

HOLLY ENERGY PARTNERS LP
Form 8-K
October 21, 2009

**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):

October 20, 2009 (October 19, 2009)

HOLLY ENERGY PARTNERS, L.P.

(Exact name of registrant as specified in its charter)

Delaware
(State of Incorporation)

001-32225
(Commission File Number)

20-0833098
(I.R.S. Employer
Identification Number)

100 Crescent Court, Suite 1600, Dallas, Texas 75201-6915

(Address of Principal Executive Offices)

(214) 871-3555

(Registrant's telephone number, including area 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:

- 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))
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Item 1.01 Entry into a Material Definitive Agreement.

Asset Sale and Purchase Agreement

On October 19, 2009, HEP Tulsa LLC (*HEP Tulsa*), a wholly owned subsidiary of Holly Energy Partners, L.P. (the *Partnership*), entered into an Asset Sale and Purchase Agreement (the "*Purchase Agreement*") with Sinclair Tulsa Refining Company (*Sinclair*) pursuant to which HEP Tulsa agreed to purchase tankage, loading rack and pipeline assets at Sinclair's refining facility in Tulsa, Oklahoma (the *Refinery*) for an aggregate consideration of \$75 million, consisting of 1,373,609 of the Partnership's common units (the *HEP Common Units*) to be issued by the Partnership to Sinclair (which under the Purchase Agreement are valued at \$53.5 million based on the average price of the Partnership's common units during the 20 trading day period prior to the date of the Purchase Agreement) and \$21.5 million in cash from HEP Tulsa. Pursuant to the same Purchase Agreement, Holly Refining & Marketing-Tulsa LLC (*Holly Tulsa*) and, together with HEP Tulsa, the *Buyers*), an affiliate of the entity that controls the Partnership's general partner, Holly Corporation (*Holly*), agreed to purchase refining assets at the Refinery for an aggregate consideration of \$128.5 million, consisting of \$74 million of Holly common stock to be issued by Holly to Sinclair and \$54.5 million in cash from Holly Tulsa. In addition, Holly Tulsa will purchase the related inventory at the Refinery. The transactions contemplated by this Purchase Agreement are referred to as the *Acquisitions*.

The consummation of the Acquisitions is subject to customary closing conditions, including, but not limited to, obtaining certain governmental and third party consents and the absence of a material adverse effect on Sinclair's business at the Refinery, or on either the Partnership or Holly. In addition, Buyers' obligation to close the Acquisitions is conditioned upon Sinclair obtaining an amendment to a certain environmental consent decree and a recommendation by EPA counsel of the removal of the Refinery from the EPA debarment list. The Purchase Agreement may be terminated by either Buyers or Sinclair if the closing of the Acquisition is not consummated by December 1, 2009, with each party having the right in certain circumstances to extend the closing to December 31, 2009.

Holly has agreed to guaranty the obligations of Holly Tulsa under the Purchase Agreement. Holly Energy Partners Operating, L.P., a subsidiary of the Partnership, has agreed to guaranty the obligations of HEP Tulsa under the Purchase Agreement. The Sinclair Companies, Sinclair's ultimate parent company, has agreed to guaranty the obligations of Sinclair under the Purchase Agreement.

The description of the Purchase Agreement herein is qualified by reference to the copy of the Purchase Agreement, including exhibits, filed as Exhibit 2.1 to this report, which is incorporated by reference into this report in its entirety.

Registration Rights and Transfer Restriction Agreement

Contemporaneously with the execution of the Purchase Agreement, the Partnership entered into a Registration Rights and Transfer Restriction Agreement (the *Registration Rights Agreement*) with Sinclair pursuant to which the Partnership agreed to file a resale registration statement (the "*Registration Statement*") with regard to Sinclair's resale of the HEP Common Units following the closing of the Acquisitions. Under the Registration Rights Agreement, the Partnership has the right to prevent Sinclair from selling under the prospectus filed under the Registration Statement during certain blackout periods. The Registration Rights Agreement also provides that Sinclair is restricted from trading more than 8,900 HEP Common Units in any trading day, though it may exceed that limit in certain circumstances.

The description of the Registration Rights Agreement herein is qualified by reference to the copy of the Registration Rights Agreement, including exhibits, filed as Exhibit 4.1 to this report, which is incorporated by reference into this report in its entirety.

Anticipated Additional Agreements to be Entered into at Closing

In connection with the closing of the Acquisitions, we anticipate that Holly Tulsa will enter into a 15 year Pipelines, Tankage and Loading Rack Throughput Agreement (the *Throughput Agreement*) with HEP Tulsa, to pay HEP Tulsa, subject to various adjustments:

a pipeline tariff of \$.10 for each barrel of refined products moved on the pipelines acquired by HEP Tulsa in the Acquisitions, with a guaranteed minimum throughput of 60,000 bpd of refined products moved;

a tankage base tariff of \$.30 for each barrel of refined products stored using tankage acquired by HEP Tulsa in the Acquisitions, with a guaranteed minimum throughput of 80,000 bpd of refined products, \$.10 per barrel for volumes in excess of 80,000 bpd but less than 120,000 bpd, and \$.22 per barrel for volumes in excess of 120,000 bpd; and

a loading racks tariff of \$.30 for each barrel of refined products, LPG, and heavy products loaded over the loading racks acquired by HEP Tulsa in the Acquisitions, with a guaranteed minimum throughput of 26,000 bpd.

We also anticipate that, in connection with the closing of the Acquisitions, Holly, the Partnership and certain of their respective subsidiaries, including Holly Tulsa and HEP Tulsa, will enter into an amendment to the Second Amended and Restated Omnibus Agreement dated August 1, 2009 by and among those entities to extend Holly's right of first refusal to purchase certain of the Partnership's assets that serve Holly's refineries to include the assets acquired by HEP Tulsa in the Acquisitions.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth under Item 1.01 above is incorporated herein by reference. The private placement of the HEP Common Units to be issued pursuant to the Purchase Agreement is being made in reliance upon an exemption from the registration requirements of the Securities Act of 1933 pursuant to Section 4(2) thereof, as well as Rule 506 of Regulation D thereunder.

Item 9.01 Financial Statements and Exhibits.

(d) *Exhibits*

| Exhibit No. | Description |
|-------------|--|
| 2.1 | Asset Sale and Purchase Agreement, dated October 19, 2009* |
| 4.1 | Registration Rights and Transfer Restriction Agreement, dated October 19, 2009 |

* The Partnership agrees to furnish a copy of any omitted schedule or exhibit to the Securities and Exchange Commission upon request.

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.

HOLLY ENERGY PARTNERS, L.P.

By: HEP Logistics Holdings, L.P., its
General Partner

By: Holly Logistic Services, L.L.C., its
General Partner

By: /s/ Bruce R. Shaw
Bruce R. Shaw, Senior Vice President
and Chief
Financial Officer

Date: October 20, 2009

EXHIBIT INDEX

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