

APACHE CORP
Form S-4/A
September 01, 2010

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As filed with the Securities and Exchange Commission on August 31, 2010

Registration No. 333-166964

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

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

APACHE CORPORATION
(Exact Name of Registrant as Specified in its Charter)

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

1311
*(Primary Standard Industrial
Classification Code Number)*

41-0747868
*(I.R.S. Employer
Identification Number)*

One Post Oak Central
2000 Post Oak Boulevard, Suite 100
Houston, Texas 77056-4400
(713) 296-6000
*(Address, including zip code, and telephone number,
including area code, of registrant's principal executive offices)*

P. Anthony Lannie
Executive Vice President and General Counsel
Apache Corporation
One Post Oak Central
2000 Post Oak Boulevard, Suite 100
Houston, Texas 77056-4400
(713) 296-6000
*(Name, address, including zip code, and telephone number,
including area code, of agent for service)*

Copies To:

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

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

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

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

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

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

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

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

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

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

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

PRELIMINARY SUBJECT TO COMPLETION, DATED AUGUST 31, 2010

PROPOSED MERGER YOUR VOTE IS VERY IMPORTANT

Dear Stockholders of Mariner Energy, Inc.:

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

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

The total amount of cash and shares of Apache common stock that will be paid and issued, respectively, pursuant to the merger agreement is fixed, and an election to receive stock consideration or cash consideration is subject to a proration feature. As a result, if Mariner stockholders elect, in the aggregate, to receive cash in an amount greater than the aggregate cash consideration payable under the merger agreement, then those holders electing to receive all cash consideration will be prorated down (in accordance with their respective shares for which the cash consideration was elected) and will receive Apache stock as a portion of the overall consideration they receive for their shares. On the other hand, if Mariner stockholders elect, in the aggregate, to receive stock in an amount greater than the aggregate number of shares issuable under the merger agreement, then those holders electing to receive all stock consideration will be prorated down (in accordance with their respective shares for which the stock consideration was elected) and will receive cash as a portion of the overall consideration they receive for their shares.

Immediately following completion of the merger, it is expected that Mariner stockholders will own approximately 5% of the outstanding shares of Apache common stock, based on the number of shares of Mariner and Apache common stock outstanding as of July 28, 2010.

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

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

Mariner is holding a special meeting of stockholders on [], 2010 to consider and vote to approve and adopt the merger agreement, as it may be amended from time to time. Your vote is very important. The merger cannot be

completed unless the holders of a majority of the outstanding shares of Mariner common stock vote for the approval and adoption of the merger agreement at the special meeting. **Please note that a failure to vote your shares is the equivalent of a vote AGAINST the approval and adoption of the merger agreement.**

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

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

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

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

Sincerely,

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

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

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

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

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To the Stockholders of Mariner Energy, Inc.:

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

1. to consider and vote on the proposal to approve and adopt the Agreement and Plan of Merger, dated April 14, 2010, as amended by Amendment No. 1 dated August 2, 2010 (as amended, referred to as the merger agreement), by and among Apache Corporation, which is referred to as Apache, ZMZ Acquisitions LLC, a Delaware limited liability company and a wholly owned subsidiary of Apache, and Mariner, as it may be amended from time to time (a copy of the merger agreement is attached as Annex A to the proxy statement/prospectus accompanying this notice);
2. to consider and vote on any proposal to adjourn the special meeting to a later date or dates if necessary to solicit additional proxies if there are insufficient votes to approve and adopt the merger agreement at the time of the special meeting; and
3. to transact any other business that may properly come before the special meeting or any adjournment or postponement of the special meeting.

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

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

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

AGAINST the approval and adoption of the merger agreement.

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

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

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YOUR VOTE IS IMPORTANT!

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

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

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

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ADDITIONAL INFORMATION

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

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

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

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

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

ABOUT THIS DOCUMENT

This document, which forms part of a registration statement on Form S-4 filed with the SEC by Apache (File