

NAVARRE RICHARD A
Form 4
May 08, 2008

FORM 4

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

OMB APPROVAL

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STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
NAVARRE RICHARD A

2. Issuer Name and Ticker or Trading Symbol
PEABODY ENERGY CORP [BTU]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

(Last) (First) (Middle)
701 MARKET STREET

(Street)

3. Date of Earliest Transaction (Month/Day/Year)
05/06/2008

____ Director _____ 10% Owner
 Officer (give title below) _____ Other (specify below)
Pres & Chief Comm. Officer

ST. LOUIS, MO 63101-1826

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)
 Form filed by One Reporting Person
 Form filed by More than One Reporting Person

(City) (State) (Zip)

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V Amount (A) or (D) Price			
Common Stock	05/06/2008		M ⁽¹⁾	7,382 A \$ 11.2907	7,382 ⁽²⁾	D	
Common Stock	05/06/2008		M ⁽¹⁾	14,003 A \$ 17.8541	21,385	D	
Common Stock	05/06/2008		M ⁽¹⁾	7,796 A \$ 21.9163	29,181	D	
Common Stock	05/06/2008		M ⁽¹⁾	18,847 A \$ 34.9553	48,028	D	
Common Stock	05/06/2008		M ⁽¹⁾	31,769 A \$ 39.8143	79,797	D	

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Common Stock	05/06/2008	<u>S(1)</u>	7,197	D	\$ 65	72,600	D
Common Stock	05/06/2008	<u>S(1)</u>	1,967	D	\$ 65.01	70,633	D
Common Stock	05/06/2008	<u>S(1)</u>	2,476	D	\$ 65.02	68,157	D
Common Stock	05/06/2008	<u>S(1)</u>	2,600	D	\$ 65.03	65,557	D
Common Stock	05/06/2008	<u>S(1)</u>	2,400	D	\$ 65.04	63,157	D
Common Stock	05/06/2008	<u>S(1)</u>	3,502	D	\$ 65.05	59,655	D
Common Stock	05/06/2008	<u>S(1)</u>	4,389	D	\$ 65.06	55,266	D
Common Stock	05/06/2008	<u>S(1)</u>	100	D	\$ 65.065	55,166	D
Common Stock	05/06/2008	<u>S(1)</u>	3,436	D	\$ 65.07	51,730	D
Common Stock	05/06/2008	<u>S(1)</u>	4,090	D	\$ 65.08	47,640	D
Common Stock	05/06/2008	<u>S(1)</u>	5,000	D	\$ 65.09	42,640	D
Common Stock	05/06/2008	<u>S(1)</u>	4,387	D	\$ 65.1	38,253	D
Common Stock	05/06/2008	<u>S(1)</u>	5,884	D	\$ 65.11	32,369	D
Common Stock	05/06/2008	<u>S(1)</u>	1,900	D	\$ 65.12	30,469	D
Common Stock	05/06/2008	<u>S(1)</u>	2,594	D	\$ 65.13	27,875	D
Common Stock	05/06/2008	<u>S(1)</u>	1,000	D	\$ 65.14	26,875	D
Common Stock	05/06/2008	<u>S(1)</u>	100	D	\$ 65.145	26,775	D
Common Stock	05/06/2008	<u>S(1)</u>	3,808	D	\$ 65.15	22,967	D
Common Stock	05/06/2008	<u>S(1)</u>	1,882	D	\$ 65.16	21,085	D
Common Stock	05/06/2008	<u>S(1)</u>	2,738	D	\$ 65.17	18,347	D
	05/06/2008	<u>S(1)</u>	1,097	D	\$ 65.18	17,250	D

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Common Stock							
Common Stock	05/06/2008	S ⁽¹⁾	3,000	D	\$ 65.19	14,250	D
Common Stock	05/06/2008	S ⁽¹⁾	300	D	\$ 65.21	13,950	D
Common Stock	05/06/2008	S ⁽¹⁾	1,057	D	\$ 65.24	12,893	D
Common Stock	05/06/2008	S ⁽¹⁾	600	D	\$ 65.25	12,293	D

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

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(9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instr. 3 and 4)	Amount or Number of Shares		
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares
Employee Stock Option (right to buy)	\$ 11.2907	05/06/2008		M ⁽¹⁾		7,382		06/15/2007	06/15/2014	Common Stock	7,382
Employee Stock Option (right to buy)	\$ 17.8541	05/06/2008		M ⁽¹⁾		14,003		01/03/2008	01/03/2015	Common Stock	14,003
Employee Stock Option (right to buy)	\$ 21.9163	05/06/2008		M ⁽¹⁾		7,796		⁽⁵⁾	04/01/2015	Common Stock	7,796
	\$ 34.9553	05/06/2008		M ⁽¹⁾		18,847		01/03/2008	01/03/2017		18,847

Employee
Stock
Option
(right to
buy)

