

CROSS TIMBERS ROYALTY TRUST

Form 10-Q

May 09, 2013

Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-Q

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2013

OR

.. **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

Commission File Number: 1-10982

Cross Timbers Royalty Trust

(Exact name of registrant as specified in its charter)

Texas
(State or other jurisdiction of

75-6415930
(I.R.S. Employer

Edgar Filing: CROSS TIMBERS ROYALTY TRUST - Form 10-Q

incorporation or organization)

Identification No.)

U.S. Trust, Bank of America

Private Wealth Management

P.O. Box 830650, Dallas, Texas
(Address of principal executive offices)

75283-0650
(Zip Code)

(877) 228-5084

(Registrant's telephone number, including area code)

NONE

(Former name, former address and former fiscal year, if change since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act (check one):

Large accelerated filer Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2). Yes No

Indicate the number of units of beneficial interest outstanding, as of the latest practicable date:

Outstanding as of April 1, 2013

6,000,000

Table of Contents

CROSS TIMBERS ROYALTY TRUST

FORM 10-Q FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2013

TABLE OF CONTENTS

	<u>Glossary of Terms</u>	Page 3
PART I.	<u>FINANCIAL INFORMATION</u>	
Item 1.	<u>Financial Statements</u>	4
	<u>Report of Independent Registered Public Accounting Firm</u>	5
	<u>Condensed Statements of Assets, Liabilities and Trust Corpus at March 31, 2013 and December 31, 2012</u>	6
	<u>Condensed Statements of Distributable Income for the Three Months Ended March 31, 2013 and 2012</u>	7
	<u>Condensed Statements of Changes in Trust Corpus for the Three Months Ended March 31, 2013 and 2012</u>	8
	<u>Notes to Condensed Financial Statements</u>	9
Item 2.	<u>Trustee's Discussion and Analysis</u>	13
Item 3.	<u>Quantitative and Qualitative Disclosures about Market Risk</u>	17
Item 4.	<u>Controls and Procedures</u>	17
PART II.	<u>OTHER INFORMATION</u>	
Item 1A.	<u>Risk Factors</u>	18
Item 6.	<u>Exhibits</u>	18
	<u>Signatures</u>	19

Table of Contents

CROSS TIMBERS ROYALTY TRUST

GLOSSARY OF TERMS

The following are definitions of significant terms used in this Form 10-Q:

<i>Bbl</i>	Barrel (of oil)
<i>Mcf</i>	Thousand cubic feet (of natural gas)
<i>MMBtu</i>	One million British Thermal Units, a common energy measurement
<i>net proceeds</i>	Gross proceeds received by XTO Energy from sale of production from the underlying properties, less applicable costs, as defined in the net profits interest conveyances.
<i>net profits income</i>	Net proceeds multiplied by the applicable net profits percentage of 75% or 90%, which is paid to the trust by XTO Energy. Net profits income is referred to as royalty income for income tax purposes.
<i>net profits interest</i>	<p>An interest in an oil and gas property measured by net profits from the sale of production, rather than a specific portion of production. The following defined net profits interests were conveyed to the trust from the underlying properties:</p> <p><i>90% net profits interests</i> interests that entitle the trust to receive 90% of the net proceeds from the underlying properties that are royalty or overriding royalty interests in Texas, Oklahoma and New Mexico.</p> <p><i>75% net profits interests</i> interests that entitle the trust to receive 75% of the net proceeds from the underlying properties that are working interests in Texas and Oklahoma.</p>
<i>royalty interest (and overriding royalty interest)</i>	A nonoperating interest in an oil and gas property that provides the owner a specified share of production without any production expense or development costs.
<i>underlying properties</i>	XTO Energy's interest in certain oil and gas properties from which the net profits interests were conveyed. The underlying properties include royalty and overriding royalty interests in producing and nonproducing properties in Texas, Oklahoma and New Mexico, and working interests in producing properties located in Texas and Oklahoma.
<i>working interest</i>	An operating interest in an oil and gas property that provides the owner a specified share of production that is subject to all production expense and development costs.

Table of Contents

CROSS TIMBERS ROYALTY TRUST

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements.

The condensed financial statements included herein are presented, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and footnote disclosures normally included in annual financial statements have been condensed or omitted pursuant to such rules and regulations, although the trustee believes that the disclosures are adequate to make the information presented not misleading. These condensed financial statements should be read in conjunction with the financial statements and the notes thereto included in the trust's latest Annual Report on Form 10-K. In the opinion of the trustee, all adjustments, consisting only of normal recurring adjustments, necessary to present fairly the assets, liabilities and trust corpus of the Cross Timbers Royalty Trust at March 31, 2013, and the distributable income and changes in trust corpus for the three-month periods ended March 31, 2013 and 2012, have been included. Distributable income for such interim periods is not necessarily indicative of distributable income for the full year.

