

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): **September 20, 2017**

DOUGLAS DYNAMICS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other
jurisdiction of
incorporation)

001-34728
(Commission File
Number)

134275891
(IRS Employer
Identification No.)

7777 North 73rd Street, Milwaukee, Wisconsin 53223
(Address of principal executive offices, including zip code)

(414) 354-2310
(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))

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).

Emerging growth company

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.

Item 1.01. Entry into a Material Definitive Agreement.

On September 20, 2017, Dejana Truck & Utility Equipment Company, LLC (formerly known as Acquisition Delta LLC) ("Delta") entered into a Second Amendment (the "Amendment") to the Asset Purchase Agreement dated June 15, 2016 and amended on February 27, 2017 (the "Agreement"), with Peter Paul Dejana Family Trust 12/31/98 (the "Trust"), Peteco Kings Park Inc. (formerly known as Dejana Truck & Utility Equipment Company, Inc.) ("DTUENY") and, solely in the capacity of appointed agent, Andrew Dejana. Pursuant to the Agreement, Delta, a wholly-owned subsidiary of Douglas Dynamics, Inc. (the "Company"), acquired substantially all of the assets of DTUENY and specified entities directly or indirectly owned by the Trust on July 15, 2016.

As previously disclosed in the Company's Current Reports on Form 8-K filed on June 20, 2016 and March 1, 2017, the Agreement, as amended, provided for potential earnout payments of up to \$26.0 million in the aggregate, contingent on the financial performance of the acquired business for each of the fiscal years ending December 31, 2016, 2017 and 2018. In light of the financial performance of the acquired business that occurred for the fiscal year ended December 31, 2016, as well as the Company's expectation for the performance of the business for the years ended December 31, 2017, and December 31, 2018, the Company anticipates that a portion of the \$16.0 million of the potential remaining earnout payouts could be unearned. The Amendment extends the earnout measurement periods for an additional two years, namely the fiscal years ended December 31, 2019 and December 31, 2020, with the potential for the selling entities to earn up to 50% of the remaining earnout payments unearned based on the original earnout targets and measurement periods.

The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the Amendment, which is filed as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Exhibits. The following exhibit listed in the exhibit index below is being filed herewith:

Exhibit Index to Current Report on Form 8-K

**Exhibit
Number**

- (2.1) [Second Amendment, dated September 20, 2017, to the Asset Purchase Agreement, dated June 15, 2016 and amended on February 27, 2017, among Dejana Truck & Utility Equipment Company, LLC \(formerly known as Acquisition Delta LLC\), Peter Paul Dejana Family Trust 12/31/98, Peteco Kings Park Inc. \(formerly known as Dejana Truck & Utility Equipment Company, Inc.\) and Andrew Dejana, as appointed 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 hereunto duly authorized.

DOUGLAS DYNAMICS, INC.

Date: September 26, 2017

By: James L. Janik
James L. Janik
Chairman, President and Chief Executive Officer

SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT

THIS SECOND AMENDMENT TO ASSET PURCHASE AGREEMENT (this “Second Amendment”) is effective as of September 20, 2017 among Dejana Truck & Utility Equipment Company, LLC, a Delaware limited liability company formerly known as Acquisition Delta LLC (“Buyer”), Peter Paul Dejana Family Trust Dated 12/31/98, a Florida trust (the “Trust”), Peteco Kings Park Inc., a New York corporation formerly known as Dejana Truck & Utility Equipment Company, Inc. (“DTUENY”), and, solely in the capacity of representative, attorney-in-fact and agent of the Trust and DTUENY, Andrew Dejana, a resident of the State of New York (“Appointed Agent”).

WHEREAS, Buyer, the Trust, DTUENY and Appointed Agent have entered into an Asset Purchase Agreement effective as of June 15, 2016 and amended as of February 27, 2017 (the “Purchase Agreement”), pursuant to which Buyer acquired substantially all of the assets of DTUENY and certain of its affiliates; and

WHEREAS, Buyer, the Trust, DTUENY and Appointed Agent wish to enter into this Second Amendment to reflect certain amendments with respect to the manner in which the Annual Earnout Payments (if any) will be calculated under the Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants set forth in this Second Amendment, the parties agree as follows:

1. Earnout Actual Gross Profit. The definition of “Earnout Actual Gross Profit” in Section 11.16 of the Purchase Agreement is hereby amended and restated in its entirety as set forth below:

