

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

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Berry Corporation (bry)
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

81-5410470
(I.R.S. Employer
Identification No.)

**16000 N. Dallas Parkway,
Suite 500
Dallas, Texas**
(Address of Principal Executive Office)

75248
(Zip Code)

Berry Corporation (bry) 2022 Omnibus Incentive Plan
(Full title of the plan)

Danielle Hunter
Executive Vice President, General Counsel and Corporate Secretary
**16000 N. Dallas Parkway,
Suite 500
Dallas, Texas 75248**
(Name and address of agent for service)

(661) 616-9300
(Telephone number, including area code, of agent for service)

Copies to:
Matthew R. Pacev, P.C.
Kirkland & Ellis LLP
609 Main Street
Houston, Texas 77002
(713) 836-3600

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

Large accelerated filer Non-accelerated filer Accelerated filer Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

PART I
INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.

On March 1, 2022, the Board of Directors of Berry Corporation (bry) (the “Registrant”) approved the Berry Corporation (bry) 2022 Omnibus Incentive Plan (the “2022 Plan”), which was subsequently approved by the Registrant’s stockholders on May 25, 2022. The 2022 Plan authorizes for issuance a total of 2,300,000 shares of common stock, par value \$0.001 per share, of the Registrant (the “Common Stock”) (registered concurrently by the Registrant on this Registration Statement on Form S-8 (this “Registration Statement”) on the date hereof.

The Registrant will send or give all participants in the 2022 Plan document(s) containing the information required by Part I of Form S-8, as specified in Rule 428(b)(1) promulgated by the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933 (the “Securities Act”). Such documents are not required to be, and are not, filed with the Commission, either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents, and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

Item 2. Registrant Information and Employee Plan Annual Information.

The written statement required by Item 2 of Part I is included in documents that will be delivered to participants in the 2022 Plan covered by this Registration Statement pursuant to Rule 428(b) of the Securities Act.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

Except to the extent that information is deemed furnished and not filed pursuant to securities laws and regulations, the Registrant hereby incorporates by reference into this Registration Statement the following documents:

- (a) the Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the Commission on March 4, 2022;
- (b) the Registrant’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2022, filed with the Commission on May 4, 2022;
- (c) the Registrant’s Definitive Proxy Statement on Schedule 14A filed with the Commission on April 7, 2022;
- (d) the Current Reports on Form 8-K filed with the Commission on March 18, 2022, April 12, 2022, May 26, 2022, and June 1, 2022; and
- (e) the description of the Common Stock contained in the Registrant’s Form 8-A filed with the Commission on July 24, 2018, as updated by Exhibit 4.4 to the Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the Commission on March 4, 2022, and including any amendment or report filed for the purpose of updating such description.

Except to the extent that information is deemed furnished and not filed pursuant to securities laws and regulations, all documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934 (the “Exchange Act”), as amended, prior to the filing of a post-effective amendment that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold shall also be deemed to be incorporated by reference herein and to be a part hereof from the dates of filing of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

The Registrant's Second Amended and Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation") provides that no director shall be personally liable to the Registrant or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Registrant or its stockholders, (ii) for any act or omission not in good faith or which involves intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law (the "DGCL") or (iv) for any transaction from which the director derived an improper personal benefit. The effect of this provision is to eliminate the Registrant's and its stockholders' rights, through stockholders' derivative suits on the Registrant's behalf, to recover monetary damages against a director for certain breaches of fiduciary duty as a director.

Any amendment, repeal or modification of these provisions will be prospective only and would not affect any limitation on liability of a director for acts or omissions that occurred prior to any such amendment, repeal or modification.

Under Section 145 of the DGCL, a Delaware corporation has the power, under specified circumstances, to indemnify its directors, officers, employees and agents in connection with actions, suits or proceedings, whether civil, criminal or administrative, brought against them by a third party or in the right of the corporation, by reason that they were or are such directors, officers, employees or agents, against expenses and liabilities incurred in any such action, suit or proceeding so long as they acted in good faith and in a manner that they reasonably believed to be in, or not opposed to, the best interests of such corporation, and with respect to any criminal action, that they had no reasonable cause to believe their conduct was unlawful. With respect to suits by or in the right of such corporation, however, indemnification is generally limited to attorneys' fees and other expenses and is not available if such person is adjudged to be liable to such corporation unless the court determines that indemnification is appropriate. A Delaware corporation also has the power to purchase and maintain insurance for such persons. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's certificate of incorporation, bylaws, disinterested director vote, stockholder vote, agreement or otherwise.