Table of Contents

Report of Independent Registered Public Accounting Firm

To the Unitholders of Cross Timbers Royalty Trust and

Bank of America, N.A., Trustee:

We have reviewed the accompanying condensed statement of assets, liabilities and trust corpus of Cross Timbers Royalty Trust (the Trust) as of March 31, 2013, and the related condensed statements of distributable income and changes in trust corpus for the three-month periods ended March 31, 2013 and 2012. These interim financial statements are the responsibility of the Trustee.

We conducted our review in accordance with the standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States), the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

As described in Note 1, these financial statements were prepared on the modified cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

Based on our review, we are not aware of any material modifications that should be made to the accompanying condensed interim financial statements for them to be in conformity with the basis of accounting described in Note 1.

We previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the statement of assets, liabilities and trust corpus as of December 31, 2012, and the related statements of distributable income and changes in trust corpus for the year then ended (not presented herein), and in our report dated March 8, 2013, we expressed an unqualified opinion on those financial statements. In our opinion, the information set forth in the accompanying condensed statement of assets, liabilities and trust corpus as of December 31, 2012 is fairly stated in all material respects in relation to the statement of assets, liabilities and trust corpus from which it has been derived.

PricewaterhouseCoopers LLP

Dallas, TX

May 9, 2013

Table of Contents**CROSS TIMBERS ROYALTY TRUST****Condensed Statements of Assets, Liabilities and Trust Corpus**

	March 31, 2013 (Unaudited)	December 31, 2012
ASSETS		
Cash and short-term investments	\$ 784,375	\$ 1,307,815
Interest to be received	17	23
Net profits interests in oil and gas properties net (Note 1)	12,381,750	12,532,729
	\$ 13,166,142	\$ 13,840,567
LIABILITIES AND TRUST CORPUS		
Distribution payable to unitholders	\$ 784,392	\$ 1,307,838
Trust corpus (6,000,000 units of beneficial interest authorized and outstanding)	12,381,750	12,532,729
	\$ 13,166,142	\$ 13,840,567

The accompanying notes to condensed financial statements are an integral part of these statements.

Table of Contents**CROSS TIMBERS ROYALTY TRUST****Condensed Statements of Distributable Income (Unaudited)**

	Three Months Ended March 31	
	2013	2012
Net profits income	\$ 2,792,598	\$ 4,376,980
Interest income	61	86
Total income	2,792,659	4,377,066
Administration expense	133,183	127,842
Distributable income	\$ 2,659,476	\$ 4,249,224
Distributable income per unit (6,000,000 units)	\$ 0.443246	\$ 0.708204

The accompanying notes to condensed financial statements are an integral part of these statements.

Table of Contents**CROSS TIMBERS ROYALTY TRUST****Condensed Statements of Changes in Trust Corpus (Unaudited)**

	Three Months Ended March 31	
	2013	2012
Trust corpus, beginning of period	\$ 12,532,729	\$ 13,415,740
Amortization of net profits interests	(150,979)	(226,922)
Distributable income	2,659,476	4,249,224
Distributions declared	(2,659,476)	(4,249,224)
Trust corpus, end of period	\$ 12,381,750	\$ 13,188,818

The accompanying notes to condensed financial statements are an integral part of these statements.

Table of Contents

CROSS TIMBERS ROYALTY TRUST

Notes to Condensed Financial Statements (Unaudited)

1. Basis of Accounting

The financial statements of Cross Timbers Royalty Trust are prepared on the following basis and are not intended to present financial position and results of operations in conformity with U.S. generally accepted accounting principles (GAAP):

Net profits income recorded for a month is the amount computed and paid by XTO Energy Inc., the owner of the underlying properties, to Bank of America, N.A., as trustee for the trust. XTO Energy is a wholly owned subsidiary of Exxon Mobil Corporation. Net profits income consists of net proceeds received by XTO Energy from the underlying properties in the prior month, multiplied by net profit percentages of 90% for the 90% net profits interests, and 75% for the 75% net profits interests.

Costs deducted in the calculation of net proceeds for the 90% net profits interests generally include applicable taxes, transportation, marketing and legal costs, and do not include production expense or development costs. For the 75% net profits interests, costs deducted in the calculation of net proceeds include production expense, development costs, applicable taxes, transportation, marketing and legal costs, operating charges and other costs.

