

DARLING INTERNATIONAL INC

Form S-4/A

March 08, 2006

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As filed with the Securities and Exchange Commission on March 8, 2006

Registration No. 333-131484

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

**AMENDMENT NO. 1  
TO  
FORM S-4  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**DARLING INTERNATIONAL INC.**  
*(Exact Name of Registrant as Specified in its Charter)*

**Delaware**  
*(State or Other Jurisdiction  
of Incorporation or Organization)*

**2070**  
*(Primary Standard Industrial  
Classification Code Number)*

**36-2495346**  
*(I.R.S. Employer  
Identification Number)*

**251 O Connor Ridge Blvd., Suite 300  
Irving, Texas 75038  
(972) 717-0300**

*(Address, Including Zip Code, and Telephone Number, Including Area Code, of  
Registrant's Principal Executive Offices)*

**Joseph R. Weaver, Jr.  
General Counsel and Secretary  
Darling International Inc.  
251 O Connor Ridge Blvd., Suite 300  
Irving, Texas 75038  
(972) 717-0300**

*(Name, Address, Including Zip Code, and Telephone Number, Including Area Code,  
of Agent For Service)*

***Copies to:***

**Mary R. Korby  
Weil, Gotshal & Manges LLP  
200 Crescent Court, Suite 300  
Dallas, Texas 75201  
(214) 746-7700**

**G.R. Rick Neumann  
Nyemaster Goode West Hansell  
& O'Brien PC  
700 Walnut Street, Suite 1600  
Des Moines, Iowa 50309  
(515) 283-3100**

**Approximate date of commencement of proposed sale to the public:** At the effective time of the acquisition referred to herein.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box.    ☐

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.    ☐

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.    ☐

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.**

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Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This joint proxy statement/ prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under securities laws of such State.

**ASSET ACQUISITION PROPOSED YOUR VOTE IS VERY IMPORTANT**

As we previously announced, the board of directors of Darling International Inc. and the board of managers of National By-Products, LLC have each unanimously approved a transaction whereby Darling will purchase substantially all of the assets of National By-Products.

In the acquisition, Darling will pay National By-Products \$70.5 million in cash and an amount of Darling common stock equal to 20% of the outstanding shares of Darling common stock calculated on a fully diluted basis. Darling's stock is listed on the American Stock Exchange, which we refer to as the AMEX. On March 7, 2006, the closing sales price of Darling's common stock, which trades on the AMEX under the symbol DAR, was \$4.40 per share.

**For a discussion of the risks relating to the acquisition, see Risk Factors beginning on page 18 of the joint proxy statement/ prospectus.**

A special meeting of Darling stockholders is being held to approve the asset purchase agreement and the issuance of the shares of Darling common stock that will be issued in accordance with the asset purchase agreement, dated as of December 19, 2005, by and among Darling, National By-Products, and a wholly-owned subsidiary of Darling, as a portion of the consideration to be paid at the closing of the acquisition and that may be issued as contingent consideration for the acquisition. A special meeting of National By-Products unitholders is being held to approve the acquisition contemplated by the asset purchase agreement. Information about these meetings and the acquisition is contained in this joint proxy statement/ prospectus. We encourage you to read this entire joint proxy statement/ prospectus carefully, as well as the annexes and information incorporated by reference herein.

We cordially invite the National By-Products unitholders to attend National By-Products' special meeting of unitholders at which the National By-Products unitholders will be asked to vote to approve the acquisition. **The National By-Products board unanimously recommends that the National By-Products unitholders vote FOR the acquisition at the special meeting.**

We cordially invite the Darling stockholders to attend Darling's special meeting of stockholders at which the Darling stockholders will be asked to vote to approve the asset purchase agreement and the issuance of shares of Darling common stock as a portion of the consideration in the acquisition. **The Darling board unanimously recommends that the Darling stockholders vote FOR the asset purchase agreement and the issuance of shares of Darling common stock at the special meeting.**

Randall C. Stuewe  
Chairman and Chief Executive Officer  
Darling International Inc.

Mark A. Myers  
President  
National By-Products, LLC

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the acquisition described in this joint proxy statement/ prospectus or the securities to be issued pursuant to the acquisition or determined that this joint proxy statement/ prospectus is accurate or complete. Any representation to the contrary is a criminal offense.**

This joint proxy statement/ prospectus is dated [ ], 2006 and, together with the accompanying proxy card, is being first mailed to Darling stockholders and National By-Products unitholders on or about [ ], 2006.