Section 102(b)(7) of the DGCL provides that a certificate of incorporation may contain a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director provided that such provisions may not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 (relating to liability for unauthorized acquisitions or redemptions of, or dividends on, capital stock) of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. Article 9 of the Registrant's Certificate of Incorporation limits its directors' personal liability to the fullest extent permitted by the DGCL. Article 10 of the Certificate of Incorporation provides that the Registrant will indemnify any director or officer who was or is a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that he or she is or was a director or officer of the Registrant or is or was serving at the request of the Registrant as a director, officer, manager, employee or agent of another corporation or of a limited liability company, partnership, joint venture, trust or other enterprise, except that the Registrant will indemnify any such person seeking indemnification in connection with a proceeding initiated by that person, only if that proceeding was authorized by the board of directors. The right to indemnification includes the right to be paid the expenses incurred in defending any such proceeding in advance of its final disposition.

The Registrant has also entered into indemnification agreements with each of its directors and officers which provide contractual rights to indemnity and expense advancement and include related provisions meant to facilitate the indemnitees' receipt of such benefits. Under these indemnification agreements, the Registrant must maintain directors and officers insurance. The terms of the indemnification agreements provide that the Registrant will indemnify the officers and directors against all losses that occur as a result of the indemnitee's corporate status, including, without limitation, all liability arising out of the sole, contributory, comparative or other negligence, or active or passive wrongdoing of the indemnitee. Except as otherwise provided in the indemnification agreements, the only limitation that exists upon the Registrant's indemnification obligations pursuant to the agreements is that

the Registrant is not obligated to make any payment to an indemnitee that is finally adjudged to be prohibited by applicable law. Under the indemnification agreements, the Registrant also agrees to pay all expenses for which it may be jointly liable with an indemnitee and to waive any potential right of contribution the Registrant might otherwise have. Further, the Registrant agrees to advance expenses to indemnitees in connection with proceedings brought as a result of the indemnitee's corporate status.

The above discussion of the Certificate of Incorporation, indemnification agreements with the Registrant's officers and directors, and Sections 102(b)(7) and 145 of the DGCL is not intended to be exhaustive and is qualified in its entirety by such Certificate of Incorporation, indemnification agreements, and statutes.

The Registrant currently maintains an insurance policy which, within the limits and subject to the terms and conditions thereof, covers certain expenses and liabilities that may be incurred by directors and officers in connection with proceedings that may be brought against them as a result of an act or omission committed or suffered while acting as a director or officer.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The exhibits to this Registration Statement are listed in the Exhibit Index to this Registration Statement, which immediately precedes such exhibits and is incorporated herein by reference.

Item 9. Undertakings.

The undersigned Registrant hereby undertakes:

(a) to file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) to reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

provided, however, that paragraphs (a)(i) and (a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(b) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof; and

(c) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant

has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

EXHIBIT INDEX

| Exhibit Number | Description |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1 | <u>Second Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 of the Registrant's Current Report on Form 8-K filed on February 19, 2020).</u> |
| 4.2 | <u>Third Amended and Restated By-Laws of the Registrant (incorporated by reference to Exhibit 3.2 of the Registrant's Current Report on Form 8-K filed on February 19, 2020).</u> |
| 4.3 | <u>Berry Corporation (bry) 2022 Omnibus Incentive Plan, dated March 1, 2022 (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed May 4, 2022).</u> |
| 4.4 | <u>Berry Corporation (bry) 2022 Omnibus Incentive Plan - Form of Performance-Based Restricted Stock Unit Award Agreement with Total Shareholder Return Performance Criteria (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed May 4, 2022).</u> |
| 4.5 | <u>Berry Corporation (bry) 2022 Omnibus Incentive Plan - Form of Performance-Based Restricted Stock Unit Award Agreement with CROIC Performance Criteria (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q filed May 4, 2022).</u> |
| 4.6 | <u>Berry Corporation (bry) 2022 Omnibus Incentive Plan - Form of Performance-Based Restricted Stock Unit Award Agreement with C&J Well Services ROCI Performance Criteria (Executive Employment Agreement) (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q filed May 4, 2022).</u> |
| 4.7 | <u>Berry Corporation (bry) 2022 Omnibus Incentive Plan - Form of Performance-Based Restricted Stock Unit Award Agreement with C&J Well Services ROCI Performance Criteria (incorporated by reference to Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q filed May 4, 2022).</u> |
| 4.8* | <u>Berry Corporation (bry) 2022 Omnibus Incentive Plan – Form of Restricted Stock Unit Award Agreement for Non-Employee Directors.</u> |
| 5.1* | <u>Opinion of Kirkland & Ellis LLP.</u> |
| 23.1* | <u>Consent of Kirkland & Ellis LLP (included in the opinion filed as Exhibit 5.1 to this Registration Statement).</u> |
| 23.2* | <u>Consent of KPMG LLP.</u> |
| 23.3* | <u>Consent of DeGolyer and MacNaughton.</u> |
| 24.1* | <u>Power of Attorney (included on the signature page of this Registration Statement).</u> |
| 107* | <u>Filing Fee Table</u> |

*Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dallas, State of Texas, on June 9, 2022.

BERRY CORPORATION (bry)

By: /s/ A. T. "Trem" Smith
Name: A. T. "Trem" Smith
Title President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below authorizes and appoints A.T. Smith, Cary Baetz and Danielle Hunter and each of them, either of whom may act without the joinder of the other, as such person's true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for such person and in such person's name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully and to all intents and purposes as such person might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact or agents, or their substitute or substitutes, each acting alone, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement and the above Power of Attorney have been signed below by the following persons in the capacities indicated on June 9, 2022.

| Name | Position |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| <u>/s/ A. T. "Trem" Smith</u> A. T. "Trem" Smith | President, Chief Executive Officer and Director <i>(Principal Executive Officer)</i> |
| <u>/s/ Cary Baetz</u> Cary Baetz | Executive Vice President, Chief Financial Officer and Director <i>(Principal Financial Officer)</i> |
| <u>/s/ Michael Helm</u> Michael Helm | Chief Accounting Officer <i>(Principal Accounting Officer)</i> |
| <u>/s/ Renée Hornbaker</u> Renée Hornbaker | Director |
| <u>/s/ Anne Mariucci</u> Anne Mariucci | Director |
| <u>/s/ Donald Paul</u> Donald Paul | Director |
| <u>/s/ Rajath Shourie</u> Rajath Shourie | Director |

CALCULATION OF REGISTRATION FEE

| Title of securities to be registered | Amount to be registered ⁽¹⁾ | Proposed maximum offering price per share | Proposed maximum aggregate offering price | Amount of registration fee |
|-------------------------------------------|----------------------------------------|-------------------------------------------|-------------------------------------------|----------------------------|
| Common Stock, par value \$0.001 per share | 2,300,000 ⁽²⁾ | \$11.18 ⁽³⁾ | \$25,714,000 | \$2,383.69 |

- (1) Pursuant to Rule 416 of the Securities Act of 1933, as amended (the “Securities Act”), this registration statement also covers an indeterminate number of additional shares of common stock, par value \$0.001 per share (the “Common Stock”), of Berry Corporation (bry) issuable with respect to the shares being registered hereunder by reason of any stock splits, stock dividends, recapitalization, anti-dilution provisions or other similar transaction.
- (2) This Registration Statement on Form S-8 (this “Registration Statement”) registers 2,300,000 shares of Common Stock to be issued under the Berry Corporation (bry) 2022 Omnibus Incentive Plan.
- (3) Estimated solely for the purpose of calculating the registration fee, based on the average of the high and low prices of a share of Common Stock as reported on the Nasdaq Global Select Market on June 3, 2022 (such date being within five business days of the date that this Registration Statement was first filed with the Securities and Exchange Commission). This calculation is in accordance with Rule 457(c) and (h) of the Securities Act.

**RESTRICTED STOCK UNIT AWARD AGREEMENT
PURSUANT TO THE
BERRY CORPORATION (BRY) 2022 OMNIBUS INCENTIVE PLAN**

Participant: [_____]

Grant Date: [_____]

Number of Restricted Stock [_____]
Units ("RSUs"):

Vesting Conditions: Subject to Section 3 hereof, the RSUs will become fully vested on [_____]

* * * * *

THIS RESTRICTED STOCK UNIT AWARD AGREEMENT (this "Agreement") dated as of the Grant Date specified above ("Grant Date"), is entered into by and between Berry Corporation (bry), a corporation organized in the State of Delaware (the "Company"), and the Participant specified above, pursuant to the Berry Corporation (bry) 2022 Omnibus Incentive Plan, as in effect and as amended from time to time (the "Plan").