Net profits income is computed separately for each of five conveyances under which the net profits interests were conveyed to the trust. If monthly costs exceed revenues for any conveyance, such excess costs must be recovered, with accrued interest, from future net proceeds of that conveyance and cannot reduce net proceeds from the other conveyances.

Interest income, interest to be received and distribution payable to unitholders include interest to be earned on net profits income from the monthly record date (last business day of the month) through the date of the next distribution to unitholders.

Trust expenses are recorded based on liabilities paid and cash reserves established by the trustee for liabilities and contingencies.

Distributions to unitholders are recorded when declared by the trustee.

The trustee routinely reviews the Trust's net profits interests in oil and gas properties for impairment whenever events or circumstances indicate that the carrying amount of an asset may not be recoverable. If an impairment event occurs and it is determined that the carrying value of the Trust's net profits interests may not be recoverable, an impairment will be recognized as measured by the amount by which the carrying amount of the net profits interests exceeds the fair value of these assets, which would likely be measured by discounting projected cash flows. There is no impairment of the assets as of March 31, 2013.

The financial statements of the trust differ from those prepared in conformity with U.S. GAAP because revenues are recognized when received rather than accrued in the month of production, expenses are recognized when paid rather than when incurred, and certain cash reserves may be established by the trustee for contingencies which would not be recorded under U.S. GAAP. This comprehensive basis of accounting other than U.S. GAAP corresponds to the accounting permitted for royalty trusts by the U.S. Securities and Exchange Commission, as specified by Staff Accounting Bulletin Topic 12:E, Financial Statements of Royalty Trusts.

Table of Contents

Most accounting pronouncements apply to entities whose financial statements are prepared in accordance with U.S. GAAP, directing such entities to accrue or defer revenues and expenses in a period other than when such revenues were received or expenses were paid. Because the trust's financial statements are prepared on the modified cash basis, as described above, most accounting pronouncements are not applicable to the trust's financial statements.

The initial carrying value of the net profits interests of \$61,100,449 represents XTO Energy's historical net book value for the interests on February 12, 1991, the creation date of the trust. Amortization of the net profits interests is calculated on a unit-of-production basis and is charged directly to trust corpus. Accumulated amortization was \$48,718,699 as of March 31, 2013 and \$48,567,720 as of December 31, 2012.

2. Federal Income Taxes

For federal income tax purposes, the trust constitutes a fixed investment trust that is taxed as a grantor trust. A grantor trust is not subject to tax at the trust level. The unitholders are considered to own the trust's income and principal as though no trust were in existence. The income of the trust is deemed to have been received or accrued by each unitholder at the time such income is received or accrued by the trust and not when distributed by the trust.

Because the trust is a grantor trust for federal tax purposes, each unitholder is taxed directly on his proportionate share of income, deductions and credits of the trust consistent with each such unitholder's taxable year and method of accounting and without regard to the taxable year or method of accounting employed by the trust. The income of the trust consists primarily of a specified share of the net profits from the sale of oil and natural gas produced from the underlying properties. During the first quarter of 2013, the trust incurred administration expenses and earned interest income on funds held for distribution and for the cash reserve maintained for the payment of contingent and future obligations of the trust.

The net profits interests constitute economic interests in oil and gas properties for federal tax purposes. Each unitholder is entitled to amortize the cost of the units through cost depletion over the life of the net profits interests or, if greater, through percentage depletion equal to 15 percent of gross income. Unlike cost depletion, percentage depletion is not limited to a unitholder's depletable tax basis in the units. Rather, a unitholder is entitled to a percentage depletion deduction as long as the applicable underlying properties generate gross income. Unitholders may compute both percentage depletion and cost depletion from each property and claim the larger amount as a deduction on their income tax returns.

If a taxpayer disposes of any Section 1254 property (certain oil, gas, geothermal or other mineral property), and the adjusted basis of such property includes adjustments for depletion deductions under Section 611 of the Internal Revenue Code (the Code), the taxpayer generally must recapture the amount deducted for depletion as ordinary income (to the extent of gain realized on the disposition of the property). This depletion recapture rule applies to any disposition of property that was placed in service by the taxpayer after December 31, 1986. Detailed rules set forth in Sections 1.1254-1 through 1.1254-6 of the U.S. Treasury Regulations govern dispositions of property after March 13, 1995. The Internal Revenue Service likely will take the position that a unitholder must recapture depletion upon the disposition of a unit.