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**DARLING INTERNATIONAL INC.**  
**251 O Connor Ridge Blvd., Suite 300**  
**Irving, Texas 75038**  
**Telephone: (972) 717-0300**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**  
**TO BE HELD APRIL 20, 2006**

Dear Darling Stockholder:

A special meeting of stockholders of Darling International Inc., a Delaware corporation, will be held on Thursday, April 20, 2006, at 10:00 a.m., Central Time, at the Omni Mandalay, 221 E. Las Colinas Blvd., Irving, Texas 75039.

At the special meeting, you will be asked to:

1. approve and adopt the asset purchase agreement, dated as of December 19, 2005, by and among Darling, National By-Products, LLC and a wholly-owned subsidiary of Darling, and the transactions contemplated by the asset purchase agreement, including the issuance of shares of Darling common stock in accordance with the asset purchase agreement; and

2. consider and vote upon a proposal to approve one or more adjournments of the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the time of the special meeting to approve the above proposal.

The accompanying joint proxy statement/ prospectus describes the asset purchase agreement and the proposed acquisition in detail. We urge you to review the joint proxy statement/ prospectus carefully.

The board of directors has set the close of business on March 10, 2006, as the record date for determining stockholders entitled to receive notice of the special meeting and to vote at the special meeting and any adjournments or postponements thereof.

We will admit to the special meeting (1) all stockholders of record at the close of business on March 10, 2006, (2) persons holding proof of beneficial ownership as of that date, such as a letter or account statement from the person's broker, (3) persons who have been granted valid proxies and (4) the other persons that we, in our sole discretion, may elect to admit. **All persons wishing to be admitted must present photo identification.** If you plan to attend the special meeting, please check the appropriate box on your proxy card or register your intention when voting by using the telephone or voting on the Internet, according to the instructions provided on the enclosed proxy card.

By order of the board of directors,

Joseph R. Weaver, Jr.  
Secretary

[ ], 2006

**YOUR VOTE IS IMPORTANT**

**Please return your proxy as soon as possible, whether or not you expect to attend the special meeting in person. You may submit your proxy by using the telephone, by the Internet or by completing, dating and signing the enclosed proxy card and returning it in the enclosed postage prepaid envelope.**

**You may revoke your proxy at any time before the special meeting. If you attend the special meeting and vote in person, your proxy vote will not be used.**

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**NATIONAL BY-PRODUCTS, LLC**  
**907 Walnut St., Suite 400**  
**Des Moines, Iowa 50309**  
**Telephone: (515) 288-2166**

**NOTICE OF SPECIAL MEETING OF UNITHOLDERS**  
**TO BE HELD APRIL 20, 2006**

Dear National By-Products Unitholder:

A special meeting of unitholders of National By-Products, LLC, an Iowa limited liability company, will be held on Thursday, April 20, 2006, at 10:00 a.m., Central Time, at First Floor, Federal Home Loan Bank Building, 907 Walnut Street, Des Moines, Iowa 50309.

At the special meeting, you will be asked to:

1. approve and adopt the asset purchase agreement, dated as of December 19, 2005, by and among Darling International Inc., National By-Products and a wholly-owned subsidiary of Darling, and the transactions contemplated by the asset purchase agreement, including an amendment to the articles of organization of National By-Products to change its name to West-end Liquidation, LLC effective upon closing of the acquisition; and
2. consider and vote upon a proposal to approve one or more adjournments of the special meeting, if necessary, to permit further solicitation of proxies if there are not sufficient votes at the time of the special meeting to approve the above proposal.

The accompanying joint proxy statement/ prospectus describes the asset purchase agreement and the proposed acquisition in detail. We urge you to review the joint proxy statement/ prospectus carefully.

The date of the mailing of this notice is the record date for determining unitholders entitled to receive notice of the special meeting and to vote at the special meeting and any adjournments or postponements thereof.

Under Iowa law and the operating agreement of National By-Products, unitholders of record who deliver to National By-Products, before the vote referred to in this joint proxy statement/ prospectus is taken, written notice of the unitholder's intent to demand payment if the acquisition is consummated and who do not vote in favor of the acquisition are entitled to appraisal rights in connection with the acquisition if the acquisition is completed. In order to exercise your appraisal rights you must comply with the applicable provisions of Division XIII of the Iowa Business Corporation Act (a copy of which can be found in Annex D of this joint proxy statement/ prospectus).

