

EnergySolutions, Inc.  
Form 10-Q  
November 06, 2009

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-Q**

(Mark One)

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

For the quarterly period ended September 30, 2009

Or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission file number 001-33830

**EnergySolutions, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or Other Jurisdiction of  
Incorporation or Organization)

**51-0653027**

(I.R.S. Employer  
Identification Number)

**423 West 300 South, Suite 200  
Salt Lake City, Utah**  
(Address of principal executive offices)

**84101**  
(Zip Code)

Registrant's telephone number, including area code: **(801) 649-2000**

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

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

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

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

(Do not check if a  
smaller reporting company)

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

As of November 6, 2009, 88,333,871 shares of registrant's common stock were outstanding.

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**EnergySolutions, Inc.**

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Table of Contents**PART I****Item 1. Financial Statements****EnergySolutions, Inc.****Condensed Consolidated Balance Sheets****September 30, 2009 and December 31, 2008****(in thousands of dollars)**

	<b>September 30, 2009</b>	<b>December 31, 2008</b>
	<b>(Unaudited)</b>	
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 21,392	\$ 48,448
Accounts receivable, net of allowance for doubtful accounts	275,239	213,037
Costs and estimated earnings in excess of billings on uncompleted contracts	70,089	59,545
Income tax receivable	7,327	5,537
Inventories	12,618	11,218
Prepaid expenses	8,997	19,109
Other current assets	21,270	34,363
<b>Total current assets</b>	<b>416,932</b>	<b>391,257</b>
Property, plant and equipment, net	115,047	114,021
Goodwill	518,751	528,254
Other intangible assets, net	326,316	357,100
Restricted cash and decontamination and decommissioning deposits	25,621	31,712
Other noncurrent assets	181,891	128,368
<b>Total assets</b>	<b>\$ 1,584,558</b>	<b>\$ 1,550,712</b>
<b>Liabilities and Equity</b>		
Current liabilities:		
Current portion of long-term debt	\$ 1,392	\$ 2,954
Accounts payable	117,917	89,513
Accrued expenses and other current liabilities	178,021	177,439
Deferred income taxes	2,068	2,067
Unearned revenues	20,302	26,734
<b>Total current liabilities</b>	<b>319,700</b>	<b>298,707</b>
Long-term debt, less current portion	517,719	563,803
Pension liability	155,532	104,897
Facility and equipment decontamination and decommissioning liabilities	62,633	65,904
Deferred income taxes	42,426	41,385
Other noncurrent liabilities	6,191	7,197

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Total liabilities	1,104,201	1,081,893
Commitments and contingencies		
EnergySolutions stockholders' equity:		
Preferred stock, \$0.01 par value, 100,000,000 shares authorized; no shares issued and outstanding		
Common stock, \$0.01 par value, 1,000,000,000 shares authorized; 88,324,073 shares and 88,305,674 shares issued and outstanding	883	883
Additional paid-in capital	486,333	482,042
Accumulated other comprehensive income (loss)	(14,078)	4,895
Retained earnings (capital deficiency)	6,072	(20,034)
Total EnergySolutions stockholders' equity	479,210	467,786
Noncontrolling interests	1,147	1,033
Total equity	480,357	468,819
Total liabilities and equity	\$ 1,584,558	\$ 1,550,712

See accompanying notes to condensed consolidated financial statements.

Table of Contents**EnergySolutions, Inc.****Condensed Consolidated Statements of Operations and Comprehensive Income (Loss)****Three and Nine Months Ended September 30, 2009 and 2008****(in thousands of dollars, except per share information)****(Unaudited)**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Revenues	\$ 364,853	\$ 419,453	\$ 1,175,547	\$ 1,381,551
Cost of revenues	320,910	362,962	1,034,678	1,189,557
Gross profit	43,943	56,491	140,869	191,994
Selling, general and administrative expenses	25,631	30,705	86,730	88,992
Income from operations	18,312	25,786	54,139	103,002
Interest expense	(6,368)	(9,778)	(21,789)	(34,250)
Other income (expenses), net	2,988	(72)	5,215	(1,891)
Income before income taxes and noncontrolling interests	14,932	15,936	37,565	66,861
Income tax expense	(1,742)	(4,827)	(8,367)	(23,164)
Net income	\$ 13,190	\$ 11,109	\$ 29,198	\$ 43,697
Less: Net income attributable to noncontrolling interests	(334)	(207)	(885)	(907)
Net income attributable to EnergySolutions	\$ 12,856	\$ 10,902	\$ 28,313	\$ 42,790
Net income attributable to EnergySolutions per share:				
Basic	\$ 0.15	\$ 0.12	\$ 0.32	\$ 0.48
Diluted	\$ 0.15	\$ 0.12	\$ 0.32	\$ 0.48
Shares used to calculate net income attributable to EnergySolutions per share:				
Basic	88,315,158	88,303,500	88,308,870	88,303,500
Diluted	88,557,831	88,312,311	88,390,569	88,310,791
Cash dividends declared per common share	\$ 0.025	\$ 0.025	\$ 0.075	\$ 0.075
Comprehensive income:				
Net income	\$ 13,190	\$ 11,109	\$ 29,198	\$ 43,697
Foreign currency translation adjustment	(22,178)	3,863	(21,233)	4,228
Change in unrecognized actuarial gain	77		2,260	336

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Comprehensive income (loss)	(8,911)	14,972	10,225	48,261
Comprehensive income attributable to noncontrolling interests	(334)	(207)	(885)	(907)

Comprehensive income (loss) attributable to EnergySolutions	\$	(9,245)	\$	14,765	\$	9,340	\$	47,354
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See accompanying notes to condensed consolidated financial statements.

Table of Contents**EnergySolutions, Inc.****Condensed Consolidated Statements of Cash Flows****Nine Months Ended September 30, 2009 and 2008****(in thousands of dollars)****(Unaudited)**

	<b>Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>
<b>Cash flows from operating activities</b>		
Net income attributable to EnergySolutions	\$ 28,313	\$ 42,790
Adjustments to reconcile net income attributable to EnergySolutions to net cash provided by operating activities:		
Net income attributable to noncontrolling interests	885	907
Depreciation and amortization	33,896	34,688
Equity-based compensation expense	8,697	7,388
Foreign currency transaction (gain) loss	(650)	5,343
Deferred income taxes	3,832	2,814
Amortization of debt financing fees and debt discount	3,167	2,516
(Gain) loss on disposal of property, plant and equipment	(5)	709
Unrealized loss on derivative contracts	2,746	3,341
Changes in operating assets and liabilities:		
Accounts receivable	(48,884)	107,828
Costs and estimated earnings in excess of billings on uncompleted contracts	(10,470)	(23,878)
Income tax receivable	(1,791)	8,389
Inventories	(1,399)	572
Prepaid expenses and other current assets	25,484	(33,458)
Accounts payable	21,317	(56,167)
Accrued expenses and other current liabilities	(1,480)	(10,996)
Unearned revenues	(6,452)	(3,272)
Facility and equipment decontamination and decommissioning liabilities	1,175	1,202
Restricted cash and decontamination and decommissioning deposits	1,725	2,309
Other noncurrent assets	(42,602)	(43,100)
Other noncurrent liabilities	38,329	37,048
Net cash provided by operating activities	55,833	86,973
<b>Cash flows from investing activities</b>		
Purchases of property, plant and equipment	(15,059)	(9,731)
Purchases of intangible assets	(558)	(351)
Proceeds from disposition of property, plant and equipment	22	33
Net cash used in investing activities	(15,595)	(10,049)
<b>Cash flows from financing activities</b>		
Repayments of long-term debt	(47,646)	(30,210)
Dividends to stockholders	(6,623)	(6,623)
Distributions to noncontrolling interests partners	(762)	(595)
Settlement of derivative contracts	(5,839)	(1,455)
Repayments of capital lease obligations	(1,078)	(1,165)
Debt financing fees	(4,564)	(6,434)



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Net cash used in financing activities	(66,512)	(46,482)
Effect of exchange rate on cash	(782)	(6,908)
Net increase in cash and cash equivalents	(27,056)	23,534
Cash and cash equivalents, beginning of period	48,448	36,366
Cash and cash equivalents, end of period	\$ 21,392	\$ 59,900

See accompanying notes to condensed consolidated financial statements.

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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements**

**(Unaudited)**

**(1) Description of Business**

EnergySolutions, Inc. ("we," "our," "EnergySolutions" or the "Company") is a leading provider of specialized, technology-based nuclear services to government and commercial customers. Our customers rely on our expertise to address their needs throughout the lifecycle of their nuclear operations. Our broad range of nuclear services includes engineering, operation of nuclear reactors, in-plant support services, spent nuclear fuel management, decontamination and decommissioning ("D&D"), logistics, transportation, processing and disposal. We derive almost 100% of our revenues from the provision of nuclear services.

