name through a broker and the broker is not given direction on how to vote, the broker will not have discretion to vote such shares on non-routine matters, including the election of directors.

Table of Contents

Index to Financial Statements

You may vote in person at the LinnCo annual meeting or by proxy. Even if you plan to attend the LinnCo annual meeting, LinnCo encourages you to complete, sign and return your proxy card in advance of the LinnCo annual meeting. If you plan to attend the LinnCo annual meeting and wish to vote in person, we will give you a ballot at the meeting. However, please note that if your common shares are held in street name (in the name of a broker or by a bank or other nominee), you are considered the beneficial owner of these shares and proxy materials are being forwarded to you by your broker or nominee, which is considered, with respect to these shares, the shareholder of record. As the beneficial owner, you have the right to direct your broker how to vote; however, since you are not the shareholder of record, you may not vote these shares in person at the LinnCo annual meeting unless you obtain a legal proxy from your brokerage firm. Please mail your completed, signed and dated proxy card in the enclosed postage-paid return envelope as soon as possible so that your shares may be represented at the LinnCo annual meeting.

**Revoking Your Proxy**

You may revoke your proxy before it is voted at the LinnCo annual meeting as follows: (i) by delivering, before or at the LinnCo annual meeting, a new proxy with a later date; (ii) by delivering, on or before the business day prior to the LinnCo annual meeting, a notice of revocation to LinnCo s Corporate Secretary at the address set forth in the notice of the LinnCo annual meeting; (iii) by attending the LinnCo annual meeting in person and voting, although your attendance at the LinnCo annual meeting, without actually voting, will not by itself revoke a previously granted proxy; or (iv) if you have instructed a broker to vote your shares, you must follow the directions received from your broker to change those instructions.

All shares represented by valid proxies that LinnCo receives through this solicitation, and that are not revoked, will be voted in accordance with your instructions on the proxy card. If you make no specification on your proxy card as to how you want your shares voted before signing and returning it, your proxy will be voted:

**FOR** the LinnCo Share Issuance Proposal,

**FOR** the LinnCo LLC Agreement Amendment Proposal A,

**FOR** the LinnCo LLC Agreement Amendment Proposal B,

**FOR** the election of each of the six nominees for the LINN board of directors,

**FOR** the ratification of the selection of KPMG LLP as independent public accountant for LINN for 2013,

**FOR** the LINN Unit Issuance Proposal,

**FOR** the LTIP Amendment Proposal,

**FOR** the LINN Adjournment Proposal,

**FOR** the ratification of the selection of KPMG LLP as independent public accountant for LinnCo for 2013, and

**FOR** the LinnCo Adjournment Proposal.

**Solicitation of Proxies**

LinnCo will bear its own costs and expenses incurred in connection with the filing, printing and mailing of this joint proxy statement/prospectus and the retention of any information agent or other service provider in connection with the merger. This proxy solicitation is being made by LinnCo on behalf of the LinnCo board of directors. LinnCo has hired Laurel Hill Advisory Group to assist in the solicitation of proxies. In addition to this mailing, proxies may be solicited by directors, officers or employees of LinnCo or its affiliates in person or by telephone or electronic transmission. None of the directors, officers or employees will be directly compensated for such services.

Table of Contents

Index to Financial Statements

**Record Date**

The close of business on , 2013 has been fixed as the record date for determining the LinnCo shareholders entitled to receive notice of and to vote at the LinnCo annual meeting. As of the record date, there were outstanding common shares entitled to vote at the LinnCo annual meeting.

**Merger-Related Proposals**

**LinnCo Proposal No. 1 LinnCo Share Issuance Proposal**

If the merger is consummated pursuant to the merger agreement, each share of Berry common stock will be converted into 1.25 LinnCo common shares, which we refer to as the exchange ratio, equivalent to total consideration of $46.2375 per share of HoldCo common stock, based on the closing price of LinnCo common shares on February 20, 2013, the last trading day before public announcement of the proposed transactions. Based on the closing price of LinnCo common shares on the NASDAQ of $ on , 2013, the latest practicable date before the date of this joint proxy statement/prospectus, the exchange ratio represented approximately $ in LinnCo common shares for each share of Berry common stock.

Under NASDAQ Marketplace Rule 5635(a)(1), a company listed on the NASDAQ is required to obtain stockholder approval prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions if the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of twenty percent (20%) of the number of shares of common stock outstanding or twenty percent (20%) or more of the voting power before the issuance of the common stock or of securities convertible into or exercisable for common stock. If the merger is completed pursuant to the merger agreement, we estimate that LinnCo will issue or reserve for issuance approximately LinnCo common shares in connection with the merger. On an as-converted basis, the aggregate number of LinnCo common shares that LinnCo will issue in the merger will exceed twenty percent (20%) of LinnCo common shares outstanding before such issuance, and for this reason LinnCo must obtain the approval of LinnCo shareholders for the issuance of the LinnCo common shares to the Berry stockholders pursuant to the merger agreement.

In the event this proposal is not approved by the LinnCo shareholders, the merger cannot be consummated. In the event this proposal is approved by the LinnCo shareholders, but the merger agreement is terminated (without the merger being completed) prior to the issuance of LinnCo common shares to the Berry stockholders pursuant to the merger agreement, LinnCo will not issue the LinnCo common shares.

The affirmative vote of a majority of votes cast by holders of LinnCo common shares entitled to vote at a meeting at which a quorum is present is required to approve the LinnCo Share Issuance Proposal. The required vote is based on the number of votes cast not the number of outstanding shares. Broker non-votes and abstentions will not be included in the vote totals and therefore will not have an effect on the proposal.

**The LinnCo board of directors unanimously recommends that LinnCo shareholders vote FOR the LinnCo Share Issuance Proposal.**

**LinnCo Proposal No. 2 and 3 LinnCo LLC Agreement Amendments**

In connection with the merger, LinnCo common shareholders are being asked to approve an amendment to the limited liability company agreement of LinnCo. A copy of the amendment to the limited liability company agreement is attached as Annex C to this joint proxy statement/prospectus and incorporated by reference herein. Such amendment is being made to, among other things, (1) permit LinnCo to acquire more than one LINN unit for each LinnCo common share that it issues in connection with an offering (including an issuance of LinnCo common shares in the transactions described in this joint proxy statement/prospectus) (2) provide that the contribution by LinnCo to LINN of assets that LinnCo receives in an offering (including the assets that LinnCo receives in the transactions described in this joint proxy statement/prospectus) shall not constitute a sale,

Table of Contents

Index to Financial Statements

exchange or other disposition of all or substantially all of LinnCo s assets for purposes of the LinnCo shareholder approval requirement under the limited liability company agreement, and (3) expand the purpose and nature of the business permitted to be conducted by LinnCo.

Under LinnCo LLC Agreement Amendment Proposal A, the changes to the LinnCo LLC Agreement will be in effect only for purposes of the transactions described in this joint proxy statement/prospectus. Under LinnCo LLC Agreement Amendment Proposal B, the changes to the LinnCo LLC Agreement will be in effect after the closing of the transactions described in this joint proxy statement/prospectus (including for purposes of any similar transactions in the future).

Each change to the LinnCo LLC Agreement was separately negotiated and bargained for by Berry, and the adoption of both LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B by the LinnCo shareholders is a condition to the merger. If LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B are BOTH approved by the LinnCo shareholders, the amendments to the LinnCo LLC agreement will be in effect for purposes of the transactions described in this joint proxy statement/prospectus, and will be in effect after the closing of the transactions described in this joint proxy statement/prospectus (including for purposes of any similar transactions in the future). In the event that (i) BOTH LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B are not approved, or (ii) only one of LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B is approved, the merger cannot be consummated and the amendment to the limited liability company agreement will not be effective.

**Issuance of Additional Securities**

The limited liability company agreement currently provides that the number of outstanding LinnCo common shares at all times must equal the number of LINN units that LinnCo owns. In connection with any offering of LinnCo shares, LINN agrees to sell to LinnCo a number of LINN units equal to the number of shares sold in such offering for an amount equal to the net proceeds of such offering. In addition, if LinnCo makes any award of common or derivative securities in connection with any employee benefit plan, LINN will sell to LinnCo, upon the earlier of the issuance of such common shares or the exercise or vesting of such derivative shares, an equal number of LINN units for the same consideration, if any, that LinnCo receives from the award recipient.

The amendment to the limited liability company agreement will provide that (1) in any offering of LinnCo common shares (including an issuance of LinnCo common shares in the transactions described in this joint proxy statement/prospectus), the LinnCo board of directors may elect to purchase from LINN a greater number of LINN units than the number of LinnCo common shares sold in such offering and LINN will issue to LinnCo a number of LINN units equal to or greater than the number of LinnCo common shares sold, (2) the consideration to be paid by LinnCo for the LINN units purchased in such offering must be equal to or less than the proceeds received by LinnCo, (3) if LinnCo makes any award of common shares or derivative shares in connection with any employee benefit plan, LINN will sell to LinnCo, upon the earlier of the issuance of such common shares or the exercise or vesting of such derivative shares, an equal or greater number of LINN units for the same consideration, if any, that LinnCo receives from the award recipient and (4) proceeds from an offering of LinnCo common shares will mean the net cash proceeds, after deducting underwriting discounts and commissions and any structuring fee, received by LinnCo in such offering, plus properties or assets received by LinnCo in such offering.

**Purpose and Nature of the Business**

The limited liability company agreement currently provides that the purpose and nature of LinnCo s business is (i) to acquire, hold, transfer or otherwise dispose of, LINN units and any cash or other securities or property distributed to LinnCo in connection with its ownership of LINN units, (ii) to exercise all rights and powers conferred on LinnCo as a holder of LINN units and (iii) to take any other action permitted by the limited liability company agreement. The amendment to the limited liability company provides that in addition to clauses (i) and (ii) above, LinnCo may take any other action permitted by the LinnCo board of directors.

Table of Contents

Index to Financial Statements

**Management and Operation of Business**

The limited liability company agreement currently provides that except in compliance with the provisions of the limited liability company agreement related to dissolution and liquidation, mergers and restrictive covenants, LinnCo is not permitted to sell, exchange or otherwise dispose of all or substantially all of its assets without prior approval of a majority of the outstanding voting shares and a majority of the outstanding common shares, voting as separate classes. The amendment to the limited liability company agreement provides that such restrictions on sales of all or substantially all of LinnCo s assets will not restrict any of the transactions described under Issuance of Additional Securities above.

**Dissolution**

The limited liability company agreement currently provides that LinnCo will dissolve and be wound up upon, among other events, the sale, exchange or other disposition of all or substantially all of the assets and properties of LinnCo, other than in connection with certain types of mergers. The amendment to the limited liability company agreement provides that, in addition to the exception to dissolution for certain types of mergers, the issuance of LinnCo common shares and the purchase of LINN units in any of the transactions described under Issuance of Additional Securities above will not be an event causing LinnCo to dissolve and be wound up.

**Covenants**

The limited liability company agreement currently provides that LinnCo may not sell, pledge or otherwise transfer LINN units, other than in connection with a transaction involving (i) a merger of LINN, (ii) a tender offer for all LINN units, (iii) a sale of all or substantially all of LINN s assets or (iv) a cessation of LINN being treated as a partnership for U.S. federal income tax purposes (a Terminal Transaction ) or other than if LinnCo receives approval from a majority of the outstanding voting shares and a majority of the outstanding common shares, voting as separate classes. The amendment to the limited liability company agreement amends the actions that LinnCo is prohibited from taking to provide that the restriction on the sale, pledge or transfer of LINN units does not include a restriction on the issuance of LinnCo common shares and the purchase of LINN units in any of the transactions described under Issuance of Additional Securities above.

**Required Vote**

The affirmative vote of a majority of the outstanding voting shares and a majority of the outstanding LinnCo common shares, voting as separate classes, is required to approve each of LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B. The required vote is based on the number of outstanding shares not the number of shares actually voted. LINN holds the sole outstanding voting share of LinnCo and has approved the amendment to the limited liability company agreement; therefore, this joint proxy statement/prospectus is being delivered to solicit approval of the amendment to the limited liability company agreement by a majority of the outstanding LinnCo common shares. The approval of BOTH LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B by the LinnCo common shareholders is a condition to the closing of the merger. In the event that (i) BOTH LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B are not approved, or (ii) only one of LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B is approved, the merger cannot be consummated and the amendment to the limited liability company agreement will not be effective. In the event both proposals are approved by the LinnCo shareholders, but the merger is not consummated, the amendment to the limited liability company agreement will not be effective.

Any abstention from voting by a LinnCo shareholder with respect to either proposal will have the same effect as a vote against such proposal. Likewise, broker non-votes will have the same effect as voting against each proposal. In this case, brokers, banks, trustees and other nominees do not have discretionary authority to vote on these proposals, because these proposals are not routine. Consequently, the failure of a beneficial owner to provide voting instructions to its broker, bank, trustee or other nominee will have the same effect as a vote against each proposal.

Table of Contents

Index to Financial Statements

**The LinnCo board of directors unanimously recommends that LinnCo shareholders vote FOR BOTH LinnCo LLC Agreement Amendment Proposal A and LinnCo LLC Agreement Amendment Proposal B.**

**LINN Pass-Through Proposals**

**LinnCo Proposal No. 4 Election of LINN Directors**

LINN is asking its unitholders to approve the election of each of the six nominees for the LINN board of directors. Pursuant to the LinnCo limited liability company agreement, matters submitted to the LINN unitholders for vote are submitted by LinnCo, in its capacity as a LINN unitholder, to LinnCo common shareholders for vote.

Additional information about this proposal is set forth under The LINN Annual Meeting LINN Proposal No. 1 Election of LINN Directors.

**The LinnCo board of directors unanimously recommends a vote FOR the election of six nominees for the LINN board of directors.**

**LinnCo Proposal No. 5 Ratification of the Selection of KPMG LLP as Independent Public Accountant for LINN for 2013**

LINN is asking its unitholders to approve the ratification of the selection of KPMG LLP as independent public accountant for LINN for 2013. Pursuant to the LinnCo limited liability company agreement, matters submitted to the LINN unitholders for vote are submitted by LinnCo, in its capacity as a LINN unitholder, to LinnCo common shareholders for vote.

Additional information about this proposal is set forth under The LINN Annual Meeting LINN Proposal No. 2 Ratification of Selection of KPMG LLP as Independent Public Accountant for 2013.

**The LinnCo board of directors unanimously recommends a vote FOR the ratification of KPMG LLP as independent public accountant for LINN for 2013.**

**LinnCo Proposal No. 6 LINN Unit Issuance Proposal**

LINN is asking its unitholders to approve the issuance of LINN units to LinnCo in connection with the Contribution. Pursuant to the LinnCo limited liability company agreement, matters submitted to the LINN unitholders for vote are submitted by LinnCo, in its capacity as a LINN unitholder, to the LinnCo common shareholders for vote. The approval of this proposal by the LINN unitholders is a condition to the closing of the merger. For more information, regarding the merger, see The Merger Agreement as well as the merger agreement attached as Annex A to this joint proxy statement/prospectus.

Additional information about this proposal is set forth under The LINN Annual Meeting LINN Proposal No. 3 Linn Unit Issuance Proposal.

**The LinnCo board of directors unanimously recommends a vote FOR the LINN Unit Issuance Proposal.**

**LinnCo Proposal No. 7 LTIP Amendment Proposal**

The LINN Compensation Committee has approved an amendment and restatement of the LTIP, subject to LINN unitholder approval. LINN is asking its unitholders to approve an amendment to the LTIP, which increases the total number of LINN units authorized to be issued under the LTIP from 12,200,000 units to 21,000,000 units. Pursuant to the LinnCo limited liability company agreement, matters submitted to the LINN unitholders for vote are submitted by LinnCo, in its capacity as a LINN unitholder, to LinnCo common shareholders for vote.

Table of Contents

Index to Financial Statements

Additional information about this proposal is set forth under The LINN Annual Meeting LINN Proposal No. 4 LTIP Amendment Proposal.

**The LinnCo board of directors unanimously recommends a vote FOR the LTIP Amendment Proposal.**

**LinnCo Proposal No. 8 LINN Adjournment Proposal**

LINN is asking its unitholders to approve a proposal that will give LINN authority to adjourn the LINN annual meeting to solicit additional proxies, if necessary or appropriate, in favor of all of the proposals voted on by LINN unitholders at the LINN annual meeting. Pursuant to the LinnCo limited liability company agreement, matters submitted to the LINN unitholders for vote are submitted by LinnCo, in its capacity as a LINN unitholder, to LinnCo common shareholders for vote.

Additional information about this proposal is set forth under The LINN Annual Meeting LINN Proposal No. 5 LINN Adjournment Proposal.

**The LinnCo board of directors unanimously recommends a vote FOR the LINN Adjournment Proposal.**

**General Proposals**

**LinnCo Proposal No. 9 Ratification of the Selection of KPMG LLP as Independent Public Accountant for LinnCo for 2013**

The audit committee of the LinnCo board of directors (the LinnCo Audit Committee ) has selected KPMG LLP to continue as its independent public accountant for 2013. KPMG LLP has served as LinnCo s independent public accountant since 2012. The LinnCo Audit Committee has determined to submit KPMG LLP s selection to shareholders for ratification. Shareholder ratification of the selection of KPMG LLP as independent public accountant for LinnCo for 2013 is not required by LinnCo s limited liability company agreement. LinnCo is submitting the selection of KPMG LLP to shareholders for ratification as a matter of good corporate practice. If this selection of independent public accountant is not ratified by the affirmative vote of a majority of votes cast by holders of LinnCo common shares entitled to vote at a meeting at which a quorum is present, the LinnCo Audit Committee will reconsider its selection of independent public accountant. LinnCo has been advised that no member of KPMG LLP has any direct or material indirect financial interest in the company or, during the past three years, has had any connection with LinnCo in the capacity of promoter, underwriter, voting trustee, director, officer or employee. A representative of KPMG LLP will attend the LinnCo annual meeting. The representative will have the opportunity to make a statement if he desires to do so and to respond to appropriate questions.

**Audit Fees**

The fees for professional services rendered by KPMG LLP for the audit of LinnCo s annual financial statements for the fiscal year ended December 31, 2012, and the reviews of the financial statements included in any of LinnCo s Quarterly Reports on Forms 10-Q for that fiscal year were approximately $325,000.

**Audit-Related Fees**

KPMG LLP also received fees for services in connection with the LinnCo IPO. These fees totaled approximately $225,000 for the year ended December 31, 2012.

Table of Contents

Index to Financial Statements

**Tax Fees**

LinnCo incurred no fees in the fiscal year ended December 31, 2012 for tax-related services provided by KPMG LLP.

**All Other Fees**

LinnCo incurred no other fees in the fiscal year ended December 31, 2012 for any other services provided by KPMG LLP.

**LinnCo Audit Committee Approval of Audit and Non-Audit Services**

The LinnCo Audit Committee pre-approves all audit and non-audit services to be provided to LinnCo by its independent public accountant in the upcoming year at the last meeting of each calendar year and at subsequent meetings as necessary. The non-audit services to be provided are specified and may not exceed a specified dollar limit. During the course of a fiscal year, if additional non-audit services are identified, these services are presented to the LinnCo Audit Committee for pre-approval.

Under LinnCo s limited liability company agreement, shareholder ratification of the selection of KPMG LLP as its independent public accountant for 2013 is not required. However, in the event it elects to submit such ratification for shareholder approval, as it has done here, this approval would require the affirmative vote of a majority of votes cast by holders of LinnCo common shares entitled to vote at a meeting at which a quorum is present. The required vote is based on the number of votes cast not the number of outstanding shares. Your broker may vote in its discretion on this proposal. Broker non-votes and abstentions will not be included in the vote totals and therefore will not have an effect on the proposal.

In the event of a negative vote on such ratification, the LinnCo Audit Committee will reconsider its selection. Even if the selection is ratified, the LinnCo Audit Committee in its discretion may direct the appointment of a different independent auditing firm at any time during the year if the LinnCo Audit Committee believes that such a change would be in the best interest of LinnCo and its shareholders.

**The LinnCo board of directors unanimously recommends a vote FOR the ratification of the selection of KPMG LLP as independent public accountant for LinnCo for 2013.**

**LinnCo Proposal No. 10 LinnCo Adjournment Proposal**

LinnCo shareholders are being asked to approve a proposal that will give LinnCo authority to adjourn the LinnCo annual meeting for the purpose of soliciting additional proxies, if necessary or appropriate, in favor of all of the proposals voted on by LinnCo shareholders at the LinnCo annual meeting. If this adjournment proposal is approved, the LinnCo annual meeting could be adjourned to any date; provided that, under the terms of the merger agreement, the adjournment may not be to a day more than 20 days after the date the LinnCo annual meeting was originally scheduled. If the LinnCo annual meeting is adjourned, LinnCo shareholders who have already submitted their proxies will be able to revoke them at any time prior to their use.

The affirmative vote of a majority of votes cast by holders of LinnCo common shares entitled to vote at the LinnCo annual meeting, whether or not a quorum exists, is required to approve the LinnCo Adjournment Proposal. The required vote is based on the number of votes cast not the number of outstanding shares. Broker non-votes and abstentions will not be included in the vote totals and therefore will not have an effect on the proposal.

**The LinnCo board of directors unanimously recommends a vote FOR the LinnCo Adjournment Proposal.**

Table of Contents

Index to Financial Statements

## THE LINN ANNUAL MEETING

This section contains information about the annual meeting of LINN unitholders. The LINN annual meeting will be held at , at , local time, on , 2013, subject to any adjournments or postponements. Together with this document, we are also sending you a notice of the LINN annual meeting and a form of proxy that is solicited by the LINN board of directors.

**Matters to be Considered**

The purpose of the 2013 LINN Annual Meeting is:

- to approve the election of each of the six nominees for the LINN board of directors;
- to approve the ratification of the selection of KPMG LLP as independent public accountant for LINN for 2013;
- to approve the LINN Unit Issuance Proposal;
- to approve the LTIP Amendment Proposal;
- to approve the LINN Adjournment Proposal; and
- to transact such other business as may properly come before the LINN annual meeting or any adjournment or postponement thereof.

**Quorum Required**

The presence, in person or by proxy, of the holders as of the record date of a majority of outstanding LINN units is necessary to constitute a quorum for purposes of voting on the proposals at the LINN annual meeting. Withheld votes, abstentions and broker non-votes will count as present for purposes of establishing a quorum on the proposals.

**How to Vote**

If you are a holder of LINN units, you are entitled to one vote at the meeting for each unit that you held as of the record date for each proposal and director nominee. If you do not wish to vote for a particular director nominee, you must clearly identify such nominee on your proxy card. If units are held in street name through a broker and the broker is not given direction on how to vote, the broker will not have discretion to vote such shares on non-routine matters, including the election of directors.

You may vote in person at the LINN annual meeting or by proxy. Even if you plan to attend the LINN annual meeting, LINN encourages you to complete, sign and return your proxy card in advance of the LINN annual meeting. If you plan to attend the LINN annual meeting and wish to vote in person, LINN will give you a ballot at the meeting. However, please note that if your units are held in street name (in the name of a broker or by a bank or other nominee), you are considered the beneficial owner of these units and proxy materials are being forwarded to you by your broker or nominee, which is considered, with respect to these units, the unitholder of record. As the beneficial owner, you have the right to direct your broker how to vote; however, since you are not the unitholder of record, you may not vote these units in person at the LINN annual meeting unless you obtain a legal proxy from your brokerage firm. Please mail your completed, signed and dated proxy card in the enclosed postage-paid return envelope as soon as possible so that your units may be represented at the LINN annual meeting.

**Revoking Your Proxy**

You may revoke your proxy before it is voted at the LINN annual meeting as follows: (i) by delivering, before or at the LINN annual meeting, a new proxy with a later date; (ii) by delivering, on or before the business day prior to the LINN annual meeting, a notice of revocation to LINN s Corporate Secretary at the address set

Table of Contents

Index to Financial Statements

forth in the notice of the LINN annual meeting; (iii) by attending the LINN annual meeting in person and voting, although your attendance at the LINN annual meeting, without actually voting, will not by itself revoke a previously granted proxy; or (iv) if you have instructed a broker to vote your units, you must follow the directions received from your broker to change those instructions.

All units represented by valid proxies that LINN receives through this solicitation, and that are not revoked, will be voted in accordance with your instructions on the proxy card. If you make no specification on your proxy card as to how you want your units voted before signing and returning it, your proxy will be voted:

**FOR** the election of each of the six nominees for the LINN board of directors,

**FOR** the ratification of the selection of KPMG LLP as independent public accountant for LINN for 2013,

**FOR** the LINN Unit Issuance Proposal,

**FOR** the LTIP Amendment Proposal, and

**FOR** the LINN Adjournment Proposal.

**Solicitation of Proxies**

LINN will bear its own costs and expenses incurred in connection with the filing, printing and mailing of this joint proxy statement/prospectus and the retention of any information agent or other service provider in connection with the merger. This proxy solicitation is being made by LINN on behalf of the LINN board of directors. LINN has hired Laurel Hill Advisory Group, LLC to assist in the solicitation of proxies. In addition to this mailing, proxies may be solicited by directors, officers or employees of LINN or its affiliates in person or by telephone or electronic transmission. None of the directors, officers or employees will be directly compensated for such services.

**Record Date**

The close of business on , 2013 has been fixed as the record date for determining the LINN unitholders entitled to receive notice of and to vote at the LINN annual meeting. As of the record date, there were outstanding units entitled to vote at the LINN annual meeting.

**LINN Proposal No. 1 Election of LINN Directors**

Members of the LINN board of directors are elected each year at the LINN annual meeting of unitholders. All six of its current board of director members have been nominated to stand for reelection at the LINN annual meeting. LINN encourages its director nominees to attend its annual meetings to provide an opportunity for unitholders to communicate directly with directors about issues affecting the company. LINN anticipates that all director nominees will attend the LINN annual meeting. In 2012, all the current directors attended the LINN annual meeting except Mr. Dunlap, who joined the LINN board of directors after the 2012 annual meeting.

At the LINN annual meeting, LINN s unitholders will consider and act upon a proposal to elect six directors to its board of directors to serve until the 2014 LINN annual meeting of unitholders. Each of the nominees has consented to serve as a director if so elected. Each nominee who is elected to the LINN board of directors will serve in such capacity until his term expires or his successor has been duly elected and qualified or, if earlier, until such director dies, resigns or is removed. The persons named as proxies in the accompanying proxy card, who have been designated by the LINN board of directors, intend to vote FOR the election of each of the director nominees unless otherwise instructed by a unitholder in a proxy card. If any of these nominees becomes unable for any reason to stand for election as a director, the persons named as proxies in the accompanying proxy card will vote for the election of such other person or persons as the LINN board of directors recommends and proposes to replace such nominee or nominees, or the size of the board may be reduced accordingly; however, the LINN board of directors is not aware of

any circumstances likely to render any nominee unavailable.

Table of Contents

Index to Financial Statements

Information concerning the six director nominees is set forth under Additional Information About Linn Energy, LLC Management.

**Qualifications of Director Nominees**

In making its recommendation to nominate the current directors for reelection, the Nominating and Governance Committee of the LINN board of directors (the Nominating Committee ) determined that each of George A. Alcorn, David D. Dunlap, Mark E. Ellis, Michael C. Linn, Joseph P. McCoy and Jeffrey C. Swoveland, possess the following qualifications:

- personal and professional integrity and high ethical standards;
- good business judgment;
- an excellent reputation in the industry in which the nominee or director is or has been primarily employed;
- a sophisticated understanding of LINN s business or similar businesses;
- curiosity and a willingness to ask probing questions of management;
- the ability and willingness to work cooperatively with other members of the LINN board of directors and with LINN s Chairman, President and Chief Executive Officer and other members of senior management; and
- the ability and willingness to support LINN with his preparation for, attendance at and participation in board of director meetings.

The LINN Nominating Committee further found that each of the nominees possesses the following experience, qualifications, attributes and skills that, combined with those qualifications identified above, led the LINN Nominating Committee to conclude that such nominee should serve as a member of the LINN board of directors:

George A. Alcorn

- As President of Alcorn Exploration, Inc., brings significant knowledge of LINN s business.
- Brings significant experience in the oil and natural gas industry, including as former chairman of the Independent Petroleum Association of America ( IPAA ).
- As member of the board of directors and committees of EOG Resources, Inc., brings experience and expertise serving on public company boards and as nominating committee chair.

David D. Dunlap

As current President, CEO and director of Superior Energy Services, Inc., ( Superior ) brings significant knowledge of public company governance and process.

Brings significant experience in the oil and natural gas industry.

Brings over 25 years of experience in the well services business.

Mark E. Ellis

As LINN s current Chairman, President and Chief Executive Officer, is well suited to inform the board of directors of significant strategic matters and to lead the board of directors as Chairman.

Brings significant experience in the oil and natural gas industry, including membership in the Society of Petroleum Engineers.

As an engineer, brings technical expertise.

Table of Contents

Index to Financial Statements

Michael C. Linn

As LINN s founder, brings historical knowledge and strategic experience and is well suited to serve as a link between the board of directors and management.

Brings significant experience in the oil and natural gas industry, including as former chairman of the IPAA.

As an attorney, brings legal expertise.

Joseph P. McCoy

As former Chief Financial Officer of Burlington Resources Inc., brings significant knowledge of LINN s business.

As former director of Rancher Energy, Inc. and BPI Energy Corp. and current director of Global Geophysical Services, Inc. and Scientific Drilling International, brings experience serving on public company boards.

As former Chief Financial Officer and Chief Accounting Officer of Burlington Resources Inc., brings significant financial expertise and experience in the preparation and review of financial statements and disclosure documents.

Jeffrey C. Swoveland

As former Vice President and Treasurer and Interim Chief Financial Officer of Equitable Resources, Inc., brings significant financial expertise and experience in the preparation and review of financial statements and disclosure documents.

Brings expertise and experience in banking, including credit/financial analysis.

As director and former chair of the audit and compensation committees of PDC Energy, Inc., brings experience serving on public company boards and as compensation committee chair.

Information regarding LINN s Corporate Governance is set forth under Additional Information About Linn Energy, LLC Management.

**Required Vote**

LINN s limited liability company agreement provides for plurality voting in the election of directors, and directors will be elected by a plurality of the votes cast for a particular position. Each outstanding unit shall be entitled to one vote on all matters submitted to unitholders for approval and in the election of directors.

LINN has six nominees and six available board seats. Each properly executed proxy received in time for the LINN annual meeting will be voted as specified therein. The six nominees receiving the most votes cast at the LINN annual meeting will be elected to the LINN board of directors. Broker non-votes and abstentions will have no effect on this proposal.

**The LINN board of directors unanimously recommends a vote FOR the election of the six nominees for the LINN board of directors.**

**LINN Proposal No. 2 Ratification of the Selection of KPMG LLP as Independent Public Accountant for 2013**

The Audit Committee of the LINN board of directors (the LINN Audit Committee ) has selected KPMG LLP to continue as its independent public accountant for 2013. KPMG LLP has served as LINN s independent public accountant since 2005. The LINN Audit Committee has determined to submit KPMG LLP s selection to unitholders for ratification. Unitholder ratification of the selection of KPMG LLP as independent public

Table of Contents

Index to Financial Statements

accountant for LINN for 2013 is not required by LINN s limited liability company agreement. LINN is submitting the selection of KPMG LLP to unitholders for ratification as a matter of good corporate practice. If this selection of independent public accountants is not ratified by the affirmative vote of a majority of votes cast by holders of LINN units entitled to vote at a meeting at which a quorum is present, the LINN Audit Committee will reconsider its selection of independent public accountant. LINN has been advised that no member of KPMG LLP has any direct or material indirect financial interest in LINN or, during the past three years, has had any connection with LINN in the capacity of promoter, underwriter, voting trustee, director, officer or employee. A representative of KPMG LLP will attend LINN s annual meeting. The representative will have the opportunity to make a statement if he desires to do so and to respond to appropriate questions.

**Audit Fees**

The fees for professional services rendered by KPMG LLP for the audit of LINN s annual consolidated financial statements for each of the fiscal years ended December 31, 2011 and 2012, and the reviews of the financial statements included in any of LINN s Quarterly Reports on Forms 10-Q for each of those fiscal years were approximately $1,300,000 and $1,350,000, respectively.

**Audit-Related Fees**

KPMG LLP also received fees for services in connection with, and comfort letters for, LINN s senior notes offerings and equity offerings in 2011 and 2012 as well as an audit of LINN s 401(k) plan in 2011. These fees totaled approximately $1,100,000 and $730,000 for the years ended December 31, 2011 and 2012, respectively.

**Tax Fees**

LINN incurred no fees in the fiscal years ended December 31, 2011 and 2012 for tax-related services provided by KPMG LLP.

**All Other Fees**

LINN incurred no other fees in the fiscal years ended December 31, 2011 and 2012 for any other services provided by KPMG LLP.

**LINN Audit Committee Approval of Audit and Non-Audit Services**

The LINN Audit Committee pre-approves all audit and non-audit services to be provided to LINN by its independent public accountant in the upcoming year at the last meeting of each calendar year and at subsequent meetings as necessary. The non-audit services to be provided are specified and shall not exceed a specified dollar limit. During the course of a fiscal year, if additional non-audit services are identified, these services are presented to the LINN Audit Committee for pre-approval. All of the services covered under the caption Audit-Related Fees were approved by the LINN Audit Committee and none were provided under the *de minimis* exception of Section 10A of the Exchange Act.

**Required Vote**

Under LINN s limited liability company agreement, unitholder ratification of KPMG LLP as its independent public accountant for LINN for 2013 is not required. However, in the event it elects to submit such ratification for unitholder approval, as it has done here, this approval would require the affirmative vote of a majority of votes cast by holders of LINN units entitled to vote at a meeting at which a quorum is present. The required vote is based on the number of votes cast not the number of outstanding units. Your broker may vote in its discretion on this proposal. Broker non-votes and abstentions will not be included in the vote totals and therefore will not have an effect on the proposal.

Table of Contents

Index to Financial Statements

In the event of a negative vote on such ratification, the LINN Audit Committee will reconsider its selection. Even if the selection is ratified, the LINN Audit Committee in its discretion may direct the appointment of a different independent auditing firm at any time during the year if the LINN Audit Committee believes that such a change would be in the best interest of LINN and its unitholders.

**The LINN board of directors unanimously recommends a vote FOR the ratification of KPMG LLP as independent public accountant for LINN for 2013.**

**LINN Proposal No. 3 LINN Unit Issuance Proposal**

LINN units are traded on the NASDAQ, and as a result under NASDAQ Marketplace Rule 5635(a)(2), LINN must seek unitholder approval with respect to issuances of its units when the securities to be issued are being issued in connection with the acquisition of securities of another company and any director, officer or 5% or greater unitholder of LINN has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction and the issuance of LINN units would result in an increase in outstanding units of 5% or more. LinnCo holds greater than 5% of LINN units, and 100% of the interest in LinnCo Merger Sub. As of the record date, LINN had units outstanding. The number of units (currently estimated to be approximately ) to be issued by LINN to LinnCo in connection with the Contribution are currently expected to equal approximately % of outstanding LINN units on a pre-issuance basis, based on the number of units that LINN had outstanding as of the record date. As a result, unless LINN obtains the requisite unitholder approval, LINN s issuance of units in connection with the Contribution pursuant to the merger agreement would be deemed a violation by the NASDAQ.

In addition, Rule 5635(a)(1) requires unitholder approval with respect to issuances of units when the issuance would exceed 20% of the voting power, or 20% of the number, of the total units outstanding on a pre-transaction basis. Therefore, even if LinnCo was not previously a substantial unitholder of LINN units, the issuance of LINN units to LinnCo in connection with the Contribution would require unitholder approval because this issuance would equal approximately % of LINN outstanding units on a pre-issuance basis, based on the number of units that LINN had outstanding as of the record date. In the absence of unitholder approval, LINN s issuance would be a violation of this rule as well. After issuance of the LINN units to LinnCo in connection with the Contribution, LinnCo will own approximately % of the outstanding LINN units.

**The Contribution Agreement**

On February 20, 2013, LinnCo and LINN entered into the contribution agreement with respect to the issuance of LINN units to LinnCo in connection with the contribution by LinnCo of all of the outstanding limited liability company interests in LinnCo Merger Sub to LINN. A copy of the contribution agreement is attached as Annex B to this joint proxy statement/prospectus and incorporated by reference herein. The closing of the Contribution is expected to occur on the closing date of the merger. Under the contribution agreement, the number of LINN units to be issued to LinnCo in exchange for all of the limited liability company interests in LinnCo Merger Sub will be equal to the greater of (i) the aggregate number of LinnCo common shares issued in the LinnCo Merger and (ii) the number of LINN units required to cause LinnCo to own no less than one-third of all of the outstanding LINN units following the Contribution.

The contribution agreement contains representations, warranties and covenants of the parties customary for a transaction of this type. In addition, certain covenants under the contribution agreement require each party to use reasonable best efforts to cause the Contribution to be consummated, including filing the appropriate government and regulatory approvals. The closing of the Contribution is subject to certain negotiated conditions, including: the representations and warranties of both parties being true and correct in all material respects, the merger having been consummated, and all waiting periods applicable to the merger contemplated by the HSR Act, and the rules and regulations promulgated thereunder, having been expired or terminated. Satisfaction of the conditions to the consummation of the contribution is a condition to the closing of the merger.

Table of Contents

Index to Financial Statements

The contribution agreement provides that LinnCo will receive from LINN payments of $6 million, or $0.06 per unit, in each of 2013, 2014 and 2015 to reasonably compensate LinnCo for the anticipated actual increase in LinnCo s tax liability that results from the consummation of the transactions. In addition, the contribution agreement provides that in the event that, within seven years following the Contribution, LINN desires to effect a disposition of a material portion of the assets acquired in a manner that results in a material increase to the tax liability resulting from the allocation of income or gain pursuant to Section 704(c) of the Code (a Material Disposition Transaction ), such Material Disposition Transaction would be approved by an independent committee appointed for such purpose by the LinnCo board of directors.

**Required Vote**

The approval of the LINN Unit Issuance Proposal requires the affirmative vote of a majority of votes cast by holders of LINN units entitled to vote at a meeting at which a quorum is present. The required vote is based on the number of votes cast not the number of outstanding units. Broker non-votes and abstentions will not be included in the vote totals and therefore will not have an effect on the proposal.

**The LINN board of directors unanimously recommends a vote FOR the LINN Unit Issuance Proposal.**

**LINN Proposal No. 4 LTIP Amendment Proposal**

The compensation committee of the LINN board of directors (the LINN Compensation Committee ) has approved an amended and restated LTIP (the LTIP Amendment ), subject to unitholder approval. The LINN Compensation Committee believes that this amendment is necessary to continue to attract and retain high caliber individuals to serve as LINN s officers, directors and employees. If the LTIP Amendment is approved, it will be effective as of the date of the LINN annual meeting. The LTIP Amendment, if approved, will increase the total number of LINN units authorized to be issued under the LTIP from 12,200,000 units to 21,000,000 units.

LINN believes the LTIP benefits its unitholders by aligning the incentives of LINN s employees and directors with those of LINN s unitholders and encouraging employees and directors to seek opportunities for greater unitholder returns. Moreover, the LTIP assists LINN in retaining and motivating excellent personnel and allows LINN to offer competitive compensation packages to attract new employees. LINN s practice is to grant LTIP awards to every employee regardless of level of responsibility to retain existing employees and to attract new employees in a competitive environment for talent. LINN believes the LTIP s provisions are consistent with best practices in equity compensation and serve to protect unitholders interests. These provisions include, among others:

- Except in connection with a corporate transaction, terms of outstanding awards may not be amended to (1) reduce the exercise price of outstanding options or unit appreciation rights, or (2) cancel outstanding options or unit appreciation rights in exchange for cash, other awards or options or unit appreciation rights with an exercise price that is less than the exercise price of the original options or unit appreciation rights.

- Units withheld to satisfy exercise prices or tax withholding obligations are not available for delivery pursuant to other awards and units underlying a unit appreciation right will not be available for future grant following unit-settled exercise of the unit appreciation right;

- Distribution equivalent rights ( DERs ) cannot be granted in tandem with options or unit appreciation rights; and

- The ability to grant performance-based awards which is the Compensation Committee s intent in 2014 as discussed below in Additional Information about LINN Management LINN s Executive Compensation Compensation Discussion and Analysis.

Adoption of the LTIP Amendment Proposal requires the affirmative vote of a majority of votes cast by holders of LINN units entitled to vote at a meeting at which a quorum is present. The required vote is based on the number of votes cast not the number of outstanding units. Broker non-votes and abstentions will not affect the outcome of this proposal.

81

Table of Contents

Index to Financial Statements

For a more complete description of the LTIP Amendment, please see Proposed Amendment and Restatement of the LTIP below and a copy of the LTIP Amendment attached as Annex D to this joint proxy statement/prospectus and incorporated by reference herein. The statements made in this joint proxy statement/prospectus with respect to the LTIP Amendment should be read in conjunction with, and are qualified in their entirety by reference to, the full text of the LTIP, which is filed as an exhibit hereto.