We will admit to the special meeting (1) all unitholders of record on the date of the mailing of this notice, (2) persons who have been granted valid proxies and (3) the other persons that we, in our sole discretion, may elect to admit.

By order of the board of managers,

Carlton T. King  
Secretary

[ ], 2006

**YOUR VOTE IS IMPORTANT**

**Please return your proxy as soon as possible, whether or not you expect to attend the special meeting in person. You may submit your proxy by completing, dating and signing the enclosed proxy card and returning it in the enclosed postage prepaid envelope.**

**You may revoke your proxy at any time before the special meeting. If you attend the special meeting and vote in person, your proxy vote will not be used.**

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**THIS JOINT PROXY STATEMENT/ PROSPECTUS INCORPORATES  
ADDITIONAL INFORMATION**

This joint proxy statement/ prospectus incorporates business and financial information about Darling from other documents filed with the Securities and Exchange Commission, which we refer to as the SEC, that are not included in or delivered with this joint proxy statement/ prospectus. For a listing of the documents incorporated by reference into this joint proxy statement/ prospectus, see **Where You Can Find More Information** beginning on page 116.

You may obtain documents incorporated by reference into this joint proxy statement/ prospectus, without charge, by requesting them in writing or by telephone from Darling at the following address and telephone number:

Darling International Inc.  
251 O Connor Ridge Blvd., Suite 300  
Irving, Texas 75038  
Attn: Brad Phillips, Treasurer  
Telephone: (972) 717-0300  
e-mail: BPhillips@darlingii.com

To receive timely delivery of the documents before your special meeting, you must request them no later than April 13, 2006 to receive them before your special meeting.

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**QUESTIONS AND ANSWERS ABOUT THE ACQUISITION**

**Q1: What is the proposed transaction for which I am being asked to vote?**

A1: If you are a Darling stockholder you are being asked to vote to approve an asset purchase agreement entered into by and among Darling International Inc., National By-Products, LLC and a wholly-owned subsidiary of Darling, and the transactions contemplated by the asset purchase agreement, including the issuance of shares of Darling common stock in accordance with the asset purchase agreement. If you are a National By-Products unitholder you are being asked to vote to approve the asset purchase agreement by and among Darling, National By-Products and a wholly-owned subsidiary of Darling, and the transactions contemplated by the asset purchase agreement, including an amendment to the articles of organization of National By-Products to change its name to West-end Liquidation, LLC effective upon closing of the acquisition. The asset purchase agreement contemplates the purchase of substantially all of the assets of National By-Products by a newly formed and wholly-owned subsidiary of Darling. When the acquisition occurs, National By-Products will receive the acquisition consideration and distribute the acquisition consideration, less certain amounts, to its unitholders. See The Asset Purchase Agreement Consideration beginning on page 62.

**Q2: Why did the companies enter into the asset purchase agreement?**

A2: Darling and National By-Products entered into the asset purchase agreement with the expectation that the acquisition will result in mutual benefits including, among other things, increasing revenue, diversifying raw material supplies and creating a larger platform to grow the restaurant services segment.

**Q3: What vote is required for approval of the proposals under consideration at the special meetings?**

A3: The asset purchase agreement and the issuance of shares of Darling common stock in the acquisition must be approved by a majority of the outstanding shares of Darling common stock, and the asset purchase agreement must be approved by a majority of the outstanding National By-Products membership units. Therefore, if you abstain or fail to vote, the effect will be the same as voting against the applicable proposal. You are entitled to vote on the applicable proposal if you held Darling common stock at the close of business on the Darling record date, which is March 10, 2006, or National By-Products membership units on the National By-Products record date, which is the date of the mailing of the notice of special meeting. On those dates, [ ] shares of Darling common stock and 1,206,313 National By-Products membership units, respectively, were outstanding and entitled to vote. The adjournment proposal for each of the Darling stockholders and the National By-Products unitholders must be approved by the affirmative vote of a majority of the shares of Darling common stock or National By-Products membership units, as applicable, present in person or by proxy at the applicable special meeting, without regard to abstentions, even if there is no quorum at that meeting.