We provide our services through four segments: Federal Services; Commercial Services; Logistics, Processing and Disposal ("LP&D"), and International. Our Federal Services segment derives revenues from U.S. government customers for the management and operation or clean-up of facilities with radioactive materials. Our U.S. government customers are primarily individual offices, departments and administrations within the U.S. Department of Energy ("DOE") and U.S. Department of Defense ("DOD"). Our Commercial Services segment provides a broad range of on-site services, including D&D, to commercial customers. Our commercial customers include power and utility companies, pharmaceutical companies, research laboratories, universities, industrial facilities and other commercial entities with nuclear materials, as well as state agencies in the United States. Our LP&D segment provides a broad range of logistics, transportation, processing and disposal services to government and commercial customers. This segment also operates our facilities for the safe processing and disposal of radioactive materials, including a facility in Clive, Utah, four facilities in Tennessee and two facilities in Barnwell, South Carolina. Our International segment derives revenues primarily through contracts with the Nuclear Decommissioning Authority ("NDA") in the United Kingdom ("UK") to operate, manage and decommission 10 Magnox sites with 22 nuclear reactors. In addition, our International segment provides turn-key services for the disposal of radioactive sources from non-nuclear power generating facilities such as hospitals, research facilities and other manufacturing and industrial facilities.

**(2) Basis of Presentation**

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP") for interim financial information and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments, consisting only of normal recurring activities, considered necessary for a fair presentation have been included. We evaluated all subsequent events through the date that we filed these financial statements in our Form 10-Q Report with the Securities and Exchange Commission on November 6, 2009. These unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto contained in our Annual Report on Form 10-K for the year ended December 31, 2008 filed with the Securities and Exchange Commission on February 27, 2009.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates. The results of operations for the three and nine

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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(Unaudited)**

**(2) Basis of Presentation (Continued)**

months ended September 30, 2009 are not necessarily indicative of results that can be expected for the full year.

We have majority voting rights for two of our minority-owned joint ventures. Accordingly, we have included their operations in our condensed consolidated financial statements. We recorded the portion of the earnings from operations which is applicable to the noncontrolling partners as net income and comprehensive income attributable to noncontrolling interests.

Certain amounts for prior periods have been reclassified to conform to the current year presentation. Prior to the fourth quarter of 2008, we included letter of credit interest in cost of revenues and selling, general and administrative expenses. During the fourth quarter of 2008, we reclassified these amounts from operating expenses to interest expense in the accompanying condensed consolidated statements of operations. Accordingly, for the three and nine months ended September 30, 2008, gross profit was increased by \$0.5 million and \$1.9 million, respectively, and income from operations was increased \$0.6 million and \$2.2 million, respectively as a result of this reclassification. We have also reclassified \$6.4 million from unearned revenues to accrued expenses and other current liabilities as of December 31, 2008 to conform to the current year presentation.

**(3) Recent Accounting Pronouncements**

In December 2007, the Financial Accounting Standards Board ("FASB") issued guidance on noncontrolling interests which establishes accounting and reporting guidance for the noncontrolling interest in a subsidiary (formerly known as minority interest) and for the deconsolidation of a subsidiary. This guidance clarifies that a noncontrolling interest in a subsidiary is an ownership interest in the consolidated entity that should be reported as equity in the consolidated financial statements. This guidance also requires presentation on the face of the consolidated statement of income of the amounts of consolidated net income attributable to the parent and to the noncontrolling interest, resulting in an increase to consolidated Net income. Historically, Net income attributable to noncontrolling interests was presented as minority interest expense. Under this new guidance, amounts reported as Net income attributable to noncontrolling interests are now reported net of any applicable taxes. This guidance requires expanded disclosures in the consolidated financial statements that clearly identify and distinguish between the interests of the parent's owners and the interests of the noncontrolling owners of a subsidiary. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2008. We adopted the statement on January 1, 2009 via retrospective application of the presentation and disclosure requirements.

In March 2008, the FASB issued new disclosure requirements for derivative instruments and hedging activities. The new disclosure requirements will provide users of financial statements with an enhanced understanding of: (1) how and why an entity uses derivative instruments; (2) how derivative instruments and related hedged items are accounted for; and (3) how derivative instruments and related hedged items affect an entity's financial position, financial performance and cash flows. This guidance requires qualitative disclosures about objectives and strategies for using derivatives, quantitative disclosures about fair value amounts of and gains and losses on derivative instruments and disclosures about credit-risk-related contingent features in derivative instruments. This statement applies to all entities and all derivative instruments. This guidance is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. The required disclosures

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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(Unaudited)**

**(3) Recent Accounting Pronouncements (Continued)**

are presented in Note 7 on a prospective basis. This guidance does not impact the consolidated financial results as it is disclosure-only in nature.

In April 2009, the FASB issued guidance on fair value measurements and disclosures. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants under current market conditions. The new guidance requires an evaluation of whether there has been a significant decrease in the volume and level of activity for the asset or liability in relation to normal market activity for the asset or liability. If there has been a significant decrease in activity, transactions or quoted prices may not be indicative of fair value and a significant adjustment may need to be made to those prices to estimate fair value. Additionally, an entity must consider whether the observed transaction was orderly (that is, not distressed or forced). If the transaction was orderly, the obtained price can be considered a relevant, observable input for determining fair value. If the transaction is not orderly, other valuation techniques must be used when estimating fair value. This guidance, which was adopted by the Company effective April 1, 2009, did not impact the Company's financial position, results of operations or cash flows during the three and nine months ended September 30, 2009.

In May 2009, the FASB issued guidance on subsequent events which establishes general guidance for accounting for and disclosing subsequent events that occur after the balance sheet date but before financial statements are issued or are available to be issued. The guidance requires an entity to disclose the date through which subsequent events were evaluated by management. We adopted this guidance as of April 1, 2009 and the required disclosures are presented in Note 2. This guidance does not impact the Company's financial position or results of operation as it is disclosure-only in nature.

***Accounting Pronouncements Issued But Not Yet Adopted***

In June 2009, the FASB issued authoritative guidance on accounting for transfers of financial assets, which is effective for reporting periods beginning after November 15, 2009. The new requirement limits the circumstances in which a financial asset may be de-recognized when the transferor has not transferred the entire financial asset or has continuing involvement with the transferred asset. The concept of a qualifying special-purpose entity, which had previously facilitated sale accounting for certain asset transfers, is removed by the new requirement. . The Company is currently evaluating the potential impact of this guidance but does not expect it to have a material impact on the Company's results of operations, financial position or cash flows.

In June 2009, the FASB issued authoritative guidance on accounting for variable interest entities, which is effective for reporting periods beginning after November 15, 2009. The amendments change the process for how an enterprise determines which party consolidates a variable interest entity (VIE) to a primarily qualitative analysis. The party that consolidates the VIE (the primary beneficiary) is defined as the party with (1) the power to direct activities of the VIE that most significantly affect the VIE's economic performance and (2) the obligation to absorb losses of the VIE or the right to receive benefits from the VIE. Upon adoption, reporting enterprises must reconsider their conclusions on whether an entity should be consolidated and should a change result, the effect on net assets will be recorded as a cumulative effect adjustment to retained earnings. . The Company is currently evaluating the potential impact of this guidance but does not expect it to have a material impact on the Company's results of operations, financial position or cash flows.

Table of Contents**EnergySolutions, Inc.****Notes to Condensed Consolidated Financial Statements (Continued)****(Unaudited)****(3) Recent Accounting Pronouncements (Continued)**

In August 2009, the FASB issued additional guidance on the fair value measurement of liabilities. The new guidance provides clarification on circumstances in which a quoted price in an active market for the identical liability is not available, a reporting entity is required to measure fair value using one or more of the following techniques: 1) a valuation technique that uses a quoted price of an identical liability when traded as an asset or quoted prices for similar liabilities or similar liabilities when traded as assets and/or 2) another valuation technique including one of the following: a) a technique that is based on the amount at the measurement date that the reporting entity would pay to transfer an identical liability or b) a technique based on the amount a reporting entity would receive to enter into an identical liability. It also clarifies that both a quoted price in an active market for an identical liability at the measurement date and a quoted price for the identical liability when traded as an asset in an active market when no adjustments to the quoted price of the asset are required are Level 1 fair value measurements. This guidance is effective for financial statements issued for interim and annual periods beginning after August 28, 2009. The adoption of this new guidance is not expected to have a material impact on the Company's results of operations, financial position or cash flows.

In October 2009, the FASB issued an update to the authoritative guidance for multiple-deliverable arrangements to enable vendors to account for products or services (deliverables) separately rather than as a combined unit. This update is effective prospectively for revenue arrangements entered into or materially modified beginning in fiscal years on or after June 15, 2010. Early adoption is permitted. We are currently evaluating the potential impact of the adoption of this guidance but we do not expect it to have a material impact on the Company's results of operations, financial position or cash flows.

**(4) Inventories**

Inventories consist of the following as of September 30, 2009 and December 31, 2008 (in thousands):

	<b>September 30, 2009</b>	<b>December 31, 2008</b>
Parts and supplies	\$ 603	\$ 517
Work in process	170	3,050
Finished goods	11,845	7,651
	<b>\$ 12,618</b>	<b>\$ 11,218</b>

**(5) Goodwill and Other Intangible Assets**

As of September 30, 2009, we had recorded \$518.8 million of goodwill related to the acquisitions of Envirocare, Scientech, Duratek, BNGA, Safeguard, Parallax, RSMC, Nukem and Monsarco.

