

8-K - 2020-10-09

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8-K

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**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 9, 2020**

Camber Energy, Inc.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction of
incorporation)

001-32508

(Commission File Number)

20-2660243

(I.R.S. Employer Identification No.)

1415 Louisiana, Suite 3500, Houston, Texas 77002

(Address of principal executive offices)

(210) 998-4035

(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))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.001 Par Value Per Share	CEI	NYSE American

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter). ?

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ?

Explanatory Note

As previously disclosed in the [Current Report on Form 8-K](#) filed on February 5, 2020, by Camber Energy, Inc. (“Camber” or the “Company”), the Company, on February 3, 2020, entered into an Agreement and Plan of Merger with Viking Energy Group, Inc. (“Viking”), as amended from time to time and as amended and restated by the Amended and Restated Agreement and Plan of Merger entered into with Viking on August 31, 2020, as disclosed in the [Current Report on Form 8-K](#) filed on September 3, 2020 (the “Merger Agreement”), which contemplates a newly-formed wholly-owned subsidiary of Camber merging with and into Viking (the “Merger”), with Viking surviving the Merger as a wholly-owned subsidiary of Camber. This Current Report on Form 8-K is being filed to disclose an amendment to the Merger Agreement.

Item 1.01. Entry into a Material Definitive Agreement.

On October 9, 2020, Viking and Camber entered into the First Amendment to Amended and Restated Agreement and Plan of Merger (the “First Amendment”) to amend the Merger Agreement to (a) fix the percentage of the post-Merger capitalization of the combined company which would be held by stockholders of Camber (on a fully-diluted basis, but without taking into account the shares of common stock of Camber issuable upon conversion of Camber’s outstanding Series C Preferred Stock)(the “Camber Percentage”) at 20% (previously such Camber Percentage was adjustable between 15% to 25%, depending on the amount of cash and/or other unencumbered assets Camber and Viking had at the time of the closing of the Merger which was available to the combined company); (b) extend the date that the Merger Agreement could be terminated by either party until December 31, 2020, provided that the right to terminate the Merger Agreement thereafter is not available to a party if the failure of the closing of the Merger to occur by such date is principally due to the failure of such party to perform or observe the obligations, covenants and agreements of such party set forth in the Merger Agreement; and (c) remove the requirement that Viking obtain the consent of its lender, ABC Funding, LLC, for the Merger.

The foregoing description of the First Amendment is not a complete summary and is qualified in its entirety by reference to the full text of the First Amendment, which is filed as [Exhibit 2.2](#) to this Current Report on Form 8-K and incorporated by reference into this [Item 1.01](#).

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit Number	Description of Exhibit
2.1#	Amended and Restated Agreement and Plan of Merger, dated as of August 31, 2020, by and between Viking Energy Group, Inc. and Camber Energy, Inc. (Filed as Exhibit 2.1 to the Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission on September 3, 2020, and incorporated by reference herein)(File No. 001-32508)
2.2*	First Amendment to Amended and Restated Agreement and Plan of Merger, dated as of October 9, 2020, by and between Viking Energy, Inc. and Camber Energy, Inc.

* Filed herewith.

Certain schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule or Exhibit will be furnished supplementally to the Securities and Exchange Commission upon request; provided, however that Camber Energy, Inc. may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedule or Exhibit so furnished.

Forward-Looking Statements

Certain of the matters discussed in this communication which are not statements of historical fact constitute forward-looking statements that involve a number of risks and uncertainties and are made pursuant to the Safe Harbor Provisions of the Private Securities Litigation Reform Act of 1995. Words such as “strategy,” “expects,” “continues,” “plans,” “anticipates,” “believes,” “would,” “will,” “estimates,” “intends,” “projects,” “goals,” “targets” and other words of similar meaning are intended to identify forward-looking statements but are not the exclusive means of identifying these statements.