**Q4: What do I need to do now?**

A4: After carefully reading and considering the information contained in this joint proxy statement/ prospectus, please vote your shares or units, as applicable, as soon as possible so that your shares or units, as applicable, will be represented at your company's special meeting. Please follow the instructions set forth on the proxy card or on the voting instruction form provided by the record holder if your shares or units, as applicable, are held in the name of your broker or other nominee.

**Q5: How do I vote?**

A5: If you are a Darling stockholder, you may vote before your special meeting in one of the following ways:

use the toll-free number shown on your proxy card;

visit the website shown on your proxy card to vote via the Internet; or

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complete, sign, date and return the enclosed proxy card in the enclosed postage prepaid envelope.

If you are a National By-Products unitholder, you may only vote before your special meeting by completing, signing, dating and returning the enclosed proxy card in the enclosed postage prepaid envelope.

**Q6: If my shares are held in street name by my broker or other nominee, will my broker or nominee vote my shares for me?**

A6: Your broker will vote your shares only if you provide instructions to your broker on how to vote. You should instruct your broker to vote your shares by following the directions provided to you by your broker. Without instructions, your broker will not vote any of your shares held in street name and the effect will be the same as a vote against the acquisition. See The Special Meetings beginning on page 35.

**Q7: What if I do not vote on the matters relating to the acquisition?**

A7: If you are a Darling stockholder and you fail to respond with a vote or fail to instruct your broker or other nominee how to vote on the acquisition proposal, it will have the same effect as a vote against the acquisition proposal. If you respond but do not indicate how you want to vote on the acquisition proposal, your proxy will be counted as a vote in favor of the acquisition proposal. If you respond and indicate that you abstain from voting on the acquisition proposal, your proxy will have the same effect as a vote against the acquisition proposal.

If you are a National By-Products unitholder and you fail to respond with a vote, it will have the same effect as a vote against the acquisition proposal. If you respond but do not indicate how you want to vote on the acquisition proposal, your proxy will be counted as a vote in favor of the acquisition proposal. If you respond and indicate that you abstain from voting on the acquisition proposal, your proxy will have the same effect as a vote against the acquisition proposal.

**Q8: May I change my vote after I have delivered my proxy card?**

A8: Yes. You can change your vote at any time before we vote your proxy at your special meeting. You can do so in one of the following ways:

by sending a notice of revocation to the corporate secretary of Darling or National By-Products, as applicable;

by sending a completed proxy card bearing a later date than your original proxy card; or

by attending your special meeting and voting in person.

If you are a Darling stockholder you can also change your vote at any time before we vote your proxy at your special meeting by logging onto the Internet website specified on your proxy card in the same manner you would to submit your proxy electronically or by calling the telephone number specified on your proxy card, in each case if you are eligible to do so and by following the instructions on the proxy card.

Your attendance alone will not revoke any proxy.

If you choose to change your vote using any of the methods above, other than by attending your special meeting and voting in person, you must take the described action no later than the beginning of your special meeting or no later than the time indicated on your proxy card.

If your shares are held in an account at a broker or other nominee, you should contact your broker or other nominee to change your vote.

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**Q9: If I hold National By-Products membership units, should I send them in order to receive the acquisition consideration?**

A9: No. You do not need to turn in your membership units or take other action to receive the acquisition consideration. The acquisition consideration will be sent to you by National By-Products subject to retention of such amounts by National By-Products as determined by its board of managers to be appropriate for purposes of satisfying obligations of National By-Products.

**Q10: Why am I receiving this document?**

A10: We are delivering this document to you as both a joint proxy statement of Darling and National By-Products and a prospectus of Darling. It is a joint proxy statement because each of Darling's board of directors and National By-Products' board of managers is soliciting proxies from its stockholders and unitholders, respectively. It is a prospectus because Darling will issue shares of its stock to National By-Products in the acquisition.

**Q11: Who should I call if I have additional questions or need additional copies of the joint proxy documents?**

A11: If you are a Darling stockholder and you would like additional copies of this joint proxy statement/ prospectus or a new proxy card or if you have questions about the acquisition, you should contact Brad Phillips at (972) 717-0300.

If you are a National By-Products unitholder and you would like additional copies of this joint proxy statement/ prospectus or a new proxy card or if you have questions about the acquisition, you should contact David Pace at (515) 288-2166.