**Proposed Amendment and Restatement of the LTIP**

At LINN s initial public offering in January 2006, LINN authorized 3,900,000 units to be issued under the LTIP. LINN s 2008 amendment to the LTIP increased the total number of units to be authorized by 8,300,000 units, to a total of 12,200,000 units. Since LINN s initial public offering, as of September 30, 2013, LINN has made awards of 5,036,238 options, 5,811,013 restricted units, 134,494 phantom units and 754,721 unit grants under the LTIP to its officers, independent directors and certain of its employees, which amounts are shown net of any awards that were canceled, forfeited, exercised, paid or otherwise terminated without the delivery of units and which were added back to the number of units available for awards under the LTIP where permitted by the terms of the LTIP. Accordingly, there are only approximately 460,500 units currently available for issuance with respect to awards under the LTIP. The LTIP Amendment proposes to amend the LTIP a second time to increase the total number of units authorized to be issued under the LTIP from 12,200,000 units to 21,000,000 units, which represents an incremental increase of 8,800,000 units. Under the terms of the LTIP Amendment, the LINN Compensation Committee has the right to determine the appropriate vesting schedule for all future awards.

**Background for the Determination of Additional Units Authorized under the LTIP Amendment**

In its determination to approve the LTIP Amendment, the LINN Compensation Committee reviewed an analysis prepared by ISS Corporate Services ( ISS ), which included an analysis of certain burn rate, dilution and overhang metrics, peer group market practices and trends, and the costs of the LTIP Amendment, including the estimated shareholder value transfer cost. Specifically, the LINN Compensation Committee considered that:

In 2012, 2011 and 2010, LINN granted equity awards representing a total of approximately 1,046,590, 1,110,502 and 695,254 units, respectively. LINN also granted 3,400,000 special incentive options in 2012. This level of equity awards represents a three-year average burn rate of 1.93% of LINN s fully diluted units outstanding.

LINN had substantially exhausted the unit limit as of January 2012. If the units available are not increased, LINN will have lost an important compensation tool aligned with unitholder interests to attract, motivate and retain highly qualified talent.

Based on historical usage, if the LTIP Amendment is approved, LINN estimates that the units reserved for issuance under the LTIP would be sufficient for approximately 3 to 4 years of awards, assuming LINN continues to grant awards consistent with historical usage and current practices, as reflected in its three-year average burn rate, and noting that future circumstances may require LINN to change its current equity grant practices. Based on the foregoing, LINN expects it would require an additional increase to the unit reserve under the LTIP in 2016 or 2017 (primarily dependent on the future price of LINN units, award levels/amounts and hiring activity during the next few years), noting again that the unit reserve under the LTIP could last for a longer or shorter period of time, depending on future equity grant practices, which LINN cannot predict with any degree of certainty at this time.

The total aggregate equity value of the additional authorized units being requested under the LTIP Amendment (above the units already available for issuance under the LTIP), based on the closing price for LINN s units on September 30, 2013 is approximately $228 million. Based upon its analysis, ISS concluded that LINN s unitholder value transfer as a percentage of market capitalization was 5%, which was within an allowable range under the policies of unitholder proxy advisory services. For its analysis, ISS used a 200-day average stock price of $34.23 to calculate market capitalization.

Table of Contents

Index to Financial Statements

In light of the factors described above, and the fact that the ability to continue to grant equity compensation is vital to LINN s ability to continue to attract and retain employees in the competitive labor markets in which it competes, the LINN Compensation Committee has determined that the increase in the size of the unit reserve under the LTIP is reasonable and appropriate at this time. The LINN Compensation Committee will not create a subcommittee to evaluate the risks and benefits for issuing the additional authorized units requested.

**Effects of Approval**

If the LTIP Amendment Proposal is approved, then LINN will use the additional units under the LTIP to provide incentive to its officers and directors, as well as all other employees for superior performance and to enhance LINN s ability to attract and retain the services of individuals essential for LINN s growth and profitability. The LTIP Amendment will be effective immediately upon the approval of LINN unitholders.

**Effects of Failure to Approve**

If the LTIP Amendment Proposal is not approved, LINN will be unable to award any grants under the LTIP beyond the current number of authorized units because the NASDAQ Marketplace Rules require unitholder approval of such increase in authorized units under an equity compensation plan. Current availability under the LTIP has been substantially exhausted, thus the Compensation Committee would be required to consider other alternatives not involving equity-based awards (such as additional cash bonuses) to help attract, retain and motivate new employees and key individuals who are currently LINN employees or who become employees as a result of any future acquisitions or hirings.

Additional information about the LTIP is set forth under Additional information about LINN Energy, LLC Management Summary Description of the Linn Energy, LLC Long-Term Incentive Plan.

**The LINN board of directors unanimously recommends a vote FOR the LTIP Amendment Proposal.**

**LINN Proposal No. 5 LINN Adjournment Proposal**

LINN is asking its unitholders to approve a proposal that will give LINN authority to adjourn the LINN annual meeting to solicit additional proxies, if necessary or appropriate, in favor of all of the proposals voted on by LINN unitholders at the LINN annual meeting. If this adjournment proposal is approved, the LINN annual meeting could be adjourned to any date; provided that, under the terms of the merger agreement, the adjournment may not be to a day more than 20 days after the date the LINN annual meeting was originally scheduled without the consent of Berry (other than adjournments or postponements required by applicable law). If the LINN annual meeting is adjourned, LINN unitholders who have already submitted their proxies will be able to revoke them at any time prior to their use.

The affirmative vote of a majority of votes cast by holders of LINN units entitled to vote at the annual meeting, whether or not a quorum exists, is required to approve the LINN Adjournment Proposal. The required vote is based on the number of votes cast not the number of outstanding units. Abstentions and broker non-votes will not affect the outcome of this proposal.

**The LINN board of directors unanimously recommends a vote FOR the LINN Adjournment Proposal.**

Table of Contents

Index to Financial Statements

## THE MERGER

### Effect of Merger

Berry, LinnCo and LINN have entered into the merger agreement, which provides that, upon the terms and subject to the conditions set forth in the merger agreement, LinnCo will acquire Berry, and contribute Berry to LINN in a multi-step transaction.

Berry has formed HoldCo and Bacchus Merger Sub for purposes of creating a holding company structure. In the first step, Bacchus Merger Sub will be merged with and into Berry (the HoldCo Merger ), and the Berry stockholders will receive one share of HoldCo common stock for each share of Berry common stock they own, after which Berry will be a wholly owned subsidiary of Holdco. Second, Berry will be converted from a Delaware corporation to a Delaware limited liability company (the Conversion ). Set forth below is a diagram depicting the structure of the steps described above:

After the Conversion, HoldCo will be merged with and into LinnCo Merger Sub, with LinnCo Merger Sub surviving as a wholly owned subsidiary of LinnCo (the LinnCo Merger ). Finally, LinnCo will contribute all of the outstanding membership interests in LinnCo Merger Sub to LINN (the Contribution ) in exchange for newly issued LINN units (the Issuance ), after which Berry will be an indirect wholly owned subsidiary of LINN. Set forth below is a diagram depicting the structure of the steps described above:

Table of Contents

Index to Financial Statements

We refer to the Holdco Merger, the Conversion, the LinnCo Merger, the Contribution and the Issuance together as the transactions. Set forth below is a diagram depicting the structure of the combined entity after the effect of the transactions described above:

**Background of the Merger**

The board of directors and management of each of Berry, LINN and, following its initial public offering in October 2012, LinnCo have periodically evaluated and considered a variety of financial and strategic opportunities as part of their strategy to maximize securityholder value.

As part of Berry s evaluation of financial and strategic opportunities, members of Berry management engaged in discussions during the summer of 2011 with members of management of an independent publicly traded oil and natural gas exploration and production company (which we refer to as Company A ) regarding the possibility of an acquisition of Berry for stock in Company A and cash. On July 20, 2011, Berry and Company A executed a confidentiality agreement and exchanged information in connection with the evaluation of a potential transaction. Later that summer, following its review of this information, and taking into consideration changes in the stock prices of both companies, Berry determined that pursuing a transaction with Company A was no longer in the best interest of Berry and its stockholders, and the parties discontinued their discussions regarding a potential transaction.

In July 2012, members of Berry management engaged in discussions with members of management of another independent publicly traded oil and gas exploration and production company (which we refer to as Company B ) regarding the possibility of a stock-for-stock merger in which neither company s stockholders would receive a meaningful premium to then current trading prices. On August 3, 2012, Berry and Company B executed a confidentiality agreement to facilitate the exchange of information in connection with the evaluation of a potential transaction. In October 2012, Company B indicated to Berry that it was no longer interested in pursuing discussions regarding a merger.

On December 17, 2012, on behalf of LinnCo and LINN, representatives of Citigroup contacted Robert F. Heinemann, President and Chief Executive Officer of Berry, to determine whether Mr. Heinemann would be willing to meet with Mark E. Ellis, Chairman, President and Chief Executive Officer of LINN and LinnCo, regarding a potential business combination transaction between Berry and LinnCo.

Table of Contents

Index to Financial Statements

On December 18, 2012, Mr. Heinemann met Mr. Ellis in Plano, Texas. At the meeting, Mr. Ellis explained that LinnCo and LINN were interested in pursuing an acquisition of Berry by means of a stock-for-stock merger between Berry and LinnCo. The companies did not discuss any other terms of such a transaction, including any potential exchange ratio. Mr. Ellis and Mr. Heinemann agreed to work toward executing a mutually agreeable confidentiality agreement in order to facilitate the exchange of information between the parties. At the conclusion of the meeting, Mr. Heinemann told Mr. Ellis that he would inform the chairman of the Berry board of directors of their discussion.

On January 2, 2013, Berry contacted Credit Suisse regarding the potential engagement of Credit Suisse as a financial advisor to Berry in connection with a potential transaction, including a potential merger with LinnCo.

On January 3, 2013, Berry and LINN executed a confidentiality agreement to facilitate the exchange of information in connection with the evaluation of a potential transaction, and following the execution of the confidentiality agreement, the parties began exchanging information.

On January 4, 2013, LINN engaged Latham & Watkins LLP (which we refer to as Latham & Watkins ) as its legal advisor in connection with a potential transaction. Later that month, LinnCo engaged Citigroup as its financial advisor, and Berry engaged Credit Suisse as its financial advisor and Wachtell, Lipton, Rosen & Katz (which we refer to as Wachtell Lipton ) as its legal advisor in connection with a potential transaction.

On January 14, 2013, Mr. Heinemann informed Martin H. Young, Jr., chairman of the Berry board of directors, of his conversation with Mr. Ellis regarding a potential business combination between Berry and LinnCo. Two days later, on January 16, 2013, the Berry board of directors held a telephonic conference at which Mr. Heinemann informed the other directors of his discussions with Mr. Ellis. After discussion, the Berry board of directors agreed that management should continue to pursue discussions with LinnCo and LINN regarding a potential transaction.

Following the meeting, from January 17 to 19, 2013, Berry, LinnCo and LINN continued to exchange financial information and other due diligence information regarding their respective companies and business plans.

On January 24, 2013, Mr. Ellis and LINN management presented to the LinnCo and LINN boards of directors, at a regularly scheduled meeting of the boards, a potential structure of a corporate acquisition and an overview of Mr. Ellis s discussions with Mr. Heinemann thus far. Following these meetings on the same day, Mr. Ellis contacted Mr. Heinemann to inform him that the LinnCo and LINN boards of directors had met and discussed the potential transaction, and that, although he was not yet authorized to make a proposal, LinnCo would likely propose a stock-for-stock merger that would provide Berry stockholders with a value of $43 to $44 per share based on the current LinnCo share price and would be tax-free to the Berry stockholders. Mr. Ellis informed Mr. Heinemann that the LinnCo and LINN boards of directors would meet again on January 29, 2013 and that Mr. Ellis would contact Mr. Heinemann on that date with a proposed exchange ratio.

On January 25, 2013, members of management of Berry, LinnCo and LINN and their respective financial and legal advisors held a conference call to discuss the potential structure and the related sequence of steps for the stock-for-stock merger between Berry and LinnCo, including a holding company merger between Berry and a newly formed subsidiary, to be followed by Berry s conversion into a limited liability company, in order to facilitate LinnCo s contribution of Berry to LINN following the merger in exchange for LINN units. The parties and their respective advisors also discussed the post-closing tax profile of LinnCo and LINN. LinnCo s advisors further explained that they expected that independent committees of directors at both LinnCo and LINN would be established to consider and review the Contribution.

Also, on January 25, 2013, the Berry board of directors held a telephonic conference at which Mr. Heinemann updated the other directors on the results of the conference call among Berry, LinnCo and LINN management and their respective advisors, as well as to inform them of the anticipated timing and next steps in the process.

Table of Contents

Index to Financial Statements

On the morning of January 29, 2013, the LinnCo and LINN boards of directors held a joint special meeting at which management presented an overview of the Berry assets and the strategic rationale for the transaction. At the request of the LinnCo and LINN boards of directors, Latham & Watkins was also in attendance. Management then reviewed a financial model demonstrating the accretive nature of the transaction. The LinnCo and LINN boards of directors discussed with management a process by which each board would create a Conflicts Committee comprised of independent directors and the proposed duties of each of those Conflicts Committees. At this meeting, Mr. Ellis discussed the status of discussions with Mr. Heinemann regarding a potential business combination transaction between Berry and LinnCo. The LinnCo and LINN boards of directors authorized Mr. Ellis to propose a stock-for-stock merger between Berry and LinnCo in which each share of Berry common stock would be converted into between 1.10 and 1.15 LinnCo common shares. Mr. Ellis was not authorized by the boards of directors to proceed with a transaction with an exchange ratio above 1.15 LinnCo common shares for each share of Berry common stock without seeking further approval of both boards of directors.

On January 29, 2013, the Berry board of directors held a telephonic meeting. At the request of the Berry board of directors, representatives from Credit Suisse and Wachtell Lipton were also in attendance. At this meeting, Mr. Heinemann described his discussions with Mr. Ellis regarding a potential business combination transaction between Berry and LinnCo, and noted that he expected Mr. Ellis to call him later in the day to propose an exchange ratio for the transaction. Representatives of Credit Suisse then provided an overview of LinnCo and LINN and discussed some of the differences between corporations, master limited partnerships ( MLPs ) and limited liability companies ( LLCs ). Wachtell Lipton presented information regarding the board s fiduciary duties in considering any proposal. After discussion, the Berry board of directors agreed that management should continue to pursue discussions with LinnCo and LINN regarding a potential transaction.

On January 29, 2013, Mr. Ellis called Mr. Heinemann and informed him that LinnCo was prepared to move forward with a stock-for-stock merger between Berry and LinnCo in which each share of Berry common stock would be converted into 1.10 LinnCo common shares. Mr. Heinemann informed Mr. Ellis that he would discuss the proposal with the Berry board of directors.

On February 1, 2013, the Berry board of directors held a meeting in Houston, Texas. At the request of the Berry board of directors, representatives from Credit Suisse and Wachtell Lipton were also in attendance. At the meeting, Mr. Heinemann informed the Berry board of directors that Mr. Ellis had proposed an all-stock merger between Berry and LinnCo on the basis of an exchange ratio of 1.10 LinnCo common shares for each share of Berry common stock. Representatives from Credit Suisse discussed certain additional information and preliminary financial analyses with respect to LinnCo and LINN. The Berry board of directors, with the assistance of Berry management and Berry s legal and financial advisors, discussed various legal, financial and business implications of the potential transaction. The Berry board of directors, with the assistance of Berry management and its advisors, also reviewed certain aspects of the MLP sector, including its tax treatment. Members of Berry management, with the assistance of Berry s financial advisors, then reviewed the stand-alone business plans of Berry and potential benefits and risks of such business plan. Wachtell Lipton presented information regarding the board s fiduciary duties in considering the acquisition proposal. Following discussion, the Berry board of directors authorized Mr. Heinemann to continue discussions with Mr. Ellis regarding a potential acquisition of Berry by LinnCo, but directed management to seek increased consideration in order to maximize value to Berry stockholders. In addition, the Berry board of directors authorized Credit Suisse to privately contact certain other companies to determine whether they would be interested in a potential combination with Berry.

On February 2, 2013, Mr. Heinemann contacted Mr. Ellis to discuss the potential terms of an acquisition of Berry by LinnCo. Mr. Heinemann informed Mr. Ellis that the Berry board of directors had discussed the LinnCo proposal and concluded that the proposed exchange ratio of 1.10 was insufficient. Mr. Heinemann informed Mr. Ellis that he would be able to recommend a transaction at an exchange ratio of 1.275 LinnCo common shares for every share of Berry common stock. Mr. Ellis responded that an exchange ratio of 1.275 LinnCo common shares would not be acceptable.

Table of Contents

Index to Financial Statements

On February 3, 2013, Mr. Ellis contacted Mr. Heinemann and proposed an exchange ratio of 1.15 LinnCo common shares for each share of Berry common stock. Mr. Heinemann expressed his view that such an exchange ratio would not be acceptable to the Berry board of directors and that an exchange ratio of 1.20 LinnCo common shares would more likely be acceptable. Following further discussion and negotiation, Mr. Ellis informed Mr. Heinemann that he was prepared to recommend to the LinnCo board of directors that LinnCo move forward with evaluation of a potential acquisition of Berry in a stock-for-stock merger on the basis of an exchange ratio of 1.19 LinnCo common shares for each share of Berry common stock. At the conclusion of the conversation, Mr. Heinemann informed Mr. Ellis that he would discuss the proposal with the Berry board of directors.

On February 4, 2013, the Berry board of directors held a telephonic meeting. At the request of the Berry board of directors, representatives from Credit Suisse and Wachtell Lipton were also in attendance. At the meeting, Mr. Heinemann informed the Berry board of directors that after discussion and negotiations and subject to the approval of the LinnCo board of directors, LinnCo was prepared to move forward with the proposed exchange ratio of 1.19 LinnCo common shares for each share of Berry common stock. During the meeting, representatives from Credit Suisse reviewed certain preliminary financial analyses with respect to a potential acquisition of Berry by LinnCo at an exchange ratio of 1.19 LinnCo common shares per share of Berry common stock. At the conclusion of the meeting, the Berry board of directors authorized Mr. Heinemann to continue discussions with Mr. Ellis regarding a potential acquisition of Berry by LinnCo on the basis of an exchange ratio of 1.19 LinnCo common shares per share of Berry common stock.

On February 4, 2013, at a joint special meeting of the LinnCo and LINN boards of directors, Mr. Ellis provided an update on his discussions with Mr. Heinemann and informed the boards of directors that he and Mr. Heinemann had discussed an exchange ratio of 1.19 LinnCo common shares per share of Berry common stock. Management presented the boards of directors with an updated financial model demonstrating the accretion of the transaction at the 1.19 exchange ratio. Following discussion, the LinnCo board of directors authorized Mr. Ellis to continue discussions with Mr. Heinemann regarding a potential acquisition of Berry by LinnCo on the basis of an exchange ratio of 1.19 LinnCo common shares per share of Berry common stock.

At the same meeting on February 4, 2013, the LinnCo and LINN boards of directors also approved an increase in the size of the LinnCo board of directors and recommended to LINN, as the sole holder of the share providing the right to appoint the LinnCo board of directors, the election of Linda M. Stephens to fill the vacancy. At a meeting immediately following the joint special meeting of the LinnCo and LINN boards of directors, LINN, as the sole holder of the share providing the right to appoint the LinnCo board of directors, voted to elect Linda M. Stephens to fill the vacancy on the LinnCo board of directors. Ms. Stephens was also subsequently added to the LINN board of directors by unanimous written consent upon recommendation of the Nominating and Governance Committee of the LINN board of directors. The LinnCo and LINN boards of directors also approved the formation of the LinnCo Conflicts Committee, comprised of Terence Jacobs and Linda Stephens, and the LINN Conflicts Committee, comprised of David Dunlap and Jeffrey Swoveland, respectively, for consideration of the contribution of Berry to LINN following the merger in exchange for LINN units and the post-closing tax profile of LinnCo and LINN. Each Conflicts Committee was granted the authority to engage such legal, financial and other advisors as it deemed necessary or appropriate.

Over the next week, the members of the LinnCo Conflicts Committee hired Locke Lord LLP (which we refer to as Locke Lord ) as its legal advisor and Evercore as its financial advisor. In addition, the members of the LINN Conflicts Committee hired Akin Gump Strauss Hauer & Feld LLP (which we refer to as Akin Gump ) as its legal advisor and Greenhill as its financial advisor.

Throughout February 2013, members of management of Berry and of LinnCo and LINN, with the assistance of their respective financial and legal advisors, held discussions and shared financial information as part of their evaluation of the other s businesses.

In addition, throughout February 2013, the LinnCo Conflicts Committee and its legal and financial advisors and the LINN Conflicts Committee and its legal and financial advisors, together with members of LINN

Table of Contents

Index to Financial Statements

management and Latham & Watkins, held a number of discussions regarding the structure of the contribution of Berry to LINN following the merger, the deferred tax liability to be incurred by LinnCo if the merger was consummated and the number of LINN units to be issued to LinnCo in connection with the Contribution and Issuance.

On February 5 and 6, 2013, representatives of Credit Suisse contacted representatives of two large public oil and gas companies (which we refer to as Company C and Company D ) to inquire whether either company would potentially be interested in engaging in a business combination transaction with Berry. As authorized and requested by the Berry board of directors, Credit Suisse indicated to each that Berry had received a proposal for a consensual transaction on terms reflecting a premium to the then-current market price of Berry common stock that was reasonably likely to result in a transaction being announced in the next two to three weeks. After several follow-up discussions, Company C indicated that, based upon its review of publicly available information with respect to Berry, its preliminary valuation of Berry would imply a transaction price per share of Berry common stock approximately equal to the then-current market price of Berry common stock. Company D indicated that the possibility of a transaction with Berry would be reviewed internally and requested certain maps showing Berry s properties, which were not available and consequently were not provided to Company D. Although representatives of Credit Suisse reiterated in several follow-up conversations with Company D that it was reasonably likely that a transaction would be announced shortly, Company D ultimately did not make an acquisition proposal to Berry.

On February 6, 2013, on behalf of LinnCo and LINN, Latham & Watkins sent a draft merger agreement to Wachtell Lipton, as counsel to Berry. After reviewing the draft merger agreement, Berry determined that there were several significant issues in the merger agreement, including that (1) Berry would be obligated to pay LinnCo a termination fee of up to 4% of the equity value of the transaction (plus an additional 1% of the equity value of the transaction for expense reimbursement) in the event that the merger agreement were terminated in certain circumstances, (2) Berry did not have a right to terminate the merger agreement in order to accept an unsolicited superior proposal, (3) Berry did not have a right to terminate the merger agreement if there were a material adverse effect on LinnCo or LINN, and (4) the LINN board of directors and the LinnCo board of directors had the right to change its recommendation for the transaction for any reason, without any requirement to pay any termination fee to Berry.

On February 6, 2013, LinnCo and LINN sent to Berry a list of document and information requests regarding Berry s business for its due diligence review.

On February 9, 2013, on behalf of Berry, Wachtell Lipton sent a revised draft of the merger agreement to Latham & Watkins, as counsel to LinnCo and LINN. The revised draft merger agreement reduced the total potential termination fee and expense reimbursement payment from the aggregate of 5% of the equity value of the transaction to 2.5% of the equity value of the transaction, and provided that LinnCo would be obligated to pay Berry this termination fee in the event that the merger agreement were terminated as a result of a change in recommendation for the transaction by either the LinnCo board of directors or the LINN board of directors. Wachtell s revised draft of the merger agreement also provided Berry with a right to terminate the merger agreement in order to accept a superior proposal. Furthermore, the revised draft permitted Berry to terminate the merger agreement if there were a material adverse effect on LinnCo or LINN.

On February 11, 2013, LinnCo, LINN, certain of their respective officers and directors, the LinnCo Conflicts Committee, the LINN Conflicts Committee, and each of their respective legal and financial advisors participated in a meeting at the offices of LinnCo and LINN. The meeting participants engaged in a detailed discussion regarding the contemplated structure and timeline for the proposed transaction.

On February 11, 2013, Latham & Watkins sent a revised draft of the merger agreement to Wachtell Lipton. As compared to LinnCo s original draft of the merger agreement, the revised draft merger agreement provided that Berry would be obligated to pay LinnCo a total termination fee and expense reimbursement of up to 4% of the equity value of the transaction, instead of up to 5% of the equity value of the transaction. It also provided that

Table of Contents

Index to Financial Statements

LinnCo would be obligated to pay Berry the termination fee in the event that the merger agreement were terminated as a result of a change in recommendation for the transaction by either the LinnCo board of directors or the LINN board of directors. Furthermore, the revised draft permitted Berry to terminate the merger agreement if there were a material adverse effect on LinnCo or LINN. However, the revised draft of the merger agreement did not permit Berry to terminate the merger agreement in order to accept a superior proposal.

On February 12, 2013, representatives of management of each of Berry and of LinnCo and LINN, together with their respective financial advisors, met in Denver, Colorado. At that meeting, Berry management presented information regarding Berry to the management and advisors of LinnCo and LINN, and LinnCo and LINN management presented information regarding LinnCo and LINN to the management and advisors of Berry. Mr. Ellis and Mr. Heinemann met separately and discussed board and critical management structure. Mr. Heinemann proposed the appointment of two Berry directors to the LinnCo or LINN board of directors following the closing of the merger. Mr. Ellis agreed to consider one Berry director being appointed to the LinnCo or LINN board of directors. At the request of certain members of the Berry board of directors, Mr. Ellis subsequently spoke telephonically with one of such members about the rationale for the transaction and key integration issues.

During the period from February 14, 2013 through February 16, 2013, an equity analyst published a report and *Barron s* published an article questioning LINN s practices and its accounting relating to derivatives. On February 15, 2013, LINN published a response to such reports on its website and filed a current report on Form 8-K, explaining that its practices and accounting relating to these derivatives were accurate and appropriate.

On February 15, 2013, the Berry board of directors held a meeting in Denver. At the request of the Berry board of directors, representatives from Credit Suisse and Wachtell Lipton were also in attendance. During the meeting, representatives from Credit Suisse discussed Credit Suisse s updated preliminary financial analyses of the proposed transaction with LinnCo and LINN reflecting, among other things, changes in the stock prices of each of Berry, LinnCo and LINN since the commencement of discussions between the parties. Credit Suisse noted that the price of Berry common stock had increased, and the price of LinnCo common shares and LINN units had decreased, since the parties had initially discussed an exchange ratio of 1.19. Wachtell Lipton then updated the Berry board of directors on the status of the negotiations regarding the merger agreement. Following discussion, the Berry board of directors authorized Mr. Heinemann to further discuss with Mr. Ellis the proposed exchange ratio and to seek an increase in the proposed consideration to be paid to Berry stockholders. At this meeting, representatives of Credit Suisse updated the Berry board of directors regarding their discussions on behalf of the Berry board of directors with each of Company C and Company D, including the fact that, despite having previously informed Company C and Company D that Berry had received a friendly proposal at a premium that was reasonably likely to result in a transaction being announced in the next two to three weeks, neither had made a proposal to acquire Berry.

On February 15, 2013, following the Berry board of directors meeting, Mr. Heinemann and Mr. Ellis spoke telephonically. Mr. Heinemann informed Mr. Ellis that the Berry board of directors had concluded that the previously discussed exchange ratio of 1.19 LinnCo common shares per outstanding share of Berry common stock was no longer acceptable, and that Berry would require an increase in the exchange ratio in order to move forward with the proposed transaction.

During the weekend of February 16, 2013, representatives of each of Berry, LINN and LinnCo met to review and discuss LINN s accounting practices relating to derivatives with representatives of each party s outside legal and financial advisors. LINN management reviewed with Berry management and its advisors the various disclosures made by LINN in its Current Report on Form 8-K filed on February 15, 2013, which were intended to address the points made in the *Barron s* article and the equity analyst report pertaining to LINN s practices and accounting relating to derivatives. LINN explained to Berry management and its advisors that these points related to LINN s presentation of certain non-GAAP measures, including adjusted EBITDA, and not LINN s GAAP accounting. LINN and Berry management noted the decrease in the LinnCo share price following the publication of the equity analyst report and the *Barron s* article but no changes to the merger agreement were discussed. During

Table of Contents

Index to Financial Statements

the week of February 18, 2013, research reports were published by Raymond James, Baird, UBS and Wells Fargo that were supportive of LINN and reaffirmed or reiterated each analyst s existing positive rating on LINN units. On February 19, 2013, representatives of Berry, LINN and LinnCo met with each party s independent public accounting firms to review and discuss LINN s accounting practices relating to derivatives.

Early during the week of February 18, 2013, representatives of Greenhill and Evercore met with members of Berry management to conduct financial due diligence regarding Berry.

On the evening of February 19, 2013, Mr. Ellis and Mr. Heinemann discussed the terms of the potential acquisition, including the exchange ratio, the termination fees to be paid by the parties in the event of a termination of the merger agreement under specified circumstances, whether the Berry board of directors would have the right to terminate the merger agreement if it received an unsolicited superior offer, how expenses and any gains and losses on hedging arrangements would be handled in the event of termination of the merger agreement and Berry s representation on the LinnCo or LINN board of directors. Mr. Ellis further explained that, subject to the approval of the LinnCo Conflicts Committee and the LINN Conflicts Committee, it was contemplated that LINN would pay to LinnCo an additional cash distributions of $6 million for each of the three years following the closing of the transaction to reasonably compensate LinnCo for the actual increase in LinnCo s tax liability. During this discussion, Mr. Ellis proposed a revised exchange ratio of 1.23 LinnCo common shares per outstanding share of Berry common stock. In response to Mr. Heinemann s proposed 1.27 exchange ratio, Mr. Ellis ultimately increased his proposed exchange ratio to 1.25. Mr. Ellis and Mr. Heinemann further agreed that the merger agreement would provide that the Berry board of directors would maintain the right to terminate the merger agreement in order to accept an unsolicited superior offer, that the termination fee would be 3.25% of the equity value of the proposed transaction, that one member of the Berry board of directors would serve on either the LinnCo or LINN board of directors and for the allocation of hedging gains and losses in different circumstances if the merger agreement would later be terminated.

Later that evening, following further discussions between Mr. Heinemann and members of the Berry board of directors, Mr. Heinemann called Mr. Ellis and requested again that the exchange ratio be increased to 1.27 LinnCo common shares per outstanding share of Berry common stock. Mr. Ellis responded that LinnCo would not proceed with a transaction at an exchange ratio in excess of 1.25 LinnCo common shares per share of Berry common stock.

Following this discussion, and understanding that LinnCo would not proceed with an exchange ratio in excess of 1.25 LinnCo common shares, Mr. Heinemann called Mr. Ellis and informed him that he would recommend to the Berry board of directors a transaction at an exchange ratio of 1.25 LinnCo common shares per share of Berry common stock.

On February 19, 2013, Terence Jacobs and Linda Stephens, the members of the LinnCo Conflicts Committee, resigned from the LINN board of directors. In addition, David Dunlap and Jeffrey Swoveland, the members of the LINN Conflicts Committee, resigned from the LinnCo board of directors. The LinnCo Conflicts Committee and the LINN Conflicts Committee were formed to determine the fairness to LinnCo and LINN, respectively, of the contribution agreement, the contribution consideration and the Contribution. The LINN board of directors and the LinnCo board of directors determined that Mr. Jacobs and Ms. Stephens should resign from the LINN board of directors, and that Messrs. Dunlap and Swoveland should resign from the LinnCo board of directors to ensure the independence of the LinnCo Conflicts Committee from the LINN board of directors and the LINN Conflicts Committee from the LinnCo board of directors. The resignations of Mr. Jacobs and Ms. Stephens from the LINN board of directors and Messrs. Dunlap and Swoveland from the LinnCo board of directors created vacancies on each board of directors but did not have any other impact on the boards of directors of LinnCo or LINN or their ability to make a determination regarding the merger or the Contribution.

On February 19 and 20, 2013, the LinnCo Conflicts Committee and the LINN Conflicts Committee finalized discussions regarding the terms of the contribution agreement, including with respect to the number of

Table of Contents

Index to Financial Statements

LINN units to be issued to LinnCo and the payment to be made by LINN to LinnCo to reasonably compensate LinnCo for the actual increase in LinnCo s tax liability as well as a negotiated commitment that any proposed disposition of a material portion of the acquired assets in a manner that would result in a material increase to the tax liability of LinnCo would require approval of an independent committee of LinnCo for a period of seven years after the merger.

On February 19 and February 20, 2013, Latham & Watkins and Wachtell Lipton held a series of calls to resolve the remaining issues in the merger agreement, the disclosure schedules to the merger agreement and related agreements.

On February 20, 2013, the LinnCo Conflicts Committee had meetings at which the most recent terms of the merger agreement and contribution agreement were discussed. At the request of the LinnCo Conflicts Committee, Evercore and Locke Lord were present. Evercore gave its oral opinion that, as of February 20, 2013, the contribution consideration was fair, from a financial point of view, to LinnCo, taking into account the proposed transaction as a whole, including the deferred tax liability. The LinnCo Conflicts Committee then approved the contribution agreement, the contribution consideration and the Contribution and recommended that the LinnCo board of directors approve the contribution agreement, the contribution consideration and the Contribution.

On February 20, 2013, the LINN Conflicts Committee had a meeting at which the most recent terms of the merger agreement and contribution agreement were discussed. At the request of the LINN Conflicts Committee, Greenhill and Akin Gump were present. Greenhill gave its oral opinion to the LINN Conflicts Committee (which was subsequently confirmed in writing by delivery of Greenhill s written opinion addressed to the LINN Conflicts Committee dated the same day) that, as of February 20, 2013, and based upon and subject to the limitations and assumptions stated in its opinion, the proposed Contribution pursuant to the contribution agreement and the merger agreement was fair, from a financial point of view, to LINN. The LINN Conflicts Committee then approved the contribution agreement, the contribution consideration and the Contribution and recommended that the LINN board of directors approve the contribution agreement, the contribution consideration and the Contribution.

On February 20, 2013, the LinnCo board of directors and LINN board of directors held a joint special meeting. Representatives from Citigroup and Latham & Watkins were also in attendance. LinnCo management updated the boards of directors on discussions and negotiations between the parties since the prior meeting of the boards of directors and presented an updated financial model based on the agreed upon exchange ratio of 1.25 LinnCo common shares per share of Berry common stock. Mr. Ellis described his discussions with Mr. Heinemann and their proposed resolution of certain open issues in the merger agreement, including the exchange ratio, the termination fee, the right of the Berry board of directors to terminate the merger agreement if it were to receive an unsolicited superior offer, allocation of hedging gains and losses upon termination of the merger agreement under various circumstances and Berry representation on the LinnCo or LINN board of directors. Representatives from Latham & Watkins then described the terms of the draft merger agreement and contribution agreement, including that, as a result of the negotiations between the LinnCo Conflicts Committee and the LINN Conflicts Committee, LINN agreed that for three years following the closing of the transaction, it would pay to LinnCo additional cash distributions of $6 million per year to reasonably compensate LinnCo for the actual increase in LinnCo s tax liability. At the request of the LinnCo and LINN boards of directors, representatives from Citigroup reviewed and discussed their financial analyses of Berry, LinnCo and LINN and the proposed transaction among the parties. Thereafter, at the request of the LinnCo board of directors, Citigroup rendered its oral opinion to the LinnCo board of directors (which was subsequently confirmed in writing by delivery of Citigroup s written opinion addressed to the LinnCo board of directors dated the same date) to the effect that, as of February 20, 2013 and based upon and subject to the matters described in its opinion, the exchange ratio provided for in the merger agreement, was fair, from a financial point of view, to LinnCo. The Conflicts Committee of each of LinnCo and LINN each then gave its recommendation that the contribution agreement be approved by the LinnCo and LINN boards of directors, respectively. After discussion and deliberation, the LinnCo board of directors determined that the merger agreement, the contribution agreement

Table of Contents

Index to Financial Statements

and the transactions contemplated thereby were advisable, fair and reasonable to and in the best interests of LinnCo and its shareholders and authorized LinnCo management to execute the merger agreement and contribution agreement on behalf of LinnCo. In addition, the LINN board of directors determined that the merger agreement, the contribution agreement and the transactions contemplated thereby were advisable, fair and reasonable to and in the best interests of LINN and its unitholders and authorized LINN management to execute the merger agreement and contribution agreement on behalf of LINN.

Later that day, on February 20, 2013, the Berry board of directors held a telephonic meeting. At the request of the Berry board of directors, representatives from Credit Suisse and Wachtell Lipton were also in attendance. Berry management updated the Berry board of directors on discussions and negotiations between the parties since the prior meeting of the board. Mr. Heinemann described his discussions with Mr. Ellis and their proposed resolution of certain open issues in the merger agreement, including the exchange ratio, the termination fee and the right of the Berry board of directors to terminate the merger agreement if it were to receive an unsolicited superior offer. He further explained that, for each of the three years following the closing of the transaction, LINN would pay to LinnCo an additional cash distribution of $6 million per year to reasonably compensate LinnCo for the actual increase in LinnCo s tax liability. Representatives from Wachtell Lipton then described the terms of the draft merger agreement. At the request of the Berry board of directors, representatives from Credit Suisse reviewed and discussed Credit Suisse s financial analyses of Berry, LinnCo and LINN and the proposed merger. Thereafter, at the request of the Berry board of directors, Credit Suisse rendered its oral opinion to the Berry board of directors (which was subsequently confirmed in writing by delivery of Credit Suisse s written opinion addressed to the Berry board of directors dated the same date) to the effect that, as of February 20, 2013 and based upon and subject to the assumptions, limitations, qualifications and other matters considered in the preparation of the opinion, the merger consideration to be received by the holders of Berry common stock collectively in the merger pursuant to the merger agreement was fair, from a financial point of view, to the holders of Berry common stock. For purposes of Credit Suisse s opinion, merger consideration was defined as the aggregate number of LinnCo common shares to be issued to holders of Berry common stock in the merger pursuant to the merger agreement. After discussion and deliberation, the Berry board of directors determined that the merger agreement and the transactions contemplated thereby were advisable, fair to and in the best interests of Berry and its stockholders and authorized management to execute the merger agreement on behalf of Berry.

Following the approval of the Berry board of directors, the LinnCo board of directors and the LINN board of directors, the management of Berry, LinnCo and LINN with their respective legal advisors finalized the last remaining open issues in accordance with instructions from their respective boards of directors, and the parties then entered into the merger agreement on February 20, 2013.

On February 21, 2013, Berry, LinnCo and LINN issued a joint press release announcing the execution of the merger agreement and the proposed transactions.

**Berry s Reasons for the Merger; Recommendation of the Berry Board of Directors**

The Berry board of directors unanimously determined that the merger agreement and the merger are advisable, fair and reasonable to and in the best interests of the Berry stockholders and approved the merger agreement and the transactions contemplated by the merger agreement. **The Berry board of directors unanimously recommends that the Berry stockholders vote FOR the adoption of the merger agreement and approval of the merger and the other transactions contemplated by the merger agreement.**

In evaluating the proposed merger, the Berry board of directors consulted with Berry s management and financial and legal advisors, and, in reaching its determination and recommendation, the Berry board of directors considered a number of factors. The following discussion of the information and factors considered by the Berry board of directors is not exhaustive, but includes the material factors considered by the board. In view of the wide variety of factors, both positive and negative, considered by the Berry board of directors, the board did not consider it practical to, nor did it attempt to, quantify, rank or otherwise seek to assign relative weights to the

Table of Contents

Index to Financial Statements

specific factors that it considered in reaching its determination that the merger agreement and the merger are advisable, fair and reasonable to and in the best interests of the Berry stockholders. Rather, the Berry board of directors viewed its determinations as being based upon the judgment of its members, in light of the totality of information presented and considered, including the knowledge of such directors of Berry s business, financial condition and prospects and the advice of financial and legal advisors. In considering the factors described above, individual members of the Berry board of directors may have given different weight to different factors and may have applied different analyses to each of the material factors considered.

Many of the factors considered favored the conclusion that the merger agreement and the transactions contemplated by the merger agreement are advisable, fair and reasonable to and in the best interests of Berry and its stockholders, including the following:

The aggregate value of the merger consideration to be received by the Berry stockholders in the merger, including that the consideration in the form of LinnCo common shares provides Berry stockholders with the opportunity to continue to participate in the performance of the combined company through ownership of LinnCo common shares.

Based on the closing price of LinnCo common shares on the NASDAQ of $36.99 on February 20, 2013, the last trading day before the public announcement of the proposed transactions, the 1.25 exchange ratio represented approximately $46.2375 in LinnCo common shares for each share of Berry common stock, which represented a premium of:

approximately 20% to the closing price of Berry common stock on the same date; and

approximately 26% to the average of the closing prices of Berry common stock over the 30 trading days prior to such date.

An analysis of the net asset value of Berry, including the risks and uncertainties and potential value to be derived from pursuing Berry s existing and planned development projects.

An analysis of the net asset value of LINN and the fact that LINN had become a large oil and natural gas producer with 2013 estimated daily production averaging 865 MMcfe per day.

The absence of alternative proposals following efforts by Berry, with the assistance of its financial advisor, to solicit proposals from other potential transaction counterparties.

The fact that LinnCo is required to distribute to the LinnCo shareholders all of the cash (other than cash required to satisfy its tax liabilities) that it receives from LINN as distributions within five business days after it receives such distributions, which is a source of increased cash flow to Berry stockholders who become shareholders in LinnCo, and that LINN agreed to pay LinnCo $6 million in cash per year for the three years following the merger to reasonably compensate LinnCo for the actual increase in LinnCo s tax liability, which would increase the amount of cash available to distribute to holders of LinnCo common shares, including former Berry stockholders who received LinnCo common shares in the merger.