Table of Contents**EnergySolutions, Inc.****Notes to Condensed Consolidated Financial Statements (Continued)****(Unaudited)****(5) Goodwill and Other Intangible Assets (Continued)**

Other intangible assets with finite lives as of September 30, 2009 and December 31, 2008 were as follows (in thousands):

	As of September 30, 2009			As of December 31, 2008		
	Gross Carrying Amount	Accumulated Amortization	Weighted Average Remaining Useful Life	Gross Carrying Amount	Accumulated Amortization	Weighted Average Remaining Useful Life
Permits	\$ 239,059	\$ (44,382)	20.1 years	\$ 239,059	\$ (36,995)	20.6 years
Customer relationships	169,820	(48,188)	8.5 years	182,436	(38,157)	9.1 years
Technology and other	15,037	(5,098)	6.3 years	14,479	(3,930)	6.7 years
Non competition	1,030	(962)	0.5 years	1,030	(822)	0.9 years
<b>Total amortizable intangibles</b>	<b>\$ 424,946</b>	<b>\$ (98,630)</b>	<b>15.3 years</b>	<b>\$ 437,004</b>	<b>\$ (79,904)</b>	<b>15.5 years</b>

For the three and nine months ended September 30, 2009, amortization expense was \$4.8 million and \$18.7 million, respectively, as compared to \$6.9 million and \$21.3 million for the same periods in 2008. We do not have intangible assets that are not subject to amortization other than goodwill.

During the three months ended September 30, 2009, the Company determined that it had inappropriately applied authoritative guidance related to intangible assets and goodwill denominated in foreign currencies. As such, the Company recorded an entry during the three months ended September 30, 2009 for \$1.8 million to reduce amortization expense recorded in previous periods.

**(6) Senior Credit Facilities**

On September 23, 2009, we entered into a Third Amended and Restated Credit Agreement (the "Amended ES Credit Agreement") with Citicorp North America, Inc. ("CNAI") as administrative agent and collateral agent. Concurrently with the entry into the Amended ES Credit Agreement, Duratek, Inc., a wholly-owned subsidiary of the Company, entered into an Amended and Restated Credit Agreement (the "Amended Duratek Credit Agreement" and together with the Amended ES Credit Agreement, the "Amended Credit Agreements") with CNAI. The Amended Credit Agreements amend, restate and supersede the credit agreements dated June 7, 2006 and subsequent amendments with CNAI and the lenders identified therein.

Our credit facilities consist of a \$75.0 million revolving credit facility, which matures on June 7, 2011, term-loan facilities totaling \$770.0 million, which mature on June 7, 2013, and synthetic letter of credit facilities totaling \$100.0 million, which expire on June 7, 2013. The revolving credit facility includes a sublimit of \$60.0 million for letters of credit, of which \$11.9 million were issued as of September 30, 2009. The synthetic letter of credit facilities had \$100.0 million issued as of September 30, 2009.

As amended by the Amended Credit Agreements, borrowings under the credit facilities bear interest as follows:

- (1) in the case of the first-lien term loans, (i) the greater of the rate of interest announced by Citicorp, from time to time, as its prime rate in effect at its principal office in the city of New York, and the federal funds rate plus 0.50% per annum (the "base rate"), plus 2.25% (or 1.75%

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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(Unaudited)**

**(6) Senior Credit Facilities (Continued)**

when the leverage ratio (as defined in the Amended Credit Agreements) as of the most recently completed fiscal quarter is less than 2.0 to 1.0) or (ii) for any portion of the term loans as to which we have elected to pay interest on a Eurodollar basis, LIBOR plus 3.75% (or 3.25% when the leverage ratio (as defined in the Amended Credit Agreements) as of the most recently completed fiscal quarter is less than 2.0 to 1.0);

(2) in the case of the revolving loans, (i) the base rate plus 2.25% or (ii) for any portion of the revolving loans as to which we have elected to pay interest on a Eurodollar basis, LIBOR plus 3.75%; and

(3) in the case of synthetic letters of credit, LIBOR for the period of the loan less the synthetic deposit return paid to the synthetic lenders plus 3.75% (or 3.25% when the leverage ratio (as defined in the Amended ES Credit Agreement) as of the most recently completed fiscal quarter is less than 2.0 to 1.0).

As of September 30, 2009 and December 31, 2008, the interest rate of borrowings under our term loan facilities was 4.05% and 4.14%, respectively.

The repayment schedule for the credit facilities was not altered by the Amended Credit Agreements. As before, commencing September 30, 2006 and at the end of each calendar quarter for the next 26 quarters, the first-lien term loans under the credit facilities amortize in quarterly installments of 0.25% of the outstanding principal balance on September 30, 2006, adjusted for optional prepayments. The scheduled repayments of the term loans are approximately \$1.4 million per quarter. In addition, we may be required to make mandatory principal repayments quarterly depending on our excess cash flow for the quarter and our leverage ratio as defined in the Amended Credit Agreements. Due to optional prepayments of \$30.0 million made during the quarter ended September 30, 2009, we were not required to make any mandatory principal repayments as of September 30, 2009.

As amended, the credit facilities require us to maintain certain financial ratios, including a maximum leverage ratio (based upon the ratio of total consolidated indebtedness to consolidated operating cash flow), a maximum first-lien leverage ratio (based upon the ratio of first-lien indebtedness to consolidated operating cash flow) and a minimum cash interest coverage ratio (based upon the ratio of consolidated operating cash flow to consolidated cash interest expense), which are tested quarterly. Based on the revised formulas set forth in the Amended Credit Agreements, we are required to maintain a maximum leverage ratio of 4.0 from the quarter ended September 30, 2009 through the quarter ending December 31, 2010 and 3.5 from the quarter ending March 31, 2011 until maturity. We are required to maintain a maximum first-lien leverage ratio of 3.75 through the quarter ending December 31, 2009, 3.5 for the quarters ending March 31, 2010 through December 31, 2010, 3.25 for the quarter ending March 31, 2011 and 3.0 for quarters ending June 30, 2011 through the maturity date. We are required to maintain a minimum cash interest coverage ratio of 2.75 through the quarter ending December 31, 2009 and 3.0 from the quarter ending March 31, 2010 through the maturity date. Failure to comply with these financial ratio covenants would result in a default under our credit facilities and, absent a waiver or an amendment from the lenders, preclude us from making further borrowings under our credit facilities and permit the lenders to accelerate all outstanding borrowings under the credit facilities. As of September 30, 2009, our total leverage, first-lien leverage and interest coverage ratios were 3.31, 3.31 and 4.23, respectively.

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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(Unaudited)**

**(6) Senior Credit Facilities (Continued)**

The credit facilities also contain a number of affirmative and restrictive covenants including limitations on mergers, consolidations and dissolutions; sales of assets; investments and acquisitions; indebtedness; liens; affiliate transactions; and dividends and restricted payments. Under the credit facilities, we are permitted maximum annual capital expenditures of \$30.0 million for 2009 and \$40.0 million for 2010 and each year thereafter, plus for each year the lesser of (1) a one year carry-forward of the unused amount from the previous fiscal year and (2) 50% of the amount permitted for capital expenditures in the previous fiscal year. The credit facilities contain events of default for non-payment of principal and interest when due, a cross-default provision with respect to other indebtedness having an aggregate principal amount of at least \$5.0 million and an event of default that would be triggered by a change of control, as defined in the credit facilities. Capital expenditures for the nine months ended September 30, 2009 were \$14.6 million. As of September 30, 2009, we were in compliance with all of the covenants under our credit agreements.

Under the terms of the Amended Credit Agreements, we will be permitted to obtain credit support in an aggregate amount of up to \$50.0 million in connection with our agreement with Exelon Generation Company LLC (the "Exelon Agreement") to dismantle Exelon's Zion nuclear facility located in Zion, Illinois, which ceased operation in 1998. Such credit support may take the form of (i) new incremental commitments under the Amended Credit Agreements with respect to a letter of credit facility (the "Zion Letter of Credit Facility") and/or (ii) a letter of credit, performance or fidelity bond or related obligation by a third party support provider (the "Zion Credit Support Obligation"). Each of the Zion Letter of Credit Facility and Zion Credit Support Obligation may be secured *pari passu* on the same collateral securing the obligations under the Amended Credit Agreements and shall have a one year term (with auto-renewal extension provisions) but, if secured, expire prior to the term loan maturity date. The Amended Credit Agreements also include additional loan covenants and exceptions related to the Exelon Agreement and the disposition of related assets. See note 16 for further discussion of the Exelon agreement.

Our obligations under the credit facilities continue to be guaranteed by the Company and, subject to certain exceptions, each of the Company's direct or indirect domestic subsidiaries and are secured by a lien on substantially all of the assets of the Company and each direct or indirect domestic subsidiary. In the event of default, the lenders have standard creditor remedies, including the right to foreclose on pledged assets.

During the nine months ended September 30, 2009 and 2008, we made principal repayments totaling \$47.6 million and \$30.2 million, respectively, on the outstanding term loan facilities. During the nine months ended September 30, 2009 and 2008, we made cash interest payments of \$18.5 million and \$24.4 million, respectively. During the nine months ended September 30, 2009, we paid fees of approximately \$4.6 million to the lenders to obtain the Amended Credit Agreements, which are being amortized over the remaining term of the credit facilities.

**(7) Fair Value Measurements**

In 2008, the Company implemented the accounting requirements for financial assets and financial liabilities reported at fair value and related disclosures. Effective January 1, 2009, the Company prospectively implemented the accounting requirements for non-financial assets and non-financial liabilities reported or disclosed at fair value. The requirement defines fair value, establishes a three



Table of Contents**EnergySolutions, Inc.****Notes to Condensed Consolidated Financial Statements (Continued)****(Unaudited)****(7) Fair Value Measurements (Continued)**

level hierarchy for measuring fair value in generally accepted accounting principles, and expands disclosures about fair value measurements. Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that a company has the ability to access at the measurement date. Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. Level 3 inputs are unobservable inputs for the asset or liability. As of September 30, 2009 and December 31, 2008, we had no assets or liabilities considered to be Level 1 or Level 3.