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**SUMMARY**

*THE FOLLOWING SUMMARY IS INTENDED ONLY TO HIGHLIGHT INFORMATION CONTAINED IN THIS JOINT PROXY STATEMENT/ PROSPECTUS. THIS SUMMARY IS NOT INTENDED TO BE COMPLETE AND IS QUALIFIED IN ITS ENTIRETY BY THE MORE DETAILED INFORMATION CONTAINED IN THIS JOINT PROXY STATEMENT/ PROSPECTUS, THE ANNEXES HERETO AND THE DOCUMENTS OTHERWISE REFERRED TO IN THIS JOINT PROXY STATEMENT/ PROSPECTUS. YOU ARE URGED TO REVIEW THIS ENTIRE JOINT PROXY STATEMENT/ PROSPECTUS CAREFULLY, INCLUDING THE ANNEXES HERETO AND THE OTHER REFERENCED DOCUMENTS.*

**The Companies**

***Darling International Inc.***

251 O Connor Ridge Blvd.  
Irving, Texas 75038  
(972) 717-0300

Darling is a leading provider of rendering, recycling and recovery solutions to the nation's food industry. Darling collects and recycles animal by-products and used cooking oil from food service establishments and provides grease trap cleaning services to many of the same establishments. Darling processes these raw materials at 24 facilities located throughout the United States into finished products such as protein (primarily meat and bone meal), tallow (primarily bleachable fancy tallow) and yellow grease. Darling sells these products nationally and internationally, primarily to producers of oleo-chemicals, soaps, pet foods, and livestock feed, for use as ingredients in their products or for further processing. Darling's operations are organized into two segments: Rendering and Restaurant Services.

***Darling National LLC***

251 O Connor Ridge Blvd.  
Irving, Texas 75038  
(972) 717-0300

Darling National is a Delaware limited liability company and a wholly-owned subsidiary of Darling. Darling National was organized on December 16, 2005 solely for the purpose of effecting the acquisition of substantially all of the assets of National By-Products. Darling National has not carried on any activities other than in connection with the asset purchase agreement.

***National By-Products, LLC***

907 Walnut St., Suite 400  
Des Moines, Iowa 50309  
(515) 288-2166

Founded in 1933, National By-Products is one of the nation's leading independent renderers. National By-Products collects and recycles animal by-products and used cooking oil from livestock producers, meat packers, grocery stores and restaurants and sells its products nationally and internationally to manufacturers of chemicals, soap, cosmetics, plastics, lubricants, livestock and poultry feeds, pet foods and leather goods.

**The Acquisition (see page 40)**

*A copy of the asset purchase agreement, dated as of December 19, 2005, by and among Darling, Darling National and National By-Products is attached to this joint proxy statement/prospectus as Annex A. Please read the asset purchase agreement in its entirety because it is the principal document governing the acquisition.*

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***Consideration to be paid to National By-Products in the acquisition (see page 62)***

The asset purchase agreement provides that the aggregate consideration for the purchased assets will be (i)(A) \$70.5 million in cash, less all of National By-Products' indebtedness related to its credit facilities outstanding immediately prior to the closing date of the acquisition, plus (B) 20% of the outstanding shares of Darling common stock as of 8 a.m. Central Time on the date of closing calculated on a fully-diluted basis, referred to below as the Closing Issued Shares, and (ii) the assumption of certain of National By-Products' liabilities. The cash consideration will be subject to adjustment based on the working capital of National By-Products as of the closing date of the acquisition. In addition, a portion of the consideration will be placed in escrow to meet certain National By-Products obligations.

In addition to the purchase price paid to National By-Products on the closing date of the acquisition, Darling may pay additional consideration in the form of Darling common stock, depending on the average market price, referred to as the true-up market price, of Darling's common stock for the 90 days prior to the last day of the 13th full consecutive month after closing, which we refer to as the true-up date. If the average share price for the 90 days prior to the true-up date causes the value of the Closing Issued Shares (including the escrowed shares) to be less than \$70.5 million, then Darling will issue additional common stock to National By-Products (or if National By-Products has distributed shares to its unitholders, to those unitholders who continue to hold, directly or as shares that remain in escrow, their Closing Issued Shares), assuming that none of the National By-Products unitholders have transferred any of their Closing Issued Shares (except transfers by gift or into trust). For clarity, only those Closing Issued Shares that have not been transferred (except by gift or into trust) as of the true-up date will be eligible for the stock true-up consideration. In addition, if the true-up market price is less than \$3.60, then \$3.60 will be used in place of the true-up market price for purposes of calculating the number of shares issued in the stock true-up. Assuming that the true-up market price is at least \$3.60 and all of the Closing Issued Shares are retained by the National By-Products unitholders, then the shares National By-Products receives on the closing date, plus the shares National By-Products (or its unitholders) receives on the true-up date, will be valued at \$70.5 million in the aggregate on the true-up date in accordance with the asset purchase agreement.