Important factors that may cause actual results and outcomes to differ materially from those contained in such forward-looking statements include, without limitation, the occurrence of any event, change or other circumstances that could give rise to the parties failing to complete the merger on the terms disclosed, if at all, the right of one or both of Viking or Camber to terminate the merger agreement and the result of such termination; the outcome of any legal proceedings that may be instituted against Viking, Camber or their respective directors; the ability to obtain regulatory approvals and other consents, and meet other closing conditions to the merger on a timely basis or at all, including the risk that regulatory approvals or other consents required for the merger are not obtained on a timely basis or at all, or which are obtained subject to conditions that are not anticipated or that could adversely affect the combined company or the expected benefits of the transaction; the ability to obtain approval by Viking stockholders and Camber stockholders on the expected schedule; required closing conditions which may not be able to be met and/or consents which may not be able to be obtained; difficulties and delays in integrating Viking’s and Camber’s businesses; prevailing economic, market, regulatory or business conditions, or changes in such conditions, negatively affecting the parties, including, but not limited to, as a result of the recent volatility in oil and gas prices and the status of the economy (both US and global) due to the Covid-19 pandemic and actions taken to slow the spread of Covid-19; risks that the transaction disrupts Viking’s or Camber’s current plans and operations; failing to fully realize anticipated cost savings and other anticipated benefits of the merger when expected or at all; potential adverse reactions or changes to business relationships resulting from the announcement or completion of the merger; the ability of Camber to obtain the approval of its Series C Preferred Stock holder to close the Merger; debt of Viking and the dates such debts come due; the ability of Viking or Camber to retain and hire key personnel; the diversion of management’s attention from ongoing business operations; uncertainty as to the long-term value of the common stock of the combined company following the merger; the continued availability of capital and financing, prior to, and following, the Merger; the business, economic and political conditions in the markets in which Viking and Camber operate; and the fact that Viking’s and Camber’s reported earnings and financial position may be adversely affected by tax and other factors.

Other important factors that may cause actual results and outcomes to differ materially from those contained in the forward-looking statements included in this communication are described in the Form S-4 (defined below), and Viking’s and Camber’s publicly filed reports, including Viking’s Annual Report on Form 10-K for the year ended December 31, 2019, Camber’s Annual Report on Form 10-K for the year ended March 31, 2020 and subsequently filed Quarterly Reports on Form 10-Q.

Viking and Camber caution that the foregoing list of important factors is not complete, and they do not undertake to update any forward-looking statements that either party may make except as required by applicable law. All subsequent written and oral forward-looking statements attributable to Viking, Camber or any person acting on behalf of either party are expressly qualified in their entirety by the cautionary statements referenced above.

Additional Information and Where to Find It

In connection with the planned merger, on September 4, 2020, Camber filed with the Securities and Exchange Commission (SEC), an updated preliminary draft of a registration statement on Form S-4 to register the shares of Camber's common stock to be issued in connection with the merger (the "Form S-4"). The registration statement includes a preliminary joint proxy statement/prospectus which, when finalized, will be sent to the respective stockholders of Viking and Camber seeking their approval of their respective transaction-related proposals. INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE FINAL REGISTRATION STATEMENT ON FORM S-4 AND THE RELATED JOINT PROXY STATEMENT/PROSPECTUS INCLUDED WITHIN THE FINAL REGISTRATION STATEMENT ON FORM S-4, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THOSE DOCUMENTS AND ANY OTHER RELEVANT DOCUMENTS FILED OR TO BE FILED WITH THE SEC IN CONNECTION WITH THE PLANNED MERGER, WHEN THEY BECOME AVAILABLE, BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT VIKING, CAMBER AND THE PLANNED MERGER.

Investors and security holders may obtain copies of these documents free of charge through the website maintained by the SEC at www.sec.gov or from Viking at its website, www.vikingenergygroup.com, or from Camber at its website, www.camber.energy. Documents filed with the SEC by Viking will be available free of charge by accessing Viking's website at www.vikingenergygroup.com under the heading "Investors" – "SEC Filings", or, alternatively, by directing a request by telephone or mail to Viking Energy Group, Inc. at 15915 Katy Freeway, Suite 450, Houston, Texas, 77094, (281) 404-4387, and documents filed with the SEC by Camber will be available free of charge by accessing Camber's website at www.camber.energy under the heading "Investors" – "SEC Filings" or, alternatively, by directing a request by telephone or mail to Camber Energy, Inc. at 1415 Louisiana, Suite 3500, Houston, Texas, 77002, (210) 998-4035.

Participants in the Solicitation

Viking, Camber and certain of their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from the respective stockholders of Viking and Camber in respect of the planned merger under the rules of the SEC. Information about Viking's directors and executive officers is available in Viking's Annual Report on Form 10-K for the year ended December 31, 2019. Information about Camber's directors and executive officers is available in Camber's Annual Report on Form 10-K for the year ended March 31, 2020. Other information regarding the participants in the proxy solicitation and a description of their direct and indirect interests, by security holdings or otherwise, will be contained in the final joint proxy statement/prospectus and other relevant materials to be filed with the SEC regarding the merger when they become available. Investors should read the final joint proxy statement/prospectus carefully when it becomes available before making any voting or investment decisions. You may obtain free copies of these documents from Viking or Camber using the sources indicated above.