The carrying value of accounts receivable, inventories, prepaid assets, accounts payable, accrued expenses and unearned revenues approximate their fair value principally because of the short-term nature of these assets and liabilities.

The fair market value of our debt is based on quoted market prices from the over-the-counter restricted market. As of September 30, 2009 and December 31, 2008, we had outstanding term loans with carrying amounts of \$519.1 million and \$566.8 million and with fair values of approximately \$513.9 million and \$430.7 million, respectively.

The fair value of our derivative instruments is determined using models that maximize the use of the observable market inputs including interest rate curves and both forward and spot prices for currencies. As of September 30, 2009, the carrying amount of our foreign currency derivative and interest rate swap approximates fair value. These instruments are included in accrued expenses and other current liabilities and other noncurrent liabilities in the accompanying balance sheets and are classified as Level 2 under the fair value hierarchy. As of September 30, 2009 and December 31, 2008 the fair value of our interest rate and foreign currency derivative contracts outstanding was (in thousands):

	September 30, 2009	December 31, 2008
<b>Assets</b>		
Fair value of derivative contracts short term	\$ 250	\$
<b>Liabilities</b>		
Fair value of derivative contracts short term	\$ 153	521
Fair value of interest rate swap long term	1,974	261

**(8) Derivative Financial Instruments**

We have entered into derivative contracts to help offset our exposure to movements in interest rates in relation to our variable rate debt. As of September 30, 2009 and December 31, 2008, the fair value liability of the interest rate swap contracts was \$2.0 million and \$0.3 million, respectively. These contracts are not designated as accounting hedges. Unrealized gains and losses resulting from adjustments to the fair value of the contracts are included in other income (expenses), net. We recognized losses of \$0.5 million and \$1.7 million for the three and nine months ended September 30, 2009, respectively. We recognized losses of \$9,713 and \$2.2 million for the three and nine months ended September 30, 2008, respectively. We do not use interest rate derivatives for trading or speculative purposes.

Table of Contents**EnergySolutions, Inc.****Notes to Condensed Consolidated Financial Statements (Continued)****(Unaudited)****(8) Derivative Financial Instruments (Continued)**

In addition, we have foreign currency exposure related to our operations in the UK as well as other foreign locations. Exchange gains and losses resulting from this exposure are included in other income (expenses), net, in the accompanying consolidated statements of operations. During the three and nine months ended September 30, 2009, we recognized losses of \$0.7 million and gains of \$5.1 million, respectively. During the three and nine months ended September 30, 2008, we recognized losses of \$6.4 million and \$7.2 million, respectively.

We have entered into derivative contracts to help offset our exposure to movements in foreign currency rates in relation to our U.S. dollar denominated intercompany loan with our UK subsidiary. This foreign currency derivative contract is not designated as an accounting hedge. As of September 30, 2009, the fair value of the derivatives was a \$0.3 million asset and a \$0.2 million liability, which were included in other current assets and other current liabilities, respectively, in the accompanying balance sheets. Realized and unrealized gains and losses resulting from adjustments to the fair value of the contracts are included in other income (expenses), net and resulted in a gain of \$0.4 million and a loss of \$5.2 million for the three and nine months ended September 30, 2009, respectively, and gains of \$5.9 million and \$4.1 million for the three and nine months ended September 30, 2008, respectively.

**(9) Net Income Per Share**

Basic net income per share is computed by dividing net income attributable to EnergySolutions by the weighted-average number of common shares outstanding during the period. Diluted net income per share is computed by dividing net income attributable to EnergySolutions by the weighted-average number of common shares outstanding during the period and potentially dilutive common stock equivalents. Potentially dilutive common stock equivalents that have been issued by us relate to outstanding stock options and non-vested restricted stock awards and are determined using the treasury stock method.

The following table sets forth the computation of the common shares outstanding in determining basic and diluted net income per share:

	<b>For the Three Months Ended September 30,</b>		<b>For the Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Weighted average common shares basic	88,315,158	88,303,500	88,308,870	88,303,500
Dilutive effect of restricted stock and stock options	242,673	8,811	81,699	7,291
Weighted average common shares diluted	88,557,831	88,312,311	88,390,569	88,310,791
Anti-dilutive securities not included above	5,847,979	5,691,882	5,858,879	5,737,388

Table of Contents**EnergySolutions, Inc.****Notes to Condensed Consolidated Financial Statements (Continued)****(Unaudited)****(10) Equity-Based Compensation*****Profit Interests***

In prior years, certain members of our management were granted profit interest units in ENV Holdings LLC ("ENV Holdings"), formerly our parent, in consideration for services rendered during the vesting period. These units did not represent ownership in ENV Holdings but rather these units entitled the holders to distributions from ENV Holdings if a distribution was paid. There were several classes of units granted and each successive class carried a lower priority on distributions. Certain units vested immediately upon grant and others vested over periods up to three years. We estimated the fair value at grant date of the units issued using both a market and an income approach and recorded compensation expense of \$0.3 million for the nine months ended September 30, 2009 and \$0.1 million and \$0.5 million for the three and nine months ended September 30, 2008, respectively. There was no compensation expense recorded for the three months ended September 30, 2009 and there is no remaining unrecognized compensation expense associated with these units.

***Stock Options and Restricted Stock***

In November 2007, we adopted the EnergySolutions, Inc. 2007 Equity Incentive Plan (the "Plan"). The Plan authorizes our Board of Directors to grant equity awards to directors, officers, employees and consultants. The aggregate number of shares of common stock that may be issued pursuant to awards granted under the Plan is 10,440,000. We recorded non-cash compensation expense related to our stock option and restricted stock grants of \$3.2 million and \$8.4 million during the three and nine months ended September 30, 2009, respectively, and \$2.3 million and \$6.9 million during the three and six months ended September 30, 2008, respectively. As of September 30, 2009, we had \$18.0 million of unrecognized compensation expense related to outstanding stock options, which will be recognized over a weighted-average period of 2.3 years. As of September 30, 2009, there was \$2.6 million of unrecognized compensation cost related to non-vested restricted stock which is expected to be recognized over a weighted-average period of 2.7 years.

**(11) Pension Plans**

Net periodic benefit costs for the three and nine months ended September 30, 2009 and 2008 consisted of the following (in thousands):

	<b>For the Three Months Ended September 30,</b>		<b>For the Nine Months Ended September 30,</b>	
	<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
Service cost	\$ 8,865	\$ 12,137	\$ 24,991	\$ 37,420
Interest cost	39,361	44,753	110,957	137,985
Expected return on plan assets	(33,245)	(49,778)	(93,718)	(153,479)
	\$ 14,981	\$ 7,112	\$ 42,230	\$ 21,926

The preceding information does not include amounts related to benefit plans applicable to employees associated with certain contracts with the U.S. Department of Energy because we are not responsible for the current or future funded status of these plans.

Table of Contents**EnergySolutions, Inc.****Notes to Condensed Consolidated Financial Statements (Continued)****(Unaudited)****(12) Income Taxes**

We recognized income tax expense of \$1.7 million and \$8.4 million for the three and nine months ended September 30, 2009, respectively, based on an estimated annual effective tax rate on our consolidated operations of 22.8%. We recognized \$4.8 million and \$23.2 million for the three and nine months ended September 30, 2008, respectively, based on an estimated annual effective tax rate on our consolidated operations of 35.1%. During the three and nine months ended September 30, 2009, we recognized discrete income tax benefits, including adjustments to unrecognized tax benefits, of \$1.6 million and \$2.2 million, respectively, primarily related to research and development activities in the UK and in the U.S. During the nine months ended September 30, 2009 and 2008, we made income tax payments of \$7.8 million and \$20.5 million, respectively.

As of September 30, 2009 and December 31, 2008, we had \$2.9 million and \$0.9 million, respectively, of gross unrecognized tax benefits, which may impact our annual effective tax rate in future years. These tax benefits were accounted for under guidance for accounting for uncertainty in income taxes. The Company and its U.S. subsidiaries are subject to U.S. federal and state income tax. The Company is currently in various stages of multiple year examinations by Federal taxing authorities. The Company does not anticipate a significant impact to the unrecognized tax benefits balance with respect to current tax examinations in the next 12 months, although the timing of the resolution and/or the closure on audits is highly uncertain.

**(13) Segment Reporting and Business Concentrations**

We provide our services through four segments: Federal Services ("FS"), Commercial Services ("CS"), Logistics, Processing and Disposal ("LP&D"), and International.