The fact that, based on LinnCo s stated expected annualized per share dividend of $3.08 and the exchange ratio of 1.25 LinnCo common shares per share of Berry common stock, the implied yearly cash distribution per share of Berry common stock following the merger would be $3.85 (as opposed to $0.32 prior to the merger).

The fact that the merger is expected to qualify as a reorganization within the meaning of Section 368(a) of the Code.

The fact that the merger consideration consists of LinnCo common shares instead of LINN units, which certain institutional and retail investors may prefer not to hold due to K-1 tax return filing requirements and other administrative considerations associated with holding an interest in a master limited partnership.

Table of Contents

Index to Financial Statements

The view of management and the Berry board of directors that the combination would result in meaningful growth to the combined company s asset portfolio, with increased geographic presence in California, the Permian Basin, east Texas, and the Rockies, and would increase the proportion of oil reserves and production of the combined company.

The view of management and the Berry board of directors that the larger combined company would have increased access to lower cost capital necessary to maximize Berry s asset base value and compete more effectively and could assume more readily any risk inherent in Berry s business.

The view of management and the Berry board of directors that Berry, LinnCo and LINN had similar core values and shared a dedication to pursuing new development projects to increase shareholder value, which would assist in the integration of the companies going forward.

Each party s familiarity with and understanding of the other party s business, assets, financial condition, results of operations, current business strategy and prospects, and the benefits to a combined organization of their respective exploration and production expertise.

The financial analysis reviewed and discussed with the Berry board of directors by representatives of Credit Suisse as well as the oral opinion of Credit Suisse rendered to the Berry board of directors on February 20, 2013 (which was subsequently confirmed in writing by delivery of Credit Suisse s written opinion addressed to the Berry board of directors dated the same date) with respect to the fairness, from a financial point of view, to the holders of Berry common stock of the merger consideration to be received by such holders collectively in the merger pursuant to the merger agreement (see Opinion of the Financial Advisor to Berry ).

The potential synergies and other potential benefits from the application of LINN s existing tax attributes to Berry s cash flow and the potential benefits of LINN s agreement to pay LinnCo $6 million per year for three years after the closing of the merger to reasonably compensate LinnCo for the actual increase in LinnCo s tax liability, neither of which was quantified in the financial analyses reviewed and discussed with the Berry board of directors by representatives of Credit Suisse.

The fact that Berry, LinnCo and LINN undertook extensive negotiations, resulting in increased merger consideration for the Berry stockholders and the revision of the original draft merger agreement to make the terms more favorable to Berry and its stockholders.

The Berry board of directors also considered the following specific aspects of the proposed merger:

The nature of the closing conditions included in the merger agreement, including the definition of the circumstances that would constitute a material adverse effect on Berry, LinnCo and LINN for purposes of the agreement, as well as the likelihood of satisfaction of all conditions to the consummation of the transactions.

The requirement that approval of the LinnCo shareholders and the LINN unitholders be obtained as conditions to consummation of the merger.

The rights of Berry stockholders compared to the rights of LinnCo common shareholders (see Comparison of Securityholders Rights ).

The right and ability of the Berry board of directors to consider and negotiate unsolicited alternative merger proposals, change its recommendation and, following payment of a termination fee to LinnCo, terminate the merger agreement in order to accept a superior proposal, subject to the terms and conditions set forth in the merger agreement.

That LinnCo is treated as a C-corporation for U.S. federal income tax purposes, as compared to LINN, which is treated as a partnership for U.S. federal income tax purposes.

That Berry stockholders are entitled to appraisal rights on their shares of Berry common stock under Delaware law.

Table of Contents

Index to Financial Statements

The Berry board of directors also considered a variety of risks and other potentially countervailing factors, including the following:

- The fact that because the merger consideration is a fixed number of LinnCo common shares for each share of Berry common stock, fluctuations in the market value of LinnCo common shares during the pendency of the merger agreement may affect the dollar value of the consideration received by Berry stockholders (and any premium that such consideration represents to the Berry stock price) when the merger is completed, and the merger agreement does not provide Berry with a price-based termination right or other similar protection.

- The fact that, while the merger is expected to be completed, there is no assurance that all conditions to the parties obligations to complete the merger will be satisfied or waived, and as a result, it is possible that the merger might not be completed even if approved by Berry stockholders, and the potential impact on Berry s relationships with employees and third parties of any such failure to close.

- The fact that the merger agreement contains restrictions on the conduct of Berry s business prior to completion of the proposed merger, including requiring Berry to conduct its business only in the ordinary course, subject to specific limitations, which could delay or prevent Berry from undertaking business opportunities that may arise pending completion of the merger.

- The fact that the merger agreement imposes limitations on Berry s ability to solicit alternative transactions prior to closing and to terminate the merger agreement to accept a superior proposal.

- The fact that, if the merger agreement is terminated under certain circumstances, Berry would be required to pay a termination fee of $83.7 million to LinnCo.

- The governance structure of LinnCo, including the fact that the holders of LinnCo common shares are not entitled to vote on the election of LinnCo s directors, although: (1) the LinnCo directors are selected by LINN, as the holder of the sole voting share of LinnCo, (2) the LINN directors are elected by a vote of the LINN unitholders, and (3) LinnCo is required to vote the LINN units that it holds on any matter submitted to a vote of LINN unitholders (including in any election of LINN directors) in the same manner as the LinnCo shareholders vote their LinnCo common shares on such matter.

- The potential risk that the U.S. tax laws change in a manner that adversely affects the tax treatment of LinnCo or LINN.

- The risks of the type and nature described under the section titled Risk Factors.

The Berry board of directors believes that, overall, the potential benefits of the proposed transactions to Berry and its stockholders outweigh the risks considered by the Berry board of directors. The Berry board of directors understands that there can be no assurance of future results, including results considered or expected as described in the factors listed above. It should be noted that in this discussion of the reasoning of the Berry board of directors and all other information presented in this section includes information that is forward-looking in nature and, therefore, should be read in light of the factors discussed under the heading Cautionary Statement Regarding Forward-Looking Statements. Additionally, see Certain Unaudited Prospective Financial and Operating Information for information regarding the preparation of prospective financial information.

At a meeting held on February 20, 2013, after a review and discussion of the terms of the proposed transaction with the assistance of Berry s management and advisors, the Berry board of directors determined, by unanimous vote, that the merger agreement and the merger are advisable, fair and reasonable to and in the best interests of the Berry stockholders. The Berry board of directors recommends that the Berry stockholders

vote:

**FOR** the Berry Merger Proposal;

**FOR** the Berry Advisory Compensation Proposal; and

**FOR** the Berry Adjournment Proposal.

Table of Contents

Index to Financial Statements

**Opinion of the Financial Advisor to Berry**

On February 20, 2013, Credit Suisse rendered its oral opinion to the Berry board of directors (which was subsequently confirmed in writing by delivery of Credit Suisse s written opinion addressed to the Berry board of directors dated the same date) to the effect that, as of February 20, 2013, the merger consideration to be received by the holders of Berry common stock collectively in the merger pursuant to the merger agreement was fair, from a financial point of view, to such holders.

Credit Suisse s opinion was directed to the Berry board of directors (in its capacity as such) and only addressed the fairness, from a financial point of view, to the holders of Berry common stock of the merger consideration to be received by such holders collectively in the merger pursuant to the merger agreement and did not address any other aspect or implication of the merger. The summary of Credit Suisse s opinion in this joint proxy statement/prospectus is qualified in its entirety by reference to the full text of its written opinion, which is included as Annex E to this joint 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 joint proxy statement/prospectus is intended to be, and they do not constitute, advice or a recommendation to any holder of Berry common stock as to how such stockholder should vote or act with respect to any matter relating to the merger.

In arriving at its opinion, Credit Suisse:

- reviewed the merger agreement and certain publicly available business and financial information relating to Berry, LinnCo and LINN;
- reviewed certain other information relating to Berry, LinnCo and LINN, including:
  - certain preliminary oil and gas reserve reports and data prepared by Berry s independent oil and gas reserve engineers containing estimates with respect to Berry s proved oil and gas reserves and certain preliminary oil and gas reserve reports and data prepared by the management of Berry containing estimates with respect to Berry s probable and possible oil and gas reserves and, in each case, associated timings and riskings prepared by the management of Berry (collectively, the Reserve Data for Berry );
  - certain preliminary oil and gas reserve reports and data prepared by LINN s independent oil and gas reserve engineers containing estimates with respect to LINN s proved oil and gas reserves and certain preliminary oil and gas reserve reports and data prepared by the management of LINN containing estimates with respect to LINN s unproved oil and gas reserves and, in each case, associated timings and riskings prepared by the management of Berry (collectively, the Reserve Data for LINN );
  - certain financial forecasts relating to Berry provided to Credit Suisse by Berry (the Berry Projections ) (see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the Berry Board of Directors and Credit Suisse );
  - certain financial forecasts relating to LinnCo and LINN provided to Credit Suisse by LINN (the LINN Projections )(see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the Berry Board of Directors and Credit Suisse );
- spoke with the managements of Berry, LinnCo and LINN and certain of their representatives regarding the business and prospects of Berry, LinnCo and LINN, respectively, as well as the Reserve Data for Berry and the Reserve Data for LINN;

considered certain financial and stock market data of Berry and LINN, and compared that data with similar data for other companies with publicly traded equity securities in businesses Credit Suisse deemed similar to those of Berry and LINN;

Table of Contents

Index to Financial Statements

compared certain financial and stock market data of LinnCo and LINN;

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

considered such other information, financial studies, analyses and investigations and financial, economic and market criteria which Credit Suisse deemed relevant.

In connection with its review, Credit Suisse did not independently verify any of the foregoing information and Credit Suisse assumed and relied upon such information being complete and accurate in all respects material to its analyses and opinion. With respect to the Berry Projections and the LINN Projections that Credit Suisse used in its analyses, the managements of Berry and LINN advised Credit Suisse and Credit Suisse assumed that such financial forecasts were reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the managements of Berry and LINN as to the future financial performance of Berry, LinnCo and LINN, respectively, and Credit Suisse expressed no view or opinion with respect to such financial forecasts or the assumptions upon which they were based. With respect to the reserve data included in the Reserve Data for Berry that Credit Suisse reviewed, Credit Suisse was advised and assumed that such data was reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of Berry s third-party oil and gas reserves consultants and the management of Berry, as applicable, as to the proved, probable and possible oil and gas reserves of Berry, and were a reasonable basis on which to evaluate Berry, and Credit Suisse expressed no view or opinion with respect to such reserve data or the assumptions upon which they were based. With respect to the reserve data included in the Reserve Data for LINN that Credit Suisse reviewed, Credit Suisse was advised and assumed that such data was reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of LINN s third-party oil and gas reserves consultants and the management of LINN, as applicable, as to the proved and unproved oil and gas reserves of LINN, and were a reasonable basis on which to evaluate LinnCo and LINN, and Credit Suisse expressed no view or opinion with respect to such reserve data for LINN or the assumptions upon which they were based. With respect to the timings and riskings included in the Reserve Data for Berry and the Reserve Data for LINN that Credit Suisse reviewed, Credit Suisse was advised and assumed that such timings and riskings were reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the management of Berry as to the appropriate timings and riskings for the proved, probable and possible oil and gas reserves of Berry and the proved and unproved oil and gas reserves of LINN, respectively, and were a reasonable basis on which to evaluate Berry and LINN, and Credit Suisse expressed no view or opinion with respect to such timings and riskings or the assumptions upon which they were based. Credit Suisse is not an expert in the evaluation of oil and gas reserves and properties and Credit Suisse expressed no view or opinion 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 Berry or LINN. Credit Suisse also assumed, with Berry s consent, that, in the course of obtaining any regulatory or third-party consents, approvals or agreements in connection with the merger (including the Conversion and the Contribution), no delay, limitation, restriction or condition will be imposed that would have an adverse effect on Berry, LinnCo or LINN or the contemplated benefits of the merger (including the Conversion and the Contribution) and that the merger (including the Conversion and the Contribution) will be consummated in the form and substance as described in its opinion in accordance with the terms of the merger agreement, without waiver, modification or amendment of any term, condition or agreement thereof material to Credit Suisse s analyses or opinion. With Berry s consent, Credit Suisse further assumed that any modification to the form or structure of the merger, the Conversion and the Contribution as described above, whether pursuant to the merger agreement or otherwise, would not be material to its analyses or opinion. Berry advised Credit Suisse and for purposes of its analyses and opinion Credit Suisse assumed that, for Federal income tax purposes, each of the LinnCo Merger and the HoldCo Merger will qualify as a reorganization within the meaning of Section 368(a) of the Code, and the issuance of the LINN units to LinnCo pursuant to the Contribution will qualify as an exchange to which Section 721(a) of the Code applies. Credit Suisse expressed no view or opinion with respect to the potential effects of the merger, the Conversion and the Contribution or any subsequent sales or transfers (including internal transfers) of any assets or securities of Berry or LINN or any of their respective affiliates on the federal, state or other taxes or tax rates payable by Berry, LinnCo or LINN or their respective

Table of Contents

Index to Financial Statements

security holders and, with Berry s consent, assumed, that such taxes and tax rates will not be adversely affected by or after giving effect to the merger, the Conversion and the Contribution, any such sales or transfers or any changes in applicable law. At Berry s direction, Credit Suisse relied upon (i) the assessment of the managements of LINN and LinnCo with respect to the tax aspects and implications of the merger, the Conversion and the Contribution and (ii) the projected taxes and tax rates payable by LinnCo after giving effect to the merger, the Conversion and the Contribution prepared and provided to Credit Suisse by the management of LinnCo, and Credit Suisse assumed that such assessments were true and correct in all respects material to its analyses and that such projected taxes and tax rates were reasonably prepared in good faith on bases reflecting the best currently available estimates and judgments of the management of LINN as to the taxes and tax rates payable by LinnCo after giving effect to the merger, the Conversion and the Contribution and that such assessments and projections were a reasonable basis on which to evaluate the tax aspects and implications of the merger, the Conversion and the Contribution. Credit Suisse expressed no view or opinion with respect to such assessments or projected taxes and tax rates or the assumptions on which they were based. In addition, Credit Suisse was not requested to, and did not, make an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of Berry, LinnCo or LINN, nor was Credit Suisse furnished with any such evaluations or appraisals other than the Reserve Data for Berry and the Reserve Data for LINN.

Berry advised Credit Suisse that, in connection with the merger and the Contribution, LINN agreed to pay LinnCo $6 million for each of the first three calendar years following the consummation of the Contribution (including the partial year following the closing). For purposes of its analyses and opinion Credit Suisse, at Berry s direction, assumed that LinnCo s only assets were and at all times in the future, including immediately after giving effect to the merger (including the Conversion and the Contribution), would be cash reserves for future tax obligations and LINN units, of which LinnCo would own a number at least equal to the number of outstanding LinnCo common shares.

Credit Suisse s opinion addressed only the fairness, from a financial point of view, to the holders of Berry common stock of the merger consideration to be received by such holders collectively in the merger pursuant to the merger agreement 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 any allocation of the merger consideration among the holders of Berry common stock or any classes thereof or the fairness of the amount or nature of, or any other aspect relating to, any compensation or consideration to be received or otherwise payable to any officers, directors, employees, security holders or affiliates of any party to the merger, or class of such persons, relative to the merger consideration or otherwise. Furthermore, no opinion, counsel or interpretation was intended regarding matters that require legal, regulatory, accounting, insurance, tax, environmental, executive compensation or other similar professional advice including, without limitation, any advice regarding the amounts, timings, riskings and other aspects of Berry s proved, probable and possible oil and gas reserves or LINN s proved or unproved oil and gas reserves or any advice regarding the amounts and nature of any hedges, puts and other derivatives contracts and instruments entered into by LINN or contemplated by the LINN Projections or entered into by Berry in accordance with the merger agreement, which Credit Suisse with Berry s consent assumed were appropriate from a business and financial perspective and were and would be properly accounted for on Berry s and LINN s financial statements and reflected in LINN s distributable cash flow projections. Credit Suisse assumed that such opinions, counsel, interpretations or advice had been or would be obtained from the appropriate professional sources. 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. Credit Suisse did not undertake, and is under no obligation, to update, revise, reaffirm or withdraw its opinion, or otherwise comment on or consider events occurring or coming to its attention after the date of its opinion. In its opinion delivered to the Berry board of directors, Credit Suisse noted that Berry was aware that the financial projections and estimates that Credit Suisse reviewed relating to the future financial performance of Berry, LinnCo and LINN reflected certain assumptions regarding the oil and gas industry and the

Table of Contents

Index to Financial Statements

future commodity prices associated with the oil and gas industry that are subject to significant uncertainty and volatility and that, if different than assumed, could have a material impact on Credit Suisse s analyses and opinion. Credit Suisse s opinion did not address the relative merits of the merger, the Conversion or the Contribution as compared to alternative transactions or strategies that might be available to Berry, nor did it address the underlying business decision of the Berry Board or Berry to proceed with the merger, the Conversion or the Contribution. Credit Suisse did not express any opinion as to what the value of LinnCo common shares or LINN units actually will be when issued pursuant to the merger and the Contribution or the prices or range of prices at which shares of Berry common stock, LinnCo common shares or LINN units may be purchased or sold at any time.

In preparing its opinion to the Berry Board, Credit Suisse performed a variety of analyses, including those described below. The summary of Credit Suisse s financial analyses is not a complete description of the analyses underlying Credit Suisse s 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 its opinion. No company, business or transaction used in Credit Suisse s analyses for comparative purposes is identical to Berry, LINN, LinnCo or the proposed transaction. 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 reference ranges indicated by Credit Suisse s financial analyses are illustrative and not necessarily indicative of actual values nor 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 Berry 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 the Berry board of directors (in its capacity as such) in connection with its consideration of the proposed merger and were among many factors considered by the Berry board of directors in evaluating the proposed merger. Neither Credit Suisse s opinion nor its analyses were determinative of the merger consideration or of the views of the Berry board of directors with respect to the proposed merger.

The following is a summary of the material financial analyses performed by Credit Suisse in connection with the preparation of Credit Suisse s opinion rendered to the Berry board on February 20, 2013. The analyses 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. The financial analyses summarized below do not reflect the potential synergies and other potential benefits from the application of LinnCo s tax attributes to Berry cash flow or the potential benefits of LINN s agreement to pay LinnCo $6 million per year for three years after the closing of the merger.

Table of Contents

Index to Financial Statements

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 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).

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

***Distributed Cash Flow Yield*** generally the amount of the relevant partnership s or limited liability company s operating cash flow for a specified time period that is distributed to its limited partners or members, as applicable, on a per unit basis, expressed as a percentage of the partnership s or limited liability company s unit price.

Unless the context indicates otherwise, (1) share prices for the selected companies used in the selected companies analysis described below were as of February 20, 2013, the date Credit Suisse rendered its opinion to the Berry board of directors; (2) estimates of financial performance of Berry for the calendar years ending December 31, 2012 to 2017 were based on the Berry Projections and (3) estimates of financial performance of LINN for the calendar years ending December 31, 2012 to 2015 were based on the LINN Projections, which Credit Suisse was authorized to use and rely on for purposes of its analyses and opinion. Estimates of financial performance for the selected companies listed below for the calendar years ending December 31, 2012, 2013 and 2014 were based on publicly available research analyst estimates for those companies.

***Selected Companies Analyses***

*Berry.* Credit Suisse considered certain financial data for Berry and selected oil and gas exploration and production companies organized as corporations with publicly traded equity securities Credit Suisse deemed relevant. The selected companies were selected because they were deemed to be similar to Berry in one or more respects, including the nature of their business, size, diversification, entity level tax treatment and financial performance.

The financial data reviewed included:

Enterprise Value as a multiple of estimated 2013E EBITDA;

Enterprise Value as a multiple of estimated 2014E EBITDA;

Enterprise Value as a multiple of current proved reserves (based on a barrel of oil equivalent basis assuming a conversion ratio of natural gas to oil of 6 to 1, which we refer to as Boe); and

Enterprise Value as a multiple of estimated daily production (based on a barrel of oil equivalent per day basis assuming a conversion ratio of natural gas to oil of 6 to 1, which we refer to as Boe/d basis) for calendar years 2013E and 2014E.

Table of Contents

Index to Financial Statements

With respect to the selected companies analysis for Berry, the selected oil and gas exploration and production companies organized as corporations with publicly traded equity securities and corresponding financial data reviewed were:

| | 2013E EBITDA | 2014E EBITDA | Enterprise Value/ Proved Reserves ($/Boe) | Daily Production ($/Boe/d) 2013E | 2014E |
|---|---|---|---|---|---|
| Denbury Resources Inc. | 6.6x | 6.0x | $ 20.65 | $ 131,723 | $ 117,744 |
| Whiting Petroleum Corporation | 4.4 | 3.8 | 21.21 | 86,503 | 77,776 |
| Newfield Exploration Company | 4.1 | 3.5 | 10.97 | 49,627 | 48,720 |
| Cimarex Energy Co. | 5.1 | 4.2 | 17.41 | 56,991 | 55,687 |
| SandRidge Energy, Inc. | 5.8 | 5.3 | 16.66 | 53,435 | 54,357 |
| SM Energy Company | 4.4 | 3.4 | 24.77 | 43,828 | 38,261 |
| Laredo Petroleum Holdings, Inc. | 6.3 | 5.1 | 21.45 | 94,797 | 82,049 |
| Comstock Resources, Inc. | 4.5 | 3.4 | 15.85 | 49,438 | 51,933 |
| Bill Barrett Corporation | 4.3 | 3.6 | 9.99 | 44,379 | 44,438 |
| Swift Energy Company | 3.3 | 2.8 | 8.96 | 40,218 | 36,801 |
| Resolute Energy Corporation | 7.9 | 6.2 | 14.99 | 86,151 | 84,597 |

*LINN.* Credit Suisse considered certain financial data for LINN and selected oil and gas exploration and production companies organized as partnerships or limited liability companies with publicly traded equity securities Credit Suisse deemed relevant. The selected companies were selected because they were deemed to be similar to LINN in one or more respects, including the nature of their business, size, diversification, entity level tax treatment and financial performance.

The financial data reviewed included estimated distributed cash flow yield for 2012, 2013E and 2014E. The selected oil and gas exploration and production companies organized as partnerships or limited liability companies with publicly traded equity securities and corresponding financial data reviewed were:

| | Distributed Cash Flow Yield 2012E | 2013E | 2014E |
|---|---|---|---|
| EV Energy Partners, L.P. | 5.7% | 6.3% | 6.2% |
| Vanguard Natural Resources, LLC | 8.6% | 9.1% | 9.6% |
| Breitburn Energy Partners L.P. | 9.5% | 9.8% | 10.2% |
| Legacy Reserves LP | 8.5% | 8.9% | 9.2% |
| QR Energy, LP | 11.0% | 11.3% | 11.6% |
| Pioneer Southwest Energy Partners L.P. | 8.3% | 8.3% | 8.5% |
| Memorial Production Partners LP | 10.8% | 11.4% | 11.5% |
| LRR Energy, L.P. | 10.2% | 10.4% | 10.8% |
| Mid-Con Energy Partners, LP | 8.6% | 9.1% | 9.7% |

*Selected Companies Analysis*. Taking into account the selected companies analysis for Berry and its experience as a financial advisor, Credit Suisse applied multiple ranges of 5.00x to 6.00x to Berry s 2013E EBITDA, 4.50x to 5.50x to Berry s 2014E EBITDA, $14.00 to $17.00 per Boe to Berry s proved reserves as of December 31, 2012, $85,000 to $100,000 per Boe/d to Berry s estimated daily production for 2013, and $80,000 to $95,000 per Boe/d to Berry s estimated daily production for 2014. Based on the foregoing, Credit Suisse estimated an implied reference range of Berry common stock of $31.27 to $45.48 per share.

Taking into account the selected companies analysis for LINN and its experience as a financial advisor, Credit Suisse applied yields of 8.5% to 7.5% to LINN s distributed cash flow per unit for 2012, yields of 8.5% to 7.5% to LINN s estimated distributed cash flow per unit for 2013, and yields of 9.0% to 8.0% to LINN s estimated distributed cash flow per unit for 2014. For purposes of the selected companies analyses, Credit Suisse

Table of Contents

Index to Financial Statements

used publicly available analyst estimates as of February 15, 2013 with respect to crude oil prices of $92.42 and $94.46 per bbl for 2013E and 2014E, respectively, and natural gas prices of $3.58 and $4.14 per MMbtu for 2013E and 2014E, respectively.

For purposes of calculating an implied exchange ratio reference range of LinnCo common shares per share of Berry common stock, the results of the selected companies analyses for LINN were adjusted for an assumed LinnCo Common Share range of discounts relative to a LINN unit based on factors which included their relative trading prices since the initial public offering of LinnCo common shares, publicly available research analyst price targets for LinnCo common shares and LINN units and LinnCo s tax attributes. Based on the foregoing, Credit Suisse estimated an implied reference range of LinnCo common shares of $31.02 to $38.00 per share.

Taking into account the selected companies analysis for Berry, the selected companies analysis for LINN, the implied LinnCo Common Share range of discounts relative to a LINN unit and its experience as a financial advisor, Credit Suisse s analyses indicated an implied exchange ratio reference range of 0.823 to 1.466 LinnCo common shares per share of Berry common stock as compared to the exchange ratio in the proposed merger of 1.250 of LinnCo common shares per share of Berry common stock.

***Net Asset Value Analysis***

*Berry.* Credit Suisse calculated the net asset value of Berry s proved and probable oil and gas reserves (referred to as 2P reserves) and the net asset value of Berry s proved, probable and possible oil and gas reserves (referred to as 3P reserves), in each case to the end of their economic life based on the Reserve Data for Berry. In performing this analysis, Credit Suisse applied discount rates ranging from 10.0% to 12.0% to the projected unlevered after tax free cash flows through 2075 taking into account Berry s estimated weighted average cost of capital. For purposes of the net asset value analyses, Credit Suisse used NYMEX oil and gas pricing as of February 15, 2013.

*LINN.* Credit Suisse calculated the net asset value of LINN s proved and unproved oil and gas reserves to the end of their economic life based on the Reserve Data for LINN. In performing this analysis, Credit Suisse applied discount rates ranging from 8.0% to 9.5% to the projected unlevered free cash flows through 2110 taking into account LINN s estimated weighted average cost of capital. For purposes of the net asset value analyses, Credit Suisse used NYMEX oil and gas pricing as of February 15, 2013.

*Net Asset Value Analysis.* For purposes of calculating an implied exchange ratio reference range of LinnCo common shares per share of Berry common stock, the results of the net asset value analysis for LINN were adjusted for the assumed LinnCo Common Share range of discounts relative to a LINN unit based on factors which included their relative trading prices since the initial public offering of LinnCo common shares, publicly available research analyst price targets for LinnCo common shares and LINN units and LinnCo s tax attributes. Based on the foregoing, Credit Suisse estimated an implied reference range of Berry common stock of $29.93 to $39.00 per share (based on the implied reference range of Berry s 2P reserves) and $38.41 to $49.65 (based on the implied reference range of Berry s 3P reserves), and, taking into account the assumed LinnCo Common Share range of discounts relative to a LINN unit, an implied reference range of LinnCo common shares of $29.55 to $42.01 per share.

Taking into account the results of the net asset value analyses for Berry and LINN, the implied LinnCo common share range of discounts relative to a LINN unit and its experience as a financial advisor, Credit Suisse s analyses indicated implied exchange ratio reference ranges of 0.713 to 1.320 LinnCo common shares per share of Berry common stock based on Berry s 2P reserves and 0.914 to 1.680 LinnCo common shares per share of Berry common stock based on Berry s 3P reserves, as compared to the exchange ratio in the proposed merger of 1.250 LinnCo common shares per share of Berry common stock.

Table of Contents

Index to Financial Statements

***Discounted Cash Flow Analysis***

Credit Suisse also calculated implied exchange ratio reference ranges based on the net present value of Berry s three-year and five-year after-tax unlevered free cash flows through 2015 and 2017, respectively, based on the Berry Projections and the net present value of LINN s three-year distributable cash flow through 2015, based on the LINN Projections. In performing this analysis, Credit Suisse applied discount rates ranging from 10.0% to 12.0% taking into account Berry s estimated weighted average cost of capital and terminal EBITDA multiples of 5.0x to 6.0x to the projected after tax unlevered free cash flows of Berry for the three and five years ending December 31, 2015 and 2017, respectively, and discount rates ranging from 9.5% to 11.5% taking into account LINN s estimated cost of equity to terminal distributed cash flow yields of 8.0% to 7.0% and to the projected levered distributable cash flow for LINN. For purposes of the discounted cash flow analyses, Credit Suisse used NYMEX oil and gas pricing as of February 15, 2013. For purposes of calculating an implied exchange ratio reference range of LinnCo common shares per share of Berry common stock, the results of the discounted cash flow analysis for LINN were adjusted for the assumed LinnCo Common Share range of discounts relative to a LINN unit based on factors which included their relative trading prices since the initial public offering of LinnCo common shares, publicly available research analyst price targets for LinnCo common shares and LINN units and LinnCo s tax attributes. Based on the foregoing, Credit Suisse estimated an implied reference range of Berry common stock of $34.23 to $48.84 per share based on the three-year distributable cash flow through 2015 and $39.38 to $56.51 per share based on the five-year distributable cash flow through 2017, and, taking into account the assumed LinnCo Common Share range of discounts relative to a LINN unit, an implied reference range of LinnCo common shares of $32.79 to $40.52 per share.

Taking into account the results of the discounted cash flow analyses for Berry and LINN, the implied LinnCo Common Share range of discounts relative to a LINN unit and its experience as a financial advisor, Credit Suisse s analyses indicated an implied exchange ratio reference range of 0.845 to 1.489 LinnCo common shares per share of Berry common stock based on Berry s three-year after-tax unlevered free cash flows through 2015 and indicated an implied exchange ratio reference range of 0.972 to 1.723 LinnCo common shares per share of Berry common stock based on Berry s five-year after-tax unlevered free cash flows through 2017, as compared to the exchange ratio in the proposed merger of 1.250 LinnCo common shares per share of Berry common stock.

***Selected Transactions Analysis***

Credit Suisse also considered the financial terms of certain business combinations and other transactions involving oil and gas exploration and production companies that Credit Suisse deemed relevant. The selected transactions were selected because the target companies were oil and gas exploration and production companies organized as corporations deemed to be similar to Berry in one or more respects, including the nature of their business, size, diversification, entity level tax treatment and financial performance. The financial data reviewed included the implied Enterprise Value (based on the purchase price paid in the transaction) as a multiple of:

EBITDA for the last twelve months, or LTM EBITDA,

Proved reserves; and

Daily production.

**Table of Contents**

**Index to Financial Statements**

The selected transactions with oil and gas exploration and production target companies organized as corporations and corresponding financial data reviewed were:

| Date Announced | Acquiror | Target | LTM EBITDA | Enterprise Value / Proved Reserves ($/Boe) | Daily Production ($/Boe/d) |
|---|---|---|---|---|---|
| 12/05/2012 | Freeport-McMoRan Copper & Gold Inc. | Plains Exploration & Production Company | 5.3x | $ 32.31 | $ 100,675 |
| 07/23/2012 | CNOOC Limited | Nexen Inc. | 4.1 | 19.94 | 89,699 |
| 04/25/2012 | Halcón Resources Corporation | GeoResources, Inc. | 11.0 | 34.19 | 138,095 |
| 01/16/2012 | Denver Parent Corporation | Venoco, Inc. | 6.9 | 15.31 | 74,027 |
| 10/17/2011 | Statoil ASA | Brigham Exploration Company | 17.9 | 72.14 | 287,024 |
| 10/10/2011 | Sinopec Group | Daylight Energy Ltd. | 9.4 | 31.78 | 87,024 |
| 07/20/2011 | CNOOC Limited | OPTI Canada Inc. | NM | 10.64 | 197,667 |
| 07/15/2011 | BHP Billiton Group | Petrohawk Energy Corporation | 12.4 | 26.93 | 67,644 |
| 11/09/2010 | Chevron Corporation | Atlas Energy, Inc. | 19.2 | 30.46 | 323,648 |
| 04/15/2010 | Apache Corporation | Mariner Energy, Inc. | 7.4 | 21.64 | 65,665 |
| 04/04/2010 | Sandridge Energy, Inc. | Arena Resources Inc. | 9.9 | 20.60 | 173,597 |
| 03/22/2010 | CONSOL Energy Inc. | CNX Gas Corporation | 2.6 | 12.08 | 84,567 |
| 12/14/2009 | Exxon Mobil Corporation | XTO Energy Inc. | 6.0 | 11.51 | 58,783 |
| 11/01/2009 | Denbury Resources Inc. | Encore Acquisition Company | 11.8 | 16.30 | 79,537 |
| 07/14/2008 | Royal Dutch Shell plc | Duvernay Oil Corporation | 18.8 | 60.88 | 218,766 |
| 07/17/2007 | Plains Exploration & Production Company | Pogo Producing Company | 7.1 | 17.12 | 76,400 |
| 01/07/2007 | Forest Oil Corporation | The Houston Exploration Company | 4.6 | 14.56 | 46,507 |
| 06/23/2006 | Anadarko Petroleum Corporation | Kerr-McGee Corporation | 6.4 | 18.26 | 66,577 |
| 06/23/2006 | Anadarko Petroleum Corporation | Western Gas Resources, Inc. | 10.2 | 24.66 | 115,280 |
| 04/21/2006 | Petrohawk Energy Corporation | KCS Energy Inc. | 5.7 | 26.02 | 79,503 |
| 01/23/2006 | Helix Energy Solutions Group, Inc. | Remington Oil and Gas Corporation | 6.2 | 28.22 | 96,240 |
| 12/12/2005 | ConocoPhillips Company | Burlington Resources Inc. | 6.3 | 17.49 | 75,639 |
| 10/13/2005 | Occidental Petroleum Corporation | Vintage Petroleum, Inc. | 7.5 | 8.88 | 52,204 |
| 04/04/2005 | Chevron Corporation | Unocal Corporation | 5.1 | 10.17 | 41,569 |
| 01/26/2005 | Cimarex Energy Co. | Magnum Hunter Resources Corporation | 6.6 | 12.84 | 52,536 |

NM refers to not meaningful.

Table of Contents

Index to Financial Statements

Taking into account the results of the selected transactions analysis for Berry and its experience as a financial advisor, Credit Suisse applied a multiple range of 6.0x to 7.0x to Berry s 2012 EBITDA, $14.00 to $17.50 per Boe to Berry s proved reserves as of December 31, 2012, and $100,000 to $120,000 per Boe/d to Berry s daily production for 2012. Based on the foregoing, Credit Suisse estimated an implied reference range of Berry common stock of $38.39 to $50.78 per share.

Taking into account the results of the selected transactions analysis for Berry, the results of the selected companies analysis for LINN, the implied LinnCo Common Share range of discounts relative to a LINN unit and its experience as a financial advisor, Credit Suisse s analyses indicated an implied exchange ratio reference range of 1.010 to 1.637 LinnCo common shares per share of Berry common stock as compared to the exchange ratio in the proposed merger of 1.250 LinnCo common shares per share of Berry common stock.

***Other Matters***

Berry retained Credit Suisse as its financial advisor in connection with the proposed merger based on Credit Suisse s qualifications, experience and reputation as an internationally recognized investment banking and financial advisory firm. Pursuant to the engagement letter dated as of January 24, 2013 between Berry and Credit Suisse, Berry has agreed to pay Credit Suisse a transaction fee currently estimated to be approximately $23 million based on the aggregate value of the merger for its services as financial advisor to Berry in connection with the merger, $2 million of which became payable to Credit Suisse upon the rendering of its opinion to the Berry board and the balance of which is contingent upon completion of the merger. In addition, Berry has agreed to reimburse certain of Credit Suisse s expenses and 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 Berry, including, among other things, during the past two years, acting as a lender to Berry, having acted as a joint bookrunning managing underwriter in connection with an offering of senior notes by Berry in March 2012, and having acted as a counterparty to Berry with respect to certain oil and gas related derivatives contracts, for which investment banking advice and services Credit Suisse s investment banking department received compensation. Credit Suisse and its affiliates also have in the past provided and are currently providing investment banking and other financial services to LinnCo and LINN and their affiliates including, among other things, during the past two years, acting as a lender to LINN (including as a participant in the Amended Credit Facility with the same maximum commitment as under the Credit Facility and as a continuing participant in an anticipated amendment to the Berry credit facility after the consummation of the merger with a reduced maximum commitment), having acted as a joint bookrunning managing underwriter of the initial public offering of LinnCo common shares in October 2012, having acted as a bookrunning lead managing underwriter in connection with offerings of senior notes by LINN in February 2012 and May 2011 and offerings of LINN units in January 2012 and February 2011 and having acted as a counterparty to LINN and certain of its affiliates with respect to certain oil and gas related derivatives contracts, for which investment banking advice and services Credit Suisse s investment banking department received aggregate fees, discounts and commissions in the two years prior to rendering its opinion of approximately $16 million. Credit Suisse and its affiliates may have provided other financial advice and services, and may in the future provide financial advice and services, to Berry, LinnCo, LINN and their respective affiliates. 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 its and its affiliates own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of Berry, LinnCo, LINN and any other company that may be involved in the merger, as well as provide investment banking and other financial services to such companies and their affiliates.

**LinnCo s and LINN s Reasons for the Merger; Recommendation of the LinnCo Board of Directors and the LINN Board of Directors**

The LinnCo board of directors, following receipt of the recommendation of the LinnCo Conflicts Committee with respect to the contribution agreement and number of LINN units to be issued to LinnCo as

Table of Contents

Index to Financial Statements

consideration for the Contribution, unanimously determined that the merger agreement and the transactions contemplated by the merger agreement are advisable, fair and reasonable to and in the best interests of LinnCo and its shareholders. The LINN board of directors, following the receipt of the recommendation of the LINN Conflicts Committee with respect to the contribution agreement and the contribution consideration, unanimously determined that the merger agreement and the transactions contemplated thereby are advisable, fair and reasonable to and in the best interests of LINN and its unitholders. In evaluating the contribution agreement and the transactions contemplated thereby, the LinnCo and LINN Conflicts Committees were advised by independent legal and financial advisors, and considered a variety of factors with respect to the Contribution and the contribution consideration, including those matters discussed in Background of the Merger. In view of the wide variety of factors considered in connection with the merger, the LinnCo board of directors and the LINN board of directors did not consider it practical, nor did they attempt, to quantify or otherwise assign relative weight to different factors considered in reaching their decisions. Likewise, in view of the wide variety of factors considered in connection with the Contribution, the LinnCo Conflicts Committee and the LINN Conflicts Committee did not consider it practical, nor did they attempt to quantify or otherwise assign relative weight to different factors considered in rendering their decision. In addition, individual members of the LinnCo and LINN Conflicts Committees and the LinnCo board of directors and the LINN board of directors, in approving the Contribution and the merger, respectively, may have given different weight to different factors. The LinnCo and LINN Conflicts Committees and the LinnCo board of directors and the LINN board of directors considered this information as a whole, and overall considered it to be favorable to, and in support of, their determinations. In determining that the merger agreement and the transactions contemplated by the merger agreement are advisable, fair and reasonable to and in the best interests of LinnCo and its shareholders and LINN and its unitholders, the LinnCo board of directors and the LINN board of directors, respectively, considered a number of factors pertaining to the strategic and financial rationale for the merger, including the following:

The view that the acquisition of Berry provides LINN with the opportunity to acquire a portfolio of high quality, long-lived and mature oil and natural gas exploration and production assets with existing infrastructure, lease holdings and development prospects to drive future growth. Due to their consistent and predictable cash flow, these assets are well suited for a master limited partnership/limited liability company structure. The LinnCo board of directors and the LINN board of directors believe that the acquisition of Berry will further LINN s position as a premier independent oil and gas company with an impressive portfolio of oil and gas assets and a growing production profile.

The view that the combined company following the merger is expected to provide a portfolio of cash producing assets in attractive U.S. geological basins that complement LINN s existing portfolio of oil and gas assets. The combination is anticipated to result in meaningful growth in the combined company s asset portfolio, with increased geographic presence in California, the Permian Basin, east Texas, and the Rockies, as well as the addition of a new core area in the Uinta Basin. LINN s familiarity with the operating areas of Berry s assets has the additional potential to reduce integration and execution risk as well as provide opportunities for future operational synergies and potential cost savings.

The fact that Berry s reserves are approximately 75% weighted towards liquids, resulting in high margins and attractive returns on future capital expenditures. The acquisition of Berry is expected to result in a meaningful increase in liquids exposure to 54% from 46% of proved reserves.

LINN believes that the acquisition of Berry has the potential to result in accretion to distributable cash flow of in excess of $0.40 per unit. LINN believes there are few acquisition opportunities that can add accretion of this magnitude in a single transaction.

The view that the increased scale of the combined company should permit it to compete more effectively and facilitate future development projects and acquisitions through increased cash flow and lower cost of capital investment. As a result of this larger size, LinnCo and LINN could consider future strategic transactions that might not otherwise be possible.

The view that the merger is expected to improve a number of LINN s financial ratios commonly used to assess a company s credit rating. The stock-for-stock nature of the transactions allows LINN to

107

Table of Contents

Index to Financial Statements

reduce leverage and strengthen its balance sheet. In addition, because size is a key contributor to credit ratings for oil and natural gas exploration and production companies, increased scale could result in improved credit ratings for the combined company.