***Darling's Dividend Policy Differs from National By-Products (see page 111)***

Darling has not declared or paid cash dividends on its common stock since January 3, 1989. The payment of any dividends by Darling on its common stock in the future will be at the discretion of Darling's board of directors and will depend upon, among other things, future earnings, operations, capital requirements, Darling's general financial condition, the general financial condition of Darling's subsidiaries, limitations in its senior and subordinated credit facilities, and general business conditions.

Distributions to National By-Products unitholders are determined by its board of managers. National By-Products is required to distribute cash to its members on or before April 15 of each year in at least the amount National By-Products reasonably estimates (assuming maximum federal and state tax rates) will equal the federal and state income tax payable by the members as a consequence of allocation of the income of National By-Products to the members for the immediately preceding calendar year. National By-Products' board of managers considers the payment of a special distribution to its unitholders at its annual meeting held each May. Such distribution, if any, is based on the prior fiscal year's results after taking into account the outlook for the current fiscal year, tax distributions already made, capital spending plans, the potential for acquisitions, the capital structure, and other business needs. There is no guarantee that a special distribution will be paid each year. Special distributions, if paid, are expected to vary in amount from year to year.

***Market Price and Share Information of Darling Common Stock (see page 17)***

Shares of Darling common stock are listed on the American Stock Exchange, referred to as the AMEX, under the trading symbol DAR. National By-Products membership units are not publicly

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traded. On December 19, 2005, the last trading day before the public announcement of the acquisition, the last sales price of Darling common stock was \$3.53 per share.

On March 7, 2006, the most recent practicable date before the printing of this joint proxy statement/ prospectus, the last sales price as reported on the AMEX for Darling common stock was \$4.40 per share. We urge you to obtain current market quotations.

### **Risks of the Acquisition (see page 18)**

All Darling stockholders and National By-Products unitholders should consider carefully all of the information in this joint proxy statement/ prospectus and evaluate the specific factors set forth under Risk Factors before considering whether to approve the asset purchase agreement or the issuance of shares in accordance with the asset purchase agreement, as applicable.

The risk factors regarding Darling should be carefully considered by all National By-Products unitholders who are to receive Darling common stock in connection with the acquisition.

### **Recommendation of the Board of Directors of Darling (see page 43)**

**The Darling board of directors unanimously recommends that the asset purchase agreement and the issuance of shares of Darling common stock in accordance with the asset purchase agreement and the other matters described herein be approved by the Darling stockholders and that the Darling stockholders vote *FOR* the approval of the asset purchase agreement and the issuance of shares of Darling common stock and such other matters.**

### **Recommendation of the Board of Managers of National By-Products (see page 50)**

**The National By-Products board of managers unanimously recommends that the acquisition, the asset purchase agreement, the amendment to the articles of organization and the other matters described herein be approved by the National By-Products unitholders and that the National By-Products unitholders vote *FOR* the approval of the acquisition, the asset purchase agreement, the amendment to the articles of organization and such other matters.**

### **Harris Nesbitt Corp. Fairness Opinion Provided to the Board of Directors of Darling (see page 44)**

In deciding to approve the acquisition, the Darling board of directors received an opinion from Harris Nesbitt Corp. that, as of December 16, 2005 and subject to the limitations and assumptions set forth in its written opinion, the acquisition consideration pursuant to the asset purchase agreement is fair from a financial point of view to Darling. In its analysis, Harris Nesbitt made numerous assumptions with respect to Darling, National By-Products and the acquisition. The assumptions and estimates contained in Harris Nesbitt's analyses, and the valuation ranges resulting from the particular analyses, are not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by the analyses. The opinion of Harris Nesbitt is dated as of December 16, 2005 and opines as to the fairness as of that date only. Harris Nesbitt is not obligated to update its December 16, 2005 opinion. As of the date of this joint proxy statement/ prospectus, Darling does not intend to request an updated fairness opinion. In the aggregate, Harris Nesbitt will receive fees of approximately \$1,842,500 if the acquisition is completed. A copy of the fairness opinion is attached as Annex B to this joint proxy statement/ prospectus. Darling stockholders should read the opinion carefully and in its entirety.

