

CONCHO RESOURCES INC
Form 8-K
January 04, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of report (Date of earliest event reported): January 2, 2013

Concho Resources Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-33615
(Commission
File Number)

76-0818600
(I.R.S. Employer
Identification No.)

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One Concho Center

600 West Illinois Avenue

Midland, Texas

(Address of Principal Executive Offices)

Registrant's telephone number, including area code: (432) 683-7443

79701

(Zip Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Performance Unit Award Agreement

On January 2, 2013, the Compensation Committee (the **Compensation Committee**) of the Board of Directors of Concho Resources Inc. (the **Company**) granted performance units (the **Performance Units**) to the officers of the Company pursuant to a form of Performance Unit Award Agreement (the **Performance Unit Award Agreement**) approved by the Compensation Committee on such date. The Performance Units were granted under the Company's 2006 Stock Incentive Plan, as amended and restated effective as of April 19, 2012, which was approved by the Company's stockholders in June 2012.

The Performance Units granted to each recipient are payable in shares of the Company's common stock (**Common Stock**) based upon the achievement by the Company over a performance period commencing on January 1, 2013 and ending on December 31, 2015 of performance goals established by the Compensation Committee. The number shares of Common Stock that may be issued pursuant to an award will be determined by multiplying the number of Performance Units granted under the award by both the Relative TSR Percentage and the Absolute TSR Percentage. The **Relative TSR Percentage** is the percentage, if any, achieved by attainment of the following performance goals for the performance period, as certified by the Compensation Committee: (i) if the Company's total shareholder return (**TSR**) measured against the Company's peer group is below the 25th percentile, the Relative TSR Percentage is 0%; (ii) if the TSR measured against the Company's peer group is in the 25th percentile, the Relative TSR Percentage is 50%; (iii) if the TSR measured against the Company's peer group is in the 50th percentile, the Relative TSR Percentage is 100%; (iv) if the TSR measured against the Company's peer group is in the 70th percentile, the Relative TSR Percentage is 150%; and (v) if the TSR measured against the Company's peer group is in the 90th percentile or above, the Relative TSR Percentage is 200%, with 200% being the maximum and the Compensation Committee applying straight line interpolation for all points between the 25th percentile threshold and the 90th percentile maximum. The **Absolute TSR Percentage** is the percentage, if any, achieved by attainment of the following performance goals for the performance period, as certified by the Compensation Committee: (a) if the Company's absolute annualized TSR is less than 0%, the Absolute TSR Percentage is 50%; (b) if the Company's absolute annualized TSR is at least 0% and not greater than 15%, the Absolute TSR Percentage is 100%; and (c) if the Company's absolute annualized TSR is greater than 15%, the Absolute TSR Percentage is 150%. TSR for the Company and each of the peer companies is generally determined by dividing (A) the average closing stock prices on each trading day during the period beginning on the first day of the calendar month in which the last day of the performance period occurs and ending on the last day of the performance period plus cash dividends paid over the performance period minus the starting average stock price by (B) the starting average stock price, with the starting average stock price being the average of the closing stock prices on each trading day in the calendar month immediately preceding the first day of the performance period.

Dividend equivalents with respect to any cash dividends paid during the performance period are paid at the same time, and subject to the same terms and conditions, as are applicable to Performance Units, except that if more than one share of Common Stock becomes payable in respect of a Performance Unit, then the maximum amount of dividend equivalents payable with respect to such unit equals the aggregate amount of cash dividends paid during the performance period on one share of Common Stock. Unless otherwise determined by the Compensation Committee, each recipient will forfeit his or her Performance Units if the recipient's employment with the Company terminates during the performance period for any reason other than for death, disability or retirement on or after attainment of age 65. If employment is terminated during the performance period due to death, disability or such retirement, the recipient is entitled to receive payment with respect to his or her Performance Units based on actual performance for the performance period (which payment will be pro-rated in the event of retirement). In the event of a change of control of the Company during the performance period, the Relative TSR Percentage and the Absolute TSR Percentage will be determined based on actual performance as if the performance period ended on the date of the change of control, and outstanding Performance Units will be settled immediately following such date.

The Performance Units granted on January 2, 2013 by the Compensation Committee to the named executive officers pursuant to a Performance Unit Award Agreement are as follows: Timothy A. Leach, 37,051 Performance Units; Darin G. Holderness, 11,115 Performance Units; Matthew G. Hyde, 11,115 Performance Units; and E. Joseph Wright, 18,525 Performance Units.

A copy of the form of Performance Unit Award Agreement is attached hereto as Exhibit 10.1 and is incorporated by reference herein in its entirety. The foregoing description of the Performance Unit Award Agreement is qualified in its entirety by reference to the complete text of the Performance Unit Award Agreement.

Separation and Release Agreement

The Company previously reported that on February 28, 2012, Jack F. Harper, the Company's Senior Vice President and Chief of Staff, announced his intention to retire from the Company effective December 31, 2012. On January 2, 2013 and in connection with his retirement, the Company entered into a Separation and Release Agreement (the **Separation Agreement**) with Mr. Harper.

Pursuant to the Separation Agreement, Mr. Harper will be entitled to receive (a) a lump sum payment of \$400,000, (b) accelerated vesting of 12,146 shares of restricted stock, and (c) accelerated vesting of stock options covering 3,272 shares of common stock. Pursuant to the Separation

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Agreement, Mr. Harper's employment with the Company ended on January 2, 2013 and, in connection with such termination of the employment relationship, Mr. Harper acknowledged forfeiture of his remaining unvested shares of restricted stock. Mr. Harper also granted the Company a general release of liability and claims. Finally, the Separation Agreement subjects Mr. Harper to customary cooperation, non-disparagement, non-solicitation and confidentiality obligations.

Pursuant to its terms, Mr. Harper may revoke his agreement to enter into the Separation Agreement for seven days following its execution. If Mr. Harper exercises his revocation right, the Separation Agreement shall cease to be in effect and shall be treated as if it had never been executed.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description of Exhibit
10.1	Form of Performance Unit Award Agreement.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CONCHO RESOURCES INC.

Date: January 4, 2013

By: /s/ C. William Giraud
Name: C. William Giraud
Title: Senior Vice President, General Counsel and Corporate Secretary

EXHIBIT INDEX

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