WHEREAS, the Participant is a non-employee member of the Company's Board of Directors (the "Board"); and

WHEREAS, in accordance with the Company's non-employee director compensation policy, as approved by the Board, the Participant is annually entitled to receive an equity award of RSUs in consideration of the services rendered and to be rendered by the Participant to the Company;

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth and for other good and valuable consideration, the parties hereto hereby mutually covenant and agree as follows:

1. **Incorporation By Reference; Plan Document Receipt.** Except as specifically provided herein, this Agreement is subject in all respects to the terms and provisions of the Plan (including, without limitation, any amendments thereto adopted at any time and from time to time unless such amendments are expressly intended not to apply to this Award), all of which terms and provisions are made a part of and incorporated in this Agreement as if they were each expressly set forth herein. Except as provided otherwise herein, any capitalized term not defined in this Agreement shall have the same meaning as is ascribed thereto in the Plan. The Participant hereby acknowledges receipt of a true copy of the Plan and that the Participant has read the Plan carefully and fully understands its content. In the event of any conflict between the terms of this Agreement and the terms of the Plan, the terms of this Agreement shall control.

2. **Grant of RSUs.** The Company hereby grants to the Participant, on the Grant Date, the number of RSUs set forth above. Subject to the terms of this Agreement and the Plan, each RSU, to the extent it becomes a vested RSU in accordance with the Vesting Conditions set forth under Vesting Conditions above, represents the right to receive one (1) share of Stock. Unless and until an RSU becomes vested, the Participant will have no right to settlement of such RSU. Except as otherwise provided by the Plan, the Participant agrees and understands that nothing contained in this Agreement provides, or is intended to provide, the Participant with any protection against potential future dilution of the Participant's interest in the Company for any reason, and no adjustments shall be made for dividends in cash or other property, distributions or other rights in respect of the shares of Stock underlying the RSUs, except as otherwise specifically provided for in the Plan or this Agreement.

3. **Vesting; Forfeiture.**

(a) **Vesting Generally.** Except as otherwise provided in this Section 3, the RSUs subject to this Award shall become vested in accordance with the vesting schedule set forth under Vesting Conditions above.

(b) **Death or Disability.** If the Participant's service with the Board terminates by reason of the Participant's death or his resignation due to a permanent and total disability as defined in Section 22(e)(3) of the Code (a "Disability"), one hundred percent (100%) of the RSUs subject to this Award shall immediately become vested as of the date of such termination. A Disability shall only be deemed to occur at the time of the determination by the Committee of the Disability. Notwithstanding the foregoing, for Awards that are subject to the Nonqualified Deferred Compensation Rules, Disability shall mean that a Participant is disabled under Section 409A(a)(2)(C)(i) or (ii) of the Code.

(c) **Termination of Service.** If the Participant's service with the Board terminates for any reason other than as described in Section 3(b) hereof, all RSUs subject to this Award that are outstanding and unvested as of the date of such termination shall be immediately forfeited and cancelled without consideration to the Participant.

(d) **Change in Control.** All outstanding unvested RSUs subject to this Award shall become fully and immediately vested upon the consummation of a Change in Control, so long as the Participant's service with the Board has remained continuous from the Grant Date through the consummation of such Change in Control.

4. **Delivery of Shares.** Unless otherwise provided herein, within thirty (30) days following the vesting of the RSUs, the RSUs shall be settled by delivering to the Participant the number of shares of Stock that correspond to the number of RSUs that have become vested on the applicable vesting date, less any shares of Stock withheld by the Company pursuant to Section 8 hereof.

