SEITEL INC
Form 8-K
December 23, 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)

December 22, 2009

SEITEL, INC.

(Exact name of registrant as specified in its charter)

Delaware	**333-144844**	**76-0025431**

(State or Other Jurisdiction of Incorporation or Organization)	**(Commission File Number)**	**(IRS Employer Identification No.)**

10811 S. Westview Circle Drive

Building C, Suite 100

Houston, Texas 77043

(Address of Principal Executive Offices, including Zip Code)

(713) 881-8900

(Registrant s telephone number, including area code)

Not Applicable

(Former Name or Former Address, if Changed Since Last Report)

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))

Item 1.01. Entry into a Material Definitive Agreement

Credit Facility

On December 22, 2009, Seitel, Inc. (the Company) entered into a secured credit agreement (the Facility) among the Company, as borrower, ValueAct Capital Management, L.P. (ValueAct), as initial lender (the Lender), and ValueAct, as administrative agent (Administrative Agent) for a $9,900,000 secured credit facility (the Facility). All obligations under the Facility are unconditionally guaranteed by each of the Company s domestic subsidiaries, subject to customary exceptions, exclusions and release mechanisms. The Facility is secured by a lien on substantially all of the assets of the Company and its domestic subsidiaries.

The maturity date of the Facility is December 22, 2014. Borrowings under the Facility are available to fund ongoing working capital requirements of the Company. Loans made under the Facility will bear interest equal to 4% plus the greater of: (i) the prime lending rate as publicly announced from time to time by First Republic Bank, N.A.; (b) the federal funds effective rate in effect, plus .5%; and (c) 7%.

Other material terms of the Facility include:

- The Facility may be prepaid and the commitments terminated in whole at any time upon prior written notice and in minimum amounts of $100,000. Loans made under the Facility that have been prepaid by the Borrower may not be reborrowed.

- The Company must prepay borrowings under the Facility in an amount equal to (a) 100% of the net cash proceeds received from a disposition of assets by the Borrower or any subsidiary (subject to customary exceptions and reinvestment rights), (b) 100% of the net cash proceeds received from the issuance of equity interests by the Borrower s parent or the Borrower or any subsidiary of the Borrower, (c) 100% of the net cash proceeds received from the issuance of any indebtedness by the Borrower s parent or the Borrower or any subsidiary of the Borrower, and (d) 100% of the net cash proceeds received from any cash received by the Borrower or any of its Subsidiaries not (x) in connection with a transaction described in clauses (a) through (c) above or (y) in the ordinary course of business (subject to customary reinvestment rights).

- The Facility contains customary representations and warranties and customary affirmative and negative covenants, including, among other things, restrictions on indebtedness, investments, sales of assets, mergers and acquisitions, liens, change of control and dividends and other distributions. The Facility also requires the Company to comply with a minimum EBITDA covenant.

- The Facility contains customary events of default, the occurrence of which will, among other things, give the Lenders the ability to accelerate all outstanding loans thereunder, after any applicable grace period;

A copy of the Facility is attached to, and is incorporated by reference into, this Current Report on Form 8-K as Exhibit 10.1. The foregoing description of the Facility is qualified in its entirety by reference to the full text of the Facility.

The summary disclosure above is being furnished to provide information regarding certain of the terms of the Facility. No representation, warranty, covenant or agreement described in the summary disclosure or contained in the Facility is, or should be construed as, a representation or warranty by the Company to any investor or covenant or agreement of the Company with any investor. The representations, warranties, covenants and agreements contained in the Facility are solely for the benefit of the parties named or specified therein, may be subject to standards of materiality that differ from those that are applicable to investors and may be qualified by disclosures between the parties.

Security Agreements

On December 22, 2009, the Company and each of the Company s wholly-owned domestic subsidiaries (the Subsidiary Guarantors) entered into a Security Agreement in favor of ValueAct, as collateral agent (the Security Agreement), for the benefit of the secured parties thereunder. Pursuant to the Security Agreement, the obligations under the Facility are secured by a perfected first-priority security interest in substantially all of the Company s assets and the assets of the Subsidiary Guarantors (excluding real property, but including 100% of the stock of the Company s and the Subsidiary Guarantors first-tier domestic subsidiaries and 65% of the stock of their first-tier foreign subsidiaries).