The following table presents segment information as of and for the three and nine months ended September 30, 2009 and 2008 (in thousands):

	As of and for the Three Months Ended September 30, 2009					
	FS	CS	LP&D	International	Corporate Unallocated Items	Consolidated
Revenues from external customers(1)	\$ 77,007	\$ 21,254	\$ 52,681	\$ 213,911	\$	\$ 364,853
Income (loss) from operations	5,871	4,699	18,189	3,631	(14,078)	18,312
Depreciation and amortization expense	475	459	6,069	226	3,072	10,301
Purchases of property, plant and equipment		1,633	2,242	170	2,359	6,404

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Table of Contents**EnergySolutions, Inc.****Notes to Condensed Consolidated Financial Statements (Continued)****(Unaudited)****(13) Segment Reporting and Business Concentrations (Continued)****As of and for the Three Months Ended September 30, 2008**

	FS	CS	LP&D	International	Corporate Unallocated Items	Consolidated
Revenues from external customers(1)	\$ 84,346	\$ 19,175	\$ 66,159	\$ 249,773	\$	\$ 419,453
Income (loss) from operations	10,851	4,688	25,519	3,330	(18,602)	25,786
Depreciation and amortization expense	102	394	5,289	2,367	3,101	11,253
Purchases of property, plant and equipment	695	72	3,043	(29)	270	4,051

**As of and for the Nine months ended September 30, 2009**

	FS	CS	LP&D	International	Corporate Unallocated Items	Consolidated
Revenues from external customers(1)	\$ 217,809	\$ 66,084	\$ 160,299	\$ 731,355	\$	\$ 1,175,547
Income (loss) from operations	16,136	11,659	53,592	23,272	(50,520)	54,139
Depreciation and amortization expense	1,102	1,305	16,608	4,995	9,886	33,896
Goodwill	143,514	90,129	233,193	51,915		518,751
Other long-lived assets(2)	34,452	17,969	218,309	79,681	90,952	441,363
Purchases of property, plant and equipment	3,968	1,897	2,786	282	6,126	15,059
Total assets(3)	278,679	151,616	537,221	450,801	166,241	1,584,558

**As of and for the Nine Months Ended September 30, 2008**

	FS	CS	LP&D	International	Corporate Unallocated Items	Consolidated
Revenues from external customers(1)	\$ 202,057	\$ 75,995	\$ 183,318	\$ 920,181	\$	\$ 1,381,551
Income (loss) from operations	23,469	20,562	65,940	47,258	(54,227)	103,002
Depreciation and amortization expense	261	1,373	16,130	7,076	9,848	34,688
Goodwill	143,144	91,199	233,073	59,116		526,532
Other long-lived assets(2)	31,089	24,107	236,914	99,019	75,156	466,285
Purchases of property, plant and equipment	872	461	3,829	154	4,415	9,731
Total assets(3)	266,837	148,693	573,447	440,112	148,990	1,578,079

(1)

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Intersegment revenues have been eliminated for the three and nine months ended September 30, 2009 and 2008. Intersegment revenues were \$8.4 million and \$17.2 million for the three and nine months ended September 30, 2009 and were not material for the three and nine months ended

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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(Unaudited)**

**(13) Segment Reporting and Business Concentrations (Continued)**

September 30, 2008. Revenues by segment represent revenues earned based on third-party billing to customers.

(2)

Other long-lived assets include property, plant and equipment and other intangible assets.

(3)

Corporate unallocated assets relate primarily to income tax receivables, deferred tax assets, deferred financing costs, prepaid expenses, property, plant and equipment that benefit the entire company and cash.

**(14) Employee Termination Benefits**

An organizational review of our Magnox sites identified an opportunity to reduce the existing workforce, primarily at three sites that are in the process of defueling, which involves removing fuel from the reactor, loading it into flasks and transporting it for processing with a third party and a site at which decommissioning is relatively close to completion with only a few projects remaining.

As a result of the overstaffing at the four Magnox sites, we presented a termination plan to the NDA to terminate approximately 200 employees on a voluntary basis at these sites in the quarter ended March 31, 2009. The termination plan and employee termination benefits to be paid for the voluntary termination of these employees is in accordance with the existing employee and the trade union agreements and were pre-approved by the NDA during the first quarter of 2009. All employee termination benefits are treated as part of the normal Magnox cost base and will be reimbursed by the NDA.

For the nine months ended September 30, 2009, we recognized expected employee termination benefits of \$31.6 million, which are included in cost of revenues in the accompanying condensed consolidated statements of operations for our International Segment. We have recognized a corresponding liability, which is included in accrued expenses and other current liabilities. In addition, we have recognized revenues and a receivable from the NDA for the reimbursement of the employee termination benefits. Benefits are expected to be paid over the next 12 months.

The following is a reconciliation of the beginning and ending liability balances (in thousands of dollars):

Beginning liability, December 31, 2008	\$	
Employee termination benefits		31,638
Payments		(12,889)
Effect of exchange rate		3,761
Ending liability, September 30, 2009	\$	22,510

**(15) Commitments and Contingencies**

We may become subject to various claims and legal proceedings covering matters that may arise in the ordinary course of our business activities. We are currently involved in a legal proceeding in the U.S. District Court of Utah seeking to establish that the Northwest Interstate Compact on Low-Level Radioactive Waste Management does not have jurisdiction to regulate our facility at Clive, Utah. On

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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(Unaudited)**

**(15) Commitments and Contingencies (Continued)**

October 9, 2009 and October 12, 2009, two purported class actions were filed in the U.S. District Court for the Southern District of New York seeking damages arising out of alleged material disclosures and omissions in connection with our initial public offering and our July 2008 registered public offering. We intend to vigorously defend these matters. We do not currently believe that the outcome of these matters will have a material adverse effect on our operations, cash flow or financial position.

**(16) License Stewardship Program**

On December 11, 2007, we, through our subsidiary *ZionSolutions* LLC, entered into the Exelon agreement to dismantle Exelon's Zion nuclear facility located in Zion, Illinois ("Zion Station"), which ceased operation in 1998. Upon the closing of the transaction, Exelon has agreed to transfer to *ZionSolutions* substantially all of the assets (other than land) associated with Zion Station, including assets held in nuclear decommissioning trusts. In consideration for Exelon's transfer of those assets, *ZionSolutions* has agreed to assume decommissioning and other liabilities associated with the Zion Station. *ZionSolutions* also agreed to take possession and control of the land associated with the Zion Station pursuant to a lease agreement to be executed at the closing. *ZionSolutions* will be obligated to complete the required decommissioning work according to an established schedule and to construct a dry cask storage facility on the land for spent nuclear fuel currently held in spent fuel pools at the Zion Station. Closing of this transaction is subject to the satisfaction of a number of closing conditions, including approval by the NRC of the license transfer of the facility operating licenses and conforming license amendments from Exelon to *ZionSolutions* (the "License Transfer").

Subsequent to these agreements, the Zion Station decommissioning trust fund balance, a significant portion of which is invested in the stock market, declined as a result of the financial crisis that impacted the United States and world markets. On October 14, 2008, we announced that we intend to defer the transfer of the Zion Station assets until we reaffirm that there is sufficient value in the Zion decommissioning trust funds to ensure adequate funds for the accelerated decommissioning of the plant. On August 17, 2009 we entered into an amended agreement with Exelon to extend the latest closing date under the agreement to December 11, 2011. Under the terms of the amendment, Exelon has the right to terminate the agreement at any time after December 11, 2010 upon 60 days written notice to us.

Prior to our announcement to defer the transfer of the Zion Station assets, we had anticipated that the closing of this transaction would occur in late third quarter or during the fourth quarter of 2008. Accordingly, we hired employees, entered into subcontracts and performed services for Exelon under a planning contract. Invoicing for some of these services provided is subject to the closing of the transaction. As of September 30, 2009 and December 31, 2008, we have incurred costs of \$14.1 million and \$12.4 million, respectively, which have been deferred until the closing of the transaction. Since we believe that it is probable that we will close or be granted an extension to close this transaction before December 11, 2010, we will continue to defer these costs until we close the transaction, at which time we will recognize the costs and related revenues. If we determine that it is not probable that we will close this transaction, we will expense these costs in the period of such determination. We have taken steps to reduce the monthly project costs including the termination of certain employees, transferring employees to other projects and the termination of certain subcontracts and lease agreements. Any



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**EnergySolutions, Inc.**

**Notes to Condensed Consolidated Financial Statements (Continued)**

**(Unaudited)**

**(16) License Stewardship Program (Continued)**

costs relating to the termination of employees, subcontractors and lease or other agreements are expensed in the period terminated.

On May 4, 2009, the NRC issued an order approving the License Transfer subject to *ZionSolutions* satisfying the NRC that (i) a \$200 million letter of credit facility has been established, (ii) an irrevocable easement of disposal capacity of 7.5 million cubic feet has been established and (iii) the appropriate amount of insurance required of a licensee under the NRC's regulations has been obtained. If the License Transfer is not completed by May 4, 2010, the order approving the License Transfer expires; however, upon written application and for good cause shown, the expiration date may be extended by order of the NRC.

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**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

*The following discussion and analysis of the financial condition and results of our operations should be read together with the condensed consolidated financial statements and the related notes of EnergySolutions included elsewhere in this Form 10-Q.*

**Cautionary Statement Regarding Forward-Looking Statements**

Certain statements made herein, including statements regarding our projected revenues, expenses and income and the implementation of strategic initiatives are forward-looking in nature. These forward-looking statements reflect current analysis of existing information and are subject to various risks and uncertainties. As a result, caution must be exercised in relying on forward-looking statements. Due to known and unknown risks, our actual results may differ materially from our expectations or projections.

While most risks affect only future revenues or expenses, some risks may relate to revenue accruals that have already been reflected in earnings. Our failure to receive payments of accrued amounts or incurrence of liabilities in excess of amounts previously recognized could result in a charge against future earnings.