The LinnCo board of directors and the LINN board of directors also considered the following other factors:

The terms of the merger agreement, including the representations, obligations and rights of the parties under the merger agreement, the conditions to each party s obligation to complete the merger, the circumstances in which each party is permitted to terminate the merger agreement and the related termination fee payable by Berry or LinnCo in the event of termination of the merger agreement under specified circumstances.

Each of the LinnCo board of directors and the LINN board of directors established a conflicts committee and delegated to the conflicts committee the authority to review and evaluate the Contribution and the contribution consideration on behalf of LinnCo and its shareholders, on the one hand, and LINN and its unitholders, on the other hand. The LinnCo board of directors and LINN board of directors also reviewed the opinion of Citigroup with respect to the fairness of the merger consideration to LinnCo, the LinnCo Conflicts Committee reviewed the opinion of Evercore with respect to the fairness of the contribution consideration to LinnCo and the LINN Conflicts Committee reviewed the opinion of Greenhill with respect to the fairness of the proposed Contribution to LINN.

The LinnCo board of directors and the LINN board of directors also considered the potential risks of the merger and certain other countervailing factors, including the following:

That the implied value of the merger consideration represented a 20% premium over the closing price of Berry common stock on February 20, 2013, the last trading day before the merger agreement was signed, and approximately 26% to the average of the closing prices of Berry common stock over the 30 days prior to such date.

The risks and contingencies relating to the announcement and pendency of the merger and the risks and costs to LinnCo and LINN if the closing of the merger is not completed timely, or if the merger does not close at all, including the potential impact on LinnCo s and LINN s relationships with employees and third parties.

That because LinnCo will be issuing new common shares to Berry stockholders in the merger, each outstanding LinnCo common share immediately prior to the merger will represent a smaller percentage of LinnCo s total common shares after the merger. In addition, each outstanding LINN unit immediately prior to the Contribution will represent a smaller percentage of LINN s total units after the Contribution.

The risk of diverting management focus, employee attention and resources from other strategic opportunities and from operational matters while working to complete the proposed transactions and successfully integrate the companies.

The fact that substantial transaction costs will be incurred in connection with the proposed transactions.

The fact that litigation could occur in connection with the proposed transactions and that such litigation could increase costs and result in a diversion of management focus.

The fact that business uncertainty pending completion of the proposed transactions could have an adverse impact on the ability of LinnCo and LINN to attract, retain and motivate key personnel.

The LinnCo board of directors and the LINN board of directors believe that, overall, the potential benefits of the proposed transactions to LinnCo, LINN and their respective shareholders and unitholders outweigh the risks considered by the LinnCo board of directors and the LINN board of directors. The LinnCo board of directors and the LINN board of directors understood that there can be no assurance of future results, including results

Table of Contents

Index to Financial Statements

considered or expected as described in the factors listed above. It should be noted that this discussion of the reasoning of the LinnCo and LINN Conflicts Committees and LinnCo board of directors and the LINN board of directors and all other information presented in this section includes information that is forward-looking in nature and, therefore, should be read in light of the factors discussed under the heading Cautionary Statement Regarding Forward-Looking Statements. Additionally, see Certain Unaudited Prospective Financial and Operating Information for information regarding the preparation of prospective financial information.

At a meeting held on February 20, 2013, after due consideration with LinnCo s management and advisors, the LinnCo board of directors determined, by a unanimous vote, that the issuance of LinnCo common shares to the Berry stockholders in connection with the merger is advisable, fair and reasonable to and in the best interests of LinnCo and its shareholders. The LinnCo board of directors recommends that the LinnCo shareholders vote:

**FOR** the LinnCo Share Issuance Proposal;

**FOR** the LinnCo LLC Agreement Amendment Proposal A;

**FOR** the LinnCo LLC Agreement Amendment Proposal B; and

**FOR** the LinnCo Adjournment Proposal.

At a meeting held on February 20, 2013, after due consideration with LINN s management and advisors, the LINN board of directors determined, by a unanimous vote, that the Contribution and Issuance are advisable, fair and reasonable and in the best interests of LINN and its unitholders. The LINN board of directors recommends that the LINN unitholders vote:

**FOR** the LINN Unit Issuance Proposal; and

**FOR** the LINN Adjournment Proposal.

**Opinion of the Financial Advisor to LinnCo**

LinnCo retained Citigroup as a financial advisor in connection with the transactions. In connection with this engagement, LinnCo requested that Citigroup evaluate the fairness, from a financial point of view, of the exchange ratio provided for in the merger agreement to LinnCo. On February 20, 2013, at a meeting of the LinnCo board of directors at which the transactions were approved, Citigroup rendered to the LinnCo board of directors an oral opinion, confirmed by delivery of a written opinion dated February 20, 2013, to the effect that, as of that date and based on and subject to the matters described in its opinion, taking into account the transactions as a whole, the exchange ratio was fair, from a financial point of view, to LinnCo.

The full text of Citigroup s written opinion dated February 20, 2013, which describes the assumptions made, procedures followed, matters considered and limitations on the review undertaken, is attached to this joint proxy statement/prospectus as Annex F and is incorporated into this joint proxy statement/prospectus by reference. The description of Citigroup s opinion set forth in this joint proxy statement/prospectus is qualified in its entirety by reference to the full text of Citigroup s opinion. **Citigroup s opinion was provided for the information of the LinnCo board of directors (in its capacity as such) in connection with its evaluation of the exchange ratio from a financial point of view. Citigroup s opinion does not address the underlying business decision of LinnCo or LINN to effect the transactions, the relative merits of the transactions as compared to any alternative business strategies that might exist for LinnCo or the effect of any other transaction in which LinnCo might engage. Citigroup s opinion addresses only the fairness from a financial point of view, as of the date thereof, of the exchange ratio. It does not address any other term or aspect of the merger agreement or the transactions, including, without limitation, pre-closing adjustments to the exchange ratio, transactions following the completion of the transactions, ancillary agreements entered**

**into in connection with the transactions, the fairness of the transactions to, or any consideration received in connection therewith by, LINN or Berry, securityholders, creditors or other constituencies of LinnCo, LINN or Berry. Citigroup s opinion, is not intended to be and does not constitute, a recommendation to any shareholder as to how such shareholder should vote or act on any matters relating to the proposed transactions or otherwise.**

Table of Contents

Index to Financial Statements

In arriving at its opinion, Citigroup:

- reviewed the merger agreement and the Contribution Agreement;
- held discussions with certain senior officers, directors and other representatives and advisors of LinnCo and LINN and certain senior officers and other representatives and advisors of Berry concerning the businesses, operations and prospects of LinnCo, LINN and Berry;
- reviewed certain publicly available business and financial information relating to LinnCo, LINN and Berry;
- reviewed three year financial forecasts and certain other information and data relating to LinnCo, LINN and Berry which were provided to or discussed with Citigroup by the respective managements of LinnCo, LINN and Berry;
- reviewed the financial terms of the transactions as set forth in the merger agreement and the Contribution Agreement in relation to, among other things, current and historical market prices and trading volumes of LinnCo common shares, LINN units and Berry common stock; the historical and three year projected earnings and prices of oil, gas and natural gas liquids as well as other operating data of LinnCo, LINN and Berry; and the capitalization and financial condition of LinnCo, LINN and Berry;
- analyzed the financial terms of certain other asset and corporate transactions which Citigroup considered relevant in evaluating the exchange ratio and analyzed certain financial, stock market and other publicly available information relating to the businesses of other companies whose operations Citigroup considered relevant in evaluating those of LinnCo, LINN and Berry;
- reviewed certain potential pro forma financial effects of the transactions on LinnCo; and
- conducted such other analyses and examinations and considered such other information and financial, economic and market criteria as Citigroup deemed appropriate in arriving at its opinion.

In rendering its opinion, Citigroup assumed and relied, without independent verification, upon the accuracy and completeness of all financial, tax and other information and data publicly available or provided to or otherwise reviewed by or discussed with Citigroup and upon the assurances of the managements of LinnCo, LINN and Berry that they are not aware of any relevant information that was omitted or that remained undisclosed to Citigroup. With respect to financial forecasts, tax estimates and other information and data relating to LinnCo, LINN and Berry provided to or otherwise reviewed by or discussed with Citigroup, Citigroup was advised by the respective managements of LinnCo, LINN and Berry that such forecasts, tax estimates and other information and data were reasonably prepared on bases reflecting the best currently available estimates and judgments of the managements of LinnCo, LINN and Berry as to the future financial performance of LinnCo, LINN and Berry and the other matters covered thereby, and assumed, with LinnCo s consent, that the financial results reflected in such forecasts, tax estimates and other information and data will be realized in the amounts and at the times projected. In addition, Citigroup assumed with LinnCo s consent, that there were no material undisclosed liabilities of LinnCo, LINN or Berry for which appropriate reserves or other provisions were not been made.

Citigroup assumed, with LinnCo s consent, that the transactions will be consummated in accordance with their terms, without waiver, modification or amendment of any material term, condition or agreement and that, in the course of obtaining the necessary regulatory or third party approvals, consents and releases for the transactions, no delay, limitation, restriction or condition will be imposed that would have an adverse effect on LinnCo, LINN, Berry or the contemplated benefits of the transactions. Citigroup also assumed, with LinnCo s consent, that the merger will be treated as a tax-free reorganization and that the Contribution and Issuance will qualify as a tax-free exchange for federal income

tax purposes. Citigroup did not express any opinion as to what the value of the LinnCo common shares actually will be when issued pursuant to the transactions or the price at which the LinnCo common shares will trade at any time. Citigroup did not make, or was provided with, an

Table of Contents

Index to Financial Statements

independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of LinnCo, LINN or Berry, nor did Citigroup make any physical inspection of the properties or assets of LinnCo, LINN or Berry. Citigroup was not requested to consider, and Citigroup s opinion did not address, the underlying business decision of LinnCo or LINN to effect the transactions, the relative merits of the transactions as compared to any alternative business strategies that might exist for LinnCo or the effect of any other transaction in which LinnCo might engage. Citigroup s opinion addressed only the fairness from a financial point of view, as of the date hereof, of the exchange ratio. Citigroup did not express any view on, and Citigroup s opinion did not address, any other term or aspect of the merger agreement or the transactions, including, without limitation, pre-closing adjustments to the exchange ratio, transactions following the completion of the transactions, ancillary agreements entered into in connection with the transactions, the fairness of the transactions to, or any consideration received in connection therewith by, LINN or Berry, securityholders, creditors or other constituencies of LinnCo, LINN or Berry. Citigroup also expressed no view as to, and Citigroup s opinion did not address, the fairness (financial or otherwise) of the amount or nature or any other aspect of any compensation to any officers, directors or employees of any parties to the transactions, or any class of such persons, relative to the exchange ratio. Citigroup did not express any opinion as to any tax or other consequences that might result from the transactions, nor did Citigroup s opinion address any legal, tax, regulatory or accounting matters, as to which Citigroup understood that LinnCo obtained such advice as it deemed necessary from qualified professionals. Citigroup s opinion was based upon information available to Citigroup, and financial, stock market and other conditions and circumstances existing, as of the date thereof. The credit, financial and stock markets, and the industries in which the parties operate, are continuing to experience volatility, and Citigroup expressed no opinion or view as to any potential effects of such volatility on LinnCo, LINN or Berry or the contemplated benefits of the transactions. Except as described above, LinnCo imposed no other instructions or limitations on Citigroup with respect to the investigations made or procedures followed by Citigroup in rendering its opinion.

In preparing its opinion, Citigroup performed a variety of financial and comparative analyses, including those described below. This summary of the analyses is not a complete description of Citigroup s opinion or the analyses underlying, and factors considered in connection with, Citigroup s opinion. The preparation of a financial opinion is a complex analytical process involving various determinations as to the most appropriate and relevant methods of financial analysis and the application of those methods to the particular circumstances and, therefore, a financial opinion is not readily susceptible to summary description. Citigroup arrived at its ultimate 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 one factor or method of analysis for purposes of its opinion. Accordingly, Citigroup believes that its analyses must be considered as a whole and that selecting portions of its analyses and factors or focusing on information presented in tabular format, 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 its analyses, Citigroup considered industry performance, general business, economic, market and financial conditions and other matters existing as of the date of its opinion, many of which are beyond the control of LinnCo, LINN or Berry. Market data were based on the trading prices as of the close of business on February 19, 2013. No company, business or transaction reviewed is identical to LinnCo, LINN or Berry or the transactions. An evaluation of these analyses is not entirely mathematical; rather, the analyses involve complex considerations and judgments concerning financial and operating characteristics and other factors that could affect the public trading or other values of the companies, business segments or transactions reviewed.

The estimates contained in Citigroup s analyses and the valuation ranges resulting from any particular analysis are 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 its analyses. In addition, analyses relating to the value of businesses or securities do not purport to be appraisals or to reflect the prices at which businesses or securities actually may be sold. Accordingly, the estimates used in, and the results derived from, Citigroup s analyses are inherently subject to substantial uncertainty.

Table of Contents

Index to Financial Statements

Citigroup was not requested to, and it did not, recommend any specific consideration payable in the transactions. The type and amount of consideration payable in the transactions was determined through negotiations between LinnCo, LINN and Berry, and the decision to enter into the transactions was solely that of LinnCo s board of directors. Citigroup s opinion was only one of many factors considered by LinnCo s board of directors in its evaluation of the transactions and should not be viewed as determinative of the views of LinnCo s board of directors or management with respect to the transactions or the exchange ratio provided for in the merger agreement.

The following is a summary of the material financial analyses presented to LinnCo s board of directors in connection with Citigroup s opinion. **The financial analyses summarized below include information presented in tabular format. In order to fully understand Citigroup s financial analyses, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses. Considering the data below without considering the full narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of Citigroup s financial analyses.**

*Selected Comparable Public Companies Analysis*

*LINN*. Citigroup performed a selected comparable public companies analysis of LINN by comparing certain financial and stock market information of LINN with the following selected publicly traded independent exploration and production master limited partnerships and limited liability companies. Although the selected companies were compared to LINN for purposes of this analysis, none of the selected companies are identical or directly comparable to LINN. The selected companies were:

BreitBurn Energy Partners L.P.

EV Energy Partners, L.P.

Legacy Reserves LP

LRR Energy, L.P.

Mid-Con Energy Partners, LP

Pioneer Southwest Energy Partners L.P.

QR Energy, LP

Vanguard Natural Resources, LLC

Citigroup reviewed, among other things, the firm value for each of the selected companies, calculated as equity value plus debt, less cash and other adjustments, as a multiple of the estimated current proved reserves and earnings before interest, taxes, depreciation and amortization and other adjustments, referred to as EBITDA and estimated production for the calendar years 2013 and 2014. Citigroup also reviewed estimated yields of the selected companies for the calendar years 2013 and 2014. Financial data of the selected companies were based on public filings, publicly available analyst research and other publicly available information. Financial data of LINN were based on internal estimates of LINN s management. Citigroup calculated the following maximum, minimum, mean and median multiples for the selected companies:

| Method | Max | Min | Mean | Median |
|---|---|---|---|---|
| Firm Value/2013E EBITDA | 12.4x | 7.8x | 9.1x | 8.8x |
| Firm Value/2014E EBITDA | 11.7x | 7.8x | 8.9x | 8.7x |
| Firm Value/Proved Reserves ($/Boe) | $44.40 | $14.90 | $21.74 | $19.28 |
| Firm Value/2013E Production ($/Boe/d) | $195,456 | $83,420 | $114,297 | $106,803 |
| Firm Value/2014E Production ($/Boe/d) | $167,584 | $76,480 | $102,089 | $94,664 |
| 2013E Yield | 11.0% | 5.7% | 8.9% | 8.8% |
| 2014E Yield | 11.0% | 5.7% | 9.0% | 9.3% |

Table of Contents

Index to Financial Statements

Citigroup then applied the following ranges of current proved reserves and estimated EBITDA, production and yields for the calendar years 2013 and 2014 to the corresponding data of LINN:

| Method | Multiple Range | |
|---|---|---|
| FV/2013E EBITDA | 8.3x | 9.5x |
| FV/2014E EBITDA | 8.0x | 9.0x |
| FV/Proved Reserves ($/Boe) | $16.00 | $19.00 |
| FV/2013E Production ($/Boe/d) | $95,000 | $115,000 |
| FV/2014E Production ($/Boe/d) | $85,000 | $105,000 |
| 2013E Distribution per Unit/Unit Price | 8.5% | 7.5% |
| 2014E Distribution per Unit/Unit Price | 8.5% | 7.5% |

Based on the foregoing, Citigroup selected a per share equity reference range for LinnCo of $32.50 to $41.50. This range was then adjusted for an assumed LinnCo premium/discount with a 5.0% to (5.0)% range, which was based on factors including LinnCo s tax attributes and trading history since its IPO. The result indicated an implied per share equity reference range for LinnCo of approximately $30.88 to $43.58.

*Berry*. Citigroup performed a selected comparable public companies analysis of Berry by comparing certain financial and stock market information of Berry with the following selected publicly traded independent exploration and production corporations. Although the selected companies were compared to Berry for purposes of this analysis, none of the selected companies are identical or directly comparable to Berry. The selected companies were:

Approach Resources Inc.

Denbury Resources Inc.

Magnum Hunter Resources Corporation

Midstates Petroleum Company, Inc.

Pioneer Natural Resources Company

Resolute Energy Corporation

Whiting Petroleum Corporation

Citigroup reviewed, among other things, the firm value for each of the selected companies as a multiple of current proved reserves as well as the estimated EBITDA and production for the calendar years 2013 and 2014. Citigroup also reviewed the current share price for each of the selected companies as a multiple of the estimated operating cash flow per share of the selected companies for the calendar years 2013 and 2014. Financial data of the selected companies were based on public filings, publicly available analyst research and other publicly available information. Financial data of Berry were based on internal estimates of Berry s management. Citigroup calculated the following maximum minimum, mean and median multiples for the selected companies.

| Method | Max | Min | Mean | Median |
|---|---|---|---|---|
| Firm Value/2013E EBITDA | 8.7x | 4.2x | 6.5x | 6.8x |
| Firm Value/2014E EBITDA | 7.3x | 3.5x | 5.2x | 4.8x |
| Firm Value/Proved Reserves ($/Boe) | $26.23 | $10.46 | $19.90 | $21.77 |
| Firm Value/2013E Production ($/Boe/d) | $166,717 | $68,225 | $100,837 | $90,282 |
| Firm Value/2014E Production ($/Boe/d) | $134,511 | $56,100 | $81,689 | $73,672 |
| Price/2013E CFPS | 8.4x | 2.6x | 5.3x | 5.3x |
| Price/2014E CFPS | 7.0x | 1.9x | 4.1x | 3.8x |

Table of Contents

Index to Financial Statements

Citigroup then applied the following ranges of multiples of proved reserves and estimated EBITDA, production and operating cash flow per share for the calendar years 2013 and 2014 to the corresponding data of Berry:

| Method | Multiple Range | |
|---|---|---|
| FV/2013E EBITDA | 5.8x | 7.0x |
| FV/2014E EBITDA | 5.3x | 6.5x |
| FV/Proved Reserves ($/Boe) | $13.50 | $17.00 |
| FV/2013E Production ($/Boe/d) | $90,000 | $105,000 |
| FV/2014E Production ($/Boe/d) | $75,000 | $90,000 |
| Price/2013E CFPS | 3.5x | 4.5x |
| Price/2014E CFPS | 3.3x | 4.3x |

Based on the foregoing, Citigroup selected a per share equity reference range for Berry of $35.00 to $47.50. This range was then adjusted to account for the estimated deferred tax liability expected to be created at LinnCo as part of the transactions, the net present value reduction of which was estimated to be in a range of $0.67 to $0.75 per share. The result indicated an implied per share equity reference range for Berry of approximately $34.25 to $46.83.

Based on the implied per share equity reference ranges for LinnCo and Berry described above, this analysis resulted in the following implied exchange ratio reference range, as compared to the exchange ratio provided for in the merger agreement:

| Implied per Share Exchange Ratio Reference Range | | Exchange Ratio |
|---|---|---|
| 0.786 | 1.517 | 1.250 |

*Selected Precedent Asset Transactions Analysis*

Citigroup performed a selected precedent asset transactions analysis of Berry in which Citigroup reviewed, to the extent publicly available, financial information relating to selected asset transactions. These transactions were selected generally because, as is the case with Berry, they involved oil and gas assets in California as well as the Permian and the Uinta basins. In addition, other criteria were used to select the selected asset transactions, and all criteria were evaluated in their entirety without application of definitive qualifications or limitations to individual criteria. Although Citigroup selected transactions involving assets with certain characteristics similar to those of Berry, none of the assets involved in the selected asset transactions are identical or directly comparable to the assets of Berry. Financial data of the selected asset transactions were based on public filings, publicly available analyst research and other publicly available information. Financial data of Berry were based on internal estimates of Berry s management. The selected asset transactions included:

| Announcement Date | Buyer | Seller | Location |
|---|---|---|---|
| ***California*** | | | |
| Nov-12 | BreitBurn Energy Partners | American Energy Operations | Belridge Field, Kern County, California |
| Nov-12 | Memorial Production Partners | Rise Energy Partners | California Offshore |
| Apr-12 | Southern San Joaquin Production | NiMin Energy | San Joaquin Basin, California |
| May-09 | NiMin Capital | Legacy Energy | Pleito Creek and Louisiana Krotz Springs, California |

Table of Contents

Index to Financial Statements

| Announcement Date | Buyer | Seller | Location |
|---|---|---|---|
| Jul-08 | Greenhill Capital Partners | Provident Energy Trust | Los Angeles and Orange County , California |
| May-08 | Undisclosed | Pacific Energy Resources | Los Angeles and San Joaquin Basin, California |
| May-07 | BreitBurn Energy Partners | Provident Energy Trust | East Coyote Field and Sawtelle Field, California |
| Mar-07 | Venoco | Berry Petroleum | West Montalvo Field, Ventura County, California |
| Aug-06 | Clayton Williams | Undisclosed | Central Texas and Southern California |
| Aug-06 | Occidental Petroleum | Plains Exploration & Production | California and Texas |
| July-06 | Linn Energy, LLC | Blacksand Energy | Brea Olinda, Orange County, California |
| May-06 | Pacific Energy Resources | Cameros Energy | Kern County, California |
| Feb-06 | Pacific Energy Resources | Aera Energy | Southern California |
| Dec-05 | Warren Resources | Global Oil Production | North Wilmington Field, Los Angeles Basin, California |
| Mar-05 | Plains Exploration & Production | BSI Energy Partners | Onshore Los Angeles Basin, California |
| ***Permian*** | | | |
| Dec-12 | BreitBurn Energy Partners | CrownRock / Lynden | Permian |
| Dec-12 | Resolute Energy | Undisclosed | Howard and Lea Counties |
| Sep-12 | Royal Dutch Shell | Chesapeake Energy | Avalon-Leonard Shale, Wolfberry, Bone Spring |
| May-12 | Concho Resources | Three Rivers | Wolfberry and Cline |
| May-12 | BreitBurn Energy Partners | CrownRock | Martin and Howard Counties |
| Apr-12 | Eagle Energy Trust | Undisclosed | Permian |
| Dec-11 | Concho Resources | PDC Energy | Midland, Ector and Andrews Counties |
| Oct-11 | Linn Energy | Undisclosed | Permian |
| Oct-11 | Energen Resources | Undisclosed | Martin and Howard Counties |
| Jun-11 | Laredo Petroleum | Broad Oak Energy | Permian |

Table of Contents

Index to Financial Statements

| Announcement Date | Buyer | Seller | Location |
|---|---|---|---|
| Mar-11 | Berry Petroleum | Undisclosed | Permian |
| Feb-11 | Linn Energy | Undisclosed | Permian |
| Oct-10 | Berry Petroleum | Undisclosed | Permian |
| Sep-10 | Linn Energy | Undisclosed | Permian |
| Aug-10 | Energen | Undisclosed | Permian |
| Jan-10 | Berry Petroleum | Undisclosed | Permian |
| Nov-09 | Concho Resources | Terrace Petroleum | Permian |
| ***Uinta Basin*** | | | |
| Nov-12 | Crescent Point Energy | Ute Energy | Uinta |
| May-11 | Bill Barrett | Delek Energy Systems | Altamont-Bluebell |
| Mar-11 | Newfield Exploration | Harvest Natural Resources | Monument Butte |
| Mar-11 | Newfield Exploration | Undisclosed | Monument Butte |
| Mar-11 | US Oil Sands | Earth Energy Resources | Uinta |
| Dec-09 | El Paso | Flying J Oil & Gas | Monument Butte and Altamont-Bluebell |
| Sep-09 | Trilantic Capital Partners | Enduring Resources | Uinta |

Citigroup reviewed, where available, transaction values, including the assumption of any debt, as multiples of proved reserves and production, as adjusted by the percentage change in the one-year forward blended strip prices on the NYMEX as of the close of business on February 19, 2013. Citigroup calculated the following multiples for the selected asset transactions:

| Method | Max | Min | Mean | Median |
|---|---|---|---|---|
| ***California*** | | | | |
| Reserves ($/Boe) | $ 26.14 | $ 1.76 | $ 15.04 | $ 13.13 |
| Production ($/Boe/d) | $ 186,576 | $ 91,252 | $ 125,351 | $ 118,862 |
| ***Permian Basin*** | | | | |
| Reserves ($/Boe) | $ 31.13 | $ 8.80 | $ 16.07 | $ 13.88 |
| Production ($/Boe/d) | $ 256,823 | $ 90,014 | $ 157,410 | $ 141,572 |
| ***Uinta Basin*** | | | | |
| Reserves ($/Boe) | $ 32.64 | $ 10.34 | $ 21.49 | $ 21.49 |
| Production ($/Boe/d) | $ 157,338 | $ 80,457 | $ 118,897 | $ 118,897 |

Table of Contents

Index to Financial Statements

Citigroup then applied the following selected production and proved reserves multiples to the corresponding financial and operational data for Berry:

| Asset Composition | Multiple Range | |
|---|---|---|
| ***California*** | | |
| Reserves (MMBOE) | $13.00 | $17.00 |
| Production (MBOE/d) | $115,000 | $130,000 |
| **Value** | | |
| ***Permian Basin*** | | |
| Reserves (MMBOE) | $13.00 | $17.00 |
| Production (MBOE/d) | $140,000 | $160,000 |
| **Value** | | |
| ***Uinta Basin*** | | |
| Reserves (MMBOE) | $11.00 | $14.00 |
| Production (MBOE/d) | $75,000 | $90,000 |
| **Value** | | |

Based on the foregoing, Citigroup selected a per share equity reference range for Berry of $34.25 to $48.25. This range was then adjusted to account for the estimated deferred tax liability expected to be created at LinnCo as part of the transactions, the net present value reduction of which was estimated to be in a range of $0.67 to $0.75 per share. The result indicated an implied per share equity reference range for Berry of approximately $33.50 to $47.58. Based on this implied per share equity reference range for Berry and LinnCo s per share equity reference range pursuant to the selected comparable public companies analysis, this analysis resulted in the following implied exchange ratio reference range, as compared to the exchange ratio provided for in the merger agreement.

| Implied per Share Exchange Ratio Reference Range | | Exchange Ratio |
|---|---|---|
| 0.769 | 1.541 | 1.250 |

*Selected Precedent Corporate Transactions Analysis*

Citigroup performed a selected precedent corporate transactions analysis of Berry in which Citigroup reviewed, to the extent publicly available, financial information relating to selected corporate transactions from 2004 to February 19, 2013 with a transaction value in excess of $1.0 billion. These transactions were selected generally because they involved U.S. target companies engaged in the exploration and production of oil and gas reserves with certain characteristics similar to Berry. In addition, other criteria were used to select the selected corporate transactions, and all criteria were evaluated in their entirety without application of definitive qualifications or limitations to individual criteria. Although Citigroup selected transactions involving companies with certain characteristics similar to those of Berry, none of the companies involved in the selected corporate transactions are identical or directly comparable to Berry. Financial data of the selected corporate transactions were based on public filings and other publicly available information. Financial data of Berry were based on internal estimates of Berry s management. The selected corporate transactions included:

| Announcement Date | Acquiror | Target / Seller |
|---|---|---|
| Dec-12 | Freeport-McMoRan Copper & Gold Inc. | Plains Exploration & Production Company |
| Dec-12 | Freeport-McMoRan Copper & Gold Inc. | McMoRan Exploration Co. |
| Apr-12 | Halcón Resources Corporation | GeoResources, Inc. |
| Oct-11 | Statoil ASA | Brigham Exploration Company |

117

Table of Contents

Index to Financial Statements

| Announcement Date | Acquiror | Target / Seller |
|---|---|---|
| Jul-11 | BHP Billiton | Petrohawk Energy Corporation |
| Nov-10 | Chevron Corporation | Atlas Energy, Inc. |
| Jun-10 | SandRidge Energy, Inc. | Arena Resources, Inc. |
| Apr-10 | Apache Corporation | Mariner Energy, Inc. |
| Dec-09 | Exxon Mobil Corporation | XTO Energy Inc. |
| Nov-09 | Denbury Resources Inc. | Encore Acquisition Company |
| Jan-07 | Forest Oil Corporation | The Houston Exploration Company |
| Jun-06 | Anadarko Petroleum Corporation | Kerr-McGee Corporation |
| Apr-06 | Petrohawk Energy Corporation | KCS Energy, Inc. |
| Jan-06 | Helix Energy Solutions Group, Inc. | Remington Oil & Gas Corporation |
| Dec-04 | Noble Energy, Inc. | Patina Oil & Gas Corporation |

Citigroup reviewed, among other things, the transaction value, calculated as firm value, for each of the selected corporate transactions, as multiples of the target company s latest twelve months EBITDA, proved reserves and current production, as adjusted by the percentage change in the one-year forward blended strip prices on the NYMEX as of the close of business on February 19, 2013. For each of the selected corporate transactions, Citigroup also reviewed premia paid to the target shareholders over a one-day price and four-week price. Citigroup calculated the following multiples for the selected corporate transactions:

| Method | Max | Min | Mean | Median |
|---|---|---|---|---|
| Transaction Value/LTM EBITDA | 22.5x | 5.4x | 10.6x | 9.1x |
| Transaction Value/Proved Reserves ($/Boe) | $94.89 | $8.93 | $27.76 | $22.86 |
| Transaction Value/Current Production ($/Boe/d) | $260,492 | $28,880 | $119,976 | $91,592 |
| 1-Day Premium | 74% | 8% | 33% | 25% |
| 4-Week Premium | 71% | (5)% | 32% | 27% |

Citigroup then applied the following selected multiples of latest twelve months EBITDA, proved reserves, current production and one-day and four-week premia to the corresponding data of Berry:

| Method | Multiple Range | |
|---|---|---|
| Transaction Value/LTM EBITDA | 7.5x | 9.0x |
| Transaction Value/Proved Reserves ($/Boe) | $20.00 | $24.00 |
| Transaction Value/Current Production ($/Boe/d) | $110,000 | $135,000 |
| 1-Day Premium | 15% | 30% |
| 4-Week Premium | 15% | 30% |

Table of Contents

Index to Financial Statements

Based on the foregoing, Citigroup selected a per share equity reference range for Berry of $45.00 to $55.00. This range was then adjusted to account for the estimated deferred tax liability expected to be created at LinnCo as part of the transactions, the net present value reduction of which was estimated to be in a range of $0.67 to $0.75 per share. The result indicated an implied per share equity reference range for Berry of approximately $44.25 to $54.33. Based on this implied per share equity reference range for Berry and LinnCo s per share equity reference range pursuant to the selected comparable public companies analysis, this analysis resulted in the following implied exchange ratio reference range, as compared to the exchange ratio provided for in the merger agreement:

| Implied per Share Exchange Ratio Reference Range | | Exchange Ratio |
|---|---|---|
| 1.016 | 1.760 | 1.250 |

*Discounted Cash Flow Analysis*

*LINN*. Citigroup performed a discounted cash flow analysis of LINN to calculate the estimated present value of the stand-alone unlevered free cash flows that LINN was forecasted to generate during fiscal years 2013 through 2015 based on internal estimates of LINN s management. Estimated terminal values for LINN were calculated by applying a range of terminal value EBITDA multiples of 8.0x to 9.5x to LINN s estimated EBITDA for fiscal year 2015. The cash flows and terminal values were then discounted to present value as of December 31, 2012 using discount rates ranging from 8.3% to 10.5% based on analyses of LINN s weighted average cost of capital. The result was then adjusted for an assumed LinnCo premium/discount with a 5.0% to (5.0)% range, which was based on factors including LinnCo s tax attributes and trading history since its IPO. This analysis indicated an implied per share equity reference range for LinnCo of approximately $25.39 to $40.72 per share.

*Berry*. Citigroup performed a discounted cash flow analysis of Berry to calculate the estimated present value of the stand-alone unlevered, after-tax free cash flows that Berry was forecasted to generate during fiscal years 2013 through 2015 based on internal estimates of Berry s management. Estimated terminal values for Berry were calculated by applying a range of terminal value EBITDA multiples of 5.5x to 7.0x to Berry s estimated EBITDA for fiscal year 2015. The cash flows and terminal values were then discounted to present value as of December 31, 2012 using discount rates ranging from 9.3% to 11.8% based on analyses of Berry s weighted average cost of capital. The result was then adjusted to account for the estimated deferred tax liability expected to be created at LinnCo as part of the transactions, the net present value reduction of which was estimated to be in a range of $0.67 to $0.75 per share. This analysis indicated an implied per share equity reference range for Berry of approximately $37.98 to $59.58.

Based on the implied per share equity reference ranges for LinnCo and Berry described above, this analysis resulted in the following implied exchange ratio reference range, as compared to the exchange ratio provided for in the merger agreement:

| Implied per Share Exchange Ratio Reference Range | | Exchange Ratio |
|---|---|---|
| 0.933 | 2.347 | 1.250 |

*Net Asset Valuation (NAV) Analysis*

*LINN*. Citigroup performed a net asset valuation analysis of LINN to calculate the estimated present value of the stand-alone unlevered cash flows that LINN could be expected to generate from its estimated reserves as of December 31, 2012. Estimated cash flows were based on internal estimates of LINN s management (the Management Case ) and the forward pricing curve of oil and gas commodity prices as reported on the NYMEX as of February 19, 2013 (the NYMEX Strip Case ). For purposes of this analysis, the relative certainty of LINN s reserve categories was reflected by applying relative probability weightings. The present values of the

Table of Contents

Index to Financial Statements

cash flows were calculated using discount rates ranging from 8.3% to 10.5% based on analyses of LINN s weighted average cost of capital. The result was then adjusted for an assumed LinnCo premium/discount with a 5.0% to (5.0)% range, which was based on factors including LinnCo s tax attributes and trading history since its IPO. This analysis indicated an implied per share equity reference range for LINN of approximately $37.34 to $48.53 (NYMEX Strip Case) and $39.48 to $51.15 (Management Case).

*Berry*. Citigroup performed a net asset valuation analysis of Berry to calculate the estimated present value of the stand-alone unlevered, after-tax cash flows that Berry could be expected to generate from its estimated reserves as of December 31, 2012. Estimated cash flows were based on internal estimates of Berry s management (the Management Case ) and the forward pricing curve of oil and gas commodity prices as reported on the NYMEX as of the close of business on February 19, 2013 (the NYMEX Strip Case ). For purposes of this analysis, the relative certainty of Berry s reserve categories was reflected by applying relative probability weightings. The present values of the cash flows were calculated using discount rates ranging from 9.3% to 11.8% based on analyses of Berry s weighted average cost of capital. The result was then adjusted to account for the estimated deferred tax liability expected to be created at LinnCo as part of the transactions, the net present value reduction of which was estimated to be in a range of $0.67 to $0.75 per share. This analysis indicated an implied per share equity reference range for Berry of approximately $40.20 to $56.03 (NYMEX Strip Case) and $45.61 to $62.23 (Management Case).

Based on the implied per share equity reference ranges for LinnCo and Berry described above, this analysis resulted in the following implied exchange ratio reference ranges, as compared to the exchange ratio provided for in the merger agreement:

| Implied per Share Exchange Ratio Reference Range | | | | Exchange Ratio |
|---|---|---|---|---|
| *NYMEX Strip Case* | | *Management Case* | | |
| 0.828 | 1.501 | 0.892 | 1.576 | 1.250 |

*Pro Forma Analyses*

*Contribution Analysis*

Citigroup reviewed the relative financial and operational contributions of LINN and Berry to the future financial performance of LINN on a pro forma basis, without giving effect to potential strategic implications, operational benefits or accounting adjustments anticipated to result from the transactions. For the purposes of this analysis, Citigroup assumed that the transactions would be completed on January 1, 2013. Financial data of LINN were based on internal estimates of LINN s management. Financial data of Berry were based on internal estimates of Berry s management as adjusted by LINN s management. For purposes of this analysis, Citigroup reviewed LINN s and Berry s relative contribution of estimated EBITDA, production and distributable cash flow for the calendar years 2013 and 2014 as well as proved reserves as of December 31, 2012. Citigroup then calculated implied exchange ratios based upon the relative contributions. Assuming parity between LINN and LinnCo, this analysis indicated the following exchange ratio reference range, as compared to the exchange ratio provided for in the merger agreement:

| Implied per Share Exchange Ratio Reference Range | | Exchange Ratio |
|---|---|---|
| 1.186 | 2.286 | 1.250 |

*Accretion/Dilution Analysis*

Citigroup reviewed the potential pro forma financial effects of the transactions on LINN s distributable cash flow per unit for the calendar years 2013, 2014, and 2015 and derived therefrom the corresponding impact on LinnCo s distributable cash flow per share in the corresponding periods, without giving effect to potential strategic implications, operational benefits or accounting adjustments anticipated to result from the transactions.

120

Table of Contents

Index to Financial Statements

For the purposes of this analysis, Citigroup assumed that the transactions would be completed on January 1, 2013. However, Citigroup took into account the $6.0 million per year incremental cash distribution from LINN to LinnCo for the calendar years 2013, 2014 and 2015 pursuant to the Contribution Agreement as well as the per share cash impact from the tax liability expected to be created at LinnCo as part of the transactions. Financial data of LINN were based on internal estimates of LINN s management. Financial data of Berry were based on internal estimates of Berry s management as adjusted by LINN s management. Based on the exchange ratio provided for in the merger agreement, this analysis indicated that the transactions would be accretive to LINN s estimated distributable cash flow per unit and LinnCo s estimated distributable cash flow per share for the calendar years 2013, 2014 and 2015 as follows:

| | Percentage Accretion/(Dilution) |
|---|---|
| ***LINN Distributable Cash Flow per Unit*** | |
| Calendar Year 2013 | 8.7% |
| Calendar Year 2014 | 11.1% |
| Calendar Year 2015 | 17.1% |
| ***LinnCo Distributable Cash Flow per Share*** | |
| Calendar Year 2013 | 9.5% |
| Calendar Year 2014 | 9.5% |
| Calendar Year 2015 | 15.2% |

The actual results achieved by LINN and LinnCo may vary from forecasted results, and the variations may be material.

*Other Information*

Citigroup also reviewed, for informational purposes, among other things, the following:

Historical trading prices for LinnCo, LINN and Berry derived by dividing daily closing prices of LinnCo common shares, LINN units and Berry common stock, noting that the low and high trading prices during the 52-week period ended February 19, 2013 (or, in LinnCo s case, the period since its IPO) indicate an implied exchange ratio reference range of 0.748x to 1.629x, as compared to the exchange ratio of 1.250x provided for in the merger agreement; and

Forward price targets for LinnCo common shares, LINN units and Berry common stock in publicly available analyst research reports, noting that the low and high stock price targets indicate an implied exchange ratio reference range of 0.681x to 1.389x, as compared to the exchange ratio of 1.250x provided for in the merger agreement.

*Miscellaneous*

Under the terms of Citigroup s engagement, LinnCo agreed to pay Citigroup for its financial advisory services in connection with the transactions an aggregate fee of $14.0 million, $5.0 million of which was payable upon delivery of Citigroup s opinion and $9.0 million of which is contingent upon the completion of the transactions. LinnCo also agreed to reimburse Citigroup for reasonable expenses incurred by Citigroup in performing its services, including reasonable fees and expenses of its legal counsel, and to indemnify Citigroup and related persons against liabilities, including liabilities under the federal securities laws, arising out of its engagement. Citigroup and its affiliates in the past provided, and currently provide, services to LinnCo, LINN and Berry unrelated to the proposed transactions, for which services Citigroup and such affiliates have received and expect to receive compensation, including, without limitation, (1) having acted as bookrunner in connection with the IPO of LinnCo; (2) having acted as bookrunner in connection with certain equity and debt offerings of LINN as well as financial advisor to LINN in connection with certain merger and acquisition transactions; and (3) having acted as co-manager in connection with a debt offering of Berry. Excluding the compensation paid and payable to Citigroup as described above in connection with the transactions, during the past two years,

121

Table of Contents

Index to Financial Statements

Citigroup and its affiliates have received as compensation for investment banking services (1) approximately $6.6 million in the aggregate from LinnCo, (2) approximately $11.8 million in the aggregate from LINN, and (3) approximately $0.5 million in the aggregate from Berry and its affiliates. Citigroup and its affiliates may also provide services to LinnCo, LINN, Berry and their respective affiliates in the future. In the ordinary course of business, Citigroup and its affiliates may actively trade or hold the securities of LinnCo, LINN and Berry for their own account or for the account of their customers and, accordingly, may at any time hold a long or short position in such securities. In addition, Citigroup and its affiliates may maintain relationships with LinnCo, LINN, Berry and their respective affiliates.