Table of Contents

Interest and net profits income attributable to ownership of units and any gain on the sale thereof are considered portfolio income, and not income from a passive activity, to the extent a unitholder acquires and holds units as an investment and not in the ordinary course of a trade or business. Therefore, interest and net profits income attributable to ownership of units generally may not be offset by losses from any passive activities.

Individuals may incur expenses in connection with the acquisition or maintenance of trust units. These expenses may be deductible as miscellaneous itemized deductions only to the extent that such expenses exceed 2 percent of the individual's adjusted gross income.

Under current law, the highest marginal U.S. federal income tax rate applicable to ordinary income of individuals is 39.6%, and the highest marginal U.S. federal income tax rate applicable to long-term capital gains (generally, gains from the sale or exchange of certain investment assets held for more than one year) and qualified dividends of individuals is 20%. Such marginal tax rates may be effectively increased by up to 1.2% due to the phaseout of personal exemptions and the limitations on itemized deductions. The highest marginal U.S. federal income tax rate applicable to corporations is 35%, and such rate applies to both ordinary income and capital gains.

Section 1411 of the Code imposes a 3.8% Medicare tax on certain investment income earned by individuals, estates, and trusts for taxable years beginning after December 31, 2012. For these purposes, investment income generally will include a unitholder's allocable share of the trust's interest and royalty income plus the gain recognized from a sale of trust units. In the case of an individual, the tax is imposed on the lesser of (i) the individual's net investment income from all investments, or (ii) the amount by which the individual's modified adjusted gross income exceeds specified threshold levels depending on such individual's federal income tax filing status. In the case of an estate or trust, the tax is imposed on the lesser of (i) undistributed net investment income, or (ii) the excess adjusted gross income over the dollar amount at which the highest income tax bracket applicable to an estate or trust begins.

Some trust units are held by middlemen, as such term is broadly defined in U.S. Treasury Regulations (and includes custodians, nominees, certain joint owners, and brokers holding an interest for a customer in street name, collectively referred to herein as middlemen). Therefore, the trustee considers the trust to be a non-mortgage widely held fixed investment trust (WHFIT) for U.S. federal income tax purposes. U.S. Trust, Bank of America Private Wealth Management, EIN: 56-0906609, Post Office Box 830650, Dallas, Texas, 75283-0650, telephone number 1-877-228-5084, email address trustee@cross timberstrust.com, is the representative of the trust that will provide tax information in accordance with applicable U.S. Treasury Regulations governing the information reporting requirements of the trust as a WHFIT. Tax information is also posted by the trustee at www.crosstimberstrust.com. Notwithstanding the foregoing, the middlemen holding trust units on behalf of unitholders, and not the trustee of the trust, are solely responsible for complying with the information reporting requirements under the U.S. Treasury Regulations with respect to such trust units, including the issuance of IRS Forms 1099 and certain written tax statements. Unitholders whose trust units are held by middlemen should consult with such middlemen regarding the information that will be reported to them by the middlemen with respect to the trust units.

Unitholders should consult their tax advisors regarding trust tax compliance matters.

Table of Contents

3. State Taxes

All revenues from the trust are from sources within Texas, Oklahoma or New Mexico. Because it distributes all of its net income to unitholders, the trust has not been taxed at the trust level in New Mexico or Oklahoma. While the trust has not owed tax, the trustee is required to file a return with Oklahoma reflecting the income and deductions of the trust attributable to properties located in that state, along with a schedule that includes information regarding distributions to unitholders. Texas does not impose a state income tax, so no part of the trust's income will be subject to income tax at the trust level in Texas. Oklahoma and New Mexico tax the income of nonresidents from real property located within those states, and the trust has been advised by counsel that those states will each tax nonresidents on income from the net profits interests located in those states. Oklahoma and New Mexico also impose a corporate income tax that may apply to unitholders organized as corporations (subject to certain exceptions for S corporations and limited liability companies, depending on their treatment for federal tax purposes).

Texas imposes a franchise tax at a rate of 1% on gross revenues less certain deductions, as specifically set forth in the Texas franchise tax statutes. Entities subject to tax generally include trusts and most other types of entities that provide limited liability protection, unless otherwise exempt. Trusts that receive at least 90% of their federal gross income from designated passive sources, including royalties from mineral properties and other non-operated mineral interest income, and do not receive more than 10% of their income from operating an active trade or business, generally are exempt from the Texas franchise tax as passive entities. The trust has been and expects to continue to be exempt from Texas franchise tax as a passive entity. Because the trust should be exempt from Texas franchise tax at the trust level as a passive entity, each unitholder that is considered a taxable entity under the Texas franchise tax will generally be required to include its Texas portion of trust revenues in its own Texas franchise tax computation. This revenue is sourced to Texas under provisions of the Texas Administrative Code providing that such income is sourced according to the principal place of business of the trust, which is Texas.