In connection with the Security Agreement, on December 22, 2009, the Company entered into an Intellectual Property Security Agreement in favor of ValueAct, as collateral agent, for the purpose of recording the security interest granted under the Security Agreement to the collateral agent in the Patents (as defined in the Security Agreement) with the U.S. Patent and Trademark Office.

The foregoing descriptions of the Security Agreement and the Intellectual Property Security Agreement do not purport to be complete and are qualified in their entirety by reference to the full text of such agreements, which are attached to this Current Report on Form 8-K as Exhibits 10.2 and 10.3, respectively, and are incorporated herein by reference.

ValueAct is the controlling stockholder of the Company s sole stockholder Seitel Holdings, Inc.

Item 2.03 Creation of Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth above in Item 1.01 of this Current Report on Form 8-K with respect to the Facility is incorporated by reference into this Item 2.03.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits.*

10.1	Credit Agreement dated as of December 22, 2009, by and among Seitel, Inc., as borrower, the lenders party thereto, and ValueAct Capital Management, L.P., as administrative agent.
10.2	Security Agreement dated as December 22, 2009, made by Seitel, Inc. and the subsidiaries of Seitel, Inc. from time to time party thereto, in favor of ValueAct Capital Management, L.P., as collateral agent.
10.3	Intellectual Property Security Agreement dated as of December 22, 2009, made by the pledgors party thereto, in favor of Value Act Capital Management, L.P., as collateral agent.

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 thereunto duly authorized.

	SEITEL, INC.	
Date: December 23, 2009	By:	/s/ MARCIA H. KENDRICK
	Name:	**Marcia H. Kendrick**
	Title:	**Chief Financial Officer**

Exhibit Index

Exhibit No.	Description
10.1	Credit Agreement dated as of December 22, 2009, by and among Seitel, Inc., as borrower, the lenders party thereto, and ValueAct Capital Management, L.P., as administrative agent.
10.2	Security Agreement dated as December 22, 2009, made by Seitel, Inc. and the subsidiaries of Seitel, Inc. from time to time party thereto, in favor of ValueAct Capital Management, L.P., as collateral agent.
10.3	Intellectual Property Security Agreement dated as of December 22, 2009, made by Seitel, Inc., in favor of Value Act Capital Management, L.P., as collateral agent.

2005.

The Pro Forma Condensed Consolidated Statements of Income assume the purchase price of Pulitzer is as defined in the Merger Agreement, in spite of differences in Pulitzer s financial performance and financial condition as of the beginning of the periods presented, which would have likely influenced the purchase price. The Pro Forma Condensed Consolidated Statements of Income also assume that adequate financing to fund the Merger would have been available at interest rates consistent with those contained in the Commitment Letter.

No other acquisitions or divestitures have been included in the Pro Forma Condensed Consolidated Financial Statements as their impact is not material.

In April 2005, the Company executed interest rate swaps in the notional amount of $350,000,000 with a forward starting date of November 30, 2005. The interest rate swaps have terms of 2 to 5 years, carry interest rates from 4.2% to 4.4% (plus the applicable LIBOR margin) and serve to fix the Company s interest rate on debt in the amounts, and for the time periods of, such instruments. Significant differences in interest rates existed prior to, and during the periods included in the Pro Forma Condensed Consolidated Statements of Income, compared to the interest rate environment in which the interest rate swaps noted above were executed. Accordingly, no such instruments have been assumed to have been executed for purposes of the Pro Forma Condensed Consolidated Financial Statements.

Because of the size and complexity of the acquisition, the Company has not yet completed the required determination of fair value of the assets and liabilities of Pulitzer and related allocation of the purchase price. A significant portion of the total purchase price will be allocated between goodwill, which is not subject to amortization. Accordingly, the final determination of value could result in a significant increase or decrease in amortization expense in future periods from the amounts estimated for the periods presented and reported results overall. For example, the Company would record additional amortization expense of $435,000 annually for every $10,000,000 of value allocated to identifiable intangible assets, assuming a twenty-three year useful life, compared to no amortization expense being recorded if such value is allocated to goodwill or an indefinite lived intangible asset. Any changes from amounts previously estimated would not impact the Company s cash flow.