5. **Dividends; Rights as Stockholder.** If the Company pays a cash dividend in respect of its outstanding Stock and, on the record date for such dividend, the Participant holds RSUs granted pursuant to this Agreement that have not vested and been settled in accordance with Section 4, the Company shall credit to an account maintained by the Company for the Participant's benefit an amount equal to the cash dividends the Participant would have received if the Participant were the holder of record, as of such record date, of the number of shares of Stock related to the portion of the RSUs that have not been settled or forfeited as of such record date; *provided* that such cash dividends shall not be deemed to be reinvested in shares of Stock and shall be held uninvested and without interest and paid in cash at the same time that the shares of Stock underlying the RSUs are delivered to the Participant in accordance with the provisions hereof or, if later, the date on which such cash dividend is paid to shareholders of the Company. Stock or property dividends on shares of Stock shall be credited to a dividend book entry account on behalf of the Participant with respect to each RSU granted to the Participant; *provided* that such stock or property dividends shall be paid in shares of Stock, in the case of a spin-off, shares of stock of the entity that is spun-off from the Company, or other property, as applicable and in each case, at the same time that the shares of Stock underlying the RSUs are delivered to the Participant in accordance with the provisions hereof. Such account is intended to constitute an "unfunded" account, and neither this Section 5 nor any action taken pursuant to or in accordance with this Section 5 shall be construed to create a trust of any kind. Except as otherwise provided herein, the Participant shall have no rights as a stockholder with respect to any shares of Stock covered by any RSU unless and until the Participant has become the holder of record of such shares.

6. **Non-Transferability.** No portion of the RSUs may be sold, assigned, transferred, encumbered, hypothecated or pledged by the Participant, other than to the Company as a result of forfeiture of the RSUs as provided herein.

7. **Governing Law.** All questions concerning the construction, validity and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the choice of law principles thereof.

8. **Taxes.** The Participant shall be responsible for all taxes arising from the grant, vesting, or settlement of this Award, and the subsequent sale of any shares of Stock received hereunder. No taxes will be deducted or withheld by the Company. The Participant acknowledges and agrees that no oral or written representation of fact or opinion has been made to him by the Company or its attorneys regarding the tax treatment or consequences of the grant, vesting, or settlement of this Award, or the subsequent sale of any shares of Stock received hereunder.

9. **Legend.** The Company may at any time place legends referencing any applicable federal, state or foreign securities law restrictions on all certificates, if any, representing shares of Stock issued pursuant to this Agreement. The Participant shall, at the request of the Company, promptly present to the Company any and all certificates, if any, representing shares of Stock acquired pursuant to this Agreement in the possession of the Participant in order to carry out the provisions of this Section 9.

10. **Securities Representations.** This Agreement is being entered into by the Company in reliance upon the following express representations and warranties of the Participant. The Participant hereby acknowledges, represents and warrants that:

(a) The Participant has been advised that the Participant may be an “affiliate” within the meaning of Rule 144 under the Securities Act and in this connection the Company is relying in part on the Participant’s representations set forth in this Section 10.

(b) If the Participant is deemed an affiliate within the meaning of Rule 144 of the Securities Act, the shares of Stock issuable hereunder must be held indefinitely unless an exemption from any applicable resale restrictions is available or the Company files an additional registration statement (or a “re-offer prospectus”) with regard to such shares of Stock and the Company is under no obligation to register such shares of Stock (or to file a “re-offer prospectus”).

(c) If the Participant is deemed an affiliate within the meaning of Rule 144 of the Securities Act, the Participant understands that the exemption from registration under Rule 144 will not be available unless a public trading market then exists for the Stock, adequate information concerning the Company is then available to the public, and other terms and conditions of Rule 144 or any exemption therefrom are complied with, and any sale of the shares of Stock issuable hereunder may be made only in limited amounts in accordance with the terms and conditions of Rule 144 or any exemption therefrom.

11. **No Waiver.** No waiver or non-action by either party hereto with respect to any breach by the other party of any provision of this Agreement shall be deemed or construed to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

12. **Entire Agreement; Amendment.** This Agreement, together with the Plan, contains the entire agreement between the parties hereto with respect to the subject matter contained herein, and supersedes all prior agreements or prior understandings, whether written or oral, between the parties relating to such subject matter. The Committee shall have the right, in its sole discretion, to modify or amend this Agreement from time to time in accordance with and as provided in the Plan. This Agreement may also be modified or amended by a writing signed by both the Company and the Participant. The Company shall give written notice to the Participant of any such modification or amendment of this Agreement as soon as practicable after the adoption thereof. By accepting this Award, between the Participant and the Company, the Participant acknowledges and agrees that he has timely received his award as provided for under the Company’s non-employee director compensation policy.

13. **Notices.** Any notice hereunder by the Participant shall be given to the Company in writing and such notice shall be deemed duly given only upon receipt thereof by the chairman of the Board. Any notice hereunder by the Company shall be given to the Participant in writing and such notice shall be deemed duly given only upon receipt thereof at such address as the Participant may have on file with the Company.