Each unitholder should consult his or her own tax advisor regarding state tax requirements, if any, applicable to such person's ownership of trust units.

4. Contingencies

Several states have enacted legislation requiring state income tax withholding from nonresident recipients of oil and gas proceeds. After consultation with its tax counsel, the trustee believes that it is not required to withhold on payments made to the unitholders. However, regulations are subject to change by the various states, which could change this conclusion. Should amounts be withheld on payments made to the trust or the unitholders, distributions to the unitholders would be reduced by the required amount, subject to the filing of a claim for refund by the trust or unitholders for such amount.

5. Excess Costs

Lower oil prices and increased costs related to the timing of cash expenditures caused costs to exceed revenues by a total of \$58,865 (\$44,149 net to the trust) on properties underlying the Texas working interest in January 2013. Decreased costs led to the partial recovery of excess costs, plus accrued interest, on properties underlying the Texas working interest in February 2013. XTO advised the trustee that increased costs related to the timing of cash expenditures once again caused costs to exceed revenues by a total of \$89,435 (\$67,076 net to the trust) in March 2013. However, these excess costs did not reduce net proceeds from the remaining conveyances. Remaining excess costs totaled \$93,451 (\$70,088 net to the trust) for the quarter ended March 31, 2013.

Table of Contents*Item 2. Trustee's Discussion and Analysis.*

The following discussion should be read in conjunction with the trustee's discussion and analysis contained in the trust's 2012 Annual Report on Form 10-K, as well as the condensed financial statements and notes thereto included in this Quarterly Report on Form 10-Q. The trust's Annual Report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and all amendments to those reports are available on the trust's web site at www.crosstimertrust.com.

Distributable Income

For the quarter ended March 31, 2013, net profits income was \$2,792,598 compared to \$4,376,980 for first quarter 2012. This 36% decrease in net profits income is primarily the result of lower oil and gas prices (\$1.2 million) and increased development costs (\$0.4 million). See **Net Profits Income** below.

After considering interest income of \$61 and administration expense of \$133,183, distributable income for the quarter ended March 31, 2013 was \$2,659,476, or \$0.443246 per unit of beneficial interest. Administration expense for the quarter increased \$5,341 from the prior year quarter. For first quarter 2012, distributable income was \$4,249,224, or \$0.708204 per unit. Distributions to unitholders for the quarter ended March 31, 2013 were:

Record Date	Payment Date	Distribution per Unit
January 31, 2013	February 14, 2013	\$ 0.157839
February 28, 2013	March 14, 2013	0.154675
March 28, 2013	April 12, 2013	0.130732
		\$0.443246

Net Profits Income

Net profits income is recorded when received by the trust, which is the month following receipt by XTO Energy, and generally two months after oil production and three months after gas production. Net profits income is generally affected by three major factors:

oil and gas sales volumes,

oil and gas sales prices, and

costs deducted in the calculation of net profits income.

Because properties underlying the 90% net profits interests are royalty and overriding royalty interests, the calculation of net profits income from these interests only includes deductions for production and property taxes, legal costs, and marketing and transportation charges. In addition to these costs, the calculation of net profits income from the 75% net profits interests includes deductions for production expense and development costs since the related underlying properties are working interests.

Table of Contents

The following is a summary of the calculation of net profits income received by the trust:

	Three Months Ended March 31 (a)		Increase (Decrease)
	2013	2012	
Sales Volumes			
Oil (Bbls) (b)			
Underlying properties	46,173	49,385	(7%)
Average per day	502	537	(7%)
Net profits interests	16,108	25,715	(37%)
Gas (Mcf) (b)			
Underlying properties	404,339	404,748	
Average per day	4,395	4,399	
Net profits interests	350,029	360,252	(3%)
Average Sales Prices			
Oil (per Bbl)	\$ 78.89	\$ 93.41	(16%)
Gas (per Mcf)	\$ 5.77	\$ 7.41	(22%)
Revenues			
Oil sales	\$ 3,642,827	\$ 4,613,136	(21%)
Gas sales	2,334,875	2,998,232	(22%)
 Total Revenues	 5,977,702	 7,611,368	 (21%)
Costs			
Taxes, transportation and other	693,194	969,202	(28%)
Production expense (c)	1,552,098	1,446,137	7%
Development costs	655,636	105,829	520%
Excess costs (d)	(93,451)		
 Total Costs	 2,807,477		