Common
Stock

Employee
Stock
Option \$ 39.8143 05/06/2008
(right to
buy)

M⁽¹⁾

31,769

(6)

01/03/2016

Common
Stock

31,769

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
NAVARRE RICHARD A 701 MARKET STREET ST. LOUIS, MO 63101-1826			Pres & Chief Comm. Officer	

Signatures

Richard A. Navarre By: Kenneth L. Wagner
 Attorney-in-Fact
 05/08/2008
**Signature of Reporting Person Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).
- ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).
- (1) This exercise/sale was effected pursuant to a pre-existing Rule 10b5-1 trading plan adopted by the reporting person.
- (2) Excludes 27,050 shares previously owned directly which were contributed to the reporting person's trust on February 6, 2008. These 27,050 shares are now owned indirectly by the reporting person.
- (3) Not applicable.
- (4) Does not include employee stock options with different expiration dates and exercise prices.
- (5) The options vested in three equal annual installments beginning April 1, 2006.
- (6) The options vested in three equal annual installments beginning January 3, 2007.

Remarks:

1 of 2 Form 4s - Additional transactions from May 6, 2008 are reported on a separate Form 4.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. DTH="100%">

an estate or trust the income of which is subject to U.S. federal income taxation regardless of its source.

Tax Treatment Prior to Maturity. You should not be required to recognize income over the term of the securities prior to maturity, other than pursuant to a sale, exchange or retirement as described below.

Sale, Exchange or Retirement of the Securities. Upon a sale, exchange or retirement of the securities, you should recognize gain or loss equal to the difference between the amount realized on the sale, exchange or retirement and your tax basis in the securities that are sold, exchanged or retired. Your tax basis in the securities should equal the amount you paid to acquire them. Subject to the discussion below concerning the potential application of the constructive ownership rules under Section 1260 of the Code, this gain or loss should be long-term capital gain or loss if at the time of the sale, exchange or retirement you held the securities for more than one year, and short-term capital gain or loss otherwise. Long-term capital gains recognized by non-corporate U.S. holders are generally subject to taxation at reduced rates. The deductibility of capital losses is subject to certain limitations.

Potential Application of Section 1260 of the Code. There is a risk that your purchase of a security may be treated as entry into a constructive ownership transaction, within the meaning of Section 1260 of the Code, with respect to the underlier. In that case, all or a portion of any long-term capital gain you would otherwise recognize in respect of your securities would be recharacterized as ordinary income to the extent such gain exceeded the net underlying long-term capital gain. Any long-term capital gain recharacterized as ordinary income under Section 1260 of the Code would be treated as accruing at a constant rate over the period you held your securities, and you would be subject to an interest charge in respect of the deemed tax liability on the income treated as accruing in prior tax years. Due to the lack of governing authority under Section 1260 of the Code, our counsel is not able to opine as to whether or how Section 1260 of the Code applies to the securities, including how the net underlying long-term capital gain should be computed if Section 1260 does apply. You should consult your tax adviser regarding the potential application of the constructive ownership rule.

Possible Alternative Tax Treatments of an Investment in the Securities

Alternative U.S. federal income tax treatments of the securities are possible that, if applied, could materially and adversely affect the timing and/or character of income, gain or loss with respect to them. It is possible, for example, that the securities could be treated as debt instruments issued by us. Under this treatment, the securities would be governed by Treasury regulations relating to the taxation of contingent payment debt instruments. In that case, regardless of your method of tax accounting for U.S. federal income tax purposes, you would be required to accrue income based on our comparable yield for similar non-contingent debt, determined as of the time of issuance of the securities, in each year that you held the securities, even though we are not required to make any payment with respect to the securities prior to maturity. In addition, any gain on the sale, exchange or retirement of the securities would be treated as ordinary income.

Other possible U.S. federal income tax treatments of the securities could also affect the timing and character of income or loss with respect to the securities. In 2007, the U.S. Treasury Department and the IRS released a notice requesting comments on the U.S. federal income tax treatment of prepaid forward contracts and similar instruments. The notice focuses in particular on whether to require holders of these instruments to accrue income over the term of their investment. It also asks for comments on a number of related topics, including the character of income or loss with respect to these instruments; whether short-term instruments should be subject to any such accrual regime; the relevance of factors such as the exchange-traded status of the instruments and the nature of the underlying property to which the instruments are linked; and whether these instruments are or should be subject to the constructive ownership regime, as discussed above. While the notice requests comments on appropriate transition rules and effective dates, any Treasury regulations or other guidance promulgated after consideration of these issues could materially and adversely affect the tax consequences of an investment in the securities, possibly with retroactive effect. You should consult your tax adviser regarding the possible alternative treatments of an investment in the securities and the issues presented by this notice.

Tax Consequences to Non-U.S. Holders

This section applies only to non-U.S. holders. You are a non-U.S. holder if you are a beneficial owner of a security that is, for U.S. federal income tax purposes:

an individual who is classified as a nonresident alien;

a foreign corporation; or

a foreign estate or trust.