Additional information concerning these and other factors can be found in our periodic filings with the Securities and Exchange Commission (the "SEC"), including our Form 10-K filed February 27, 2009 and this report under "Item 1A Risk Factors." Our SEC filings are available publicly on the SEC's website at [www.sec.gov](http://www.sec.gov), on EnergySolutions' website at [www.energysolutions.com](http://www.energysolutions.com) or upon request from EnergySolutions' Investor Relations Department at [ir@energysolutions.com](mailto:ir@energysolutions.com). We disclaim any obligation to update the forward looking statements, whether as a result of new information, future events or otherwise.

**Overview**

We are a leading provider of specialized, technology-based nuclear services to government and commercial customers. Our customers rely on our expertise to address their needs throughout the lifecycle of their nuclear operations. Our broad range of nuclear services includes engineering, operation of nuclear reactors, in-plant support services, spent nuclear fuel management, decontamination and decommissioning ("D&D"), logistics, transportation, processing and disposal. We derive almost 100% of our revenues from the provision of nuclear services.

We provide our services through four segments: Federal Services, Commercial Services, Logistics, Processing and Disposal ("LP&D") and International. Our Federal Services segment derives revenues from U.S. government customers for the management and operation or clean-up of facilities with radioactive materials. Our U.S. government customers are primarily individual offices, departments and administrations within the U.S. Department of Energy ("DOE") and the U.S. Department of Defense ("DOD"). Our Commercial Services segment provides a broad range of on-site services, including D&D, to commercial customers. Our commercial customers include power and utility companies, pharmaceutical companies, research laboratories, universities, industrial facilities and other commercial entities with nuclear materials, as well as state agencies in the United States. Our LP&D segment provides a broad range of logistics, transportation, processing and disposal services to government and commercial customers. This segment also operates our facilities for the safe processing and disposal of radioactive materials, including a facility in Clive, Utah, four facilities in Tennessee and two facilities in Barnwell, South Carolina. In cases where a project involves the provision of both specialized nuclear services and processing and disposal services, our Federal Services or Commercial Services segment, depending on the type of customer, and our LP&D segment will coordinate to provide integrated services. Our International segment has contracts with the Nuclear Decommissioning Authority ("NDA") in the United Kingdom ("UK") to operate, manage and decommission 10 Magnox sites with

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22 nuclear reactors. In addition, our International segment provides turn-key services for the disposal of radioactive sources from non-nuclear power generating facilities such as hospitals, research facilities and other manufacturing and industrial facilities.

During the three months ended September 30, 2009, the Company determined that it had inappropriately applied authoritative guidance related to intangible assets and goodwill denominated in foreign currencies. As such, the Company recorded an entry during the three months ended September 30, 2009 for \$1.8 million to reduce amortization expense recorded in previous periods; thus, reducing segment selling, general and administrative expenses and increasing operating income in our International segment. Of this \$1.8 million, \$1.2 million related to previous periods in 2009 and \$0.6 million related to periods prior to 2009.

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**Results of Operations**

The following table shows certain items from our income statements for the three and nine months ended September 30, 2009 and 2008 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
<b>Revenues:</b>				
Federal Services Segment	\$ 77,007	\$ 84,346	\$ 217,809	\$ 202,057
Commercial Services Segment	21,254	19,175	66,084	75,995
LP&D Segment	52,681	66,159	160,299	183,318
International Segment	213,911	249,773	731,355	920,181
Total revenues	364,853	419,453	1,175,547	1,381,551
<b>Cost of revenues:</b>				
Federal Services Segment	66,195	71,077	189,976	171,566
Commercial Services Segment	15,181	12,663	49,421	49,918
LP&D Segment	33,176	37,984	100,996	109,472
International Segment	206,358	241,238	694,285	858,601
Total cost of revenues	320,910	362,962	1,034,678	1,189,557
<b>Gross profit:</b>				
Federal Services Segment	10,812	13,269	27,833	30,491
Commercial Services Segment	6,073	6,512	16,663	26,077
LP&D Segment	19,505	28,175	59,303	73,846
International Segment	7,553	8,535	37,070	61,580
Total gross profit	43,943	56,491	140,869	191,994
<b>Segment selling, general and administrative expenses:</b>				
Federal Services Segment	4,941	2,418	11,697	7,022
Commercial Services Segment	1,374	1,824	5,004	5,515
LP&D Segment	1,316	2,656	5,711	7,906
International Segment	3,922	5,205	13,798	14,322
Total segment selling, general and administrative expenses	11,553	12,103	36,210	34,765
<b>Segment operating income:</b>				
Federal Services Segment	5,871	10,851	16,136	23,469
Commercial Services Segment	4,699	4,688	11,659	20,562
LP&D Segment	18,189	25,519	53,592	65,940
International Segment	3,631	3,330	23,272	47,258
Total segment operating income	32,390	44,388	104,659	157,229
<b>Corporate selling, general and administrative expenses</b>				
	14,078	18,602	50,520	54,227
Total income from operations	18,312	25,786	54,139	103,002
Interest expense	(6,368)	(9,778)	(21,789)	(34,250)
Other income (expenses), net	2,988	(72)	5,215	(1,891)
Net income before income taxes and noncontrolling interests	14,932	15,936	37,565	66,861
Income tax expense	(1,742)	(4,827)	(8,367)	(23,164)
Net income	13,190	11,109	29,198	43,697

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Less: Net income attributable to noncontrolling interests	(334)	(207)	(885)	(907)
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Net income attributable to EnergySolutions	\$ 12,856	\$ 10,902	\$ 28,313	\$ 42,790
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### *Three Months Ended September 30, 2009 Compared to Three Months Ended September 30, 2008*

#### *Federal Services Segment*

Revenues and cost of revenues from our Federal Services segment decreased \$7.3 million and \$4.9 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. Gross profit decreased \$2.5 million while gross margin decreased to 14.0% for the three months ended September 30, 2009 from 15.7% for the three months ended

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September 30, 2008 primarily due decreased activity on higher margin contracts and increased activity on lower margin contracts.

Revenues and gross profit generated by our contract with the DOE to clean up the Atlas mill tailings near Moab, Utah increased \$3.1 million and \$0.1 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. This increase was primarily attributable to increased construction activity to support the waste excavation and disposal stage of the project. As a result, cost of revenues on the Moab contract increased \$3.0 million for the three months ended September 30, 2009 compared to the three months ended September 30, 2008.

Revenues related to engineering and technology projects within Federal Services increased \$3.9 million, cost of revenues increased \$3.4 million and gross profit increased \$0.5 million for the three months ended September 30, 2009 compared to September 30, 2008 primarily due to increased operations on two projects. These projects provide critical technical and testing support to the DOE Waste Treatment Plant in Richland, WA.

Revenues and cost of revenues from our Isotek Systems joint venture increased \$3.2 million and \$3.1 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. The Isotek contract allows for the reimbursement of costs plus a fee. The cost of revenues increased due to increased design and construction activities also resulting in increased revenues. Gross profit, representing the fee less unallowable costs, increased \$0.1 million for the three months ended September 30, 2009 compared to September 30, 2008.

These increases were offset, in part, by a collective decrease of revenues, cost of revenues and gross profit of \$5.8 million, \$2.5 million and \$3.3 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 related to two contracts at the DOE Hanford site and our Savannah River site operations contract due to substantial completion of the contracts at these sites in late 2008 and early 2009. However, we continue to generate income through our proportional share of income in the Washington River Protection Solutions joint venture at the Hanford site.

In addition, revenues and cost of revenues from our Uranium Disposition Services joint venture, decreased \$11.8 million and \$11.9 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008, due to substantial completion of the construction phase of the project. Gross profit increased \$0.1 million for the three months ended September 30, 2009 compared to September 30, 2008.

Segment selling, general and administrative expenses in our Federal Services segment increased \$2.5 million to \$4.9 million for the three months ended September 30, 2009 from \$2.4 million for the three months ended September 30, 2008. The increase is primarily attributable to higher bid and contract proposal expenses incurred for the submission of bids on two large federal proposals.

*Commercial Services Segment*

Revenues and cost of revenues in our Commercial Services segment increased \$2.1 million and \$2.5 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. Gross profit decreased \$0.4 million while gross margin decreased to 28.6% for the three months ended September 30, 2009 from 34.0% for the three months ended September 30, 2008 due primarily to the relative profitability of the major projects being performed in each period.

Revenues and gross profit in our large components operations increased \$3.1 million and \$0.2 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 due to work performed on our Duke McGuire project, which is now substantially complete.

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Revenues and cost of revenues related to our commercial decommissioning services increased \$1.4 million and \$1.7 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 mostly due to continuing efforts on our Federated Metals project and initial work on our Pearl Harbor Navy Ship Yard project. However, gross profit decreased \$0.3 million for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 due to additional costs incurred on projects which were delayed due to weather conditions.

In addition, revenues and gross profit in our liquid waste processing division increased \$0.6 million and \$0.7 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 due to a higher demand for liners and additional work on existing projects.

These increases were offset, in part, by one of our large commercial engineering and technology waste container design and fabrication projects which was completed in December 2008. This resulted in a decrease of revenues and gross profit of \$1.6 million and \$0.4 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008.

Revenues and gross profit in our spent fuel operations decreased \$1.0 million and \$0.5 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. This decrease was largely attributable to the continued decrease of work due to the closure of the Barnwell disposal site to states outside the Atlantic Compact.

Segment selling, general and administrative expenses in our Commercial Services segment decreased \$0.5 million for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 primarily due to decreased incentive compensation expenses based on projected shortfall of 2009 performance targets.