14. **No Right to Continued Service.** Nothing in this Agreement shall interfere with or limit in any way the right of the Company, its subsidiaries or its Affiliates to remove the Participant from the Board at any time, for any reason and with or without Cause.

15. **Transfer of Personal Data.** The Participant authorizes, agrees and unambiguously consents to the transmission by the Company (or any Affiliate) of any personal data information related to the RSUs awarded under this Agreement for legitimate business purposes (including, without limitation, the administration of the Plan). This authorization and consent is freely given by the Participant.

16. **Compliance with Laws.** The grant of RSUs and the issuance of shares of Stock hereunder shall be subject to, and shall comply with, any applicable requirements of any foreign and U.S. federal and state securities laws, rules and regulations (including, without limitation, the provisions of the Securities Act, the Exchange Act and in each case any respective rules and regulations promulgated thereunder) and any other law, rule regulation or exchange requirement applicable thereto. The Company shall not be obligated to issue the RSUs or any shares of Stock pursuant to this Agreement if any such issuance would violate any such requirements. As a condition to the settlement of the RSUs, the Company may require the Participant to satisfy any qualifications that may be necessary or appropriate to evidence compliance with any applicable law or regulation.

17. **Binding Agreement; Assignment.** This Agreement shall inure to the benefit of, be binding upon, and be enforceable by the Company and its successors and assigns. Subject to the restrictions on transfer set forth herein and in the Plan, this Agreement will be binding upon the Participant and the Participant's beneficiaries, executors, administrators and the person(s) to whom this Award may be transferred by will or the laws of descent or distribution.

18. **Headings.** The titles and headings of the various sections of this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Agreement.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Electronic acceptance and signatures shall have the same force and effect as original signatures.

20. **Further Assurances.** Each party hereto shall do and perform (or shall cause to be done and performed) all such further acts and shall execute and deliver all such other agreements, certificates, instruments and documents as either party hereto reasonably may request in order to carry out the intent and accomplish the purposes of this Agreement and the Plan and the consummation of the transactions contemplated thereunder; *provided* that no such additional documents shall contain terms or conditions inconsistent with the terms and conditions of this Agreement.

21. **Severability.** The invalidity or unenforceability of any provision of this Agreement (or any portion thereof) in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Agreement in such jurisdiction or the validity, legality or enforceability of any provision of this Agreement (or any portion thereof) in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

22. **No Acquired Rights.** The Participant acknowledges and agrees that: the Company may terminate or amend the Plan at any time; the award of RSUs made under this Agreement is completely independent of any other award or grant and is made at the sole discretion of the Company; no past grants or awards (including, without limitation, the RSUs awarded hereunder) give the Participant any right to any grants or awards in the future whatsoever; and any benefits granted under this Agreement are not part of the Participant's ordinary salary, and shall not be considered as part of such salary in the event of severance, redundancy or resignation.

23. **Section 409A.** Notwithstanding anything herein or in the Plan to the contrary, the RSUs granted pursuant to this Agreement are intended to be exempt from the applicable requirements of the Nonqualified Deferred Compensation Rules and shall be limited, construed and interpreted in accordance with such intent. Nevertheless, to the extent that the Committee determines that the RSUs may not be

exempt from the Nonqualified Deferred Compensation Rules, then, if the Participant is deemed to be a “specified employee” within the meaning of the Nonqualified Deferred Compensation Rules, as determined by the Committee, at a time when the Participant becomes eligible for settlement of the RSUs upon his or her “separation from service” within the meaning of the Nonqualified Deferred Compensation Rules, then to the extent necessary to prevent any accelerated or additional tax under the Nonqualified Deferred Compensation Rules, such settlement will be delayed until the earlier of: (a) the date that is six (6) months following the Participant’s separation from service and (b) the Participant’s death. Notwithstanding the foregoing, the Company and its Affiliates make no representations that the RSUs provided under this Agreement are exempt from or compliant with the Nonqualified Deferred Compensation Rules and in no event shall the Company or any Affiliate be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by the Participant on account of non-compliance with the Nonqualified Deferred Compensation Rules.