LinnCo selected Citigroup as its financial advisor in connection with the transactions based on Citigroup s reputation and experience. Citigroup is an internationally recognized investment banking firm which regularly engages in the valuation of businesses and their securities in connection with mergers and acquisitions, negotiated underwritings, competitive bids, secondary distributions of listed and unlisted securities, private placements and valuations for estate, corporate and other purposes. The issuance of Citigroup s opinion was authorized by Citigroup s fairness opinion committee.

**Opinion of the Financial Advisor to the LinnCo Conflicts Committee**

In connection with the Transaction, the LinnCo Conflicts Committee retained Evercore, to act as financial advisor to the LinnCo Conflicts Committee in connection with evaluating a potential transaction in which LinnCo would acquire Berry and subsequently contribute Berry to LINN in exchange for the Contribution Consideration. On February 20, 2013, at a meeting of the LinnCo Conflicts Committee, Evercore rendered its oral opinion, subsequently confirmed by delivery of a written opinion on February 20, 2013, that, as of February 20, 2013 and based upon and subject to the factors, procedures, assumptions, qualifications and limitations set forth in its opinion, the Contribution Consideration to be received by LinnCo was fair, from a financial point of view, to LinnCo, taking into account the transaction as a whole, including the deferred tax liability to be retained by LinnCo as a result of the transaction.

**The full text of the written opinion of Evercore, dated as of February 20, 2013, which sets forth, among other things, the procedures followed, assumptions made, matters considered and qualifications and limitations on the scope of review undertaken in rendering its opinion, is attached as Annex G to this joint proxy statement/prospectus and is incorporated by reference in its entirety into this joint proxy statement/prospectus. You are urged to read Evercore s opinion carefully and in its entirety. Evercore s opinion was addressed to, and provided for the information and benefit of, the LinnCo Conflicts Committee (in its capacity as such) in connection with its evaluation of the fairness of the Contribution Consideration to be received by LinnCo from LINN from a financial point of view, and did not address any other aspects or implications of the transaction. The opinion does not constitute a recommendation to the LinnCo Conflicts Committee or to any other persons in respect of the transaction, including as to how any holder of shares of LinnCo s common shares should act or vote in respect of the transaction. Evercore s opinion does not address the relative merits of the transaction as compared to any other business or financial strategies that might be available to LinnCo, nor does it address the underlying business decision of LinnCo to engage in the transaction. Finally, Evercore did not express any opinion as to the price at which LinnCo common shares will trade at any time. The summary of the Evercore opinion set forth herein is qualified in its entirety by reference to the full text of the opinion included as Annex G.**

In connection with rendering its opinion and performing its related financial analysis, Evercore, among other things:

- reviewed certain publicly available business and financial information relating to LinnCo, Berry and LINN that Evercore deemed to be relevant, including publicly available research analysts estimates;

- reviewed and discussed with management of LinnCo certain non-public projected financial, operating and tax data relating to LinnCo, Berry and LINN prepared and furnished to Evercore by management of LinnCo;

Table of Contents

Index to Financial Statements

discussed past and current operations, financial projections and current financial condition of LinnCo, Berry and LINN with management of LinnCo (including their views on the risks and uncertainties of achieving such projections) (see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the LINN Board of Directors, the LinnCo Board of Directors, Citigroup, Evercore and Greenhill );

reviewed a report regarding Berry s proved reserves prepared by D&M dated as of December 31, 2012;

reviewed a report regarding Berry s probable and possible reserves prepared by Berry dated as of December 31, 2012;

reviewed the impact of different commodity price assumptions on the net asset value of Berry s proved, probable and possible reserves;

reviewed a report regarding LINN s proved reserves prepared by D&M dated as of December 31, 2012;

reviewed the reported prices and the historical trading activity of LinnCo s common shares, Berry s common stock and LINN s units;

compared the financial performance of Berry and LINN and their market trading multiples with those of certain other publicly-traded companies and partnerships that Evercore deemed relevant;

compared the financial performance of Berry and the valuation multiples implied by the transaction with those of certain other transactions that Evercore deemed relevant;

compared the financial performance of LINN and the valuation multiples of certain transactions that Evercore deemed relevant;

analyzed the value of the deferred tax liability that would remain with LinnCo after the transaction;

reviewed a draft of the merger agreement dated February 19, 2013;

reviewed a draft of the Contribution Agreement between LinnCo and LINN dated February 19, 2013; and

performed such other analyses and examinations and considered such other factors that Evercore deemed appropriate.

For purposes of its analysis and opinion, Evercore assumed and relied upon, without undertaking any independent verification of, the accuracy and completeness of all of the information publicly available, and all of the information supplied or otherwise made available to, discussed with, or reviewed by Evercore, and Evercore assumed no liability therefor. With respect to the projected financial and tax data relating to LinnCo, Berry and LINN prepared by the management of LinnCo, Evercore assumed, based on the advice of LinnCo, that such data had been reasonably prepared on bases reflecting the best currently available estimates and good faith judgments of LinnCo s management as to the future financial performance of LinnCo, Berry and LINN under the alternative business assumptions reflected in such projected financial and tax data. Evercore relied on the projections prepared by the management of LinnCo with respect to projected financial and operating data of LinnCo, Berry and LINN. Evercore expressed no view as to such financial or tax data, or as to the assumptions on which they were based.

For purposes of rendering its opinion, Evercore assumed, in all respects material to its analysis, that the executed merger agreement and Contribution Agreement were substantially the same as the drafts dated February 19, 2013 and reviewed by Evercore and the Conflicts Committee confirmed to Evercore that no material modification had been made to such drafts after such date, that the representations and warranties of each party contained in the merger agreement are true and correct, that each party will perform all of the covenants and agreements required to be performed by it under the merger agreement and Contribution Agreement, and that all conditions to the consummation of the transaction will be satisfied without any material modification or waiver thereof. Evercore further assumed that there has been no material change in the business,

Table of Contents

Index to Financial Statements

assets, liabilities, financial condition, results of operations, cash flows or prospects of LinnCo, Berry, or LINN since the date of the most recent financial statements provided to Evercore. Finally, Evercore assumed that all governmental, regulatory and other consents, approvals and releases necessary for the consummation of the transaction will be obtained without any material delay, limitation, restriction or condition that would have an adverse effect on LinnCo or the consummation of the transaction or materially reduce the benefits to the holders of common shares LinnCo of the transaction.

Evercore did not make or assume any responsibility for making any independent valuation or appraisal of the assets or liabilities of LinnCo, Berry, or LINN and, except for the reserve reports, Evercore was not furnished with any such valuation or appraisal. Evercore did not evaluate the solvency or fair value of LinnCo, Berry, LINN or any of their respective affiliates under any state or federal laws relating to bankruptcy, insolvency or similar matters. In addition, Evercore assumed that the outcome of any current and pending litigation affecting LinnCo, Berry or LINN would not be material to Evercore s analysis. Evercore s opinion was necessarily based upon information made available to it as of the date of the opinion and financial, economic, market and other conditions as they existed and as could be evaluated on the date of the opinion. It is understood that subsequent developments may affect Evercore s opinion and that Evercore does not have any obligation to update, revise or reaffirm its opinion, except as may be requested by the LinnCo Conflicts Committee pursuant to the terms of the engagement letter between Evercore, the LinnCo Conflicts Committee and LinnCo.

Evercore was not asked to opine upon, and expressed no opinion with respect to, any matter other than the fairness of the Contribution Consideration, from a financial point of view, to LinnCo. Evercore did not express any view on, and its opinion did not address, the fairness of the transaction to, or any consideration received in connection therewith by, the holders of any other securities, creditors or other constituencies of LinnCo, nor as to the fairness of the amount or nature of any compensation to be paid or payable to any of the officers, directors or employees of LinnCo, or any class of such persons, whether relative to the Contribution Consideration or otherwise. Evercore assumed that any modification to the structure of the transaction would not vary in any respect material to its analysis. Evercore s opinion did not constitute a recommendation as to how any holder of LinnCo common shares should act or, if applicable, vote in respect of the issuance of LinnCo common shares or the contribution of Berry to LINN. Evercore expressed no opinion as to the price at which LinnCo common shares will trade at any time. Evercore is not a legal, regulatory, accounting or tax expert and assumed, with LinnCo s consent, the accuracy and completeness of assessments by LinnCo with respect to legal, regulatory, accounting and tax matters.

Set forth below is a summary of the material financial analyses performed and reviewed by Evercore with the LinnCo Conflicts Committee on February 20, 2013 in connection with rendering its oral opinion and the preparation of its written opinion letter dated February 20, 2013. Each analysis was provided to the LinnCo Conflicts Committee. The following summary, however, does not purport to be a complete description of the analyses performed and reviewed by Evercore. In connection with arriving at its opinion, Evercore considered all of its analyses as a whole and the order of the analyses described and the results of these analyses do not represent any relative importance or particular weight given to these analyses by Evercore. Except as otherwise noted, the following quantitative information, to the extent that it is based on market data, is based on market data (including the closing prices for the common shares of LinnCo, the common stock of Berry and the units of LINN) that existed on February 15, 2013, and is not necessarily indicative of current market conditions.

**The following summary of financial analyses includes information presented in tabular format. These tables must be read together with the text of each summary in order to fully understand the financial analyses performed by Evercore. The tables alone do not constitute a complete description of the financial analyses performed by Evercore. Considering the tables below without considering the full narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of Evercore s financial analyses.**

Table of Contents

Index to Financial Statements

*Valuation of Berry*

*Net Asset Value Analyses*

Evercore calculated the net present value of estimates of future after-tax cash flows based on the reserve report projections provided by Berry described above. Evercore evaluated four scenarios in which the principal variables were oil and natural gas prices. The four pricing scenarios were based on benchmarks for spot sales of West Texas Intermediate crude oil and for spot sales of Henry Hub natural gas. One scenario was based on the annual average of oil and natural gas futures contract prices quoted on the New York Mercantile Exchange for five years and held flat thereafter. Benchmark prices for the other three scenarios were projected to be $75.00, $90.00, and $105.00 per barrel of oil and $3.50, $4.00, and $4.50 per million British thermal units for natural gas. Applying various after-tax discount rates ranging from 8.0% to 25.0% depending on reserve category to the after-tax cash flows of the proved and non-proved reserve estimates, and adjusting for the present value of the future estimated effects of hedging at discount rates ranging from 8.0% to 10.0%, firm transportation commitment liabilities at discount rates ranging from 5.0% to 10.0% and general and administrative expenses and cash taxes at discount rates ranging from 12.0% to 15.0%, Evercore calculated the following implied net asset value for Berry:

| | Five Year Strip | | $75 Oil & $3.50 Natural Gas | | $90 Oil & $4.00 Natural Gas | | $105 Oil & $4.50 Natural Gas | |
|---|---|---|---|---|---|---|---|---|
| | Min | Max | Min | Max | Min | Max | Min | Max |
| Implied Net Asset Value ($ MM) | $ 3,815 | $ 4,896 | $ 2,733 | $ 3,558 | $ 3,855 | $ 4,972 | $ 5,061 | $ 6,471 |

Evercore then adjusted for net debt at 12/31/2012 and for the present value of the future estimated effects of the deferred tax liability based on discount rates ranging from 5.0% to 10.0% to determine the following implied adjusted equity value for Berry:

| | Five Year Strip | | $75 Oil & $3.50 Natural Gas | | $90 Oil & $4.00 Natural Gas | | $105 Oil & $4.50 Natural Gas | |
|---|---|---|---|---|---|---|---|---|
| | Min | Max | Min | Max | Min | Max | Min | Max |
| Implied Adjusted Equity Value ($ MM) | $ 2,167 | $ 3,298 | $ 1,085 | $ 1,961 | $ 2,207 | $ 3,374 | $ 3,413 | $ 4,873 |

*Peer Group Trading Analysis*

Evercore performed a peer group trading analysis of Berry by reviewing and comparing the market values and trading multiples of the following seven publicly traded companies that Evercore deemed to have certain characteristics that are similar to Berry, based on size, asset base and production characteristics:

Whiting Petroleum Corporation

Cimarex Energy Co.

SM Energy Company

Oasis Petroleum Inc.

Halcón Resources Corporation

Kodiak Oil & Gas Corp.

Laredo Petroleum, Inc.

Although the peer group was compared to Berry for purposes of this analysis, no company used in the peer group analysis is identical or directly comparable to Berry. In order to calculate peer group trading multiples, Evercore relied on publicly available filings with the SEC and equity research analyst estimates.

Table of Contents

Index to Financial Statements

For each of the peer group companies, Evercore calculated the following trading multiples:

Equity Value/2013E Cash Flow per Share, which is defined as market value of equity divided by the fully diluted shares outstanding ( Equity Value ), divided by estimated cash flows from operations before working capital adjustments ( CFPS ) for the calendar year 2013;

Equity Value/2014E Cash Flow per Share, which is defined as Equity Value divided by CFPS for the calendar year 2014;

Enterprise Value/2013E EBITDA, which is defined as market value of equity, plus debt and preferred stock, less cash ( Enterprise Value ), divided by estimated earnings before interest, taxes, depreciation and amortization, and exploration expense ( EBITDA ) for the calendar year 2013;

Enterprise Value/2014E EBITDA, which is defined as Enterprise Value divided by estimated EBITDA for the calendar year 2014;

Enterprise Value/Proved Reserves, which is defined as Enterprise Value divided by proved reserves as of December 31, 2012;

Enterprise Value/Current Production, which is defined as Enterprise Value divided by current average daily production; and

Enterprise Value/2013E Production, which is defined as Enterprise Value divided by projected 2013E average daily production.

The maximum, minimum, mean and median trading multiples are set forth below. The table also includes relevant multiple ranges selected by Evercore based on the resulting range of multiples and certain other considerations related to the specific characteristics of Berry.

| Benchmark | Max | Min | Mean | Median |
|---|---|---|---|---|
| Equity Value/2013E CFPS | 5.4x | 3.5x | 4.4x | 4.4x |
| Equity Value/2014E CFPS | 4.0x | 2.7x | 3.4x | 3.2x |
| EV/2013E EBITDA | 6.2x | 4.4x | 5.2x | 5.0x |
| EV/2014E EBITDA | 5.0x | 3.2x | 4.0x | 3.8x |
| EV/Proved Reserves ($/Boe) | $ 56.17 | $ 19.47 | $ 32.21 | $ 25.07 |
| EV/Current Production ($/Boe/d) | $ 197,633 | $ 50,921 | $ 123,971 | $ 106,894 |
| EV/2013E Production ($/Boe/d) | $ 132,384 | $ 44,167 | $ 87,970 | $ 92,678 |

| Benchmark | Reference Range | | Implied Berry Enterprise Value Range ($ MM) | |
|---|---|---|---|---|
| Equity Value/2013E CFPS | 4.0x | 5.0x | $3,908 | $4,481 |
| Equity Value/2014E CFPS | 3.2x | 4.0x | $3,539 | $4,020 |
| EV/2013E EBITDA | 5.0x | 6.0x | $3,264 | $3,917 |
| EV/2014E EBITDA | 3.8x | 4.8x | $2,641 | $3,336 |
| EV/Proved Reserves ($/Boe) | $20.00 | $25.00 | $5,502 | $6,878 |
| EV/Current Production ($/Boe/d) | $90,000 | $110,000 | $3,555 | $4,345 |
| EV/2013E Production ($/Boe/d) | $80,000 | $100,000 | $3,134 | $3,918 |

Evercore applied the relevant multiples to Berry s 2013 and 2014 estimated CFPS and EBITDA, proved reserves, and current and 2013E average daily production to determine a selected Enterprise Value range of $3,600 million to $4,300 million. After adjusting for net debt at 12/31/2012, Evercore determined an implied equity value range of $1,932 million to $2,632 million. Evercore then accounted for the present value of the future estimated effects of the deferred tax liability based on discount rates ranging from 5.0% to 10.0% to determine an implied adjusted equity value range of $1,952 million to $2,702 million.

Table of Contents

Index to Financial Statements

*Precedent M&A Transaction Analysis*

Evercore reviewed selected publicly available information for oil and gas property transactions announced between February 2006 and December 2012 and selected 80 transactions involving assets that Evercore deemed to have certain characteristics that are similar to those of Berry, with assets similar to the assets of Berry and certain transactions with Berry s primary operating areas, although Evercore noted that none of the selected transactions or the selected companies that participated in the selected transactions were directly comparable to Berry. Evercore applied relevant transaction multiples ranging from $7.00 to $30.00 per barrel of oil equivalent of proved reserves and $50,000 to $140,000 per average daily produced barrel of oil equivalent to determine a selected Enterprise Value range of $4,050 million to $5,300 million. After adjusting for net debt at 12/31/2012, Evercore determined an implied equity value range of $2,382 million to $3,632 million. Evercore then accounted for the present value of the future estimated effects of the deferred tax liability based on discount rates ranging from 5.0% to 10.0% to determine an implied adjusted equity value range of $2,402 million to $3,702 million.

Evercore also reviewed selected publicly available information for oil and gas corporate transactions announced between September 2005 and December 2012 and selected 22 transactions involving companies that Evercore deemed to have certain characteristics that are similar to those of Berry, including transactions involving targets which were domestic exploration and production companies, although Evercore noted that none of the selected transactions or the selected companies that participated in the selected transactions were directly comparable to Berry. Evercore applied relevant transaction multiples ranging from 6.0x to 8.0x 2013E CFPS, 5.0x to 7.0x 2014E CFPS, 6.0x to 8.0x 2013E EBITDA, 5.0x to 6.0x 2014E EBITDA, $16.50 to $25.00 per barrel of oil equivalent of proved reserves, and $90,000 to $110,000 per average daily produced barrel of oil equivalent to determine a selected Enterprise Value range of $4,000 to $4,750. After adjusting for net debt at 12/31/2012, Evercore determined an implied equity value range of $2,332 to $3,082. Evercore then accounted for the present value of the future estimated effects of the deferred tax liability based on discount rates ranging from 5.0% to 10.0% to determine an implied adjusted equity value range of $2,352 million to $3,152 million.

Evercore also reviewed selected publicly available information for corporate takeover transactions announced or closed between February 2012 and December 2012 to evaluate the premium paid in connection with a corporate takeover transaction based on the value of the per share consideration received in the relevant transaction relative to the closing stock price of the target company one day, five days and one month prior to the announcement date of the transaction. Each of the 27 transactions selected by Evercore had a transaction value between $1.0 billion and $10.0 billion, although Evercore noted that none of the selected transactions or the selected companies that participated in the selected transactions was directly comparable to the transaction or LinnCo. Evercore applied relevant premiums ranging from 20% to 30% for a one-day premium, 20% to 30% for a five-day premium and 25% to 35% for a one-month premium. Evercore applied the relevant premiums to Berry s closing stock price one day prior, five days prior and one month prior to the announcement of the transaction to determine an implied equity value range of $46.81 to $50.66 per share of Berry common stock. Based on Berry s fully diluted shares outstanding, Evercore determined an implied equity value range of $2,681 million to $2,901 million. Evercore then accounted for the present value of the future estimated effects of the deferred tax liability based on discount rates ranging from 5.0% to 10.0% to determine an implied adjusted equity value range of $2,701 million to $2,971 million.

*Research Analyst Price Targets*

Evercore analyzed equity research analyst estimates of potential future value for shares of Berry common stock, commonly referred to as price targets, based on publicly available equity research published with respect to Berry. Evercore observed that, as of February 15, 2013, research analyst one-year forward price targets for shares of Berry common stock ranged from $32.00 to $50.00 per share. Evercore then discounted the price targets 12 months at an assumed discount rate of 13.0% to 15.0%, derived by taking into consideration a cost of equity calculation among other things, resulting in a present value range from $27.83 to $44.25 per share of Berry common stock. Based on Berry s fully diluted shares outstanding, Evercore determined an implied equity

Table of Contents

Index to Financial Statements

value range of $1,594 million to $2,534 million. Evercore then accounted for the present value of the future estimated effects of the deferred tax liability based on discount rates ranging from 5.0% to 10.0% to determine an implied adjusted equity value range of $1,614 million to $2,604 million.

*Valuation of the Contribution Consideration*

*Discounted Distribution Analysis*

Evercore performed a discounted distribution analysis of LINN by valuing the distributions to be received by each unit of LINN for the five year period ending December 31, 2017 based on the forecasts received from LinnCo management (see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the LINN Board of Directors, the LinnCo Board of Directors, Citigroup, Evercore and Greenhill ). Assuming a terminal exit yield at December 31, 2017 of 6.5% to 8.5% based on LINN s current and recent historical yield and an assumed discount rate of 9.0% to 11.0% derived by taking into consideration a cost of equity calculation among other things, Evercore determined an implied equity value per unit range of $36.36 to $46.56. Based on the 71.6 million LINN units to be received along with the present value of the $6.0 million cash payments in each of 2013, 2014 and 2015 based on discount rates ranging from 4.0% to 6.0%, Evercore determined a Contribution Consideration value range of $2,620 million to $3,350 million.

*Peer Group Trading Analysis*

Evercore performed a peer group trading analysis of LINN by reviewing and comparing the market values and trading multiples of the following 10 publicly traded partnerships that Evercore deemed to have certain characteristics that are similar to LINN based on such publicly traded partnerships focus on exploration and production of oil and natural gas:

EV Energy Partners, L.P.

BreitBurn Energy Partners L.P.

Vanguard Natural Resources, LLC

QR Energy, LP

Legacy Reserves LP

Atlas Resource Partners, L.P.

Pioneer Southwest Energy Partners L.P.

Memorial Production Partners LP

LRR Energy, L.P.

Mid-Con Energy Partners, LP

Although the peer group was compared to LINN for purposes of this analysis, no partnership used in the peer group analysis is identical or directly comparable to LINN. In order to calculate peer group trading multiples, Evercore relied on publicly available filings with the SEC and equity research analyst estimates.

For each of the peer group partnerships, Evercore calculated the following trading multiples:

Enterprise Value/2013E EBITDA, which is defined as Enterprise Value divided by estimated EBITDA for the calendar year 2013; and

Enterprise Value/2014E EBITDA, which is defined as Enterprise Value divided by estimated EBITDA for the calendar year 2014.

Table of Contents

Index to Financial Statements

The maximum, minimum, mean and median trading multiples are set forth below. The table also includes relevant multiple ranges selected by Evercore based on the resulting range of multiples and certain other considerations related to the specific characteristics of LINN.

| Benchmark | Max | Min | Mean | Median |
|---|---|---|---|---|
| EV/2013E EBITDA | 12.3x | 5.7x | 7.8x | 7.7x |
| EV/2014E EBITDA | 10.7x | 5.1x | 6.7x | 6.3x |

| Benchmark | Reference Range | | Implied LINN Enterprise Value Range ($ MM) | |
|---|---|---|---|---|
| EV/2013E EBITDA | 6.5x | 8.5x | $10,832 | $14,164 |
| EV/2014E EBITDA | 5.5x | 7.5x | $10,707 | $14,601 |

Evercore applied the relevant multiples to LINN s 2013E and 2014E EBITDA to determine an implied Enterprise Value range of $10,707 million to $14,601 million. After adjusting for net debt at 12/31/2012 and LINN s fully diluted units outstanding, Evercore determined an implied equity value per unit range of $19.69 to $36.11. Based on the 71.6 million LINN units to be received along with the present value of the $6.0 million cash payments in each of 2013, 2014 and 2015 based on discount rates ranging from 4.0% to 6.0%, Evercore determined a Contribution Consideration value range of $1,427 million to $2,602 million.

*Precedent M&A Transaction Analysis*

Evercore reviewed selected publicly available information for oil and gas corporate transactions announced between September 2005 and December 2012 and selected 22 transactions involving companies engaged in similar oil and natural gas exploration and production activities that Evercore deemed to have certain characteristics that are similar to those of LINN, although Evercore noted that none of the selected transactions or the selected companies that participated in the selected transactions were directly comparable to LINN. Evercore applied relevant transaction multiples ranging from 8.0x to 10.5x 2013E EBITDA and 6.0x to 8.0x 2014E EBITDA to determine implied Enterprise Values. Evercore then discounted the 2013E EBITDA and 2014E EBITDA based implied Enterprise Values and associated growth capital expenditures back to January 1, 2013 at an 8.5% discount rate based on an assumed weighted average cost of capital to calculate an adjusted implied Enterprise Value range of $11,484 million to $16,100 million. After adjusting for net debt at 12/31/2012 and LINN s fully diluted units outstanding, Evercore determined an implied equity value per unit range of $22.96 to $42.43. Based on the 71.6 million LINN units to be received along with the present value of the $6.0 million cash payments in each of 2013, 2014 and 2015 based on discount rates ranging from 4.0% to 6.0%, Evercore determined a Contribution Consideration value range of $1,661 million to $3,054 million.

*Valuation of Contribution Consideration*

Based on a LINN unit price of $35.93 as of February 15, 2013, Evercore noted that the 71.6 million LINN units to be received, along with the present value, based on discount rates ranging from 4.0% to 6.0% for the $6.0 million cash payments in each of 2013, 2014 and 2015 to fund potential cash taxes with respect to the deferred tax liability, implies a value of $2,589 million for the 71.6 million LINN units.

*Miscellaneous*

The foregoing summary of certain material financial analyses does not purport to be a complete description of the analyses or data presented by Evercore. In connection with the review of the transaction, Evercore performed a variety of financial and comparative analyses for purposes of rendering its opinion to the LinnCo Conflicts Committee. The preparation of a fairness opinion is a complex process and is not necessarily susceptible to partial analysis or summary description. Selecting portions of the analyses or of the summary described above, without considering the analyses as a whole, could create an incomplete view of the processes underlying Evercore s opinion. In arriving at its fairness determination, Evercore considered the results of all the

Table of Contents

Index to Financial Statements

analyses and did not draw, in isolation, conclusions from or with regard to any one analysis or factor considered by it for purposes of its opinion. Rather, Evercore made its determination as to fairness on the basis of its experience and professional judgment after considering the results of all the analyses. In addition, Evercore may have given various analyses and factors more or less weight than other analyses and factors, and may have deemed various assumptions more or less probable than other assumptions. As a result, the ranges of valuations resulting from any particular analysis or combination of analyses described above should not be taken to be the view of Evercore with respect to the actual value of the common stock, unit or asset value, as the case may be, of LinnCo, Berry or LINN. No company used in the above analyses as a comparison is directly comparable to LinnCo, Berry or LINN, and no precedent transaction used is directly comparable to the transaction. Furthermore, Evercore s analyses involve complex considerations and judgments concerning financial and operating characteristics and other factors that could affect the acquisition, public trading or other values of the companies or transactions used, including judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of LinnCo, Berry, LINN and their respective advisors.

Evercore prepared these analyses solely for the information and benefit of the LinnCo Conflicts Committee and for the purpose of providing an opinion to the LinnCo Conflicts Committee as to the fairness, from a financial point of view, of the Contribution Consideration to be paid by LINN to LinnCo pursuant to the merger agreement and Contribution Agreement. These analyses do not purport to be appraisals or to necessarily reflect the prices at which the business or securities actually may be sold. Any estimates contained in these analyses are not necessarily indicative of actual future results, which may be significantly more or less favorable than those suggested by such estimates. Accordingly, estimates used in, and the results derived from, Evercore s analyses are inherently subject to substantial uncertainty, and Evercore assumes no responsibility if future results are materially different from those forecasted in such estimates.

Under the terms of Evercore s engagement letter with the LinnCo Conflicts Committee and LinnCo, LinnCo has agreed to pay Evercore customary fees for a transaction of this nature. In addition, LinnCo has agreed to reimburse Evercore for its reasonable and documented out-of-pocket expenses (including legal fees, expenses and disbursements) incurred in connection with its engagement and to indemnify Evercore and any of its members, parties officers, advisors, representatives, employees, agents, affiliates or controlling persons, if any, against certain liabilities and expenses arising out of its engagement.

Evercore or its affiliates may, in the ordinary course of business, actively trade equity, debt or other securities, or related derivative securities, or other financial instruments, including bank loans and other obligations, of LinnCo, Berry, LINN or any of their respective affiliates, for their own account and for the accounts of their customers and, accordingly, may at any time hold a long or short position in such securities or instruments. During the past two years, no material relationship existed between Evercore and its affiliates and LinnCo, Berry or LINN or any of their respective affiliates pursuant to which compensation was received by Evercore or its affiliates as a result of such a relationship. As the LinnCo Conflicts Committee has acknowledged, Evercore has been engaged in a process to sell oil and natural gas properties, a portion of which are owned by LINN. Evercore may provide financial or others services to LinnCo, Berry or LINN in the future and in connection with any such services may receive compensation. Evercore has not provided any services to Berry or LINN, or any of their affiliates in connection with the transaction.

The LinnCo Conflicts Committee engaged Evercore to act as a financial advisor based on its qualifications, experience and reputation. Evercore is an internationally recognized investment banking firm and is regularly engaged in the valuation of businesses in connection with mergers and acquisitions, leveraged buyouts, competitive biddings, private placements and valuations for corporate and other purposes.

**Opinion of the Financial Advisor to the LINN Conflicts Committee**

Greenhill has acted as financial advisor to the LINN Conflicts Committee in connection with the Contribution. On February 20, 2013, Greenhill delivered its oral opinion, subsequently confirmed in writing, to

Table of Contents

Index to Financial Statements

the LINN Conflicts Committee that, as of the date of the opinion and based upon and subject to the limitations and assumptions stated in its opinion, the proposed Contribution pursuant to the Contribution Agreement and the merger agreement is fair, from a financial point of view, to LINN.

**The full text of Greenhill s written opinion dated February 20, 2013, which contains the assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with the opinion, is attached as Annex G to this joint proxy statement/prospectus and is incorporated herein by reference. The summary of Greenhill s opinion in this joint proxy statement/prospectus is qualified in its entirety by reference to the full text of the opinion. You are urged to read the opinion in its entirety.**

In arriving at its opinion, Greenhill, among other things, has:

reviewed a draft dated February 20, 2013 of the merger agreement;

reviewed a draft dated February 20, 2013 of the Contribution Agreement and certain related documents;

reviewed certain publicly available financial statements and 2012 Draft Form 10-K annual reports for LINN, LinnCo and Berry;

reviewed certain estimates of LINN s oil and gas reserves, including (i) draft estimates of proved reserves prepared by the independent engineering firm of D&M as of December 31, 2012, and (ii) estimates of proved, probable and possible reserves prepared by LINN s management as of December 31, 2012;

reviewed certain estimates of Berry s oil and gas reserves, including (i) draft estimates of proved reserves prepared by D&M as of December 31, 2012, and (ii) estimates of proved, probable and possible reserves prepared by Berry s management as of December 31, 2012;

reviewed certain other publicly available business and financial information relating to LINN, LinnCo and Berry that Greenhill deemed relevant;

reviewed certain information, including financial forecasts and other financial and operating data concerning LINN, LinnCo and Berry, including information regarding benefits of the acquisition by LINN of Berry, prepared by the management of LINN (see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the LINN Board of Directors, the LinnCo Board of Directors, Citigroup, Evercore and Greenhill );

discussed the past and present operations and financial condition and the prospects of LINN, LinnCo and Berry with senior executives of LINN, LinnCo and Berry;

reviewed the historical market prices and trading activity for LINN, LinnCo and Berry and analyzed their implied valuation multiples;

compared the financial terms of the Contribution with the publicly available financial terms of certain transactions that Greenhill deemed relevant;

compared certain financial and stock market information for Berry with similar financial and stock market information for certain other publicly traded companies that Greenhill deemed relevant;

performed analyses which measured Berry s contribution to the combined company s operating, financial and net present value measures, and compared that contribution to the equity ownership implied by the Issuance (as defined below);

reviewed projections for LINN pro forma for the Issuance and acquisition of Berry, prepared by the management of LINN;

participated in discussions among representatives of LINN and its legal advisors; and

performed such other analyses and considered such other factors as Greenhill deemed appropriate.

Table of Contents

Index to Financial Statements

Greenhill s written opinion was addressed to the LINN Conflicts Committee. It was not a recommendation to the LINN Conflicts Committee as to whether it should approve the Contribution, the Contribution Agreement or the merger agreement, nor does it constitute a recommendation as to how any unitholder of LINN should vote at the LINN annual meeting. Greenhill was not requested to opine as to, and its opinion does not in any manner address, the relative merits of the Contribution as compared to other business strategies or transactions that might have been available to LINN or LINN s underlying business decision to proceed with or effect the Contribution. Greenhill has not expressed any opinion as to any aspect of the transactions contemplated by Contribution Agreement or the merger agreement other than the fairness, from a financial point of view, of the proposed Contribution to LINN. Greenhill s opinion did not address in any manner the price at which LINN units will trade at any future time.

In conducting its review and analysis and rendering its opinion, Greenhill assumed and relied upon, without independent verification, the accuracy and completeness of the information publicly available, supplied or otherwise made available to it by representatives and management of LINN, LinnCo and Berry for the purposes of its opinion and further relied upon the assurances of representatives and management of LINN, LinnCo and Berry, as applicable, that they were not aware of any facts or circumstances that would make such information inaccurate or misleading. With respect to the financial forecasts and projections and other data that have been furnished or otherwise provided to it, Greenhill assumed that such forecasts, projections and other data were reasonably prepared on a basis reflecting the best currently available estimates and good faith judgments of the management of LINN and Berry, as applicable, as to those matters, and it relied upon such forecasts, projections and other data in arriving at its opinion. With respect to the estimates of oil and gas reserves furnished or otherwise provided to it, Greenhill assumed that such estimates were reasonably prepared on bases reflecting the best available estimates and judgments of the management and staff of LINN and Berry (and D&M, as applicable) relating to the oil and gas properties of LINN and Berry, respectively, and Greenhill relied upon such estimates. Greenhill did not express an opinion with respect to such forecasts, projections, estimates and other data or the assumptions on which they are based. For purposes of this opinion, EBITDA is defined as earnings before interest, taxes, depreciation and amortization and exploration expense.

Greenhill did not make any independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of LINN or Berry and, except for the estimates of oil and gas reserves referred to above, Greenhill was not furnished with any such valuations or appraisals. Greenhill assumed that the Contribution will be consummated in accordance with the terms set forth in the final, executed merger agreement and Contribution Agreement, which Greenhill further assumed conformed in all material respects to the latest draft thereof that Greenhill reviewed, and without any waiver or amendment of any material terms or conditions set forth in the merger agreement or the Contribution Agreement. Greenhill further assumed that all material governmental, regulatory and other consents and approvals necessary for the consummation of the merger and the Contribution will be obtained without any effect on LINN, LinnCo or Berry meaningful to its analyses.

Greenhill s opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to Greenhill as of, the date of its opinion. It should be understood that subsequent developments may affect Greenhill s opinion, and Greenhill does not have any obligation to update, revise, or reaffirm its opinion.

The following is a summary of the material financial and comparative analyses provided by Greenhill to the LINN Conflicts Committee in connection with rendering its opinion described above. The summary set forth below does not purport to be a complete description of the analyses performed by Greenhill, nor does the order of analyses described represent relative importance or weight given to those analyses by Greenhill. Some of the summaries of the financial analyses include information presented in tabular format. The tables must be read together with the full text of each summary and are not alone a complete description of Greenhill s analyses.

The proposed merger consideration is 1.250 shares of LinnCo per share of Berry common stock (the Proposed Exchange Ratio ). In the Contribution, LINN will issue 71.6 million units to LinnCo as consideration for the contribution of Berry from LinnCo to LINN (the Issuance ). In the analysis described below, Greenhill

Table of Contents

Index to Financial Statements

refers to such 1.250 shares of LinnCo per share of Berry common stock as the proposed merger consideration. Based on LinnCo s closing stock price of $36.66 per share as reported on the NASDAQ on February 15, 2013 (two trading days prior to delivery of Greenhill s written opinion), Greenhill calculated the implied value of the proposed merger consideration to be $45.83 per Berry share (1.250 x $36.66). In the analysis described below, Implied Incremental LinnCo Ownership of LINN (calculated as the Issuance divided by the pro forma units outstanding at LINN after the Contribution) means the incremental ownership in LINN which LinnCo would receive in the Exchange implied by the various analyses outlined below for a period ending on the close of business on February 15, 2013. The Implied Incremental LinnCo Ownership of LINN as determined by the Proposed Exchange Ratio is 23.3%.

*Comparable Transaction Analysis*

Greenhill performed an analysis of precedent business combinations with a transaction value ( TV ) greater than $500 million since January 1, 2009, involving target companies in the upstream oil and gas industry operating in North America and taxed as corporations that in Greenhill s judgment were relevant for its analysis. Although Greenhill analyzed the multiples implied by the selected transactions, none of these transactions or associated companies is identical to the merger or the Exchange or to LINN, LinnCo or Berry.

The following table identifies the 10 transactions reviewed by Greenhill in this analysis:

| Ann. Date | Acquiror | Target | TV / FY + 1 EBITDA | TV / Production ($/Boe/d) | TV / Proved Reserves ($/Boe) |
|---|---|---|---|---|---|
| 12/5/2012 | Freeport-McMoRan | Plains Exploration & Production | 10.1x | $ 97,318 | $ 31.20 |
| 7/23/2012 | CNOOC Limited | Nexen Inc. | 4.7x | $ 94,093 | $ 21.63 |
| 4/25/2012 | Halcón Resources | GeoResources | 7.3x | $ 147,509 | $ 32.04 |
| 1/17/2012 | Denver Parent Corp., et. al | Venoco, et. al | 7.5x | $ 167,963 | $ 34.75 |
| 10/17/2011 | Statoil ASA | Brigham Exploration | 15.4x | $ 228,124 | $ 71.72 |
| 7/15/2011 | BHP Billiton Group | Petrohawk Energy | 10.8x | $ 112,976 | $ 27.52 |
| 6/2/2010 | SandRidge Energy | Arena Resources | 10.0x | $ 195,000 | $ 23.14 |
| 12/14/2009 | Exxon Mobil | XTO Energy | 5.9x | $ 83,437 | $ 16.34 |
| 11/1/2009 | Denbury Resources | Encore Acquisition Company | 8.3x | $ 143,801 | $ 18.22 |
| 3/23/2009 | Suncor Energy | Petro-Canada | 4.3x | $ 58,476 | $ 24.34 |

For these transactions, Greenhill observed that the mean, median, first quartile and third quartile multiples for each of the pertinent financial metrics were as follows:

| | TV / FY + 1 EBITDA | TV / Production ($/Boe/d) | TV / Proved Reserves ($/Boe) |
|---|---|---|---|
| Mean | 8.4x | $ 132,870 | $ 30.09 |
| Median | 7.9x | $ 128,388 | $ 25.93 |
| First Quartile | 6.2x | $ 94,899 | $ 22.01 |
| Third Quartile | 10.1x | $ 162,849 | $ 31.83 |

Table of Contents

Index to Financial Statements

Following these analyses and consistent with the concept of comparing the stand-alone valuation of Berry relative to the proposed Implied Incremental LinnCo Ownership of LINN, Greenhill applied certain comparable transaction financial multiples to Berry s estimated EBITDA for the 2013. Greenhill then applied certain comparable transaction operational multiples to Berry s proved reserves at December 31, 2012 and Berry s average daily production during the three months ending December 31, 2012. The multiple ranges were determined by using the first-and-third quartile multiple values as determined by the ten comparable transactions. A summary of this analysis is set forth below.

| | Berry Metric | Multiple Range | | Enterprise Value Range ($MM) | | Equity Value Range ($MM) | | Implied Value per Share | |
|---|---|---|---|---|---|---|---|---|---|
| 2013E EBITDA | $666 | 6.2x | 10.1x | $4,158 | $6,711 | $2,475 | $5,028 | $43.21 | $87.80 |
| 2012A Proved Reserves (MMBoe) | 275 | $22.01 | $31.83 | $6,065 | $8,771 | $4,382 | $7,088 | $76.51 | $123.76 |
| Q4 2012A Daily Prod. (MBoe/d) | 40 | $94,899 | $162,849 | $3,749 | $6,433 | $2,065 | $4,749 | $36.06 | $82.93 |

Based on the average of these three analyses, Greenhill derived an implied valuation range for Berry common shares of $51.93 to $98.16 per share. This implied exchange ratios ranging from 1.417x to 2.678x and an Implied Incremental LinnCo Ownership of LINN ranging from 25.7% to 39.5% (compared to 23.3% as determined by the Proposed Exchange Ratio). This range for the implied exchange ratio represents a 13% to 114% premium to the Proposed Exchange Ratio of 1.250x.

*Premiums Paid Analysis*

Greenhill performed an analysis of the premiums paid in precedent business combinations with a TV greater than $500 million since January 1, 2009, involving target companies in the upstream oil and gas industry operating in North America and taxed as corporations that in Greenhill s judgment were relevant for its analysis. Although Greenhill analyzed the multiples implied by the selected transactions, none of these transactions or associated companies is identical to the merger or the Contribution or to LINN, LinnCo or Berry.

Using publicly-available information at the time of the announcement of the relevant transaction, including company filings and third-party transaction databases, Greenhill reviewed the consideration paid in the transactions and analyzed the premium of each such transaction over the trading price on the last trading day and the average trading price over the one calendar week and one calendar month before the announcement of the applicable transaction.