### *LP&D Segment*

Revenues and cost of revenues in our LP&D segment decreased \$13.5 million and \$4.8 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. Gross profit decreased \$8.7 million to 37.0% for the three months ended September 30, 2009 from 42.6% for the three months ended September 30, 2008 primarily due to lower volumes of waste disposed at our Clive, Utah facility during the quarter due to delays on shipments and funding.

Revenues and gross profit at our Clive, Utah facility decreased \$10.0 million and \$7.8 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 primarily due to a reduction of waste volumes received during the current fiscal quarter resulting from delays in waste shipments and release of funding and revenue recognized related to a contract termination during the three months ended September 30, 2008. Consequently, cost of revenues decreased \$2.2 million due to the lower volumes of waste receipts for the three months ended September 30, 2009 compared to the three months ended September 30, 2008.

Revenues and cost of revenues related to our manufacturing division decreased \$4.6 million and \$2.9 million, respectively, for the three months ended September 30, 2009 compared to the three months ended September 30, 2008 primarily due to lower volume of depleted uranium tubes shipped during the three months ended September 30, 2009. As a result, gross profit decreased \$1.7 million for the three months ended September 30, 2009 compared to September 30, 2008.

Revenues and cost of revenues related to our transportation services, decreased \$0.4 million and \$0.7 million for the three months ended September 30, 2009, respectively, compared to the three months ended September 30, 2008 due to lower levels of waste on customer contracts. However, gross

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profit increased \$0.3 million for the three months ended September 30, 2009 compared to the three months ended September 30, 2008, primarily due to a decrease in subcontractor and fuel costs.

These decreases were partially offset by increased revenues at our Bear Creek facility of \$1.0 million for the three months ended September 30, 2009 compared to September 30, 2008 attributable to higher volume of waste processed during the current fiscal quarter. As a result, cost of revenues and gross profit increased \$0.4 million and \$0.6 million, respectively, for the three months ended September 30, 2009 compared to September 30, 2008.

Segment selling, general and administrative expenses in our LP&D segment decreased \$1.4 million to \$1.3 million for the three months ended September 30, 2009 from \$2.7 million for the three months ended September 30, 2008. The decrease is mostly attributable to decreased incentive compensation expenses based on projected shortfall of 2009 performance targets.

*International Segment*

Revenues in our International segment decreased \$35.9 million for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. Our revenues, prior to considering the effects of fluctuations in pound sterling exchange rates, decreased \$4.0 million. In addition, revenues decreased \$31.9 million due to lower pound sterling exchange rates during the three months ended September 30, 2009 compared to the same period in 2008. Of the \$4.0 million decrease in revenues, our revenues from the Magnox contracts decreased \$10.8 million mostly due to lower reimbursable contract cost base. This decrease was offset, in part, by increased revenues of \$6.8 million related to our other UK operations.

Cost of revenues in our International segment decreased \$34.9 million for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. Our cost of revenues, prior to considering the effects of fluctuations in pound sterling exchange rates, decreased \$3.8 million. In addition, cost of revenues decreased \$31.1 million due to lower pound sterling exchange rates during the three months ended September 30, 2009 compared to the same period in 2008. Of the \$3.8 million decrease in cost of revenues, our cost of revenues from the Magnox contracts decreased \$9.0 million primarily due to decreased labor and subcontractor costs. This decrease was offset, in part, by net increases in cost of revenues of \$5.2 million related to our other UK operations.

Gross profit in our International segment decreased \$1.0 million for the three months ended September 30, 2009 compared to the three months ended September 30, 2008. Our gross profit, prior to considering the effects of fluctuations in pound sterling exchange rates, decreased \$0.2 million. In addition, gross profit decreased \$0.8 million due to lower pound sterling exchange rates during the three months ended September 30, 2009 compared to the same period in 2008. Gross profit margin in our International segment was 3.5% for the three months ended September 30, 2009 comparable to 3.4% for the three months ended September 30, 2008.

Segment selling, general and administrative expenses in our International segment decreased \$1.3 million for the three months ended September 30, 2009 as compared to 2008 due to lower amortization expense of intangible assets offset by increased bid and proposal costs and stock compensation expense. Amortization expense of intangible assets decreased \$2.2 million during the three months ended September 30, 2009. During the three months ended September 30, 2009, the Company determined that it had inappropriately applied authoritative guidance related to intangible assets and goodwill denominated in foreign currencies. As such, the Company recorded an entry during the three months ended September 30, 2009 for \$1.8 million to reduce amortization expense recorded in previous periods, including \$0.1 million of amortization expense that had been overstated in the three months ended September 30, 2008. In addition, amortization expense decreased \$0.4 million due to lower pound sterling exchange rates during the three months ended September 30, 2009 compared to the three months ended September 30, 2008.



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*Corporate selling, general and administrative expenses*

Corporate selling, general and administrative expenses decreased \$4.5 million, or 24.3%, to \$14.1 million for the three months ended September 30, 2009 from \$18.6 million for the three months ended September 30, 2008. This decrease is primarily attributable to decreased incentive compensation expenses based on projected shortfall of 2009 performance targets.

*Interest expense*

Interest expense decreased \$3.4 million, or 34.9% to \$6.4 million for the three months ended September 30, 2009 from \$9.8 million for the three months ended September 30, 2008. The decrease is primarily attributable to a decline in both our average borrowings outstanding and interest rates related to our credit facilities.

*Other income (expense), net*

Net other income increased \$3.1 million to \$3.0 million for the three months ended September 30, 2009 from net other expense of \$0.1 million for the three months ended September 30, 2008. The increase is mostly attributable increases in our proportional share of income from our joint ventures in which we have noncontrolling interests.

*Income taxes*

We recognized income tax expense of \$1.7 million and \$4.8 million for the three months ended September 30, 2009 and 2008, respectively, based on an estimated annual effective tax rate on our consolidated operations of 22.8% and 35.1%, respectively. The decrease in the estimated annual effective tax rate is mostly due to the effect of research and development credits in the U.S. and the UK. During the three months ended September 30, 2009, we recognized a discrete income tax benefit, including adjustments to unrecognized tax benefits, of \$1.6 million primarily related to research and development activities in the U.S. and the UK.

***Nine months ended September 30, 2009 Compared to Nine Months Ended September 30, 2008***

*Federal Services Segment*

Revenues and cost of revenues in our Federal Services segment increased \$15.8 million and \$18.4 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. Gross profit decreased \$2.7 million while gross margin decreased to 12.8% for the nine months ended September 30, 2009 from 15.1% for the nine months ended September 30, 2008 primarily due decreased activity on higher margin contracts and increased activity on lower margin contracts.

Revenues and gross profit generated by our contract with the DOE to clean up the Atlas mill tailings near Moab, Utah increased \$23.2 million and \$2.4 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. During the second year of the contract, the construction activity has increased to support the waste excavation and disposal stage of the project. As a result, cost of revenues on the Moab contract increased \$20.8 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008.

Revenues related to engineering and technology projects within Federal Services increased \$18.4 million, cost of revenues increased \$15.7 million and gross profit increased \$2.7 million for the nine months ended September 30, 2009 compared to September 30, 2008 primarily due to increased operations on two projects. These projects are providing critical technical and testing support to the DOE Waste Treatment Plant in Richland, WA.

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Revenues and cost of revenues from our Isotek Systems joint venture increased \$2.3 million and \$2.0 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. The Isotek contract allows for the reimbursement of costs plus a fee. The cost of revenues increased due to increased design and construction activities also resulting in increased revenues. Gross profit, representing the fee less unallowable costs, increased \$0.3 million for the nine months ended September 30, 2009 compared to September 30, 2008.

These increases were offset, in part, by a collective decrease of revenues, cost of revenues and gross profit of \$16.8 million, \$9.5 million and \$7.3 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 related to two contracts at the DOE Hanford site and our Savannah River site operations contract due to substantial completion of the contracts at these sites in late 2008 and early 2009. However, we continue to generate income through our proportional share of income in the Washington River Protection Solutions joint venture at the Hanford site.

In addition, revenues and cost of revenues from our Uranium Disposition Services joint venture decreased \$12.8 million and \$12.7 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008, due to substantial completion of the construction phase of the project. Gross profit decreased \$0.1 million for the nine months ended September 30, 2009 compared to September 30, 2008.

Segment selling, general and administrative expenses in our Federal Services segment increased \$4.7 million to \$11.7 million for the nine months ended September 30, 2009 from \$7.0 million for the nine months ended September 30, 2008. The increase is primarily attributable to higher bid and proposal expenses due to work on several significant contract proposals during the nine months ended September 30, 2009.

### *Commercial Services Segment*

Revenues and cost of revenues in our Commercial Services segment decreased \$9.9 million and \$0.5 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. Gross profit decreased \$9.4 million while gross margin decreased to 25.2% for the nine months ended September 30, 2009 from 34.3% for the nine months ended September 30, 2008 due primarily to the relative profitability of the major projects being performed in each period.

One of our large commercial engineering and technology waste container design and fabrication projects was completed in December 2008. This resulted in a decrease of revenues and gross profit of \$10.1 million and \$4.3 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008.

Revenues and gross profit in our spent fuel operations decreased \$8.4 million and \$3.5 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. This decrease was mostly attributable to the acceleration of work in the first half of 2008 related to the closure of the Barnwell disposal site to states outside the Atlantic in July 2008.