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

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Houston, TX 77002
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www.kirkland.com

June 9, 2022

Berry Corporation (bry)
16000 N. Dallas Parkway, Suite 500
Dallas, Texas 75248

Ladies and Gentlemen:

We are issuing this opinion in our capacity as special counsel to Berry Corporation (bry), a Delaware corporation (the “*Company*”), in connection with the preparation of the Registration Statement on Form S-8 (as amended or supplemented, the “*Registration Statement*”) to be filed by the Company pursuant to the Securities Act of 1933, as amended (the “*Securities Act*”), with the Securities and Exchange Commission (the “*Commission*”) on or about the date hereof. The Registration Statement relates to 2,300,000 shares (the “*Shares*”) of common stock, par value \$0.001 per share, of the Company (the “*Common Stock*”) that may be issued from time to time pursuant to the Berry Corporation (bry) 2022 Omnibus Incentive Plan (as amended from time to time, the “*Plan*”).

In connection with this opinion, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments as we have deemed necessary for the purposes of this opinion, including (i) the corporate and organizational documents of the Company, (ii) minutes and records of the corporate proceedings of the Company with respect to the Registration Statement, (iii) the Plan, and (iv) the Registration Statement and the exhibits thereto.

For purposes of this opinion, we have assumed the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as copies and the authenticity of the originals of all documents submitted to us as copies. We have also assumed the legal capacity of all natural persons, the genuineness of the signatures of persons signing all documents in connection with which this opinion is rendered, the authority of such persons signing on behalf of the parties thereto other than the Company and the due authorization, execution and delivery of all documents by the parties thereto other than the Company. We have not independently established or verified any facts relevant to the opinions expressed herein, but have relied upon statements and representations of the officers and other representatives of the Company.

We have relied without independent investigation upon, among other things, an assurance from the Company that the number of shares of Common Stock that the Company is authorized to issue pursuant to the Second Amended and Restated Certificate of Incorporation of the Company exceeds the number of shares of Common Stock outstanding and the number of shares of Common Stock that the Company is obligated to issue (or had otherwise reserved for issuance) for any purposes other than the issuances of the Shares by at least the number of Shares, and we have assumed that such condition will remain true at all future times relevant to this opinion.

Based upon and subject to the foregoing qualifications, assumptions and limitations and the further limitations set forth herein, we are of the opinion that the Shares have been duly authorized and, when issued, delivered and paid for in accordance with the terms of the Plan, will be validly issued, fully paid and non-assessable.

KIRKLAND & ELLIS LLP

Berry Corporation (bry)
June 9, 2022
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Our opinion expressed above is subject to the qualifications that we express no opinion as to the applicability of, compliance with, or effect of any laws except the General Corporation Law of the State of Delaware.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Registration Statement. In giving this consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission.

We do not find it necessary for the purposes of this opinion, and accordingly we do not purport to cover herein, the application of the securities or "Blue Sky" laws of the various states to the sale of the Shares.

This opinion is limited to the specific issues addressed herein, and no opinion may be inferred or implied beyond that expressly stated herein. This opinion speaks only as of the date hereof, and we assume no obligation to revise or supplement this opinion after the date of effectiveness should the General Corporation Law of the State of Delaware be changed by legislative action, judicial decision or otherwise after the date hereof.

This opinion is furnished to you in connection with the filing of the Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act, and is not to be used, circulated, quoted or otherwise relied upon for any other purpose.

Sincerely,

/s/ Kirkland & Ellis LLP

Kirkland & Ellis LLP

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated March 4, 2022, with respect to the consolidated financial statements of Berry Corporation (bry), incorporated herein by reference.

/s/ KPMG LLP

Dallas, Texas
June 9, 2022

DeGolyer and MacNaughton
5001 Spring Valley Road
Suite 800 East
Dallas, Texas 75244

June 9, 2022

Berry Corporation (bry)
16000 N. Dallas Parkway, Suite 500
Dallas, Texas 75248

Ladies and Gentlemen:

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 of Berry Corporation (bry) (the “Registration Statement”) of the name DeGolyer and MacNaughton, the references to our report containing our opinion on the proved reserves, as of December 31, 2021, attributable to certain properties in which Berry Corporation (bry) has represented it holds an interest, and our corresponding report of third party, dated January 19, 2022. We also consent to all references to us contained in or incorporated by reference in such Registration Statement, including in the prospectus under the heading “Experts.”

Very truly yours,

/s/ DeGolyer and MacNaughton

DeGolyer and MacNaughton
Texas Registered Engineering Firm F-716