The following table identifies the 10 transactions reviewed by Greenhill in this analysis:

| Announcement Date | Acquiror | Target | Premium to 1-Day Prior | Premium to 1-Week Average Prior | Premium to 1-Month Average Prior |
|---|---|---|---|---|---|
| 12/5/2012 | Freeport-McMoRan | Plains Exploration & Production | 39% | 41% | 42% |
| 7/23/2012 | CNOOC Limited | Nexen Inc. | 61% | 62% | 66% |
| 4/25/2012 | Halcón Resources | GeoResources | 23% | 24% | 19% |
| 1/17/2012 | Denver Parent Corp., et. al | Venoco, et. al | 63% | 59% | 74% |
| 10/17/2011 | Statoil ASA | Brigham Exploration | 20% | 29% | 35% |
| 7/15/2011 | BHP Billiton Group | Petrohawk Energy | 65% | 63% | 61% |
| 6/2/2010 | SandRidge Energy | Arena Resources | 23% | 26% | 28% |
| 12/14/2009 | Exxon Mobil | XTO Energy | 25% | 26% | 23% |
| 11/1/2009 | Denbury Resources | Encore Acquisition Company | 35% | 25% | 20% |
| 3/23/2009 | Suncor Energy | Petro-Canada | 33% | 32% | 45% |

Table of Contents

Index to Financial Statements

For these transactions, Greenhill observed that the median premium over the closing price of the target one day prior to the announcement was 33.8%, the median premium over the average closing share price of the target one calendar week prior to announcement was 30.5% and the median premium over the average closing share price of the target one calendar month prior to announcement was 39.0%.

Following these analyses and consistent with the concept of comparing the stand-alone valuation of Berry relative to the proposed Implied Incremental LinnCo Ownership of LINN, Greenhill applied certain comparable premium ranges to Berry s stock price one day prior, one week prior and one month prior to Berry s closing price of $39.50 on February 15, 2013. The premium ranges were determined by using the first-and-third quartile multiple values as determined by the ten comparable transactions. A summary of this analysis is set forth below.

| | Berry Share Price | Premium Range | | Enterprise Value Range ($MM) | | Equity Value Range ($MM) | | Implied Value per Share | |
|---|---|---|---|---|---|---|---|---|---|
| One-Day Prior | $ 39.50 | 24% | 56% | $ 4,481 | $5,203 | $ 2,798 | $3,519 | $ 48.86 | $61.45 |
| One-Week Prior | $ 39.50 | 26% | 54% | $ 4,534 | $5,176 | $ 2,851 | $3,493 | $ 49.78 | $60.99 |
| One-Month Prior | $ 39.50 | 24% | 57% | $ 4,497 | $5,236 | $ 2,814 | $3,553 | $ 49.14 | $62.04 |

Based on the average of these three analyses, Greenhill derived an implied valuation range for Berry common shares of $49.26 to $61.50 per share. This implied exchange ratios ranging from 1.344x to 1.677x and an Implied Incremental LinnCo Ownership of LINN ranging from 24.7% to 29.0% (compared to 23.3% as determined by the Proposed Exchange Ratio). This range for the implied exchange ratio implies a 7% premium to 34% premium to the Proposed Exchange Ratio of 1.250x.

*Financial Contribution Analysis of LINN and Berry*

Greenhill examined the implied contribution of each of LINN and Berry to the combined company s estimated EBITDA and distributable cash flows for the years 2013, 2014 and 2015, in each case using projections derived from LINN s management forecast (see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the LINN Board of Directors, the LinnCo Board of Directors, Citigroup, Evercore and Greenhill ). In Greenhill s judgment, these are the two most relevant financial metrics for a business combination transaction involving upstream oil & gas master limited partnerships. Additionally, as is customary in a contribution analysis with stock consideration, Greenhill did not take into account potential synergies in conducting the contribution analyses, due to the difficulty in projecting the level and timing around recognition of such synergies. The following table sets forth the results of this analysis:

| Metric | Implied LINN Ownership | Implied Berry Ownership | Implied Exchange Ratio |
|---|---|---|---|
| 2013E EBITDA | 71% | 29% | 1.673x |
| 2014E EBITDA | 70% | 30% | 1.741x |
| 2015E EBITDA | 68% | 32% | 1.921x |
| 2013E Distr. Cash Flow | 70% | 30% | 1.742x |
| 2014E Distr. Cash Flow | 69% | 31% | 1.863x |
| 2015E Distr. Cash Flow | 66% | 34% | 2.160x |

The average implied exchange ratio as determined by EBITDA contribution was 1.778x and the average implied exchange ratio as determined by distributable cash flow contribution was 1.921x. This implied exchange ratio range (1.778x to 1.921x) represents a 42.3% to 53.7% premium to the Proposed Exchange Ratio of 1.250x and an Implied Incremental LinnCo Ownership of LINN ranging from 30.2% to 31.9% (compared to 23.3% as determined by the Proposed Exchange Ratio).

Table of Contents

Index to Financial Statements

*Operational Contribution Analysis of LINN and Berry*

Greenhill examined the implied contribution of each of LINN and Berry to the combined company s estimated production for the years 2013, 2014 and 2015, proved reserve volumes as of December 31, 2012, 3P reserve volumes as of December 31, 2012, proved reserve PV-10 as of December 31, 2012, proved reserve PV-10 adjusted for mark-to-market hedge value as of December 31, 2012 and 3P reserve PV-10 adjusted for hedge value as of December 31, 2012. Estimated production for both LINN and Berry was derived from LINN management estimates, proved reserve volumes and PV-10 metrics were based on year-end audited reserve reports provided by D&M and 3P reserve volume and PV-10 estimates were derived from LINN management estimates (see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the LINN Board of Directors, the LinnCo Board of Directors, Citigroup, Evercore and Greenhill ). In Greenhill s judgment, these are the most relevant operational metrics for a business combination transaction involving upstream oil & gas master limited partnerships. The following table sets forth the results of this analysis:

| Metric | Implied LINN Ownership | Implied Berry Ownership | Implied Exchange Ratio |
|---|---|---|---|
| 2013E Production | 78% | 22% | 1.156x |
| 2014E Production | 78% | 22% | 1.162x |
| 2015E Production | 76% | 24% | 1.262x |
| 1P Reserve Volumes | 74% | 26% | 1.415x |
| 3P Reserve Volumes | 80% | 20% | 1.031x |
| 1P Reserve PV-10 | 54% | 46% | 3.434x |
| 1P Adjusted PV-10 | 58% | 42% | 3.004x |
| 3P Adjusted PV-10 | 61% | 39% | 2.648x |

The average implied exchange ratio as determined by production contribution was 1.193x, the average implied exchange ratio as determined by reserve contribution was 1.223x and the average implied exchange ratio as determined by PV-10 contribution was 3.029x. This implied exchange ratio range (1.193x to 3.029x) represents a (4.5%) to 142.3% premium to the Proposed Exchange Ratio of 1.250x and an Implied Incremental LinnCo Ownership of LINN ranging from 22.5% to 42.5% (compared to 23.3% as determined by the Proposed Exchange Ratio).

*Comparable Company Analyses*

Greenhill compared selected financial information, ratios and multiples for Berry to the corresponding data for the following publicly traded companies selected by Greenhill:

Concho Resources

Denbury Resources

Plains Exploration & Production

Whiting Petroleum

Cimarex Energy

SM Energy

Newfield Exploration

Oasis Petroleum

SandRidge Energy

Rosetta Resources

Kodiak Oil & Gas

Laredo Petroleum

Table of Contents

Index to Financial Statements

Although none of the selected companies is directly comparable to Berry, the companies included were chosen because they are publicly traded companies in the upstream oil & gas industry with operations that for purposes of analysis may be considered similar to the operations of Berry and of a size comparable to Berry. Criteria for selecting comparable companies included the commodity mix of production and reserves, the geographic location of production and reserves, the expected reserve life, the expected growth profile, leverage statistics and general business and financial considerations (including business risks, size and scale). Because there is no control premium associated with public companies trading levels, Greenhill did not apply a control premium to the valuation implied from the comparable company analyses.

For each of the companies selected by Greenhill, Greenhill reviewed, among other information:

The ratio of equity value based on closing stock prices on February 15, 2013 as a multiple of estimated cash flow in calendar years 2013 and 2014;

The ratio of enterprise value, or EV, which was calculated as equity value based on closing stock prices on February 15, 2013, plus book value of debt, less cash and cash equivalents, as a multiple of estimated EBITDA in calendar years 2013 and 2014, as a multiple of proved reserves and as a multiple of expected production in calendar year 2013;

| | Equity Value/ 2013E Cash Flow | Equity Value/ 2014E Cash Flow | EV / 2013E EBITDA | EV / 2014E EBITDA | EV / Proved Reserves ($/ Boe) | EV / 2013E Prod. ($/ Boe/d) |
|---|---|---|---|---|---|---|
| Concho Resources | 6.9x | 5.6x | 7.7x | 6.4x | $ 29.26 | $ 140,129 |
| Denbury Resources | 5.9x | 5.1x | 7.6x | 6.9x | $ 23.67 | $ 152,738 |
| Plains Exploration & Production | 2.2x | 2.3x | 4.0x | 4.1x | $ 24.84 | $ 97,865 |
| Whiting Petroleum | 3.8x | 3.2x | 4.5x | 3.8x | $ 21.56 | $ 86,763 |
| Cimarex Energy | 4.6x | 3.8x | 4.8x | 4.1x | $ 18.38 | $ 64,813 |
| SM Energy | 3.5x | 2.8x | 4.3x | 3.4x | $ 24.66 | $ 43,432 |
| Newfield Exploration | 2.8x | 2.4x | 4.4x | 3.8x | $ 10.22 | $ 53,259 |
| Oasis Petroleum | 5.4x | 4.0x | 6.0x | 4.5x | $ 31.11 | $ 137,188 |
| SandRidge Energy | 5.7x | 4.3x | 4.6x | 4.1x | $ 12.24 | $ 41,940 |
| Rosetta Resources | 4.5x | 3.5x | 4.8x | 3.7x | $ 14.71 | $ 61,073 |
| Kodiak Oil & Gas | 4.2x | 3.2x | 5.5x | 3.9x | $ 50.48 | $ 119,935 |
| Laredo Petroleum | 5.1x | 4.0x | 6.4x | 5.1x | $ 21.61 | $ 96,034 |

Greenhill compared financial information and calculated various multiples and ratios with respect to the selected companies and Berry based on information it obtained from public filings for historical information and Wall Street Consensus estimates as provided by FactSet for forecasted information for the selected companies and LINN management forecasts for Berry. The multiples and ratios of the selected companies and Berry were calculated using common stock closing prices on February 15, 2013.

The results of these analyses are summarized in the following table:

| | Equity Value/ 2013E Cash Flow | Equity Value/ 2014E Cash Flow | EV / 2013E EBITDA | EV / 2014E EBITDA | EV / Proved Reserves ($/ Boe) | EV / 2013E Prod. ($/Boe/d) |
|---|---|---|---|---|---|---|
| Mean | 4.6x | 3.7x | 5.4x | 4.5x | $ 23.56 | $ 91,264 |
| Median | 4.5x | 3.6x | 4.8x | 4.1x | $ 22.64 | $ 91,398 |
| 1st Quartile | 3.7x | 3.1x | 4.5x | 3.8x | $ 17.46 | $ 59,120 |
| 3rd Quartile | 5.5x | 4.1x | 6.1x | 4.7x | $ 25.95 | $ 124,248 |

Using publicly available information, Greenhill additionally reviewed and analyzed future public market trading range price targets for Berry common stock prepared and published by equity research analysts. These targets reflect each analyst s estimate of the future public market trading range of Berry common stock and are

Table of Contents

Index to Financial Statements

not discounted to reflect present values. Greenhill reviewed 13 Wall Street analyst price targets for Berry published since November 2, 2012, which reflected a median of $48.50 per share, a low target of $32.00 per share and a high target of $50.00 per share.

Following these analyses and consistent with the concept of comparing the stand-alone valuation of Berry relative to the proposed Implied Incremental LinnCo Ownership of LINN, Greenhill applied certain forward-looking comparable company trading multiples to Berry s management forecast estimates for Berry s EBITDA and CFPS for each of calendar year 2013 and 2014 as well as proved reserves as of December 31, 2012 and daily production estimated for 2013 (see Certain Unaudited Prospective Financial and Operating Information Unaudited Prospective Financial and Operating Information Provided to the LINN Board of Directors, the LinnCo Board of Directors, Citigroup, Evercore and Greenhill ). Greenhill applied the range of multiples derived from the first and third quartiles of comparable company multiples to determine an appropriate valuation range for Berry based on the aforementioned metrics. A summary of this analysis is set forth below.

| | Berry Metric | Multiples Range | | Enterprise Value Range ($MM) | | Equity Value Range ($MM) | | Implied Value per Share | |
|---|---|---|---|---|---|---|---|---|---|
| 2013E EBITDA | $ 666 | 4.5x | 6.1x | $2,980 - | $4,084 | $1,297 | $2,400 | $22.64 | $41.91 |
| 2014E EBITDA | $ 727 | 3.8x | 4.7x | $2,766 | $3,405 | $1,082 | $1,722 | $18.90 | $30.07 |
| 2013E CFPS | $ 9.99 | 3.7x | 5.5x | $3,818 | $4,804 | $2,135 | $3,121 | $37.28 | $54.50 |
| 2014E CFPS | $ 10.92 | 3.1x | 4.1x | $3,622 | $4,226 | $1,938 | $2,543 | $33.84 | $44.40 |
| 2012A Proved Reserves (MMBoe) | 275 | $17.46 | $25.95 | $4,812 | $7,150 | $3,129 | $5,467 | $54.63 | $95.46 |
| 2013E Daily Prod. (MBoe/d) | 41 | $59,120 | $124,248 | $2,400 | $5,044 | $717 | $3,361 | $12.52 | $58.69 |
| Wall Street Analyst Price Targets | | | | | | | | $32.00 | $50.00 |

Based on the average of these 7 comparative analyses, Greenhill derived an implied valuation range for Berry common shares of $30.26 to $53.57 per share and an implied exchange ratio of 0.825x to 1.461x. This implied exchange ratio range represents a (34%) to 17% premium to the Proposed Exchange Ratio of 1.250x and an Implied Incremental LinnCo Ownership of LINN ranging from 16.7% to 26.3% (compared to 23.3% as determined by the Proposed Exchange Ratio).

*Other Considerations*

The summary set forth above does not purport to be a complete description of the analyses performed by Greenhill, but simply describes, in summary form, the material analyses that Greenhill conducted in connection with rendering its opinion. The preparation of a fairness opinion is a complex process and is not necessarily susceptible to partial analysis or summary description. In arriving at its opinion, Greenhill did not attribute any particular weight to any analyses or factors considered by it and did not form an opinion as to whether any individual analysis or factor, considered in isolation, supported or failed to support its opinion. Rather, Greenhill considered the totality of the factors and analyses performed in determining its opinion. Accordingly, Greenhill believes that the summary set forth above and its analyses must be considered as a whole and that selecting portions thereof, without considering all of its analyses, could create an incomplete view of the processes underlying its analyses and opinion. Greenhill based its analyses on assumptions that it deemed reasonable, including assumptions concerning general business and economic conditions and industry-specific factors. Analyses based on forecasts or projections of future results are inherently uncertain, as they are subject to numerous factors or events beyond the control of the parties or their advisors. Accordingly, Greenhill s analyses are not necessarily indicative of actual values or actual future results that might be achieved, which values may be higher or lower than those indicated or implied. Moreover, Greenhill s analyses are not and do not purport to be appraisals or otherwise reflective of the prices at which businesses actually could be bought or sold. In addition, no company or transaction used in Greenhill s analysis as a comparison is directly comparable to LINN or Berry or the contemplated merger or Contribution. Because these analyses are inherently subject to

Table of Contents

Index to Financial Statements

uncertainty, being based upon numerous factors or events beyond the control of the parties or their respective advisors, none of LINN or Greenhill or any other person assumes responsibility if future results are materially different from those forecasts or projections.

The proposed merger consideration and the Implied Incremental LinnCo Ownership of LINN was determined through arms length negotiations between LINN, LinnCo and Berry and was approved by the LINN board of directors. Greenhill provided advice to LINN during these negotiations. Greenhill did not, however, recommend any specific amount of consideration to LINN or the LINN Conflicts Committee or that any specific amount of consideration constituted the only appropriate consideration for the merger or the Contribution. Greenhill s opinion did not in any manner address the underlying business decision to proceed with or effect the merger or the Contribution.

The LINN Conflicts Committee retained Greenhill based on its qualifications and expertise in providing financial advice and on its reputation as a nationally recognized investment banking firm. During the two years preceding the date of this opinion, Greenhill had no material relationship with LINN, LinnCo or Berry. Under the terms of Greenhill s engagement letter with the LINN Conflicts Committee, LINN has agreed to pay Greenhill a customary fee for a transaction of this nature, a substantial portion of which became payable upon the delivery of Greenhill s opinion (regardless of the conclusion reached) and none of which is contingent upon consummation of the transaction. Linn has also agreed to reimburse Greenhill for certain out-of-pocket expenses incurred by it in connection with its engagement and will indemnify Greenhill against certain liabilities that may arise out of its engagement. Greenhill may in the future provide additional financial advisory services to Linn for which Greenhill would expect to receive compensation.

Greenhill s opinion was one of the many factors considered by the LINN Conflicts Committee in evaluating the merger and the Contribution and should not be viewed as determinative of the views of the LINN Conflicts Committee with respect to the merger or the Contribution.

**Certain Unaudited Prospective Financial and Operating Information**

None of Berry, LinnCo or LINN as a matter of course makes public long-term projections as to its future revenues, production, earnings or other results due to, among other reasons, the uncertainty of the underlying assumptions and estimates. However, Berry and LINN are including the following summaries of the unaudited prospective financial and operating information because they were made available to the Berry board of directors and Credit Suisse and to the board of directors of LinnCo and LINN and Citigroup, Evercore and Greenhill , in connection with their respective evaluations of the merger, and Credit Suisse, Citigroup, Evercore and Greenhill were authorized to rely upon such information for purposes of their respective analyses and opinions. The inclusion of this information should not be regarded as an indication that any of Berry, LinnCo, LINN, the LinnCo Conflicts Committee, the LINN Conflicts Committee, Credit Suisse, Citigroup, Evercore or Greenhill or any other recipient of this information considered, or now considers, it to be necessarily predictive of actual future results.

The unaudited prospective financial and operating information prepared by the managements of Berry and LINN, respectively, was, in general, prepared solely for their internal use and is subjective in many respects. As a result, there can be no assurance that the prospective results will be realized or that actual results will not be significantly higher or lower than estimated. Since the unaudited prospective financial and operating information covers multiple years, such information by its nature becomes less predictive with each successive year. Berry stockholders, LinnCo shareholders and LINN unitholders are urged to review Berry s and LINN s SEC filings for a description of risk factors with respect to Berry s business and LINN s business, respectively, as well as the section of this joint proxy statement/prospectus entitled Risk Factors. See also Cautionary Statement Regarding Forward-Looking Statements and Where You Can Find More Information. The unaudited prospective financial and operating information was not prepared with a view toward public disclosure, nor was it prepared with a view toward compliance with GAAP, published guidelines of the SEC or the guidelines

Table of Contents

Index to Financial Statements

established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial and operating information. In addition, the unaudited prospective financial and operating information requires significant estimates and assumptions that make it inherently less comparable to the similarly titled GAAP measures in the historical GAAP financial statements of Berry and LINN. None of Berry s independent registered public accounting firm, LinnCo s independent registered public accounting firm, LINN s independent registered public accounting firm, or any other independent accountants, has compiled, examined or performed any procedures with respect to the unaudited prospective financial and operating information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability. The report of the independent registered public accounting firm to each of Berry and LINN contained in each such party s Annual Report on Form 10-K for the year ended December 31, 2012, each of which is incorporated by reference into this joint proxy statement/prospectus, and the report of the independent registered public accounting firm to LinnCo contained in the registration statement of which this joint proxy statement/prospectus forms a part, each relates to the applicable party s historical financial information. Those reports do not extend to the unaudited prospective financial and operating information and should not be read to do so. Furthermore, the following unaudited prospective financial and operating information does not take into account any circumstances or events occurring after the date it was prepared. For the purposes of the tables set forth below, EBITDA is generally the amount of the relevant company s earnings before interest, taxes, depreciation, depletion, amortization and exploration expenses for a specified time period.

***Unaudited Prospective Financial and Operating Information Provided to the Berry Board of Directors and Credit Suisse***

The following table reflects the material unaudited prospective financial and operating data regarding Berry and LINN provided to the Berry board of directors in connection with its evaluation of the merger and provided to Credit Suisse, which was authorized to rely upon such data for purposes of its analyses and opinion. The data reflects certain oil and gas pricing assumptions reviewed and discussed with Berry management.

| | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| Berry daily production (Mboe/d) | 39.9 | 43.7 | 49.8 | 57.7 | 64.5 |
| Berry EBITDA ($ in millions) | $ 746 | $ 770 | $ 853 | $ 957 | $ 1,045 |
| Berry unlevered free cash flow ($ in millions) | $ 169 | $ 252 | $ 210 | $ 325 | $ 236 |
| LINN daily production (Mboe/d) | 144.2 | 157.1 | 163.8 | | |
| LINN EBITDA ($ in millions) | $ 1,655 | $ 1,746 | $ 1,827 | | |
| LINN distributable cash flow per unit | $ 3.37 | $ 3.42 | $ 3.46 | | |
| Key Assumptions | | | | | |
| Oil price ($/Bbl) | $ 98.55 | $ 95.55 | $ 91.47 | $ 88.48 | $ 86.77 |
| Gas price ($/Mmbtu) | $ 3.43 | $ 3.95 | $ 4.21 | $ 4.41 | $ 4.60 |

Table of Contents

Index to Financial Statements

***Unaudited Prospective Financial and Operating Information Provided to the LINN Board of Directors, the LinnCo Board of Directors, Citigroup, Evercore and Greenhill***

The following table reflects the material unaudited prospective financial and operating data regarding Berry and LINN provided to the LinnCo and LINN boards of directors in connection with their evaluation of the merger, provided to the LinnCo Conflicts Committee and the LINN Conflicts Committee in connection with their evaluation of the Contribution and Issuance and provided to Citigroup, Evercore and Greenhill, which were authorized to rely upon such data for purposes of their respective analyses and opinion. The data reflects certain oil and gas pricing assumptions reviewed and discussed with LinnCo and LINN management.

| | 2013 | 2014 | 2015 |
|---|---|---|---|
| Berry daily production (Mboe/d) | 40.6 | 44.5 | 50.3 |
| Berry EBITDA ($ in millions) | $ 666 | $ 727 | $ 849 |
| Berry cash flow per share | $ 10.10 | $ 11.02 | $ 13.19 |
| LINN daily production (Mboe/d) | 144.2 | 157.1 | 163.8 |
| LINN EBITDA ($ in millions) | $ 1,635 | $ 1,714 | $ 1,815 |
| LINN distributable cash flow per unit | $ 3.29 | $ 3.28 | $ 3.41 |
| Key Assumptions | | | |
| Oil price ($/Bbl) | $ 90.00 | $ 90.00 | $ 90.00 |
| Gas price ($/Mmbtu) | $ 3.54 | $ 4.03 | $ 4.23 |

No assurances can be given that the assumptions made in preparing the above unaudited prospective financial and operating information will accurately reflect future conditions. The estimates and assumptions underlying the unaudited prospective financial and operating information involve judgments with respect to, among other things, future economic, competitive, regulatory and financial market conditions and future business decisions which may not be realized and that are inherently subject to significant business, economic, competitive and regulatory uncertainties and contingencies, including, among others, risks and uncertainties described under Risk Factors and Cautionary Statement Regarding Forward-Looking Statements, all of which are difficult to predict and many of which are beyond the control of Berry, LinnCo and LINN and will be beyond the control of the combined company following the merger. There can be no assurance that the underlying assumptions will prove to be accurate or that the projected results will be realized, and actual results likely will differ, and may differ materially, from those reflected in the unaudited prospective financial and operating information, whether or not the merger is completed.

In addition, although presented with numerical specificity, the above unaudited prospective financial and operating information reflects numerous assumptions and estimates as to future events made by Berry and LINN management that Berry and LINN management believed were reasonable at the time the unaudited prospective financial and operating information was prepared. The above unaudited prospective financial and operating information does not give effect to the merger or the related transactions. Berry stockholders, LinnCo shareholders and LINN unitholders are urged to review (i) Berry s most recent SEC filings for a description of Berry s reported results of operations and financial condition and capital resources during 2012, including Management s Discussion and Analysis of Financial Condition and Results of Operations in Berry s Annual Report on Form 10-K for the year ended December 31, 2012, which is incorporated by reference into this joint proxy statement/prospectus, (ii) LINN s most recent SEC filings for a description of LINN s reported results of operations and financial condition and capital resources during 2012, including Management s Discussion and Analysis of Financial Condition and Results of Operations in LINN s Annual Report on Form 10-K for the year ended December 31, 2012, which is incorporated by reference into this joint proxy statement/prospectus, and (iii) the section entitled Additional Information About LinnCo, LLC Management s Discussion and Analysis of Financial Condition and Results of Operations for a description of LinnCo s reported results of operations and financial condition and capital resources during 2012.

Table of Contents

Index to Financial Statements

Readers of this joint proxy statement/prospectus are cautioned not to place undue reliance on the unaudited prospective financial and operating information set forth above. No representation is made by Berry, LinnCo, LINN, their respective financial advisors or any other person to any Berry stockholder, LinnCo shareholder or LINN unitholder regarding the ultimate performance of Berry, LinnCo or LINN compared to the information included in the above unaudited prospective financial and operating information. The inclusion of unaudited prospective financial and operating information in this joint proxy statement/prospectus should not be regarded as an indication that such prospective financial and operating information will be an accurate prediction of future events, and such information should not be relied on as such.

BERRY, LINNCO AND LINN DO NOT INTEND TO UPDATE OR OTHERWISE REVISE THE ABOVE UNAUDITED PROSPECTIVE FINANCIAL AND OPERATING 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 PROSPECTIVE FINANCIAL AND OPERATING INFORMATION ARE NO LONGER APPROPRIATE, EXCEPT AS MAY BE REQUIRED BY LAW.

**Board of Directors and Management of LinnCo Following Completion of the Merger**

Upon completion of the merger, the current directors and executive officers of LinnCo and LINN are expected to continue in their current positions. In addition, the LINN board of directors or LINN, acting through its board of directors, will appoint one member of the Berry board of directors to serve either on the LINN board of directors or the LinnCo board of directors. Information about the current LinnCo and LINN directors and executive officers can be found in this joint proxy statement/prospectus.

**Public Trading Markets**

Berry Class A common stock is listed on the NYSE under the symbol BRY. LinnCo common shares are listed on the NASDAQ under the symbol LNCO. Upon completion of the merger, Berry Class A common stock will be delisted from the NYSE and deregistered under the Exchange Act. The LinnCo common shares issuable in the merger will be listed on the NASDAQ.

The LinnCo common shares to be issued in connection with the merger will be freely transferable under the Securities Act.

**Appraisal Rights**

Holders of Berry common stock who do not vote in favor of the proposal to adopt the merger agreement and the transactions contemplated by the merger agreement, including the HoldCo Merger and the LinnCo Merger, and who otherwise comply with the applicable statutory procedures of Section 262 of the DGCL will have the right to have the fair value of their Berry shares at the effective time of the Holdco Merger (exclusive of any element of value arising from the accomplishment or expectation of the Holdco Merger) determined by the Court of Chancery of the State of Delaware (the Court of Chancery ) and to receive payment based upon that valuation, together with a fair rate of interest, in lieu of the merger consideration.

The following is intended as a brief summary of the material provisions of Section 262 of the DGCL required to be followed by a stockholder in order to perfect appraisal rights. This summary, however, is not a complete statement of law pertaining to appraisal rights under Section 262 of the DGCL and is qualified in its entirety by the full text of Section 262 of the DGCL, which is attached as Annex I to this joint proxy statement/prospectus. The perfection and exercise of appraisal right requires strict and timely adherence to the applicable provisions of the DGCL. Failure to follow the requirements of Section 262 of the DGCL for perfecting appraisal rights may result in the loss of such rights. All references in this summary to a stockholder are to the record holder of Berry common stock on the record date for the Berry special meeting unless otherwise indicated.

**Table of Contents**

**Index to Financial Statements**

If you wish to consider exercising your appraisal rights, you should carefully review the text of Section 262 of the DGCL contained in Annex I hereto carefully and should consult your legal advisor since failure to timely and properly comply with the requirements of Section 262 of the DGCL may result in the loss of your appraisal rights under the DGCL. All demands for appraisal must be received prior to the vote on the proposal to adopt the merger agreement at the Berry special meeting and should be addressed to Berry Petroleum Company, 1999 Broadway, Suite 3700, Denver, Colorado 80202, Attention: Secretary, and should be executed by, or on behalf of, the record holder of the shares of Berry common stock. Holders of Berry common stock who desire to exercise their appraisal rights must not vote in favor of the proposal to adopt of the merger agreement and the transactions contemplated by the merger agreement, including the HoldCo Merger and the LinnCo Merger, and must continuously hold their shares of Berry common stock through the effective date of the merger.

Under Section 262 of the DGCL, where a merger agreement relating to a proposed merger is to be submitted for adoption at a meeting of stockholders, as in the case of the Berry special meeting, the corporation, not less than 20 days prior to such meeting, must notify each of its stockholders who was a stockholder on the record date for notice of such meeting with respect to shares for which appraisal rights are available, that appraisal rights are so available, and must include in each such notice a copy of Section 262 of the DGCL. This joint proxy statement/prospectus constitutes the notice required by Section 262 of the DGCL to the holders of Berry common stock and a copy of Section 262 of the DGCL is attached to this joint proxy statement/prospectus as Annex I.

If you wish to exercise appraisal rights you must not vote for the proposal to adopt the merger agreement and must deliver to Berry, before the vote on the proposal to adopt the merger agreement, a written demand for appraisal of your shares of Berry common stock. If you sign and return a proxy card that does not contain voting instructions or submit a proxy by telephone or through the Internet that does not contain voting instructions, you will effectively waive your appraisal rights because such shares represented by the proxy will, unless the proxy is revoked, be voted in favor of the proposal to adopt the merger agreement. Therefore, a stockholder who submits a proxy and who wishes to exercise appraisal rights must either vote against the proposal to adopt the merger agreement or abstain from voting on the proposal to adopt the merger agreement. However, neither voting against the proposal to adopt the merger agreement, nor abstaining from voting or failing to vote on the proposal to adopt the merger agreement, will in and of itself constitute a written demand for appraisal satisfying the requirements of Section 262 of the DGCL.

A demand for appraisal will be sufficient if it reasonably informs Berry of the identity of the stockholder and that such stockholder intends thereby to demand appraisal of such stockholder s shares of common stock in connection with the merger agreement. This written demand for appraisal must be separate from any proxy or vote abstaining from or voting against the proposal to adopt the merger agreement. If you wish to exercise appraisal rights, you must be the record holder of such shares of Berry common stock on the date the written demand for appraisal is made and you must continue to hold such shares of record through the effective date of the HoldCo Merger. Accordingly, a stockholder who is the record holder of shares of common stock on the date the written demand for appraisal is made, but who thereafter transfers such shares prior to the effective date of the HoldCo Merger, will lose any right to appraisal in respect of such shares.

Only a holder of record of shares of Berry common stock on the date a demand for appraisal is made is entitled to assert appraisal rights for such shares of common stock registered in that holder s name. To be effective, a demand for appraisal by a stockholder must be made by, or on behalf of, a stockholder of record on such date. The demand should set forth, fully and correctly, the stockholder s name as it appears, with respect to shares evidenced by certificates, on his or her stock certificate, or, with respect to book-entry shares, on the stock ledger. Beneficial owners who do not also hold their Berry shares of record may not directly make appraisal demands to Berry. The beneficial holder must, in such cases, have the owner of record, such as a broker, bank or other nominee, submit the required demand in respect of those shares of Berry common stock. If shares of Berry common stock are owned of record in a fiduciary capacity, such as by a trustee, guardian or custodian, execution of a demand for appraisal should be made by or for the fiduciary; and if the shares of Berry common stock are owned of record by more than one person, as in a joint tenancy or tenancy in common, the demand should be

**Table of Contents**

**Index to Financial Statements**

executed by or for all joint owners. An authorized agent, including an authorized agent for two or more joint owners, may execute the demand for appraisal for a stockholder of record; however, the agent must identify the record owner or owners and expressly disclose the fact that, in executing the demand, he or she is acting as agent for the record owner. A record owner, such as a broker, who holds shares of Berry common stock as a nominee for others, may exercise his or her right of appraisal with respect to the shares of Berry common stock held for one or more beneficial owners, while not exercising this right for other beneficial owners. In that case, the written demand should state the number of shares of Berry common stock as to which appraisal is sought. Where no number of shares of Berry common stock is expressly mentioned, the demand will be presumed to cover all shares of Berry common stock held in the name of the record owner.

If you hold your shares of Berry common stock in a brokerage account or in other nominee form and you wish to exercise appraisal rights, you should consult with your broker or the other nominee to determine the appropriate procedures for the making of a demand for appraisal by the nominee.

If a stockholder who demands appraisal under Delaware law withdraws its demand for appraisal or fails to perfect or otherwise loses its right of appraisal, in any case pursuant to the DGCL, each share of Berry common stock held by such stockholder will be deemed to have been converted , as of the effective time of the merger, into the right to receive the merger consideration. A stockholder may withdraw his or her demand for appraisal and agree to accept the merger consideration by delivering to Berry a written withdrawal of his or her demand for appraisal and acceptance of the merger consideration within 60 days after the effective date of the merger (or thereafter with the consent of the surviving entity). Notwithstanding the foregoing, no appraisal proceeding in the Court of Chancery will be dismissed as to any stockholder without the approval of the Court of Chancery, and such approval may be conditioned upon such terms as the Court deems just; provided, however, that any stockholder who has not commenced an appraisal action or joined that proceeding as a named party may withdraw his or her demand for appraisal and agree to accept the merger consideration offered within 60 days after the effective date.

Within 10 days after the effective date, the surviving entity will notify each stockholder who properly asserted appraisal rights under Section 262 of the DGCL and has not voted in favor of the proposal to adopt the merger agreement of the effective date of the merger. Within 120 days after the effective date, but not thereafter, either the surviving entity, or any stockholder who has complied with the requirements of Section 262 of the DGCL and who is otherwise entitled to appraisal rights, may file a petition in the Court of Chancery demanding a determination of the fair value of the shares of Berry common stock held by all stockholders entitled to appraisal. A person who is the beneficial owner of shares of Berry common stock held in a voting trust or by a nominee on behalf of such person may, in such person s own name, file the petition described in the previous sentence. Upon the filing of the petition by a stockholder, service of a copy of such petition must be made upon the surviving entity. The surviving entity of the merger does not have an obligation to file such a petition in the event there are dissenting stockholders. Accordingly, the failure of a stockholder to file such a petition within the period specified could nullify the stockholder s previously written demand for appraisal. LinnCo has no present intent to cause an appraisal petition to be filed, and stockholders seeking to exercise appraisal rights should not assume that the surviving entity will file such a petition or that it will initiate any negotiations with respect to the fair value of such shares of Berry common stock. Accordingly, stockholders who desire to have their shares of Berry common stock appraised should initiate any petitions necessary for the perfection of their appraisal rights within the time periods and in the manner prescribed in Section 262 of the DGCL.

The costs of the appraisal action may be determined by the Court of Chancery and made payable by the parties as the Court deems equitable. The Court also may order that all or a portion of the expenses incurred by any stockholder in connection with an appraisal, including, without limitation, reasonable attorneys fees and the fees and expenses of experts utilized in the appraisal proceeding, be charged pro rata against the value of all of the shares entitled to appraisal.

If a petition for appraisal is duly filed by a stockholder and a copy of the petition is delivered to the surviving entity of the merger, such surviving entity will then be obligated, within 20 days after receiving service

Table of Contents

Index to Financial Statements

of a copy of the petition, to provide the Court of Chancery with a duly verified list containing the names and addresses of all stockholders who have demanded an appraisal of their shares of Berry common stock and with whom agreements as to the value of their shares of Berry common stock have not been reached by the surviving entity. After notice to dissenting stockholders who demanded appraisal of their shares of Berry common stock, the Court of Chancery is empowered to conduct a hearing upon the petition, and to determine those stockholders who have complied with Section 262 of the DGCL and who have become entitled to the appraisal rights provided thereby. The Court of Chancery may require the stockholders who have demanded appraisal for their shares of Berry common stock to submit their stock certificates to the Register in Chancery for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with that direction, the Court of Chancery may dismiss the proceedings as to that stockholder.

Within 120 days after the effective date, any stockholder (including any beneficial owner of shares entitled to appraisal rights) that 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 of Berry common stock not voted in favor of the adoption of the merger agreement and with respect to which demands for appraisal have been timely received and the aggregate number of holders of those shares. These statements must be mailed to the stockholder within 10 days after a written request by such stockholder for the information has been received by the surviving entity, or within 10 days after expiration of the period for delivery of demands for appraisal under Section 262 of the DGCL, whichever is later.

After determination of the stockholders entitled to appraisal of their shares of Berry common stock, the Court of Chancery will appraise the shares of Berry common stock, determining their fair value exclusive of any element of value arising from the accomplishment or expectation of the merger, together with interest, if any. Unless the Court of Chancery in its discretion determines otherwise for good cause shown, interest from the effective date through the date of payment of the judgment will be compounded quarterly and will accrue at 5% over the Federal Reserve discount rate (including any surcharge) as established from time to time during the period between the effective date of the merger and the date of payment of the judgment. When the value is determined, the Court of Chancery will direct the payment of such value, with interest thereon accrued during the pendency of the proceeding, if the Court of Chancery so determines, to the stockholders entitled to receive the same, upon surrender by such stockholders of their certificates and book-entry shares.

In determining the fair value of the shares of Berry common stock, the Court of Chancery is required to take into account all relevant factors. Accordingly, such determination could be based upon considerations other than, or in addition to, the market value of the shares of Berry common stock, including, among other things, asset values and earning capacity. In Weinberger v. UOP, Inc., the Delaware Supreme Court stated, among other things, 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 in an appraisal proceeding. The surviving entity of the merger may argue in an appraisal proceeding that, for purposes of such a proceeding, the fair value of the shares of Berry common stock is less than the merger consideration. Therefore, the value so determined in any appraisal proceeding could be the same as, or more or less than, the merger consideration.

Section 262 of the DGCL 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 Delaware Supreme Court construed Section 262 of the DGCL to mean 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. In view of the complexity of Section 262 of the DGCL, stockholders who may wish to pursue appraisal rights should consult their legal advisors.

Any stockholder who has duly demanded and perfected an appraisal in compliance with Section 262 of the DGCL will not, after the effective date of the merger, be entitled to vote his or her shares for any purpose or be

Table of Contents

Index to Financial Statements

entitled to the payment of dividends or other distributions thereon, except dividends or other distributions payable to holders of record of shares of Berry common stock as of a date prior to the effective date of the merger.

If you desire to exercise your appraisal rights, you must not vote for the adoption of the merger agreement and you must strictly comply with the procedures set forth in Section 262 of the DGCL. Failure to take any required step in connection with the exercise of appraisal rights will result in the termination or waiver of such rights.

**Regulatory Approvals Required for the Merger**

Berry, LinnCo and LINN have agreed to use their reasonable best efforts to obtain all regulatory approvals required to complete the transactions contemplated by the merger agreement. These approvals include clearance under the HSR Act and the Federal Power Act ( FPA ) as well as approval from other regulatory authorities, including FERC. Berry, LinnCo and LINN have completed, or will complete, the filing of applications and notifications to obtain the required regulatory approvals.

The HSR Act, and the rules and regulations thereunder, provide that the transaction may not be completed until pre-merger notification filings have been made with the FTC and the Antitrust Division and the applicable waiting period has expired or is terminated. Even after the waiting period expires or is terminated, the Antitrust Division and the FTC retain the authority to challenge the transaction on antitrust grounds before or after the transaction is completed. On March 13, 2013, the FTC granted early termination of the waiting period with respect to the merger.

Berry owns and operates three combined heat and power cogeneration plants that primarily supply steam and electricity to Berry s oil production facilities in California; however, a portion of the electricity generated by these cogeneration plants is currently sold to Southern California Edison Company and Pacific Gas and Electric Company under long-term contracts at market-based rates authorized by FERC. While these plants are qualifying cogeneration facilities ( QFs ) that are exempt from most federal and state electric utility regulation under the Public Utilities Regulatory Policies Act of 1978 and are exempt from most provisions under the FPA, the FERC may be required to approve the change in control over Berry s market-based rate tariff and related books and records that would result from the merger under Section 203 of the FPA. On May 15, 2013, FERC approved this aspect of the merger.

We cannot assure you that all of the regulatory approvals will be obtained, and, if obtained, we cannot assure you as to the date of any approvals or the absence of any litigation challenging such approvals. Likewise, we cannot assure you that the Antitrust Division, the FTC or any state attorney general will not attempt to challenge the merger on antitrust grounds, and, if such a challenge is made, we cannot assure you as to its result.

Berry, LinnCo and LINN are not aware of any material governmental approvals or actions that are required for completion of the merger other than those described above. It is presently contemplated that if any such additional governmental approvals or actions are required, those approvals or actions will be sought. There can be no assurance, however, that any additional approvals or actions will be obtained.