### **Philip Schneider & Associates, Inc. Fairness Opinion Provided to the Board of Managers of National By-Products (see page 51)**

In deciding to approve the acquisition, the National By-Products board of managers received an opinion from Philip Schneider & Associates, Inc. that, as of December 16, 2005 and subject to the limitations and assumptions set forth in its written opinion, the acquisition consideration to be paid to



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National By-Products in the proposed transaction is fair, from a financial point of view, to National By-Products and its unitholders. In its analysis, Philip Schneider & Associates made numerous assumptions with respect to National By-Products, Darling and the acquisition. The assumptions and estimates contained in Philip Schneider & Associates analyses, and the valuation ranges resulting from the particular analyses, are not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by the analyses. The opinion of Philip Schneider & Associates is dated as of December 16, 2005 and opines as to the fairness as of that date only. Philip Schneider & Associates is not obligated to update its December 16, 2005 opinion. As of the date of this joint proxy statement/ prospectus, National By-Products does not intend to request an updated fairness opinion. In the aggregate, Philip Schneider & Associates will receive fees of approximately \$20,000 regardless of whether the acquisition is completed. A copy of the fairness opinion is attached as Annex C to this joint proxy statement/ prospectus. National By-Products unitholders should read the opinion carefully and in its entirety.

**Differences Exist between Rights of Darling Stockholders and National By-Products Unitholders (see page 107)**

After the acquisition, National By-Products unitholders will become Darling stockholders and their rights as stockholders will be governed by the certificate of incorporation and bylaws of Darling and the Delaware General Corporation Law. There are a number of differences between Darling's certificate of incorporation and bylaws and National By-Products, articles of organization and operating agreement and bylaws, respectively, and there are a number of differences between the Delaware General Corporation Law and the Iowa Limited Liability Company Act. The material differences are summarized in this joint proxy statement/ prospectus under Comparative Rights of Darling Stockholders and National By-Products Unitholders beginning on page 107.

**Interests of Certain Persons in the Acquisition (see page 53)**

In considering the recommendation of the National By-Products board of managers with respect to the acquisition and the asset purchase agreement, National By-Products unitholders should be aware that executive officers of National By-Products and managers of National By-Products have interests in the acquisition that are or may be different from, or in addition to, your interests. These interests include:

- the designation of certain officers of National By-Products as officers of Darling upon completion of the acquisition and the entry of certain National By-Products officers into employment agreements with Darling on the closing date;

- the appointment of Dean Carlson, Chairman of the board of managers of National By-Products, and another National By-Products nominee to the board of directors of Darling upon completion of the acquisition;

- the receipt of change of control payments under National By-Products Long-Term Incentive Plan; and

- the receipt of a stock award 13 months after the closing of the acquisition depending on an average price of Darling common stock prior to the end of the 13th month.

In considering the recommendation of the Darling board of directors with respect to the asset purchase agreement, Darling stockholders should be aware that executive officers of Darling have interests in the acquisition that are or may be different from, or in addition to, your interests. These interests include:

- the receipt of a cash payment promptly following the closing of the acquisition; and

- the receipt of a stock award 13 months after the closing of the acquisition depending on an average price of Darling common stock prior to the end of the 13th month.

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**Conditions to Completion of the Acquisition (see page 71)**

The obligations of Darling and National By-Products to complete the acquisition are conditioned upon the following:

no order by a governmental body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by the asset purchase agreement will have been entered;

the SEC will have declared the Form S-4 effective;

National By-Products unitholders and Darling stockholders will have approved the acquisition; and

the AMEX will have approved for listing the shares of Darling common stock deliverable to National By-Products unitholders.