“Earnout Actual Gross Profit” shall mean an amount equal to the portion of the amount reflected on the “gross profit” line item of the income statement constituting a part of the applicable Final Earnout Statement that is attributable to the Earnout Actual Gross Sales reflected on such applicable Final Earnout Statement. For the avoidance of doubt, when determining the amount of the gross profit is attributable to the net sales that are excluded from the Earnout Actual Gross Sales in the case of the Earnout Year ended on December 31, 2017, December 31, 2018 and December 31, 2019 and December 31, 2020 (as contemplated by the definition of Earnout Actual Gross Sales), a gross margin percentage of 25% shall be used. As a result, (a) in the case of the Earnout Year ended December 31, 2017, the Earnout Actual Gross Profit for such Earnout Year shall exclude \$1,796,912 on account of the \$7,187,647 of net sales excluded from Earnout Actual Gross Sales for such Earnout Year and (b) in the case of the Earnout Year ended December 31, 2018, December 31, 2019 and December 31, 2020, the Earnout Actual Gross Profit for each such Earnout Year shall exclude \$2,695,368 on account of the \$10,781,470 of net sales excluded from Earnout Actual Gross Sales for each such Earnout Year.”

2. Earnout Actual Gross Sales. The definition of “Earnout Actual Gross Sales” in Section 11.16 of the Purchase Agreement is hereby amended and restated in its entirety as set forth below:

“Earnout Actual Gross Sales” shall mean an amount equal to the amount reflected on the “net sales” line item of the income statement constituting a part of the Final Earnout Statement less:

- in the case of the Earnout Year ended December 31, 2016, \$0;
- in the case of the Earnout Year ended December 31, 2017, \$7,187,647;
- in the case of the Earnout Year ended December 31, 2018, \$10,781,470;
- in the case of the Earnout Year ended December 31, 2019, \$10,781,470; and
- in the case of the Earnout Year ended December 31, 2020, \$10,781,470.

3. Earnout Year. The definition of “Earnout Year” in Section 11.16 of the Purchase Agreement is hereby amended and restated in its entirety as set forth below:

“Earnout Year” shall mean, in respect of Buyer, each of the fiscal years ended December 31, 2016, December 31, 2017, December 31, 2018, December 31, 2019 and December 31, 2020.

4. Earnout Measurement Threshold. The definition of “Earnout Measurement Threshold” in Section 11.16 of the Purchase Agreement is hereby amended and restated in its entirety as set forth below:

“Earnout Measurement Threshold” shall mean the amount reflected in the table below:

<u>Earnout Year Ended</u>	<u>Earnout Measurement Threshold</u>
December 31, 2016	\$ 124,996,350
December 31, 2017	\$ 144,661,250
December 31, 2018	\$ 159,550,750
December 31, 2019	\$ 159,550,750
December 31, 2020	\$ 159,550,750

5. Earnout Potential Payment. The definition of “Earnout Potential Payment” in Section 11.16 of the Purchase Agreement is hereby amended and restated in its entirety as set forth below:

<u>Earnout Year Ended</u>	<u>Earnout Potential Payment</u>
December 31, 2016	\$ 10,000,000
December 31, 2017	\$ 10,000,000
December 31, 2018	\$ 6,000,000
December 31, 2019	An amount equal to (a) \$26,000,000 less the sum of all Annual Earnout Payments for the prior Earnout Years, multiplied by (b) 0.50
December 31, 2020	An amount equal to the Earnout Potential Payment for the Earnout Year ended December 31, 2019 less the Annual Earnout Payment for the Earnout Year ended December 31, 2019

6. Conflicting Provisions. Notwithstanding anything to the contrary in this Second Amendment or the Purchase Agreement, if any provision of this Second Amendment contradicts or otherwise conflicts with any provision of the Purchase Agreement, then the provisions of this Second Amendment shall control.

7. Entire Agreement. This Second Amendment supersedes all prior agreements, and constitutes a complete and exclusive statement of the terms of the agreement, among the parties with respect to its subject matter. There are no agreements, representations or warranties among the parties relating to the subject matter of this Second Amendment other than those set forth or provided for in this Second Amendment. Except as otherwise contemplated by this Second Amendment, the Purchase Agreement shall remain in full force and effect in accordance with its terms.

[signature page follows]

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IN WITNESS WHEREOF, the undersigned have executed and delivered this Second Amendment to Asset Purchase Agreement effective as of the day and year first written above.

DEJANA TRUCK & UTILITY EQUIPMENT COMPANY, LLC

By: /s/ James L. Janik
James L. Janik
Chief Executive Officer

PETER PAUL DEJANA FAMILY TRUST DATED 12/31/98

By: /s/ Andrew Dejana
Andrew Dejana
Co-Trustee

By: /s/ Joanne Southwick
Joanne Southwick
Co-Trustee

PETECO KINGS PARK INC.

By: /s/ Andrew Dejana
Andrew Dejana
President

APPOINTED AGENT:

/s/ Andrew Dejana
Andrew Dejana

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