**Interests of Berry s Directors and Executive Officers in the Merger**

Certain members of the board of directors and executive officers of Berry may be deemed to have interests in the merger that are in addition to, or different from, the interests of other Berry stockholders. The Berry board of directors was aware of these interests and considered them, among other matters, in approving the merger and the merger agreement and in making the recommendations that the Berry stockholders adopt the merger agreement and approve the merger and the other transactions contemplated by the merger agreement. For purposes of the Berry agreements and plans described below, to the extent applicable, the completion of the

Table of Contents

Index to Financial Statements

transactions contemplated by the merger agreement will constitute a change of control, change in control or term of similar meaning. These interests are described in further detail below, and certain of them are quantified in the narrative and table below.

***Treatment of Berry Equity-Based Awards***

Under the merger agreement, equity-based awards held by Berry s directors and executive officers as of the effective time of the merger will be treated at the effective time of the merger as follows:

*Options*. Each option to purchase shares of Berry common stock will be converted into an option to purchase, generally on the same terms and conditions as were applicable to such option immediately prior to the effective time of the merger, (1) a number of LINN units (rounded down to the nearest whole unit) equal to the product determined by multiplying the number of shares of Berry common stock subject to such option by the exchange ratio and by the LinnCo/LINN exchange ratio (as defined below), (2) at an exercise price per LINN unit (rounded up to the nearest whole cent) equal to the quotient determined by dividing the per share exercise price for the shares of Berry common stock subject to the option by the product determined by multiplying the exchange ratio and the LinnCo/LINN exchange ratio. The LinnCo/LINN exchange ratio is the average of the closing prices of one LinnCo common share on the NASDAQ on the last five full trading days prior to the closing date of the merger divided by the average of the closing prices of one LINN unit on the NASDAQ on the last five full trading days prior to the closing date of the merger.

*Restricted Stock Units*. Each unvested Berry RSU (excluding any Berry RSU held by a current or former non-employee director of Berry and any performance-based Berry RSU) will be converted as of the effective time of the merger into a restricted unit award in respect of the number of LINN units (rounded to the nearest whole unit) equal to the product determined by multiplying the number of shares of Berry common stock subject to the Berry RSU immediately prior to the effective time of the merger by the exchange ratio and by the LinnCo/LINN exchange ratio, and will be subject generally to the same terms and conditions as were applicable to the related Berry RSU immediately prior to the effective time of the merger.

Each Berry RSU that is vested as of the effective time of the merger, that is held by a current or former non-employee director or that is subject to performance-based vesting criteria will be converted as of the effective time of the merger into a number of LinnCo common shares equal to the product determined by multiplying the number of shares of Berry common stock subject to the Berry RSU immediately prior to the effective time by the exchange ratio. Each performance-based Berry RSU that is outstanding immediately prior to the effective time of the merger will be deemed to have been earned at the target level as specified in the applicable award agreement.

Pursuant to the terms of the employment agreements and change in control severance agreements with Berry s executive officers, all outstanding equity-based awards held by Berry s executive officers will become immediately vested in full upon a Qualifying Termination (as defined below under Employment Agreements and Change in Control Severance Agreements ).

For an estimate of the amounts that would be payable to each of Berry s named executive officers on settlement of their unvested equity-based awards that will vest upon the consummation of the merger or that would vest upon a Qualifying Termination, see Quantification of Potential Payments to Berry s Named Executive Officers in Connection with the Merger below. We estimate that the aggregate amount that would be payable to Berry s five other executive officers on settlement of their unvested equity-based awards that will vest upon the consummation of the merger or that would vest upon a Qualifying Termination if the effective time of the merger were March 18, 2013 (assuming a qualifying termination of employment on that date), and based on a price per share of Berry common stock of $45.71 (the average closing price of a share of Berry common stock on the five days following the announcement of the merger), is $2,768,537. All equity-based awards held by Berry s non-employee directors are vested.

Table of Contents

Index to Financial Statements

***Employment Agreements and Change in Control Severance Agreements***

Berry is party to employment agreements with its President and Chief Executive Officer, Robert F. Heinemann, Executive Vice President and Chief Financial Officer, David D. Wolf, and Executive Vice President and Chief Operating Officer, Michael Duginski, as well as change in control severance agreements with its seven other executive officers that provide for the severance benefits described below upon a termination of employment without cause or for good reason within two years following the consummation of the merger (a Qualifying Termination ). In the case of Mr. Heinemann, a Qualifying Termination also includes a termination of employment without cause or for good reason during the six-month period prior to the consummation of the merger. The severance payments under the agreements are subject to the execution of a release of claims in favor of Berry. In addition, the employment agreements with Messrs. Heinemann, Wolf and Duginski contain restrictive covenants concerning confidentiality, noncompetition and nonsolicitation of employees and business partners. Subject to the consummation of the merger, Berry has agreed to limit the geographic scope of the noncompetition covenant with Mr. Duginski to California.

*Severance Payment*. Upon a Qualifying Termination, the executive officer will become entitled to a lump sum payment in an amount equal to the product of a severance multiple (as described below) multiplied by the sum of (a) the executive officer s annual base salary, (b) the executive officer s highest annual bonus in the last two years, (c) Berry s then maximum annual matching contribution to Berry s 401(k) Plan and (d) the executive officer s annual car allowance (except that in the case of Mr. Heinemann, the car allowance is payable in monthly installments rather than in lump sum). The severance multiple is (x) 3 for Mr. Heinemann, (y) 2.5 for Messrs. Wolf and Duginski and (z) 2 for all other executive officers.

*Health Insurance Continuation.* Upon a Qualifying Termination, the executive officer may elect to continue participating in Berry s health plan or a substantially equivalent plan. If the executive officer so elects, Berry will continue to pay a portion of the applicable premiums such that the executive officer s cost is the same as his or her cost as of the termination date (a) in the case of Messrs. Heinemann, Wolf and Duginski, until December 31 of the second calendar year following the calendar year in which the termination date occurs and (b) in the case of the other executive officers, for a number of years equal to the severance multiple, provided that in each case such benefits will cease if the executive officer becomes entitled to comparable benefits under another employer s health plan.

*Life Insurance Continuation.* Upon a Qualifying Termination, Berry will continue to provide or compensate the executive officer for the value of certain life insurance benefits for a number of years equal to the applicable severance multiple.

*Equity-Based Award Vesting.* Upon a Qualifying Termination, all outstanding equity-based awards held by Berry s executive officers will become immediately vested in full.

*Reimbursement of Excise Taxes*. In the event that it is determined that any of the payments and benefits described above or any other payments would subject the executive officer to excise taxes under Section 4999 of the Internal Revenue Code, Berry will provide for reimbursement of any such excise taxes.

For an estimate of the value of the payments and benefits described above that would be payable under the employment agreements or change in control severance agreements to each of Berry s named executive officers, see Quantification of Potential Payments to Berry s Named Executive Officers in Connection with the Merger below. We estimate that the aggregate amount of the cash severance payments and other benefits described above that would be payable to Berry s five other executive officers if the effective time of the merger were March 18, 2013 and they all experienced a Qualifying Termination at such time is $5,412,998.

*Retention Program*

Under the merger agreement, Berry may establish a cash-based program in an aggregate amount of $3 million for Berry employees identified by the chief executive officer of Berry (or his designee) that is

Table of Contents

Index to Financial Statements

designed to promote retention and reward extraordinary effort. Awards under the program will become payable upon the effective time of the merger or an earlier qualifying termination. As of the date of this joint proxy statement/prospectus, no awards under this program had been allocated to an executive officer of Berry.

*Indemnification and Insurance*

Berry is party to indemnification agreements with each of its directors and executive officers that require Berry, among other things, to indemnify each of the directors and executive officers against certain liabilities that may arise by reason of their status or service as directors or officers. In addition, pursuant to the terms of the merger agreement, Berry s directors and executive officers will be entitled to certain ongoing indemnification and coverage under directors and officers liability insurance policies from the surviving corporation. Such indemnification and insurance coverage is further described in the section entitled The Merger Agreement Indemnification and Insurance.

*Board of Directors and Executive Officers of the Combined Company*

The merger agreement provides that at least one member of the Berry board of directors as mutually agreed upon by Berry and LinnCo will become a member of the LinnCo board of directors or the LINN board of directors. The merger agreement does not specify whether any of Berry s officers will become officers of LinnCo or LINN.

*Quantification of Potential Payments to Berry s Named Executive Officers in Connection with the Merger*

The information set forth in the table below is intended to comply with Item 402(t) of Regulation S-K, which requires disclosures of information about certain compensation for each of Berry s named executive officers that is based on or otherwise relates to the merger ( Merger-based compensation ) and assumes, among other things, that the named executive officers will incur a qualifying termination of employment immediately following a change in control. For additional details regarding the terms of the payments described below, see the discussion under the caption Interests of Berry s Directors and Executive Officers in the Merger above.

Please note that the amounts indicated below are estimates based on multiple assumptions that may or may not actually occur or be accurate on the relevant date, including assumptions described below, and do not reflect certain compensation actions that may occur before the completion of the merger. For purposes of calculating such amounts, we have assumed:

March 18, 2013 as the closing date of the merger, and

a termination of each named executive officer s employment by the combined company without cause or as a result of the executive s resignation for good reason immediately following the closing of the merger (each, a Qualifying Termination ).

| Name | Cash ($) [1] | Equity ($) [2] | Perquisites/ Benefits ($) [3] | Tax Reimbursement ($) [4] | Total ($) |
|---|---|---|---|---|---|
| ***Named Executive Officers*** | | | | | |
| Robert F. Heinemann | 6,097,200 | 6,716,331 | 136,986 | | 12,950,517 |
| Michael Duginski | 2,172,420 | 2,993,843 | 135,255 | | 5,301,518 |
| David D. Wolf | 1,981,000 | 3,170,137 | 132,180 | 1,653,262 | 6,936,579 |
| G. Timothy Crawford | 1,056,800 | 1,500,422 | 65,838 | | 2,623,060 |
| Davis O. O Connor | 995,978 | 2,174,103 | 74,778 | 791,810 | 4,036,669 |

(1) The cash payments payable to each of the named executive officers consist of a lump sum payment in an amount equal to the product of a severance multiple (as described below) multiplied by the sum of (a) the executive officer s annual base salary, (b) the executive officer s highest annual bonus in the last two years, (c) Berry s then maximum annual matching contribution to Berry s

149

Table of Contents

Index to Financial Statements

401(k) Plan and (d) the executive officer s annual car allowance (except that in the case of Mr. Heinemann, the car allowance is payable in monthly installments rather than in lump sum). The severance multiple is (x) 3 for Mr. Heinemann, (y) 2.5 for Messrs. Wolf and Duginski and (z) 2 for Messrs. Crawford and O Connor. These payments are double-trigger and subject to the execution of a release of claims in favor of Berry. In addition, in the case of Messrs. Heinemann, Wolf and Duginski, these amounts are payable under employment agreements containing restrictive covenants concerning confidentiality, noncompetition and nonsolicitation of employees and business partners and, with the exception of Mr. Heinemann, noncompetition.

(2) As described in more detail in The Merger Agreement Treatment of Berry Equity-Based Awards, unvested equity-based awards held by Berry s named executive officers (other than performance-based RSUs) would be converted into corresponding awards in respect of LINN units and would continue to vest in accordance with their original vesting schedule. However, upon a Qualifying Termination, certain awards, including all outstanding RSUs and stock options, would immediately become vested (i.e., double-trigger ). In addition, upon the effective time of the merger, performance-based RSUs held by Berry s named executive officers, would vest based on deemed satisfaction of target performance levels and would convert into LinnCo common shares (i.e., single-trigger ). The amounts above and in the table below assume a price per share of Berry common stock of $45.71 (the average closing price of Berry common stock on the five days following the announcement of the merger). Set forth below are the values of each type of equity-based award (including the value of any dividend equivalent rights associated with any equity-based award) that would be payable in connection with the merger. Each unvested option to purchase shares of Berry has an exercise price of greater than $45.71.

| Name | Options ($) | Time-Based RSUs ($) (2) | Performance-Based RSUs ($) |
|---|---|---|---|
| ***Named Executive Officers*** | | | |
| Robert F. Heinemann | | 5,453,181 | 1,263,150 |
| Michael Duginski | | 2,429,918 | 563,924 |
| David D. Wolf | | 2,628,794 | 541,344 |
| G. Timothy Crawford | | 1,218,483 | 281,939 |
| Davis O. O Connor | | 1,910,859 | 263,244 |

Upon a Qualifying Termination that occurs within the two-year period following the effective time of the merger, all vested options will remain exercisable until the later of the second anniversary of the date the holder s employment terminated and the date the converted option would otherwise cease to be exercisable in accordance with its terms (provided that in no event will the option be exercisable following the expiration of its original term).

(3) The amounts above include the estimated value of health plan premiums for each named executive officer and his or her eligible dependents (a) in the case of Messrs. Heinemann, Wolf and Duginski, until December 31, 2015 and (b) in the case of Messrs. Crawford and O Connor until April 1, 2015. In addition, the amounts above include the estimated value of term life insurance continuation for 36 months in the case of Mr. Heinemann, 30 months in the case of Messrs. Wolf and Duginski and 24 months in the case of Messrs. Crawford and O Connor, which are valued at $96,750, $44,375, $47,450, $30,500 and $29,536, respectively. All such benefits are double-trigger and subject to the execution of a release of claims in favor of Berry. In addition, in the case of Messrs. Heinemann, Wolf and Duginski, these amounts are payable under employment agreements containing restrictive covenants concerning confidentiality, nonsolicitation of employees and business partners, and, with the exception of Mr. Heinemann, noncompetition.

(4) The estimated excise tax reimbursements are subject to change based on the actual closing date of the merger, date of termination of employment (if any) of the named executive officer, interest rates then in effect and certain other assumptions used in the calculations. The estimates do not take into account the value of any non-competition covenants with a named executive officer or certain amounts that may be reasonable compensation provided to the named executive officer, either before or after the closing of the merger, each of which may, in some cases, reduce the amount of the potential excise tax reimbursements. The excise tax reimbursements are single-trigger, provided that whether an excise tax may apply and the amount thereof may depend upon whether the named executive officer incurs a Qualifying Termination in connection with the merger. This benefit is subject to the execution of a release of claims in favor of Berry. In addition, in the case of Messrs. Heinemann, Wolf and Duginski, these amounts are payable under employment agreements containing restrictive covenants concerning confidentiality, nonsolicitation of employees and business partners, and, with the exception of Mr. Heinemann, noncompetition.

***Indemnification and Insurance***

The merger agreement requires LinnCo, LinnCo Merger Sub and LINN to maintain in effect for six years after completion of the merger the current rights of the directors, officers and employees of Berry, HoldCo or their respective subsidiaries to indemnification and advancement of expenses under their respective certificates of incorporation and bylaws or similar organizational documents or in any agreement of Berry, HoldCo or their respective subsidiaries with any of their respective current or former directors, officers or employees, in each case in effect immediately prior to the effective time of the merger. The merger agreement also provides that,

Table of Contents

Index to Financial Statements

upon completion of the merger, LinnCo, LinnCo Merger Sub and LINN will, to the fullest extent permitted under applicable law, indemnify and hold harmless, and provide advancement of expenses to, each current and former director, officer or employee of Berry, HoldCo or any of their respective subsidiaries and each person who served as a director, officer, member, trustee or fiduciary of another corporation, partnership, joint venture, trust, pension or other employee benefit plan or enterprise if such service was at the request or for the benefit of Berry, HoldCo or any of their respective subsidiaries, against any costs or expenses, judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any actual or threatened claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of, relating to or in connection with any action or omission by them in their capacities as such occurring or alleged to have occurred whether before or after the effective time of the merger.

The merger agreement provides that LinnCo, LinnCo Merger Sub and LINN will maintain for a period of six years after completion of the merger the coverage provided by current directors and officers liability insurance and fiduciary liability insurance in effect as of the date of the merger agreement by Berry and its subsidiaries with respect to matters existing or arising on or before the effective time of the merger, except that LinnCo is not required to pay annual premiums in excess of 300% of the last annual premium paid by Berry for such coverage.

***Security Ownership of Certain Beneficial Owners and Management***

The following table sets forth information regarding the beneficial ownership of Berry common stock as of March 18, 2013 by each director and named executive officer of Berry during 2012, all current executive officers and directors as a group, and each person known by Berry to own beneficially more than 5% of the outstanding shares of Berry common stock.

Unless otherwise indicated, to the knowledge of Berry, the persons listed in the table below have sole voting and investment powers with respect to the shares indicated.

The percentages are based on 54,431,730 shares of Berry common stock issued and outstanding as of March 18, 2013.

| Name of Beneficial Owner [1] | Class A Common Stock [2] | Options or RSUs Currently Exercisable or within 60 days of March 18, 2013 | Total Stock and Stock Based Holdings [3] | Percent of Class [4] |
|---|---|---|---|---|
| Martin H. Young, Jr. | 47,500 | 23,956 | 71,456 | |
| Robert F. Heinemann [8] | 320,998 | 522,752 | 843,750 | 1.55% |
| Ralph B. Busch, III [5] | 448,336 | 43,956 | 492,292 | |
| William E. Bush, Jr. [6] | 177,721 | 13,956 | 191,677 | |
| Stephen L. Cropper | 15,000 | 33,956 | 48,956 | |
| J. Herbert Gaul, Jr. | 42,629 | 23,956 | 66,585 | |
| Stephen J. Hadden | 1,250 | | 1,250 | |
| Thomas J. Jamieson [7] | 293,033 | 33,956 | 326,989 | |
| J. Frank Keller | 5,148 | 23,956 | 29,104 | |
| Michael S. Reddin | | | | |
| Michael Duginski [8] | 59,782 | 235,831 | 295,613 | |
| David D. Wolf [8] | 20,502 | 92,634 | 113,136 | |
| G. Timothy Crawford [8] | 15,299 | 56,128 | 71,427 | |
| Davis O. O Connor [8] | 2,783 | 1,479 | 4,262 | |
| Executive officers and directors as a group (19 persons) [9] | 1,512,592 | 1,175,167 | 2,687,759 | 4.94% |

Table of Contents

Index to Financial Statements

(1) All directors and beneficial owners listed above may be contacted at Berry Petroleum Company, 1999 Broadway, Suite 3700, Denver, CO 80202.
(2) Includes shares held directly or in joint tenancy, shares held in trust, by broker, bank or nominee or other indirect means and over which the individual or member of the group has sole voting or shared voting and/or investment power. Unless otherwise noted, each individual or member of the group has sole voting and investment power with respect to the shares shown in the table above.
(3) Does not include 293,064 units owned by the Directors and held in a stock account, which units represent the economic equivalent of shares of Class A common stock which have been earned by nine of the directors through the Non-Employee Director Deferred Stock and Compensation Plan. These share equivalents are subject to Class A common stock market price fluctuations and are non-voting. The stock account unit shares cannot be issued until the director resigns or retires from the Berry board of directors and are subject to their individual deferral elections. As such, none of these shares are projected to be issued within 60 days of March 18, 2013. Stock account units owned as of March 18, 2013 were: Mr. Young, 93,103 units; Mr. Busch, 47,154 units; Mr. Bush, 16,128 units; Mr. Cropper, 3,653 units; Mr. Gaul, 34,337 units; Mr. Hadden, 38 units; Mr. Heinemann, 3,223 units; Mr. Jamieson, 68,117 units; Mr. Keller, 23,834 units; and Mr. Reddin, 3,477 units. Mr. Heinemann s participation relates to the time he was a director prior to his employment by Berry. Also does not include 8,678; 8,151; 2,292; 8,678; 1,319; 7,359; 8,678; 4,730; and 7,359 vested restricted share units that are subject to deferral elections by Messrs. Young, Busch, Bush, Cropper, Gaul, Hadden, Jamieson, Keller and Reddin, respectively, as such share units are not issuable within 60 days of March 18, 2013.
(4) No current director or executive officer, except Mr. Heinemann, beneficially owns more than 1% of the total outstanding shares of Class A common stock.
(5) Includes 218,911 shares held directly, 123,500 shares held in the B Group Trust at Union Bank of California which Mr. Busch votes, 76,500 shares held in a family foundation for which Mr. Busch shares voting and investment power with his siblings and 29,425 shares held in trust for his minor children.
(6) Includes 176,921 shares held directly and 800 shares held in trust for Mr. Bush s grandchildren.
(7) Includes 88,000 shares held directly, 36,303 shares held indirectly by Mr. Jamieson through Jaco Oil Company, a corporation, 143,730 shares held indirectly through a trust and 25,000 shares held indirectly by Mr. Jamieson through a partnership, all entities for which he has investing and voting power for the shares.
(8) Includes 306,053; 43,210; 20,493; 10,901 and 2,783 shares held directly by Mr. Heinemann, Mr. Duginski, Mr. Wolf, Mr. Crawford and Mr. O Connor, respectively. Also includes 14,945; 16,572; 9; 4,398 and 0 shares held indirectly in Berry s 401(k) Plan by Mr. Heinemann, Mr. Duginski, Mr. Wolf, Mr. Crawford and Mr. O Connor, respectively. Does not include 229,329; 101,856; 111,352; 42,107 and 0 vested restricted share units that are subject to deferral elections by Mr. Heinemann, Mr. Duginski, Mr. Wolf, Mr. Crawford and Mr. O Connor, respectively as these shares will not be issuable within 60 days of March 18, 2013.
(9) Also includes an additional 54,816 shares held directly by the other officers of Berry not included above and 7,795 shares held indirectly by the other officers of Berry in Berry s 401(k) Plan.

**Litigation Relating to the Merger**

On March 21, 2013, a purported stockholder class action captioned Nancy P. Assad Trust v. Berry Petroleum Co., et al. was filed in the District Court for the City and County of Denver, Colorado, No. 13-CV-31365. The action names as defendants Berry, the members of its board of directors, HoldCo, Bacchus Merger Sub, LinnCo, LINN and LinnCo Merger Sub. On April 5, 2013, an amended complaint was filed, which alleges that the individual defendants breached their fiduciary duties in connection with the transactions by engaging in an unfair sales process that resulted in an unfair price for Berry, by failing to disclose all material information regarding the transactions, and that the entity defendants aided and abetted those breaches of fiduciary duty. The amended complaint seeks a declaration that the transactions are unlawful and unenforceable, an order directing the individual defendants to comply with their fiduciary duties, an injunction against consummation of the transactions, or, in the event they are completed, rescission of the transactions, an award of fees and costs, including attorneys and experts fees and expenses, and other relief. On May 21, 2013, the Colorado District Court stayed and administratively closed the Nancy P. Assad Trust action in favor of the Hall action described below that is pending in the Delaware Court of Chancery.

On April 12, 2013, a purported stockholder class action captioned David Hall v. Berry Petroleum Co., et al. was filed in the Delaware Court of Chancery, C.A. No. 8476-VCG. The complaint names as defendants Berry, the members of its board of directors, HoldCo, Bacchus Merger Sub, LinnCo, LINN and LinnCo Merger Sub. The complaint alleges that the individual defendants breached their fiduciary duties in connection with the transactions by engaging in an unfair sales process that resulted in an unfair price for Berry, by failing to disclose all material information regarding the transactions, and that the entity defendants aided and abetted those breaches of fiduciary duty. The complaint seeks a declaration that the transactions are unlawful and unenforceable, an order directing the

Table of Contents

Index to Financial Statements

individual defendants to comply with their fiduciary duties, an injunction against consummation of the transactions, or, in the event they are completed, rescission of the transactions, an award of fees and costs, including attorneys and experts fees and expenses, and other relief. LINN and LinnCo are unable to estimate a possible loss, or range of possible loss, if any, at this time.

On July 9, 2013, Anthony Booth, individually and on behalf of all other persons similarly situated, filed a class action complaint in the United States District Court, Southern District of Texas, against LINN, Mark E. Ellis, Kolja Rockov and David B. Rottino (the Booth Action ). On July 18, 2013, the Catherine A. Fisher Trust, individually and on behalf of all other persons similarly situated, filed a class action complaint in the United States District Court, Southern District of Texas, against the same defendants (the Fisher Action ). On July 17, 2013, Don Gentry, individually and on behalf of all other persons similarly situated, filed a class action complaint in the United States District Court, Southern District of Texas, against LINN, LinnCo, Mark E. Ellis, Kolja Rockov, David B. Rottino, George A. Alcorn, David D. Dunlap, Terrence S. Jacobs, Michael C. Linn, Joseph P. McCoy, Jeffrey C. Swoveland and the various underwriters for LinnCo s IPO (the Gentry Action ) (the Booth Action, Fisher Action, and Gentry Action together, the Texas Federal Actions ). The Texas Federal Actions each assert claims under Sections 10(b) and 20(a) of the Exchange Act based on allegations that LINN made false or misleading statements relating to its hedging strategy, the cash flow available for distribution to unitholders, and LINN s production. The Gentry Action asserts additional claims under Sections 11 and 15 of the Securities Act based on alleged misstatements relating to these issues in the prospectus and registration statement for LinnCo s IPO. On September 23, 2013, the Southern District of Texas entered an order transferring the Texas Federal Actions to the Southern District of New York so that they could be consolidated with the New York Federal Actions, which are described below.

On July 10, 2013, David Adrian Luciano, individually and on behalf of all other persons similarly situated, filed a class action complaint in the United States District Court, Southern District of New York, against LINN, LinnCo, Mark E. Ellis, Kolja Rockov, David B. Rottino, George A. Alcorn, David D. Dunlap, Terrence S. Jacobs, Michael C. Linn, Joseph P. McCoy, Jeffrey C. Swoveland and the various underwriters for LinnCo s IPO (the Luciano Action ). The Luciano Action asserts claims under Sections 11 and 15 of the Securities Act based on alleged misstatements relating to LINN s hedging strategy, the cash flow available for distribution to unitholders, and LINN s energy production in the prospectus and registration statement for LinnCo s IPO. On July 12, 2013, Frank Donio, individually and on behalf of all other persons similarly situated, filed a class action complaint in the United States District Court, Southern District of New York, against LINN, Mark E. Ellis, Kolja Rockov and David B. Rottino (the Donio Action ). The Donio Action asserts claims under Sections 10(b) and 20(a) of the Exchange Act based on allegations that LINN made false or misleading statements relating to its hedging strategy, the cash flow available for distribution to unitholders, and LINN s energy production. Several additional class action cases substantially similar to the Luciano Action and the Donio Action were subsequently filed in the Southern District of New York and assigned to the same judge (the Luciano Action, Donio Action, and all similar subsequently filed New York federal class actions together, the New York Federal Actions ). The Texas Federal Actions and the New York Federal Actions have now been consolidated in the United States District Court for the Southern District of New York. The cases are in their preliminary stages and it is possible that additional similar actions could be filed. As a result, LINN and LinnCo are unable to estimate a possible loss, or range of possible loss, if any.

On July 10, 2013, Judy Mesirov, derivatively on behalf of nominal defendant LINN, filed a shareholder derivative petition against Mark E. Ellis, Kolja Rockov, David B. Rottino, Arden L. Walker, Jr., Charlene A. Ripley, Michael C. Linn, Joseph P. McCoy, George A. Alcorn, Terrence S. Jacobs, David D. Dunlap, Jeffrey C. Swoveland and Linda M. Stephens in the District Court of Harris County, Texas (the Mesirov Action ). On July 12, 2013, John Peters, derivatively on behalf of nominal defendant LINN, filed a shareholder derivative petition against many of the same defendants in the District Court of Harris County, Texas (the Peters Action ). On August 26, 2013, Joseph Abdalla, derivatively on behalf of nominal defendant LINN, filed a shareholder derivative petition against many of the same defendants in the District Court of Harris County, Texas (the Abdalla Action ) (the Mesirov Action, Peters Action, and Abdalla Actions together, the Texas State Court Derivative Actions ). On August 19, 2013, the Charlote J. Lombardo Trust of 2004, derivatively on behalf of

Table of Contents

Index to Financial Statements

nominal defendant LINN, filed a shareholder derivative petition against many of the same defendants in the United States District Court for the Southern District of Texas (the Lombardo Action ). On September 30, 2013, the Thelma Feldman Rev. Trust, derivatively on behalf of nominal defendant LINN, filed a shareholder derivative petition against many of the same defendants (the Feldman Rev. Trust Action ). On October 21, 2013, the Parker Family Trust of 2012, derivatively on behalf of nominal defendant LINN, filed a shareholder derivative petition against many of the same defendants (the Parker Family Trust Action ) (the Lombardo Action, Feldman Rev. Trust Action and Parker Family Trust Action together, the Texas Federal Court Derivative Actions ) (the Texas State Court Derivative Action and Texas Federal Court Derivative Actions together, the Texas Derivative Actions ). The Texas Derivative Actions assert derivative claims on behalf of LINN against the individual defendants for alleged breaches of fiduciary duty, waste of corporate assets, mismanagement, abuse of control and unjust enrichment based on factual allegations similar to those in the Texas Federal Actions and the New York Federal Actions. The cases are in their preliminary stages and it is possible that additional similar actions could be filed in the District Court of Harris County, Texas, or in other jurisdictions. As a result, LINN and LinnCo are unable to estimate a possible loss, or range of possible loss, if any.

Table of Contents

Index to Financial Statements

## THE MERGER AGREEMENT

The following describes certain aspects of the transactions, including material provisions of the merger agreement. The following description of the merger agreement is subject to, and qualified in its entirety by reference to, the merger agreement, which is attached to this document as Annex A and is incorporated by reference in this document. We urge you to read the merger agreement carefully and in its entirety, as it is the legal document governing the merger.

### Terms of the Merger

The merger agreement provides that, upon the terms and subject to the conditions set forth in the merger agreement and in accordance with the applicable provisions of the DGCL and the LLC Act, LinnCo will acquire Berry, and contribute Berry to LINN in a multi-step transaction:

- first, Bacchus Merger Sub will be merged with and into Berry (the HoldCo Merger ), and the Berry stockholders will receive one share of HoldCo common stock for each share of Berry common stock they own, after which Berry will become a wholly owned subsidiary of HoldCo;

- second, Berry will be converted from a Delaware corporation to a Delaware limited liability company (the Conversion );

- third, HoldCo will be merged with LinnCo Merger Sub, with LinnCo Merger Sub surviving the merger as a wholly owned subsidiary of LinnCo (the LinnCo Merger and together with the HoldCo Merger, the merger ); and

- fourth, LinnCo will contribute all of the outstanding membership interests in LinnCo Merger Sub to LINN (the Contribution ) in exchange for newly issued LINN units (the Issuance ), after which Berry will be an indirect wholly owned subsidiary of LINN.

Subject to the terms and conditions of the merger agreement, (1) as a result of the HoldCo Merger, each share of Berry Class A common stock will be converted into one share of HoldCo Class A common stock and each share of Berry Class B common stock will be converted into one share of HoldCo Class B common stock and (2) as a result of the LinnCo Merger, each share of HoldCo common stock will be converted into the right to receive 1.25 LinnCo common shares, referred to herein as the exchange ratio. Based on the closing price of LinnCo common shares on February 20, 2013, the last trading day before public announcement of the proposed transactions, the exchange ratio represented approximately $46.2375 per share in LinnCo common shares for each share of Berry common stock. Based on the closing price of LinnCo common shares on the NASDAQ of $ on , 2013, the latest practicable date before the date of this joint proxy statement/prospectus, the exchange ratio represented approximately $ in LinnCo common shares for each share of Berry common stock. The implied value of the merger consideration will fluctuate with the market price of LinnCo common shares.

The rights of the Berry stockholders who receive LinnCo common shares as merger consideration after the merger will be governed by the LinnCo certificate of formation and limited liability company agreement after the completion of the merger (as modified by the LinnCo LLC Agreement Amendment Proposal A and the LinnCo LLC Agreement Amendment Proposal B). The rights of the LinnCo shareholders will continue to be governed by the LinnCo limited liability company agreement after the completion of the merger (as modified by the LinnCo LLC Agreement Amendment Proposal A and the LinnCo LLC Agreement Amendment Proposal B).

### Closing and Effective Time of the Merger

Unless the parties agree otherwise, the closing of the merger will take place on the fifth business day after all conditions to the completion of the merger have been satisfied or waived. The HoldCo Merger will be effective when the parties duly file the certificate of merger with respect to the HoldCo Merger with the Secretary of State of the State of Delaware. The LinnCo Merger will be effective when the parties duly file the

Table of Contents

Index to Financial Statements

certificate of merger with respect to the LinnCo Merger with the Secretary of State of the State of Delaware, or at such later time as LinnCo and HoldCo will agree and specify in such certificate of merger; provided that such date and time must be after the effective time of the Conversion.

Due to the pending SEC inquiry, the timing of the closing of the merger is uncertain. See Additional Information About LinnCo, LLC Business SEC Inquiry and Additional Information About Linn Energy, LLC Recent Developments SEC Inquiry for additional information about the SEC inquiry. However, as the merger is subject to conditions described in the merger agreement, it is possible that factors outside the control of Berry, LinnCo and LINN could result in the merger being completed at an earlier time, a later time or not at all.

**Treatment of Berry Equity-Based Awards**

*Options*. Each option to purchase shares of Berry common stock will be converted into an option to purchase, generally on the same terms and conditions as were applicable to such option immediately prior to the effective time of the merger, (1) a number of LINN units (rounded down to the nearest whole unit) equal to the product determined by multiplying the number of shares of Berry common stock subject to such option by the exchange ratio and by the LinnCo/LINN exchange ratio (as defined below), (2) at an exercise price per LINN unit (rounded up to the nearest whole cent) equal to the quotient determined by dividing the per share exercise price for the shares of Berry common stock subject to the option by the product determined by multiplying the exchange ratio and the LinnCo/LINN exchange ratio. The LinnCo/LINN exchange ratio is the average of the closing prices of one LinnCo common share on the NASDAQ on the last five full trading days prior to the closing date of the merger divided by the average of the closing prices of one LINN unit on the NASDAQ on the last five full trading days prior to the closing date of the merger.

*Restricted Stock Units*. Each unvested Berry RSU (excluding any Berry RSU held by a current or former non-employee director of Berry and any performance-based Berry RSU) will be converted as of the effective time of the merger into a restricted unit award in respect of the number of LINN units (rounded to the nearest whole unit) equal to the product determined by multiplying the number of shares of Berry common stock subject to the Berry RSU immediately prior to the effective time of the merger by the exchange ratio and by the LinnCo/LINN exchange ratio, and will be subject generally to the same terms and conditions as were applicable to the related Berry RSU immediately prior to the effective time of the merger.

Each Berry RSU that is vested as of the effective time of the merger, that is held by a current or former non-employee director or that is subject to performance-based vesting criteria will be converted as of the effective time of the merger into a number of LinnCo common shares equal to the product determined by multiplying the number of shares of Berry common stock subject to the Berry RSU immediately prior to the effective time of the merger by the exchange ratio. Each performance-based Berry RSU that is outstanding immediately prior to the effective time of the merger will be deemed to have been earned at the target level as specified in the applicable award agreement.

**Conversion of Shares; Exchange of Certificates; Elections as to Form of Consideration**

The conversion of HoldCo common stock into the merger consideration will occur automatically at the effective time of the merger. As soon as reasonably practicable after completion of the merger and in any event within five days, the exchange agent will exchange certificates representing shares of Berry common stock which have been converted into HoldCo common stock for merger consideration to be received in the merger pursuant to the terms of the merger agreement. American Stock Transfer & Trust Company, LLC will be the exchange agent in the merger and will receive your exchange certificates for the merger consideration and perform other duties as explained in the merger agreement.

***Letter of Transmittal***

Soon after the completion of the merger, the exchange agent will mail a letter of transmittal to only those persons whose shares of Berry common stock were converted into HoldCo stock at the effective time of the

Table of Contents

Index to Financial Statements

merger. This mailing will contain instructions on how to surrender shares of Berry common stock (if these shares have not already been surrendered) in exchange for the merger consideration the holder is entitled to receive under the merger agreement.

If a certificate for Berry common stock has been lost, stolen or destroyed, the exchange agent will issue the consideration properly payable under the merger agreement upon receipt of appropriate evidence as to that loss, theft or destruction, appropriate evidence as to the ownership of that certificate by the claimant, and appropriate and customary indemnification.

***Withholding***

The exchange agent will be entitled to deduct and withhold from the cash payable to any Berry stockholder the amounts it is required to deduct and withhold under any federal, state, local or foreign tax law. If the exchange agent withholds any amounts and pays them to the relevant taxing authority, these amounts will be treated for all purposes of the merger as having been paid to the stockholders from whom they were withheld.

***Dividends and Distributions***

Until Berry common stock certificates are surrendered for exchange, any dividends or other distributions declared after the effective time of the merger with respect to LinnCo common shares into which shares of HoldCo common stock may have been converted will accrue but will not be paid. LinnCo will pay to former Berry stockholders any unpaid dividends or other distributions, without interest, only after they have duly surrendered their Berry stock certificates.

**Representations and Warranties**

The merger agreement contains customary representations and warranties of Berry and LinnCo and LINN relating to their respective businesses. With the exception of certain representations that must be true and correct as set forth in the merger agreement (or, in the case of specific representations and warranties regarding capitalization, must be true and correct except to a de minimis extent), no representation or warranty will be deemed untrue or incorrect as a consequence of the existence or absence of any event, change, effect, development or occurrence that event, change, effect, development or occurrence has had, or would be reasonably likely to have, a material adverse effect on the business, financial condition or continuing results of operations of the company and its subsidiaries, taken as a whole, making the representation. The representations and warranties in the merger agreement do not survive the effective time of the merger.

Each of Berry, LinnCo, LinnCo Merger Sub and LINN has made representations and warranties to the other regarding, among other things:

- corporate matters, including due organization and qualification;
- capitalization;
- authority relative to execution and delivery of the merger agreement and other transaction documents and the absence of conflicts with, or violations of, organizational documents or other obligations as a result of the merger;
- required governmental filings and consents;
- financial statements, internal controls and accounting;
- the absence of undisclosed liabilities;

compliance with applicable laws and possession of necessary permits;

compliance with environmental laws and regulations;

Table of Contents

Index to Financial Statements

employee benefits plans matters;

the absence of material adverse changes;

investigations and legal proceedings;

the accuracy of information supplied for inclusion in this document and other similar documents;

regulatory matters;

tax matters;

employment and labor matters;

properties;

insurance coverage;

receipt of a financial advisor s opinion;

material contracts;

reserve reports; and

broker s fees payable in connection with the merger.

In addition, Berry has made other representations and warranties about itself to LinnCo, LinnCo Merger Sub and LINN as to:

intellectual property;

derivatives;

prior activities of HoldCo and Bacchus Merger Sub, Inc.; and

the inapplicability of state takeover laws.

LinnCo, LinnCo Merger Sub and LINN also have made representations and warranties to Berry and HoldCo regarding Section 203 of the DGCL and the authorization and valid issuance of the LinnCo common shares to be paid as the merger consideration and the LINN units to be issued to LinnCo in connection with the Contribution.

The representations and warranties described above and included in the merger agreement were made by Berry, on one hand, and LinnCo, LinnCo Merger Sub and LINN, on the other hand, to each other. These representations and warranties were made as of specific dates, may be subject to important qualifications and limitations agreed to by Berry and LinnCo, LinnCo Merger Sub and LINN in connection with negotiating the terms of the merger agreement, and may have been included in the merger agreement for the purpose of allocating risk between Berry, on one hand, and LinnCo, LinnCo Merger Sub and LINN, on the other hand, rather than to establish matters as facts.

The merger agreement is described in, and included as Annex A, to this joint proxy statement/prospectus only to provide you with information regarding its terms and conditions, and not to provide any other factual information regarding Berry, LinnCo, LINN or their respective businesses. Accordingly, the representations and warranties and other provisions of the merger agreement should not be read alone, but instead should be read only in conjunction with the information provided elsewhere in this document and in the documents incorporated by reference into this document. See Where You Can Find More Information.

Table of Contents

Index to Financial Statements

**Definition of Material Adverse Effect**

In determining whether a material adverse effect has occurred or is reasonably likely to occur, the parties will disregard effects resulting from:

(1) changes in general economic, financial or other capital market conditions (including prevailing interest rates);

(2) any changes or developments generally in the industries in which Berry, LinnCo or LINN conducts their business;

(3) the announcement or the existence of, compliance with or performance under, the merger agreement (including the impact thereof on the relationships, contractual or otherwise, of any of Berry, LinnCo or LINN with employees, labor unions, customers, suppliers or partners, and including any lawsuit, action or other proceeding with respect to the merger);

(4) any taking of any action at the request of the other party to the agreement;

(5) any changes or developments in prices for oil, natural gas or other commodities or for Berry s raw material inputs and end products, or LinnCo s or LINN s raw material inputs and end products;

(6) any adoption, implementation, promulgation, repeal, modification, reinterpretation or proposal of any rule, regulation, ordinance, order, protocol or any other law of or by any national, regional, state or local governmental entity, or market administrator;

(7) any changes in GAAP or accounting standards or interpretations thereof;

(8) earthquakes, any weather-related event or force majeure event, natural disasters or outbreak or escalation of hostilities or acts of war or terrorism;

(9) any failure by Berry or LinnCo or LINN to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period (although the event, change, effect, development or occurrence underlying such failure may count as a material adverse effect if it does not otherwise meet an exception); or

(10) any changes in the share price or trading volume of the shares of Berry common stock, LinnCo common shares or LINN units or in the credit ratings of Berry, LinnCo or LINN (although the event, change, effect, development or occurrence underlying such failure may count as a material adverse effect if it does not otherwise meet an exception).

Exceptions laid out in (1), (2), (6), (7) and (8) may be considered to the extent disproportionately affecting Berry and its subsidiaries, LinnCo and its subsidiaries or LINN and its subsidiaries, in each case taken as a whole, relative to other similarly situated companies in their respective industries.