National By-Products will not be obligated to complete the acquisition unless a number of conditions have been satisfied, including, without limitation:

the representations and warranties of Darling and Darling National set forth in the asset purchase agreement qualified as to materiality will be true and correct, and those not so qualified will be true and correct in all material respects, as of the date of the asset purchase agreement and as of the closing of the acquisition as though made at and as of the closing of the acquisition, except to the extent the representations and warranties expressly relate to an earlier date (in which case the representations and warranties qualified as to materiality will be true and correct, and those not so qualified will be true and correct in all material respects, on and as of the earlier date); provided, however, in the event of any breach of a representation or warranty of Darling or Darling National set forth in the asset purchase agreement, the condition will be deemed satisfied unless the effect of all the breaches of representations and warranties taken together could reasonably be expected to have a material adverse effect on Darling;

Darling and Darling National will have performed and complied in all material respects with all obligations and agreements required by the asset purchase agreement;

no event, change, occurrence or circumstance will have occurred that, individually or in the aggregate with any other events, changes, occurrences or circumstances, has had or could reasonably be expected to have a material adverse effect on Darling;

Darling will have delivered evidence of delivery of the cash consideration to National By-Products; and

Philip Schneider & Associates, Inc. will not have withdrawn or materially modified the opinion it delivered to National By-Products board of managers on December 16, 2005 due solely to a material adverse effect on Darling.

Darling will not be obligated to complete the acquisition unless a number of conditions have been satisfied, including, without limitation:

the representations and warranties of National By-Products set forth in the asset purchase agreement qualified as to materiality will be true and correct, and those not so qualified will be true and correct in all material respects, as of the date of the asset purchase agreement and as of the closing of the acquisition as though made at and as of the closing of the acquisition, except to the extent the representations and warranties expressly relate to an earlier date (in which case the representations and warranties qualified as to materiality will be true and correct, and those not so qualified will be true and correct in all material respects, on and as of such earlier date); provided, however, in the event of any breach of a representation or warranty of National By-Products set forth in the asset purchase agreement, the condition will be deemed satisfied unless the effect of all the breaches of representations and warranties taken together could reasonably be expected to have a material adverse effect on National By-Products;



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National By-Products will have performed and complied in all material respects with all obligations and agreements required by the asset purchase agreement;

no event, change, occurrence or circumstance will have occurred that, individually or in the aggregate with any other events, changes, occurrences or circumstances, has had or could reasonably be expected to have a material adverse effect on National By-Products;

Darling will have received a binding commitment from a title company to issue a policy of title insurance on National By-Products' owned property;

National By-Products will have obtained any required governmental consents as well as any required consents under all antitrust laws;

National By-Products will have provided Darling with an affidavit of non-foreign status;

Darling National will have obtained financing proceeds sufficient to consummate the acquisition;

Darling will have received the appropriate consents under its senior credit facility and subordinated debt facility;

National By-Products will have delivered duly executed general warranty deeds for each of its owned real properties and, if requested by Darling National, separate assignments for National By-Products' real property leases except that National By-Products may deliver special warranty deeds for certain owned real property if title insurance has been obtained;

National By-Products will have obtained the issuance, reissuance or transfer of all permits for Darling to conduct the operations of National By-Products' business as of the closing date, and National By-Products will have satisfied all property transfer requirements arising under law;

National By-Products will have delivered all instruments and documents necessary to release all liens, other than certain permitted exceptions, on purchased assets;

National By-Products will have received appropriate payoff letters relating to its senior indebtedness; and

Harris Nesbitt Corp. will not have withdrawn or materially modified the opinion it delivered to Darling's board of directors on December 16, 2005 due solely to a material adverse effect on National By-Products.

**Timing of the Acquisition (see page 76)**

The acquisition is expected to be completed in the first half of 2006, subject to the receipt of necessary regulatory approvals and the satisfaction or waiver of other closing conditions.

**Termination of the Asset Purchase Agreement (see page 74)**

The asset purchase agreement may be terminated by Darling or National By-Products before completion of the acquisition in certain circumstances. In addition, the asset purchase agreement provides that each of Darling and National By-Products may be required to pay a termination fee to the other in an amount of \$4.23 million plus fees and expenses up to \$1 million if the asset purchase agreement is terminated in the circumstances described generally below:

if Darling terminates the asset purchase agreement because National By-Products' board of managers has approved or recommended any proposal or offer of acquisition, merger, or other similar business transaction from someone other than Darling, then National By-Products will be required to pay Darling;

if Darling terminates the asset purchase agreement because National By-Products board of managers has not rejected any proposal or offer of acquisition, merger, or other similar business

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