The Pro Forma Condensed Consolidated Financial Statements are presented for illustrative purposes only and are not necessarily indicative of the condensed consolidated financial position or results of operations in future periods or the results that actually would have been realized had the Company and Pulitzer been a consolidated company during the specified periods. The Pro Forma Condensed Consolidated Balance Sheet and Pro Forma Condensed Consolidated Statements of Income should be read in conjunction with the Notes included herein and with the historical financial statements and notes thereto of the Company and Pulitzer.

Lee Enterprises, Incorporated
Pro Forma Condensed Consolidated Statements of Income
Year Ended September 30, 2004

	Lee Enterprises	Pulitzer	Pro Forma Adjustments		Consolidated
Revenue	$ 683,324	$ 439,586			$ 1,122,910
Operating expenses	545,110	369,230	$ 34,209	(1)	948,549
Equity in earnings of associated companies:					
Madison Newspapers, Inc.	8,523				8,523
TNI Partners		16,697			16,697
Other	(183)				(183)
Operating income	146,554	87,053	(34,209)		199,398
Financial income	1,066	4,476	(3,500)	(2)	2,042
Financial expense	(12,665)	(19,392)	(46,736)	(3)	(78,793)
Other, net	(294)	(132)			(426)
Income from continuing operations before income taxes	134,661	72,005	(84,445)		122,221
Income tax expense	48,192	25,753	(31,245)	(4)	42,700
Minority interest		1,486			1,486
Income from continuing operations	$ 86,469	$ 44,766	$ (53,200)		$ 78,035
Basic average common shares	44,792				44,792
Basic earnings per common share	$ 1.93				$ 1.74
Diluted average common shares	45,092				45,092
Diluted earnings per common share	$ 1.92				$ 1.73

See accompanying Notes to Pro Forma Condensed Consolidated Financial Statements

Lee Enterprises, Incorporated
Pro Forma Condensed Consolidated Statements of Income
Six Months Ended March 31, 2005

	Lee Enterprises	Pulitzer	Pro Forma Adjustments		Consolidated
Revenue	$ 352,779	$ 224,280			$ 577,059
Operating expenses	279,681	192,231	$ 16,536	(1)	488,448
Equity in earnings of associated companies:					
Madison Newspapers, Inc.	4,261				4,261
TNI Partners		10,282			10,282
Other	(381)				(381)
Operating income	76,978	42,331	(16,536)		102,773
Financial income	467	3,355	(2,622)	(2)	1,200
Financial expense	(5,586)	(10,755)	(27,127)	(3)	(43,468)
Other, net	(65)	(211)			(276)
Income from continuing operations before income taxes	71,794	34,720	(46,285)		60,229
Income tax expense	26,719	13,229	(17,125)	(4)	22,823
Minority interest		822			822
Income from continuing operations	$ 45,075	$ 20,669	$ (29,160)		$ 36,584
Basic average common shares	45,057				45,057
Basic earnings per common share	$ 1.00				$ 0.81
Diluted average common shares	45,279				45,279
Diluted earnings per common share	$ 1.00				$ 0.81

See accompanying Notes to Pro Forma Condensed Consolidated Financial Statements

Lee Enterprises, Incorporated
Pro Forma Condensed Consolidated Balance Sheet
March 31, 2005

	Lee Enterprises	Pulitzer	Pro Forma Adjustments		Consolidated
Current assets:					
Cash, equivalents and temporary cash investments	$ 1,168	$ 110,297	$ (104,523)	(1)	$ 6,942
Marketable securities		121,122	(121,122)	(1)	
Accounts receivable, net	62,798	52,520			115,318
Inventories	9,852	9,950			19,802
Other	9,763	15,019			24,782
Total current assets	83,581	308,908	(225,645)		166,844
Investments & other	35,548	54,752	17,417	(2)	81,184
			(22,333)	(3)	
			(4,200)	(4)	
Property and equipment, net	196,446	107,872			304,318
Restricted cash	-	73,560			73,560
Goodwill	623,778	821,782	105,133	(5)	1,550,693
Other intangible assets	445,430	33,214	916,053	(5)	1,394,697
Total assets	$ 1,384,783	$ 1,400,088	$ 786,425		$ 3,571,296
Current liabilities:					
Current maturities of long-term debt	$ 12,400	$ -	$ (12,400)	(6)	$ -
Other	88,849	52,423			141,272
Total current liabilities	101,249	52,423	(12,400)		141,272
Long-term debt, less current maturities	152,600	306,000	1,322,202	(6)	1,815,900
			35,098	(7)	
Other long-term liabilities	220,609	133,376	338,546	(8)	710,667
			18,136	(3)	
Stockholders' equity	910,325	908,289	(908,289)	(9)	903,457
			(6,868)	(10)	
Total liabilities and stockholders' equity	$ 1,384,783	$ 1,400,088	$ 786,425		$ 3,571,296