You are not a non-U.S. holder for purposes of this discussion if you are (i) an individual who is present in the United States for 183 days or more in the taxable year of disposition or (ii) a former citizen or resident of the United States. If you are or may become such a person during the period in which you hold a security, you should consult your tax adviser regarding the U.S. federal tax consequences of an investment in the securities.

Sale, Exchange or Retirement of the Securities. Subject to the possible application of Section 897 of the Code, you generally should not be subject to U.S. federal income or withholding tax in respect of amounts paid to you, provided that income in respect of the securities is not effectively connected with your conduct of a trade or business in the United States.

If you are engaged in a U.S. trade or business, and if income from the securities is effectively connected with the conduct of that trade or business, you generally will be subject to regular U.S. federal income tax with respect to that income in the same manner as if you were a U.S. holder, unless an applicable income tax treaty provides otherwise. If you are such a holder and you are a corporation, you should also consider the potential application of a 30% (or lower treaty rate) branch profits tax.

Tax Consequences Under Possible Alternative Treatments. If all or any portion of a security were recharacterized as a debt instrument, subject to the possible application of Section 897 of the Code and the discussion below regarding FATCA, any payment made to you with respect to the security generally should not be subject to U.S. federal withholding or income tax, provided that: (i) income or gain in respect of the security is not effectively connected with your conduct of a trade or business in the United States, and (ii) you provide an appropriate IRS Form W-8 certifying under penalties of perjury that you are not a United States person.

Other U.S. federal income tax treatments of the securities are also possible. In 2007, the U.S. Treasury Department and the IRS released a notice requesting comments on the U.S. federal income tax treatment of prepaid forward contracts and similar instruments. Among the issues addressed in the notice is the degree, if any, to which income with respect to instruments such as the securities should be subject to U.S. withholding tax. While the notice requests comments on appropriate transition rules and effective dates, it is possible that any Treasury regulations or other guidance promulgated after consideration of these issues might materially and adversely affect the withholding tax consequences of an investment in the securities, possibly with retroactive effect. If withholding applies to the securities, we will not be required to pay any additional amounts with respect to amounts withheld. Accordingly, you should consult your tax adviser regarding the issues presented by the notice.

U.S. Federal Estate Tax

If you are an individual non-U.S. holder or an entity the property of which is potentially includible in such an individual's gross estate for U.S. federal estate tax purposes (for example, a trust funded by such an individual and with respect to which the individual has retained certain interests or powers), you should note that, absent an applicable treaty exemption, the securities may be treated as U.S. situs property subject to U.S. federal estate tax. If you are such an individual or entity, you should consult your tax adviser regarding the U.S. federal estate tax consequences of investing in the securities.

Information Reporting and Backup Withholding

Amounts paid on the securities, and the proceeds of a sale, exchange or other disposition of the securities, may be subject to information reporting and, if you fail to provide certain identifying information (such as an accurate taxpayer identification number if you are a U.S. holder) or meet certain other conditions, may also be subject to backup withholding at the rate specified in the Code. If you are a non-U.S. holder that provides an appropriate IRS Form W-8, you will generally establish an exemption from backup withholding. Amounts withheld under the backup withholding rules are not additional taxes and may be refunded or credited against your U.S. federal income tax liability, provided the relevant information is timely furnished to the IRS.

PRS-32

FATCA Legislation

Legislation commonly referred to as FATCA generally imposes a withholding tax of 30% on payments to certain non-U.S. entities (including financial intermediaries) with respect to certain financial instruments, unless various U.S. information reporting and due diligence requirements have been satisfied. An intergovernmental agreement between the United States and the non-U.S. entity's jurisdiction may modify these requirements. This legislation applies to certain financial instruments that are treated as paying U.S.-source interest or other U.S.-source fixed or determinable annual or periodical income. If the securities were treated as debt instruments, the withholding regime under FATCA would apply to any amounts treated as interest paid with respect to the securities and to the payment of gross proceeds of a disposition (including a retirement) of the securities. However, under a recent IRS notice, withholding under FATCA will apply to payments of gross proceeds (other than any amount treated as interest) only with respect to dispositions after December 31, 2018. If withholding applies to the securities, we will not be required to pay any additional amounts with respect to amounts withheld. If you are a non-U.S. holder, or a U.S. holder holding securities through a non-U.S. intermediary, you should consult your tax adviser regarding the potential application of FATCA to the securities.

The preceding discussion constitutes the full opinion of Davis Polk & Wardwell LLP regarding the material U.S. federal tax consequences of owning and disposing of the securities.

You should consult your tax adviser regarding all aspects of the U.S. federal income and estate tax consequences of an investment in the securities and any tax consequences arising under the laws of any state, local or non-U.S. taxing jurisdiction.

PRS-33