No Offer or Solicitation

This communication shall not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities, in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

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.

CAMBER ENERGY, INC.

By: /s/ Robert Schleizer

Name: Robert Schleizer

Title: Chief Financial Officer

Date: October 9, 2020

EXHIBIT INDEX

Exhibit Number	Description of Exhibit
2.1#	<u>Amended and Restated Agreement and Plan of Merger, dated as of August 31, 2020, by and between Viking Energy Group, Inc. and Camber Energy, Inc. (Filed as Exhibit 2.1 to the Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission on September 3, 2020, and incorporated by reference herein)(File No. 001-32508)</u>
2.2*	<u>First Amendment to Amended and Restated Agreement and Plan of Merger, dated as of October 9, 2020, by and between Viking Energy, Inc. and Camber Energy, Inc.</u>

* Filed herewith.

Certain schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule or Exhibit will be furnished supplementally to the Securities and Exchange Commission upon request; provided, however that Camber Energy, Inc. may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedule or Exhibit so furnished.

**FIRST AMENDMENT TO
AMENDED AND RESTATED AGREEMENT AND PLAN OF MERGER**

This First Amendment to Amended and Restated Agreement and Plan of Merger (this “**Agreement**”), dated and effective as of October 9, 2020 (the “**Effective Date**”), amends that certain Amended and Restated Agreement and Plan of Merger dated August 31, 2020 (as amended to date, the “**Plan of Merger**”), by and between Viking Energy Group, Inc., a Nevada corporation (“**Viking**”), and Camber Energy, Inc., a Nevada corporation (“**Camber**”). Certain capitalized terms used below but not otherwise defined shall have the meanings given to such terms in the Plan of Merger. References in the quoted paragraphs of Section 1 hereof to “**Agreement**” refer to the Plan of Merger, whereas references to “**Agreement**” in the other Sections of this Agreement refer to this Third Amendment to Agreement and Plan of Merger.

WHEREAS, Camber and Viking desire to amend the Plan of Merger on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the premises and the mutual covenants, agreements, and considerations herein contained, and other good and valuable consideration, which consideration the parties hereby acknowledge and confirm the receipt and sufficiency thereof, the parties hereto agree as follows:

1. Amendments to Plan of Merger.

A. Effective as of the Effective Date, Section 1.5(b)(1) of the Plan of Merger is amended and restated to provide as follows:

“(1) Each share of Viking Common Stock issued and outstanding immediately prior to the Effective Time, except for shares of Viking Common Stock that are owned by Camber, Viking or Merger Sub (the “**Cancelled Shares**”), shall be converted into the right to receive a number of shares (the “**Common Stock Merger Consideration**”) of Camber Common Stock equal to the following (the “**Exchange Ratio**”): the number of shares of Camber Common Stock considered outstanding on a fully diluted basis immediately prior to Closing, excluding any shares into which the Series C Preferred Stock may be convertible, multiplied by the difference between 100 and the Camber Percentage (as defined below), divided by the Camber Percentage, divided by the number of shares of Viking Common Stock considered outstanding on a fully diluted basis immediately prior to Closing, rounded up to the nearest one-hundred thousandth (1/100,000th). The “**Camber Percentage**” shall equal 20. It is understood and agreed by each of Camber and Viking that neither party will raise capital from the other party’s existing shareholders without the prior written consent of such other party, including, but not limited to Viking contacting Discover Growth Fund for such purpose.

B. Effective as of the Effective Date, Section 8.1(c) of the Plan of Merger is amended and restated to provide as follows:

“(c) by either Viking or Camber if the Merger shall not have been consummated on or before December 31, 2020 (as extended, the “**Termination Date**”), unless the failure of the Closing to occur by such date shall be principally due to the failure of the party seeking to terminate this Agreement to perform or observe the obligations, covenants and agreements of such party set forth herein;”

C. Effective as of the Effective Date, Section 7.1(k) of the Plan of Merger is amended and restated to provide as follows:

“(k) [Intentionally Deleted.]”