See accompanying Notes to Pro Forma Condensed Consolidated Financial Statements

Lee Enterprises, Incorporated

Notes to Pro Forma Condensed Consolidated Financial Statements

The unaudited Pro Forma Condensed Consolidated Financial Statements reflect a preliminary purchase price of $1.47 billion as shown below (in thousands):

Estimated value of the purchase of common stock and class B common stock of $64 per share	$	1,398,453
Estimated value of common stock underlying options		42,476
Estimated value of restricted stock units		9,471
Estimated transaction costs		20,497
Estimated purchase price	$	1,470,897

The Pro Forma Condensed Consolidated Statements of Income and Pro Forma Condensed Consolidated Balance Sheet reflect the acquisition of Pulitzer under the purchase method of accounting. Under the purchase method of accounting, the purchase price is allocated to the assets acquired and the liabilities assumed based on their estimated fair value. The preliminary fair value of the assets acquired and liabilities assumed have been consolidated with the recorded value of the assets and liabilities of the Company in the Pro Forma Condensed Consolidated Balance Sheet as of March 31, 2005.

The preliminary purchase price allocation for Pulitzer as of March 31, 2005 is as follows (in thousands):

Current assets	$	269,039
Tangible non-current assets		209,651
Goodwill		926,915
Other intangible assets		949,267
Total assets acquired		2,354,872
Current liabilities		52,423
Long-term debt		341,098
Other long-term liabilities		490,454
Estimated purchase price	$	1,470,897

Non-recurring transition costs have been excluded from the Pro Forma Condensed Consolidated Statements of Income.

Adjustments to the Pro Forma Condensed Consolidated Statements of Income consist of the following (in thousands):

	Year Ended September 30, 2004	Six Months Ended March 31, 2005
(1) Increase amortization expense for identified intangible assets related to the Merger	34,209	16,536
(2) Reduce financial income for cash equivalents and marketable securities liquidated to retire existing debt of the Company and fund expenses related to the Merger.	(3,500)	(2,622)
(3) Increase financial expense for amounts borrowed to fund the Merger.	(46,736)	(27,127)
(4) Income tax benefit related to pro forma adjustments based on effective rate of 37%.	(31,245)	(17,125)

Adjustments to the Pro Forma Condensed Consolidated Balance Sheet as of March 31, 2005 consist of the following (in thousands):

	March 31, 2005
(1) Decrease cash equivalents and marketable securities liquidated to fund expenses related to the Merger and retire existing debt of the Company.	
Cash equivalents	(104,523)
Marketable securities	(121,122)
(2) Record financing fees related to new debt of the Company, net of existing financing fees.	17,417
(3) Record fair value of pension, post retirement and other post employment benefits.	
Prepaid pension asset	(22,333)
Accrued pension liability	4,658
Post retirement and post employment liability	13,478
	18,136
(4) Eliminate cash value of life insurance distributed to Pulitzer key employees and directors.	(4,200)
(5) Increase intangible assets related to the Merger.	
Goodwill	105,133
Other intangible assets	916,053
(6) Increase long-term debt related to the Merger, net of repayment of existing long-term debt.	
Increase long-term debt to fund the Merger	1,474,802
Retire existing long-term debt of the Company	(152,600)
	1,322,202
Retire current maturities of existing long-term debt of the Company	(12,400)
(7) Record fair value of long-term debt assumed in the Merger.	35,098
(8) Increase deferred income taxes associated with the Merger primarily related to identified intangible assets.	338,546
(9) Elimination of Pulitzer stockholders' equity.	(908,289)
(10) Record retained earnings impact of certain adjustments related to the Merger.	
Make-whole payment related to early extinguishment of long-term debt of the Company, net of income tax benefit.	(6,161)
Remove existing financing fees of the Company, net of tax	(620)
	(6,868)