**Covenants and Agreements**

Each of Berry, LinnCo and LINN has undertaken customary covenants that place restrictions on it and its subsidiaries until the effective time of the merger (or, if earlier, the merger agreement s termination date). Berry has agreed to operate its business only in the ordinary course of

business, and each of Berry, LinnCo and LINN have agreed to use commercially reasonable efforts to preserve intact its present lines of business, maintain its rights, franchises and permits and preserve its relationships with customers and suppliers. Berry has also agreed that, with certain exceptions as may be required by law or the merger agreement, and except with LinnCo s prior written consent, which consent may not be unreasonably withheld, Berry will not, and will not permit any of its subsidiaries to, among other things, undertake the following actions:

adopt any amendments to its certificate of incorporation or bylaws or similar applicable organizational documents;

Table of Contents

Index to Financial Statements

split, combine or reclassify any of its capital stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock, except for any such transaction by a wholly owned subsidiary of Berry which remains a wholly owned subsidiary after consummation of such transaction;

except in the ordinary course of business, authorize or pay any dividends on or make any distribution with respect to its outstanding shares of capital stock (whether in cash, assets, stock or other securities, except (1) dividends or distributions by any subsidiaries only to Berry or to any subsidiary of Berry in the ordinary course of business, (2) dividends or distributions required under the applicable organizational documents of such entity in effect on the date of the merger agreement and (3) regular quarterly cash dividends with customary record and payment dates on the shares of Berry capital stock not in excess of $0.08 per share per quarter;

adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization, other than the merger itself and other than any mergers, consolidations, restructurings or reorganizations solely among Berry and its subsidiaries or among Berry s subsidiaries, or take any action with respect to any of its securities that would reasonably be expected to prevent, materially impede or materially delay the consummation of the merger or any other transaction contemplated by the merger agreement;

make any acquisition of any other person or business or make any loans, advances or capital contributions to, or investments in, any other person with a value in excess of $25 million in the aggregate, other than as contemplated by Berry s 2013 budget and capital expenditure plan or in connection with transactions among Berry and its wholly owned subsidiaries or among Berry s wholly owned subsidiaries; provided, however that such acquisitions, loans, advances, capital contributions to, or investments in, any other person will not materially impede or materially delay the consummation of the merger or any other transaction contemplated by the merger agreement;

sell, lease, license, transfer, exchange or swap, or otherwise dispose of or encumber any properties or non-cash assets with a value in excess of $25 million in the aggregate, except for (1) sales, transfers and dispositions of obsolete or worthless equipment, (2) sales, transfers and dispositions of inventory, commodities and produced hydrocarbons, crude oil and refined products in the ordinary course of business, or (3) sales, leases, transfers or other dispositions made in connection with any transaction among Berry and its wholly owned subsidiaries or among Berry s wholly owned subsidiaries;

authorize any capital expenditures in excess of $25 million in the aggregate, other than as contemplated by Berry s 2013 budget and capital expenditure plan or expenditures made in response to any emergency, whether caused by war, terrorism, weather events, public health events, outages or otherwise;

enter into any new contract to sell hydrocarbons other than in the ordinary course of business consistent with past practice, but in no event having a duration longer than 120 days;

except as required by applicable law or the terms of any Berry benefit plan existing and as in effect on the date of the merger agreement, take specified actions relating to director and employee compensation, benefits, hiring and promotion;

materially change its financial accounting policies or procedures or any methods of reporting income, deductions or other material items for financial accounting purposes, except as required by GAAP, SEC rules or applicable law;

issue, sell, pledge, dispose of or encumber, or authorize the issuance, sale, pledge, disposition or encumbrance of, any shares of its capital stock or other ownership interest in Berry or any of its subsidiaries or any securities convertible into or exchangeable for any such shares or ownership interest, or any rights, warrants or options to acquire any such shares of capital stock, ownership interest or convertible or exchangeable securities or take any action to cause to be exercisable any otherwise unexercisable award under any existing benefits plan (except as otherwise provided by the terms of the merger agreement or the express terms of any unexercisable or unexercised awards or

Table of Contents

Index to Financial Statements

warrants outstanding on the date of the merger agreement), other than (1) issuances of shares of Berry common stock in respect of the exercise or settlement of any Berry stock awards, (2) the sale of shares of Berry common stock pursuant to the exercise of Berry stock options if necessary to effectuate an option direction upon exercise or for withholding of taxes or (3) for transactions among Berry and its wholly owned subsidiaries or among Berry s wholly owned subsidiaries;

directly or indirectly, purchase, redeem or otherwise acquire any shares of the capital stock of any of them or any rights, warrants or options to acquire any such shares, except for transactions among Berry and its subsidiaries or among Berry s subsidiaries and other than the acquisition of shares of Berry common stock from a holder of a Berry stock option or stock award in satisfaction of withholding obligations or in payment of the exercise price thereof;

incur, assume, guarantee or otherwise become liable for any indebtedness for borrowed money or any guarantee of such indebtedness, except (1) for any indebtedness incurred in the ordinary course of business, (2) for any indebtedness among Berry and its wholly owned subsidiaries or among Berry s wholly owned subsidiaries, (3) for any indebtedness incurred to replace, renew, extend, refinance or refund any existing indebtedness on substantially the same or more favorable terms to Berry than such existing indebtedness, (4) for any guarantees by Berry of indebtedness of its subsidiaries or guarantees by Berry s subsidiaries of its indebtedness or any other subsidiary and (5) with respect to any indebtedness not in accordance with clauses (1) through (4), for any indebtedness not to exceed $10 million in aggregate principal amount outstanding at the time incurred by Berry or any of its subsidiaries; provided, however, that in the case of each of clauses (1) through (5) such indebtedness does not impose or result in any additional restrictions or limitations that would be material to Berry and its subsidiaries, or, following the closing of the merger, LinnCo, LINN and their subsidiaries, other than any obligation to make payments on such indebtedness and other than any restrictions or limitations to which Berry or any subsidiary is currently subject under the terms of any indebtedness outstanding as of the date of the merger agreement;

other than in the ordinary course, and subject to certain other limitations, modify, amend or terminate, or waive rights under any material contract or permit or enter into any new material contract, in each case in a manner that is adverse to Berry and its subsidiaries, or which would reasonably be expected to, after the effective time of the merger, restrict or limit in any material respect LinnCo or LINN or any of their respective affiliates from engaging in business or competing in any geographic location with any person;

waive, release, assign, settle or compromise any claim, action or proceeding, other than waivers, releases, assignments, settlements or compromises (1) equal to or lesser than the amounts reserved with respect thereto on Berry s most recent balance sheet or (2) that do not exceed $1 million in the aggregate;

make, change or revoke any tax election outside the ordinary course of business, change any tax accounting method, file any amended tax return, enter into any closing agreement, request any tax ruling, settle or compromise any tax proceeding, or surrender any claim for a refund of taxes, in each case, if such action would reasonably be expected to increase by a material amount the taxes of Berry, HoldCo, LinnCo or LINN;

except as otherwise permitted by the merger agreement, clauses (3) and (4) of the thirteenth bullet above or transactions between Berry and its subsidiaries or among its subsidiaries, prepay, redeem, repurchase, defease, cancel or otherwise acquire any indebtedness or guarantees thereof of Berry or any subsidiary, other than (1) at stated maturity and (2) any required amortization payments and mandatory prepayments (including mandatory prepayments arising from any change of control put rights to which holders of such indebtedness or guarantees thereof may be entitled), in each case in accordance with the terms of the instrument governing such indebtedness as in effect on the date of the merger agreement; or

agree to do any of the actions prohibited by the preceding bullet points.

Table of Contents

Index to Financial Statements

LinnCo and LINN have also agreed that, with certain exceptions as may be required by law, the requirement of any applicable stock exchange or regulatory organization or the merger agreement, and except with Berry s prior written consent, which consent may not be unreasonably withheld, LinnCo and LINN will not, and will not permit any of their subsidiaries to, among other things, undertake the following actions:

adopt or agree to adopt any amendments to its certificate of formation or limited liability company agreement or similar applicable organizational documents;

split, combine or reclassify any of its equity securities or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for its equity securities, except for any such transaction by a wholly owned subsidiary of LinnCo or LINN which remains a wholly owned subsidiary after consummation of such transaction;

except in the ordinary course of business, authorize or pay any dividends on or make any distribution with respect to its outstanding equity securities (whether in cash, assets, stock or other securities, except (1) dividends or distributions by any subsidiaries only to LinnCo, LINN or to any subsidiary of LinnCo or LINN in the ordinary course of business, (2) dividends or distributions required under the applicable organizational documents of such entity in effect on the date of the merger agreement, (3) regular cash distributions with customary record and payment dates on the LINN units not in excess of $0.76125 per unit per quarter and (4) regular cash distributions with customary record and payment dates on the LinnCo common shares not in excess of $0.7455 per share per quarter;

adopt a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization, other than the merger itself and other than any restructurings or reorganizations solely among LinnCo or LINN and their respective subsidiaries or among LinnCo s or LINN s subsidiaries, or take any action with respect to any of its securities that would reasonably be expected to prevent, materially impede or materially delay the consummation of the merger or any other transaction contemplated by the merger agreement;

make any acquisition of any other person or business or make any loans, advances or capital contributions to, or investments in, any other person that would reasonably be expected to prevent, materially impede or materially delay the consummation of the merger;

issue, sell, pledge, dispose of or encumber, or authorize the issuance, sale, pledge, disposition or encumbrance of, any LinnCo common shares, LINN units or other ownership interest in LinnCo or LINN or any of their respective subsidiaries or any securities convertible into or exchangeable for any such shares or ownership interest, or any rights, warrants or options to acquire any such shares of capital stock, ownership interest or convertible or exchangeable securities or take any action to cause to be exercisable any otherwise unexercisable option under any existing benefits plan (except as otherwise provided by the terms of the merger agreement or the express terms of any unexercisable or unexercised awards or warrants outstanding on the date of the merger agreement), other than (1) as contemplated by the merger agreement and the contribution agreement, (2) issuance and sales of LINN units not exceeding 10% of the issued and outstanding LINN units as of the date of the merger agreement, (3) issuances and sales of LinnCo common shares not exceeding 10% of the issued and outstanding LinnCo common shares as of the date of the merger agreement, (4) issuances of LINN units in respect of the exercise or settlement of any LINN unit awards, (5) the sale of LINN units pursuant to the exercise of LINN unit options if necessary to effectuate an option direction upon exercise or for withholding of taxes or (3) for transactions among LinnCo, LINN and their wholly owned subsidiaries or among LinnCo s or LINN s wholly owned subsidiaries;

make, change or revoke any tax election outside the ordinary course of business, change any tax accounting method, file any amended tax return, enter into any closing agreement, request any tax ruling, settle or compromise any tax proceeding, or surrender any claim for a refund of taxes, in each case, if such action would reasonably be expected to increase by a material amount the taxes of LinnCo, LINN or any of their respective subsidiaries;

Table of Contents

Index to Financial Statements

take any action or fail to take any action that would reasonably be expected to cause LINN to be treated, for federal income tax purposes, as a corporation or as a partnership that would be treated as an investment company (within the meaning of Section 351 of the Code) if the partnership were incorporated; or

agree to do any of the actions prohibited by the preceding bullet points.

The merger agreement also contains mutual covenants relating to the preparation of this document, the holding of the special meeting of Berry stockholders, the holding of an annual meeting of the LinnCo common shareholders and the LINN unitholders, the granting of access to information, employee matters, the applicability of state anti-takeover laws, public announcements with respect to the transactions contemplated by the merger agreement, control of each other s business operations, participation in stockholder litigation relating to the merger, actions with respect to maintaining the tax treatment of the transactions, listing on NASDAQ, exemption of the merger and related transactions from Section 16(a) of the Exchange Act and reimbursement of costs and expenses related to derivative transactions with respect to hydrocarbon production entered into by Berry.

Berry, LinnCo and LINN have also agreed to use their reasonable best efforts to take all actions needed to obtain necessary governmental and third party consents and to consummate the transactions contemplated by the merger agreement. LinnCo and LINN agree to propose, negotiate, offer to commit and effect, by consent decree, hold separate order or otherwise, the sale, divestiture or disposition of assets or businesses of LinnCo, LINN or, as of the closing, LinnCo Merger Sub, as may be required to avoid the commencement of any action to prohibit the merger or any of the other transactions contemplated by the merger agreement, so as to enable the closing to occur as soon as reasonably possible, provided, that the consummation of any such divestiture actions will be conditioned on the closing and that LinnCo and LINN will not be required to take any action that would, individually or in the aggregate, be reasonably likely to result in a material adverse effect to either Berry or LinnCo or LINN. In addition, the merger agreement contains a customary cooperation covenant whereby Berry, LinnCo and LINN will work cooperatively in obtaining required approvals and consents and in dealings with regulatory authorities.

**Agreement Not to Solicit Other Offers**

Berry will, and will cause its affiliates, and officers, directors and employees to, and will use reasonable best efforts to cause its agents, financial advisors, investment bankers, attorneys, accountants and other representatives to:

immediately cease any ongoing solicitation, knowing encouragement, discussions or negotiations with any person with respect to a company takeover proposal,

promptly instruct or otherwise request any person that has executed a confidentiality agreement within the 24-month period prior to the signing of the merger agreement in connection with any actual or potential company takeover proposal to return or destroy all confidential information of Berry in its possession, and

until the closing or termination of the merger agreement, not:

solicit, initiate or knowingly facilitate or knowingly encourage (including by way of furnishing non-public information) any inquiries regarding, or the making of any proposal or offer that constitutes, or would reasonably be expected to lead to a company takeover proposal,

engage in, continue or otherwise participate in any discussions or negotiations regarding, or furnish to any other person (other than LinnCo or LINN or their representatives) any nonpublic information in connection with or for the purpose of encouraging or facilitating, a company takeover proposal, or

163

Table of Contents

Index to Financial Statements

approve, recommend or enter into, or propose to approve, recommend or enter into, any letter of intent or similar document, agreement, commitment, or agreement in principle (whether written or oral, binding or nonbinding) with respect to a company takeover proposal,

except to the extent the Berry board of directors determines in good faith, after consultation with its outside legal advisors, that failure to take such action would be inconsistent with its fiduciary duties under applicable law.

In addition, Berry will not release any third party from or waive or amend any standstill agreement or confidentiality provision other than any confidentiality provision the waiver of which would not be reasonably likely to lead to a company takeover proposal, and Berry will enforce its existing standstill and confidentiality agreements and take all steps within its power to terminate any waivers previously granted under such agreements.

**Reasonable Best Efforts of Berry to Obtain the Required Stockholder Vote**

Subject to certain exceptions discussed herein, the Berry board of directors will not:

fail to include a recommendation to its stockholders to adopt the merger agreement (the Company Recommendation ) in the proxy statement for the Berry special meeting;

change, qualify, withhold, withdraw or modify, or authorize or publicly propose to change, qualify, withhold, withdraw or modify, in a manner adverse to LinnCo or LINN, the Company Recommendation;

make any recommendation or public statement that addresses or relates to the approval, recommendation or declaration of advisability by the Berry board of directors in connection with a tender offer or exchange offer that constitutes a company takeover proposal (other than a recommendation against such offer or a customary stop, look and listen communication of the type contemplated by Rule 14d-9(f) under the Exchange Act, in each case that includes a reaffirmation of the Company Recommendation or refers to the prior Company Recommendation of the Berry board of directors); or

adopt, approve or recommend, or publicly propose to adopt, approve or recommend to Berry stockholders a company takeover proposal (a Company Adverse Recommendation Change ).

Notwithstanding the above, if at any time prior to obtaining approval of the merger agreement by Berry stockholders, Berry directly or indirectly receives a bona fide unsolicited written company takeover proposal (as defined below) that did not result from Berry s material breach of its non-solicitation obligations and the Berry board of directors determines in good faith, after consultation with its outside financial advisors and legal counsel, that such company takeover proposal constitutes or would reasonably be expected to lead to a company superior proposal, then Berry may:

(a) furnish, pursuant to a customary confidentiality agreement not less favorable to Berry than the confidentiality agreement with LINN, nonpublic information and afford access to Berry s business, properties, assets, employees, officers, contracts and books and records to the person that made such proposal and its representatives and potential sources of financing, provided any information so provided is concurrently or has previously been provided to LinnCo, and

(b) engage in discussions or negotiations with the person making such company takeover proposal and its representatives and potential sources of financing.

Berry will within 24 hours of receipt notify, orally and in writing, LinnCo of any company takeover proposal, including the identity of the person making the company takeover proposal and the material terms and condition thereof and provide copies to LinnCo of any written

proposals, indications of interest and/or draft agreements relating to such company takeover proposal. Berry will keep LinnCo reasonably informed regarding

the status of any such company takeover proposal. Berry will not enter into any agreement that would prohibit it from providing certain information to LinnCo pursuant to the merger agreement.

Table of Contents

Index to Financial Statements

With respect to a company takeover proposal, at any time prior to obtaining approval of the merger agreement by Berry stockholders, Berry may make a Company Adverse Recommendation Change and/or terminate the merger agreement in order to enter into an agreement relating to a company superior proposal if, after receiving a bona fide, unsolicited company takeover proposal that did not result from a material breach of the non-solicitation provisions, the Berry board of directors determines in good faith, after consultation with its outside financial advisors and outside legal counsel, that the company takeover proposal constitutes a company superior proposal and that in light of such company takeover proposal, the failure to take such action would be inconsistent with the Berry board of director s fiduciary duties under applicable law, provided that prior to any such Company Adverse Recommendation Change or termination of the merger agreement:

(a) Berry provides LinnCo with at least three business days prior written notice of its intention to take such action and has provided LinnCo with a copy of the company superior proposal, a copy of any proposed transaction agreements and a copy of any financing commitments relating thereto,

(b) Berry has negotiated in good faith with LinnCo during such notice period to enable LinnCo to propose revisions to the terms of the merger agreement such that it would cause the company superior proposal to no longer constitute a company superior proposal,

(c) the Berry board of directors will have considered in good faith any revisions to the terms of the merger agreement proposed by LinnCo and at the end of such notice period, will have determined, after consultation with its outside financial advisors and outside legal counsel, that the company superior proposal would nevertheless continue to constitute a company superior proposal even if such changes were given effect, and

(d) in the event of any changes in the financial terms or any other material terms of the company superior proposal, Berry will have given LinnCo notice of such change and a new notice period will commence equal to the longer of two business days or the period remaining under the initial 3-business day notice period.

Additionally, the Berry board of directors may make a Company Adverse Recommendation Change in response to an intervening event (as defined below) if the Berry board of directors determines in good faith, after consultation with its outside financial advisors and outside legal counsel, that failure to take such action would be inconsistent with its fiduciary duties under applicable law, provided that prior to taking any such action:

(a) Berry provides LinnCo with at least three business days prior written notice of its intention to take such action (which will specify the reasons therefor),

(b) Berry has negotiated in good faith with LinnCo during such notice period to enable LinnCo to propose revisions to the terms of the merger agreement as would not require the Berry board of directors to make a Company Adverse Recommendation Change, and

(c) the Berry board of directors will have considered any revisions to the terms of the merger agreement proposed by LinnCo and, at the end of such notice period, will have determined, after consultation with its outside financial advisors and outside legal counsel, that the failure of the Berry board of directors to effect a Company Adverse Recommendation Change in response to an intervening event would reasonably likely be inconsistent with its fiduciary duties under applicable law.

A company takeover proposal means any bona fide proposal or offer made by a third party (other than any offer or proposal by LinnCo or LINN or their affiliates) for or with respect to any acquisition, whether by a merger, consolidation, tender offer, exchange offer, business combination, recapitalization, binding share exchange, joint venture or other similar transaction, of (A) 25% or more of the assets of Berry and its subsidiaries, or (B) more than 25% of the outstanding shares of Berry common stock or securities of Berry representing more than 25% of the voting power of Berry.

Table of Contents

Index to Financial Statements

A company superior proposal means a bona fide, unsolicited, written company takeover proposal:

- that if consummated would result in a third party (or the stockholders of a third party) acquiring directly or indirectly 75% or more of the outstanding shares of Berry common stock or more than 75% of the assets of Berry and its subsidiaries,
- that the Berry board of directors determines in good faith, after consultation with its outside financial advisor and outside legal counsel, is reasonably capable of being completed, taking into account all financial, legal, regulatory and other aspects of such proposal, including all conditions and the person making such company takeover proposal, and
- that the Berry board of directors determines in good faith after consultation with its outside financial advisor and outside legal counsel is more favorable to the stockholders of Berry than the merger (taking into account any revisions to the merger agreement irrevocably offered by LinnCo and/or LINN in response to such company takeover proposal).

An intervening event is a material event, fact, circumstance, development or occurrence that is unknown to the Berry board of directors as of February 20, 2013, the signing date of the merger agreement (or, if known, the magnitude or material consequences of which were not known or understood by the Berry board of directors as of such date), which becomes known to the Berry board of directors prior to obtaining the approval of the merger by Berry stockholders, provided that

(A) if the intervening event involves Berry, it will not constitute an intervening event if it:

(i) generally affects the economy, the financial or securities markets, or political, legislative or regulatory conditions, in each case in the United States or elsewhere in the world; or

(ii) results from or arises out of

(a) any changes or developments in the industries in which the Berry or its subsidiaries conducts its business,

(b) any changes or developments in prices for oil, natural gas or other commodities or for raw material inputs and end products,

(c) the announcement or the existence of, compliance with or performance under, the merger agreement or the transactions contemplated by the merger agreement (including the impact thereof on the relationships, contractual or otherwise, of Berry or any of its subsidiaries with employees, labor unions, customers, suppliers or partners, and including any lawsuit, action or other proceeding with respect to the merger or any of the other transactions contemplated by the merger agreement), or

(d) any adoption, implementation, promulgation, repeal, modification, reinterpretation or proposal of any rule, regulation, ordinance, order, protocol or any other law of or by any national, regional, state or local governmental entity, and

(B) if the intervening event involves LinnCo or LINN, it will not constitute an intervening event unless it has a material adverse effect on LinnCo or LINN, provided that, in determining whether a material adverse effect has occurred for these purposes, the Berry board of directors may consider changes in law after the date of the merger agreement that would, or would reasonably be expected to, have a material adverse effect on the amount of LINN s U.S. federal income tax payments.

**Expenses and Fees**

In general, each of Berry, LinnCo and LINN will be responsible for all expenses incurred by it in connection with the negotiation and completion of the transactions contemplated by the merger agreement.

166

Table of Contents

Index to Financial Statements

**Employee Matters**

The merger agreement provides that for the period beginning on the closing date and ending on the first anniversary of the closing date, LINN will provide to each employee of Berry who continues to be employed by LINN or its applicable affiliate after the merger (1) base compensation that is no less favorable than was provided to such employee immediately prior to the merger and (2) other compensation and benefits that are substantially comparable in the aggregate to either (at the election of LINN) (A) the other compensation and benefits paid and provided to the employee immediately prior to the merger or (B) the other compensation and benefits paid and provided to other similarly situated employees of LINN and its subsidiaries. The merger agreement also provides Berry employees who continue to be employed by LINN following the closing date with service credit under benefit plans sponsored or maintained by LINN, subject to certain customary exceptions.

LINN will honor all accrued and vested benefits and perform all obligations under each Berry benefit plan in accordance with their terms as in effect immediately before the effective time of the merger and applicable law, as such agreements and arrangements may be modified or terminated in accordance with their terms from time to time.

LinnCo and LINN acknowledge that a change in control (or similar phrase) within the meaning of the Berry employee benefit plans will occur at or prior of the time of the LinnCo Merger.

LINN may request not less than ten business days prior to the closing date that Berry terminate its 401(k) plan. In the event of a termination of the Berry 401(k) plan, LINN will cause a defined contribution plan that is established or maintained by LINN to accept rollover distributions from current and former employees of Berry.

**Indemnification and Insurance**

The merger agreement requires LinnCo, LinnCo Merger Sub and LINN to maintain in effect for six years after completion of the merger the current rights of the directors, officers and employees of Berry, HoldCo or their respective subsidiaries to indemnification and advancement of expenses under their respective certificates of incorporation and bylaws or similar organizational documents or in any agreement of Berry, HoldCo or their respective subsidiaries with any of their respective current or former directors, officers or employees, in each case in effect immediately prior to the effective time of the merger.

The merger agreement also provides that, upon completion of the merger, LinnCo, LinnCo Merger Sub and LINN will, to the fullest extent permitted under applicable law, indemnify and hold harmless, and provide advancement of expenses to, each current and former director, officer or employee of Berry, HoldCo or any of their respective subsidiaries and each person who served as a director, officer, member, trustee or fiduciary of another corporation, partnership, joint venture, trust, pension or other employee benefit plan or enterprise if such service was at the request or for the benefit of Berry, HoldCo or any of their respective subsidiaries, against any costs or expenses, judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any actual or threatened claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of, relating to or in connection with any action or omission by them in their capacities as such occurring or alleged to have occurred whether before or after the effective time of the merger.

The merger agreement provides that LinnCo, LinnCo Merger Sub and LINN will maintain for a period of six years after completion of the merger the coverage provided by current directors and officers liability insurance and fiduciary liability insurance in effect as of the date of the merger agreement by Berry and its subsidiaries with respect to matters existing or arising on or before the effective time of the merger, except that LinnCo is not required to pay annual premiums in excess of 300% of the last annual premium paid by Berry for such coverage (the maximum amount ).

Table of Contents

Index to Financial Statements

If Berry elects, in its sole discretion, then it may, prior to the effective time of the merger, purchase a tail policy with respect to acts or omissions occurring or alleged to have occurred prior to the effective time of the merger that were committed or alleged to have been committed by a party to be indemnified under the merger agreement. In no event may the cost of such policy purchased by Berry exceed six times the maximum amount and, if such a tail policy is purchased, LinnCo and LINN will have no further indemnification obligations with respect to such party under the merger agreement.

**Conditions to Complete the Merger**

The respective obligations of the parties to complete the merger are subject to the fulfillment or waiver of certain conditions, including:

- the approval of the merger agreement by a majority of the shares of Berry common stock entitled to vote thereon;
- the approval of the issuance of LinnCo common shares in the merger by the majority of the votes cast at a duly called meeting of holders of LinnCo common shares and the approval of certain amendments to LinnCo s limited liability company agreement by a majority of the outstanding LinnCo common shares;
- the approval of the issuance of LINN units to LinnCo in the Contribution by the majority of the votes cast at a duly called meeting of holders of LINN units;
- the absence of any injunction or law that prohibits closing;
- the effectiveness of the registration statement on Form S-4 of which this joint proxy statement/prospectus is a part and the approval for listing of such shares as well as the LINN units to be issued in the Contribution on the NASDAQ; and
- the expiration or termination of the applicable waiting period under the HSR Act.

Each of Berry s and LinnCo s obligations to complete the merger is also separately subject to the satisfaction or waiver of a number of conditions including:

- the receipt by each of Berry and LinnCo of legal opinions with respect to certain U.S. federal income tax consequences of the transactions;
- the absence of a material adverse effect on the other party; and
- the truth and correctness of the representations and warranties of each other party in the merger agreement, subject to the materiality standard provided in the merger agreement, and the performance by each other party in all material respects of their respective obligations under the merger agreement.

Berry s obligations to complete the merger are also separately subject to the satisfaction or waiver of all the conditions to the closing of the Contribution, other than those conditions which by their nature may not be satisfied until the closing of the Contribution.

Berry, LinnCo and LINN cannot provide assurance as to when or if all of the conditions to the merger can or will be satisfied or waived by the appropriate party. As of the date of this joint proxy statement/prospectus, the parties have no reason to believe that any of these conditions will not be satisfied.

**Termination of the Merger Agreement**

The merger agreement can be terminated at any time prior to completion by:

mutual written consent of Berry and LinnCo;

Table of Contents

Index to Financial Statements

Berry, Linn or LinnCo, if the merger will not have been completed on or prior the End Date, provided that if all conditions have been satisfied or be capable of being satisfied other than the conditions relating to expiration or termination of the applicable waiting period under the HSR Act, effectiveness of the registration statement on Form S-4 of which this joint proxy statement/prospectus is a part or absence of injunctions relating to the transactions, then the End Date may be extended by Berry, Linn or LinnCo by written notice to the other up to a date not later than January 31, 2014, and provided further that the right to terminate is not available to a party if the failure of closing by the End Date results from a material breach by such party of any representation, warranty, covenant or other agreement under the merger agreement;

Berry, Linn or LinnCo, if a final and non-appealable injunction will have been entered prohibiting the closing, unless such injunction was due to the failure of the terminating party to perform any of its obligations under the agreement;

Berry, Linn or LinnCo, if the Berry stockholders meeting (including any adjournments or postponements) has concluded and the requisite approval of the Berry stockholders of the Berry Merger Proposal is not obtained, if the LinnCo shareholders meeting (including any adjournments or postponements) has concluded and the requisite approval of the LinnCo common shareholders of the LinnCo Share Issuance Proposal, the LinnCo LLC Agreement Amendment Proposal A and the LinnCo LLC Agreement Amendment Proposal B is not obtained, or if the LINN unitholders meeting (including any adjournments or postponements) has concluded and the requisite approval of the LINN unitholders of the LINN Unit Issuance Proposal is not obtained;

Berry, if either LinnCo or LINN breaches the merger agreement in a manner that would cause a condition to Berry s obligation to close not to be satisfied and such breach is either not curable by the End Date or LinnCo or LINN fail to diligently attempt to cure such breach after receipt of written notice of such breach from Berry;

LinnCo or LINN, if Berry breaches the merger agreement in a manner that would cause a condition to LinnCo s and LINN s obligation to close not to be satisfied and such breach is either not curable by the End Date or Berry fails to diligently attempt to cure such breach after receipt of written notice of such breach from LinnCo or LINN;

LinnCo or LINN, prior to the adoption of the merger agreement by the Berry stockholders, in the event that either (i) the Berry board of directors makes a Company Adverse Recommendation Change or (ii) Berry willfully breaches any of its non-solicitation obligations in the merger agreement (other than willful breaches resulting from the isolated action of a representative of Berry which Berry has used its reasonable best efforts to remedy and which has not caused significant harm to LinnCo or LINN);

Berry, prior to the approval of the matters related to the merger by the LinnCo common shareholders and the approval of the matters related to the Contribution by the LINN unitholders, in the event the LinnCo board of directors or the LINN board of directors changes its recommendation to approve the matters related to the merger and the Contribution; and

Berry, prior to the approval of the matters related to the adoption of the merger agreement by the Berry stockholders, if Berry has complied with its non-solicitation obligations in the merger agreement, in order to enter into an agreement with respect to a company superior proposal, provided that Berry pays a termination fee of $83.7 million to LinnCo.

If the merger agreement is terminated, there will be no liability on the part of Berry, LinnCo or LINN, except that (1) Berry, LinnCo and LINN will remain liable for any fraud or willful or intentional breach of any covenant or agreement in the merger agreement occurring prior to termination or as provided for in the Confidentiality Agreement between Berry and LINN and (2) each party may be required to pay the other party a termination fee and/or reimburse certain expenses of the other party as described below under Termination Fee.

Table of Contents

Index to Financial Statements

**Termination Fee**

Berry is obligated to pay LinnCo a termination fee or expense reimbursement in the following circumstances:

- If the merger agreement is terminated by Berry prior to the approval of the merger by the Berry stockholders in order for Berry to enter into an agreement with respect to a company superior proposal (as defined in the description of non-solicitation provisions above), then Berry is required to pay LinnCo a termination fee of $83.7 million;

- If the merger agreement is terminated by Berry, Linn or LinnCo because the Berry stockholders meeting was concluded and the Berry stockholder approval was not obtained, and prior to the Berry stockholders meeting, a company takeover proposal (as defined in the description of the non-solicitation provisions above, except that for purposes of the termination fee provisions references to 25% are changed to references to 50%) is publicly announced and not withdrawn at least 10 days prior to the Berry stockholders meeting, then Berry is required to pay $25.7 million in respect of LinnCo s expenses, and if at any time on or prior to the 12-month anniversary of such termination Berry enters into a definitive agreement for or completes a transaction contemplated by any company takeover proposal, then Berry is required to pay LinnCo a termination fee of $83.7 million (less the previously paid $25.7 million);

- If the merger agreement is terminated by LinnCo or LINN prior to the approval of the merger by the Berry stockholders because the Berry board of directors makes a Company Adverse Recommendation Change or because Berry has willfully breached its non-solicitation obligations in the merger agreement, then Berry is required to pay LinnCo a termination fee of $83.7 million;

- If the merger agreement is terminated by Berry because the merger has not closed by the End Date and at the time of such termination, the Berry stockholder approval was not obtained and LinnCo or LINN would have been entitled to terminate the merger agreement because the Berry board of directors makes a Company Adverse Recommendation Change or Berry has willfully breached its non-solicitation obligations in the merger agreement, then Berry is required to pay LinnCo a termination fee of $83.7 million;

- If the merger agreement is terminated by LinnCo or LINN because either (1) Berry materially breached its covenants in the merger agreement, and at the time of such breach, a company takeover proposal (as defined in the description of the non-solicitation provisions above, except that for purposes of the termination fee provisions references to 25% are changed to references to 50%) is announced or disclosed or otherwise communicated to the Berry board of directors and not withdrawn or (2) Berry failed to comply with its obligations to call the Berry special meeting, then Berry is required to pay LinnCo a termination fee of $83.7 million; and

- If the merger agreement is terminated by LinnCo or LINN because Berry materially breached its covenants in the merger agreement (other than in circumstances described in the immediately preceding bullet), then Berry is required to pay LinnCo $25.7 million in respect of LinnCo s expenses.

LinnCo is obligated to pay Berry a termination fee or expense reimbursement in the following circumstances:

- If the merger agreement is terminated by Berry prior to the approval of the matters related to the transactions by the LinnCo common shareholders and the LINN unitholders because the LinnCo board of directors or the LINN board of directors changed its recommendation for the transactions, then LinnCo will pay Berry a termination fee of $83.7 million;

If the merger agreement is terminated by LinnCo or LINN because the merger has not closed by the End Date and at the time of such termination, the approval of the matters related to the transactions by the LinnCo common shareholders and the LINN unitholders has not been obtained, and Berry would

Table of Contents

Index to Financial Statements

have been entitled to terminate the merger agreement because the LinnCo board of directors or the LINN board of directors changed its recommendation for the transactions, then LinnCo is required to pay Berry a termination fee of $83.7 million;

If the merger agreement is terminated by Berry because LinnCo or LINN failed to comply with its obligations to call the LinnCo annual meeting or the LINN annual meeting, respectively, then LinnCo is required to pay Berry a termination fee of $83.7 million; and

If the merger agreement is terminated by Berry because LinnCo or LINN materially breached its covenants in the merger agreement (other than in circumstances described in the immediately preceding bullet), then LinnCo is required to pay Berry $25.7 million in respect of Berry s expenses.

**Derivative Transactions upon Termination**

Berry has implemented certain derivative transactions with respect to its production following the execution of the merger agreement. In general, if the merger agreement is terminated and the termination of the derivative transactions as of such termination would result in a net loss (including costs and expenses) to Berry, (a net derivatives loss ), then LinnCo and LINN, jointly and severally, will pay to Berry an amount of cash equal to the net derivatives loss within five business days of such termination, and if the merger agreement is terminated and the termination of the derivative transactions as of such termination would result in a net gain (after taking into account costs and expenses) to Berry (a net derivatives gain ), then Berry will pay to LinnCo an amount of cash equal to the net derivatives gain within five business days of such termination.

However, if the merger agreement is terminated because (1) the Berry board of directors makes a Company Adverse Recommendation Change or (2) Berry terminates the merger agreement to accept a company superior proposal, then Berry and LinnCo will each bear half of the net derivatives loss and receive half of the net derivatives gain (as applicable) associated with the derivative transactions. In addition, if one party willfully breaches its obligations under the merger agreement, then the breaching party will bear all of the net derivatives loss associated with the derivative transactions and, if the derivative transactions resulted in a net derivatives gain, then the non-breaching party will receive all of such net derivatives gain.

**Amendment, Waiver and Extension of the Merger Agreement**

Subject to applicable law, the parties may amend the merger agreement by written agreement. However, if after approval of the transactions contemplated by the merger agreement by the Berry stockholders, there is a legal or NYSE requirement for further approval by stockholders of an amendment, then the effectiveness of such amendment or waiver will be subject to the approval of the Berry stockholders.

## ACCOUNTING TREATMENT

The acquisition of Berry will be accounted for under the acquisition method of accounting for business combinations in accordance with GAAP. Under the acquisition method of accounting, the assets acquired and liabilities assumed from Berry will be recorded as of the acquisition date at their respective fair values. LinnCo s contribution of Berry to LINN will be accounted for as a sale by LinnCo.

Table of Contents

Index to Financial Statements

**UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION**

*LinnCo:*

The unaudited pro forma condensed combined balance sheet gives effect to the acquisition of Berry as if the transactions had been completed as of September 30, 2013. The unaudited pro forma condensed combined statements of operations gives effect to the acquisition of Berry as if the transactions had been completed as of April 30, 2012 (the date of LinnCo s inception).

*LINN:*

The unaudited pro forma condensed combined balance sheet gives effect to LinnCo s contribution of Berry to LINN as if the transactions had been completed as of September 30, 2013. The unaudited pro forma condensed combined statements of operations gives effect to (i) LinnCo s contribution of Berry to LINN as if the transactions had been completed as of January 1, 2012, and (ii) the Green River Acquisition and the Hugoton Acquisition as if they had been completed as of January 1, 2012.

The pro forma financial information does not give effect to the costs of any integration activities or benefits that may result from the realization of future cost savings from operating efficiencies, or any other synergies that may result from the transactions and changes in commodity and share prices. Additionally, the pro forma financial information does not represent the actual results of allocating depreciation, depletion and amortization and other cost recovery deductions generated from the remedial allocation method pursuant to Treasury Regulation Section 1.704-3(d). The total tax liability generated from the remedial allocation will be recognized over the remaining life of the underlying assets, which could extend beyond 50 years. See footnote (d) to LinnCo s notes to the unaudited pro forma condensed combined financial statements for additional information.

The unaudited pro forma condensed combined financial information has been prepared for informational purposes only and does not purport to represent what the actual results of operations or the financial position of LinnCo or LINN would have been had the transactions, the Green River Acquisition and the Hugoton Acquisition been completed as of the dates assumed, nor is this information necessarily indicative of future consolidated results of operations or financial position. The unaudited pro forma condensed combined balance sheet and statements of operations should be read in conjunction with Berry s, LinnCo s and LINN s historical financial statements and the notes thereto included in their Annual Reports on Form 10-K for the year ended December 31, 2012, and in conjunction with the historical statements of revenues and direct operating expenses for the BP Green River Properties and the BP Hugoton Properties and the notes thereto, which have been included in this joint proxy statement/prospectus.

Table of Contents

Index to Financial Statements

**LINNCO, LLC**

**UNAUDITED PRO FORMA CONDENSED COMBINED BALANCE SHEET**

**September 30, 2013**

| | LinnCo Historical | Berry Historical | Pro Forma Adjustments Contribution to LINN Energy*(a)* | Other | | LinnCo Pro Forma |
|---|---|---|---|---|---|---|
| | | | (in thousands) | | | |
| **ASSETS** | | | | | | |
| **Current assets:** | | | | | | |
| Cash and cash equivalents | $ 1,045 | $ 24,055 | $ (24,055) | $ | | $ 1,045 |
| Accounts receivable | 6,250 | 148,019 | (148,019) | 6,000 | *(h)* | 12,250 |
| Derivative instruments | | 4,960 | (4,960) | | | |
| Deferred income taxes | | 1,574 | (1,574) | 1,574 | *(d)* | 1,574 |
| Other current assets | 361 | 18,429 | (18,429) | | | 361 |
| Total current assets | 7,656 | 197,037 | (197,037) | 7,574 | | 15,230 |
| **Noncurrent assets:** | | | | | | |
| Oil and natural gas properties (successful efforts method), net | | 3,301,182 | (3,301,182) | | | |
| Other property and equipment, net | | 14,065 | (14,065) | | | |
| Derivative instruments | | 17,245 | (17,245) | | | |
| Investment in Linn Energy, LLC | 1,182,185 | | | 1,986,605 | *(c)* | 3,168,790 |
| Other noncurrent assets | | 24,382 | (24,382) | 12,000 | *(h)* | 12,000 |
| Total noncurrent assets | 1,182,185 | 3,356,874 | (3,356,874) | 1,998,605 | | 3,180,790 |
| Total assets | $ 1,189,841 | $ 3,553,911 | $ (3,553,911) | $ 2,006,179 | | $ 3,196,020 |
| **LIABILITIES AND SHAREHOLDERS EQUITY** | | | | | | |
| **Current liabilities:** | | | | | | |
| Accounts payable | $ 6,250 | $ 153,893 | $ (153,893) | $ | | $ 6,250 |
| Derivative instruments | | 8,561 | (8,561) | | | |
| Other accrued liabilities | | 53,969 | (53,969) | | | |
| Senior notes, net, current | | 204,116 | (204,116) | | | |
| Total current liabilities | 6,250 | 420,539 | (420,539) | | | 6,250 |
| **Noncurrent liabilities:** | | | | | | |
| Credit facility | | 636,000 | (636,000) | | | |
| Senior notes, net | | 900,000 | (900,000) | | | |