D. Effective as of the Effective Date, Section 6.21 of the Plan of Merger is amended and restated to provide as follows:

¹ <https://www.sec.gov/Archives/edgar/data/1309082/000158069520000328/ex2-1.htm>

6.21 Compensation of Camber Management and Board of Directors. Viking agrees that the Camber Board of Directors has approved and authorized consideration of \$150,000 payable to each of Camber's officers and directors (\$600,000 in total), in consideration for past services rendered and services to be rendered by such individuals through the Closing Date, which compensation may be payable at or immediately prior to, the Closing (collectively, the "**Camber Management and Board Compensation**"). Viking approves and consents to the Camber Management and Board Compensation and confirms that the authorization of, and payment of, such Camber Management and Board Compensation is excepted from, and allowed under this Agreement, including, but not limited to Sections 5.1 and 5.2 hereof.

2. **Consideration.** Each of the parties agrees and confirms by signing below that they have received valid consideration in connection with this Agreement and the transactions contemplated herein.

3. **Mutual Representations, Covenants and Warranties.** Each of the parties, for themselves and for the benefit of each of the other parties hereto, represents, covenants and warranties that:

(a) Such party has all requisite power and authority, corporate or otherwise, to execute and deliver this Agreement and to consummate the transactions contemplated hereby and thereby. This Agreement constitutes the legal, valid and binding obligation of such party enforceable against such party in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general equitable principles;

(b) The execution and delivery by such party and the consummation of the transactions contemplated hereby and thereby do not and shall not, by the lapse of time, the giving of notice or otherwise: (i) constitute a violation of any law; or (ii) constitute a breach of any provision contained in, or a default under, any governmental approval, any writ, injunction, order, judgment or decree of any governmental authority or any contract to which such party is bound or affected; and

(c) Any individual executing this Agreement on behalf of an entity has authority to act on behalf of such entity and has been duly and properly authorized to sign this Agreement on behalf of such entity.

4. **Further Assurances.** The parties agree that, from time to time, each of them will take such other action and to execute, acknowledge and deliver such contracts, deeds, or other documents as may be reasonably requested and necessary or appropriate to carry out the purposes and intent of this Agreement and the transactions contemplated herein.

5. **Effect of Agreement.** Upon the effectiveness of this Agreement, each reference in the Plan of Merger to "**Agreement**," "**hereunder**," "**hereof**," "**herein**" or words of like import shall mean and be a reference to such Plan of Merger as modified or amended hereby.

6. **Plan of Merger to Continue in Full Force and Effect.** Except as specifically modified or amended herein, the Plan of Merger and the terms and conditions thereof shall remain in full force and effect.

7. **Entire Agreement.** This Agreement sets forth all of the promises, agreements, conditions, understandings, warranties and representations among the parties with respect to the transactions contemplated hereby and thereby, and supersedes all prior agreements, arrangements and understandings between the parties, whether written, oral or otherwise.

8. **Construction.** In this Agreement words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and neuter genders.

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, without reference to conflicts of law principles except to the extent that United States federal law preempts Nevada law, in which case United States federal law (including, without limitation, copyright, patent and federal trademark law) shall apply, without reference to conflicts of law principles.

10. Heirs, Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns. Neither party shall be able to assign this Agreement without the prior written consent of the other party; provided, that, either party can assign this Agreement to a successor to all or substantially all of its business to which this Agreement relates, whether by asset sale, merger, reorganization or otherwise.

11. Counterparts and Signatures. This Agreement and any signed agreement or instrument entered into in connection with this Agreement, and any amendments hereto or thereto, may be executed in one or more counterparts, all of which shall constitute one and the same instrument. Any such counterpart, to the extent delivered by means of a facsimile machine or by .pdf, .tif, .gif, .jpeg or similar attachment to electronic mail (any such delivery, an “**Electronic Delivery**”) shall be treated in all manner and respects as an original executed counterpart and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party shall raise the use of Electronic Delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of Electronic Delivery as a defense to the formation of a contract, and each such party forever waives any such defense, except to the extent such defense relates to lack of authenticity.

[Remainder of page left intentionally blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written to be effective as of the Effective Date.

“Camber”

CAMBER ENERGY, INC.

/s/ Louis G. Schott

Name: Louis G. Schott

Title: Interim Chief Executive Officer

“Viking”

VIKING ENERGY GROUP, INC.

/s/ James Doris

Name: James A. Doris

Title: Chief Executive Officer