Revenues and cost of revenues related to our commercial decommissioning services increased \$0.6 million and \$2.8 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 mostly due to continued work on Federated Metals project and work on our Pearl Harbor Navy Ship Yard project. However, gross profit decreased \$2.2 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 due to additional costs incurred on projects which were delayed due to weather conditions.

Revenues in our large components operation increased \$5.1 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 due to work performed on our Duke McGuire and Fermi projects. Cost of revenues related to our large components

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operations increased \$6.5 million due to increased subcontractor costs. As a result, gross profit decreased \$1.4 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008.

Revenues from our liquid waste processing division increased \$3.7 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 primarily due to a higher demand for liners and increased fabrication and processing of hardware. As a result, cost of revenues and gross profit increased \$1.2 million and \$2.5 million, respectively, for the nine months ended September 30, 2009 compared to September 30, 2008.

Segment selling, general and administrative expenses in our Commercial Services segment decreased \$0.5 million to \$5.0 million for the nine months ended September 30, 2009 from \$5.5 million for the nine months ended September 30, 2008. The decrease is primarily attributable to lower incentive compensation expenses based on projected shortfall of 2009 performance targets.

*LP&D Segment*

Revenues and cost of revenues in our LP&D segment decreased \$23.0 million and \$8.5 million, respectively, for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. Gross profit decreased \$14.5 million and gross margin decreased to 37.0% for the nine months ended September 30, 2009 from 40.3% for the nine months ended September 30, 2008 due to decreased revenues at our Clive, Utah facility.

Revenues at our Clive, Utah facility decreased \$18.7 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 primarily attributable to lower waste disposal volumes due to completion of two major decontamination and decommissioning projects during the first quarter of 2008 and delays in waste shipments during 2009. In addition, during the nine months ended September 30, 2008, we recognized revenue related to a contract termination. The decrease in revenues impacted our margins as the majority of costs at our Clive, Utah facility are fixed. Cost of revenues and gross profit decreased \$5.7 million and \$13.0 million, respectively, due to the lower volumes of waste processed for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008.

Revenues related to our transportation services decreased \$2.7 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 due to lower shipments on major contracts. Cost of revenues related to our transportation services decreased \$3.2 million due to lower shipments and additional reductions in operating and overhead costs, resulting in a \$0.5 million increase in gross profit for the nine months ended September 30, 2009.

Revenues related to our manufacturing division decreased \$6.2 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 primarily due to lower volume of depleted uranium tubes shipped during the nine months ended September 30, 2009. Cost of revenues related to our manufacturing division decreased \$1.6 million due to lower volumes of depleted uranium tubes shipped during the nine months ended September 30, 2009 offset by increased overhead costs. As a result gross profit decreased \$4.6 million.

These decreases were offset, in part, by increased revenues of \$5.3 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008 at our Bear Creek, Tennessee facility due to higher volume of waste processed during the nine months ended September 30, 2009 and backlog of work carried over from 2008 of unprocessed receipts. The majority of costs at our Bear Creek, Tennessee facility are fixed, resulting in an increase in gross profit of \$3.8 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008.

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Segment selling, general and administrative expenses in our LP&D segment decreased \$2.2 million to \$5.7 million for the nine months ended September 30, 2009 from \$7.9 million for the nine months ended September 30, 2008. The decrease is mostly attributable to decreased incentive compensation expenses based on projected shortfall of 2009 performance targets, other labor costs, insurance expense, taxes and costs related to business development activities.

*International Segment*

Revenues in our International segment decreased \$188.8 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. Our revenues, prior to considering the effects of fluctuations in pound sterling exchange rates, increased \$12.4 million mostly due to increased reimbursable contract cost base on our Magnox contracts. However, this increase was offset by a \$201.2 million decrease due to lower pound sterling exchange rates during the nine months ended September 30, 2009 compared to the same period in 2008. Of the \$12.4 million increase in revenues, our revenues from the Magnox contracts increased \$0.8 million mostly due to higher reimbursable contract cost base. In addition, revenues related to our other UK operations increased \$11.6 million.

Cost of revenues in our International segment decreased \$164.3 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. Our cost of revenues, prior to considering the effects of fluctuations in pound sterling exchange rates, increased \$22.5 million. However, this increase was offset by a \$186.8 million decrease due to lower pound sterling exchange rates during the nine months ended September 30, 2009 compared to the same period in 2008. Of the \$22.5 million increase in cost of revenues, our cost of revenues from the Magnox contract increased \$12.2 million primarily due to an increase of \$31.6 million of employee termination benefits related to voluntary termination program of approximately 200 employees at our Magnox sites offset by lower labor and subcontractor costs. Benefits for the voluntary termination of these employees are to be paid in accordance with the existing employee and the trade union agreements. These termination benefits were pre-approved by the NDA in 2009. In addition, cost of revenues related to our other UK operations increased \$10.3 million.

Gross profit in our International segment decreased \$24.5 million for the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008. Our gross profit, prior to considering the effects of fluctuations in pound sterling exchange rates, decreased \$10.2 million. In addition, gross profit decreased \$14.3 million due to a decline in pound sterling exchange rates during the nine months ended September 30, 2009 compared to the same period in 2008. Gross profit margin in our International segment was 5.1% for the nine months ended September 30, 2009 compared to 6.7% for the nine months ended September 30, 2008. The decrease in gross profit margin is due to lower efficiency fees earned from our Magnox contracts with the NDA for the nine months ended September 30, 2009 related to the finalization of the efficiency fees related to the contract year ended March 31, 2009.

Segment selling, general and administrative expenses in our International segment decreased \$0.5 million for the nine months ended September 30, 2009 as compared to 2008 primarily due to a decrease in amortization expense of intangible assets for the period offset by an increase in bid and proposal expenses relating to potential contracts in the UK and other foreign locations and other administrative expenses. Amortization expense of intangible assets decreased \$2.2 million during the nine months ended September 30, 2009. During the three months ended September 30, 2009, the Company determined that it had inappropriately applied authoritative guidance related to intangible assets and goodwill denominated in foreign currencies. As such, the Company recorded an entry during the three months ended September 30, 2009 to reduce amortization expense recorded in previous periods. Included in this entry was \$0.6 million related to periods prior to 2009, primarily for the three months ended December 31, 2008. In addition, amortization expense decreased \$1.6 million due to

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lower pound sterling exchange rates during the nine months ended September 30, 2009 compared to the nine months ended September 30, 2008.

*Corporate selling, general and administrative expenses*

Corporate selling, general and administrative expenses decreased \$3.7 million, or 6.8%, to \$50.5 million for the nine months ended September 30, 2009 from \$54.2 million for the nine months ended September 30, 2008. This decrease is primarily attributable to decreased incentive compensation expense based on projected shortfall of 2009 performance targets. This decrease was partially offset by increased marketing and advertising expenses related to a television advertising campaign run during the first quarter of 2009 in Utah and increased legal fees primarily related to our declaratory judgment action with the Northwest Compact.

*Interest expense*

Interest expense decreased \$12.5 million, or 36.4%, to \$21.8 million for the nine months ended September 30, 2009 from \$34.3 million for the nine months ended September 30, 2008. The decrease is primarily attributable to a decline in both our average borrowings outstanding and interest rates related to our credit facilities.

*Other income (expense), net*

Net other income increased \$7.1 million, to net other income of \$5.2 million for the nine months ended September 30, 2009 from net other expense of \$1.9 million for the nine months ended September 30, 2008. The increase is mostly attributable to \$3.5 million increase in our proportional share of income from our joint ventures in which we have a noncontrolling interest and remeasurement gains of \$4.6 million on our U.S. dollar denominated notes receivable from our UK subsidiary and other foreign currency transactions. These increases are offset, in part, by a decrease in the fair value of our foreign currency derivative contracts of \$1.0 million.

*Income taxes*

We recognized income tax expense of \$8.4 million and \$23.2 million for the nine months ended September 30, 2009 and 2008, respectively, based on an estimated annual effective tax rate on our consolidated operations of 22.8% and 35.1%, respectively. The decrease in the estimated annual effective tax rate is mostly due to the effect of research and development credits in the U.S. and the UK. During the nine months ended September 30, 2009, we recognized a discrete income tax benefit, including adjustments to unrecognized tax benefits, of \$2.2 million primarily related to research and development activities in the U.S. and the UK.

**Liquidity and Capital Resources**

We finance our operations primarily through cash provided by operations. As of September 30, 2009, our principal sources of liquidity consisted of \$21.4 million of cash and cash equivalents and \$63.1 million of availability under the \$75.0 million revolving portion of our credit facilities, which is net of \$11.9 million of outstanding letters of credit. We also have synthetic letter of credit facilities of \$100.0 million, all of which was outstanding as of September 30, 2009.

During the nine months ended September 30, 2009, our cash and cash equivalents decreased \$27.1 million, to \$21.4 million. This compares to an increase in cash and cash equivalents of \$23.5 million for the nine months ended September 30, 2008. During the nine months ended September 30, 2009, we had net cash inflows from operating activities of \$55.8 million. Cash flows from operating activities for the nine months ended September 30, 2009 included net income of \$28.3 million and significant non-cash expenses including depreciation and amortization expense of \$33.9 million,

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equity-based compensation expense of \$8.7 million, amortization of deferred financing fees of \$3.2 million and deferred income taxes of \$3.8 million. Cash flows from operating activities were also provided from increased accounts payable and accrued liabilities of \$19.8 million and decreased accounts receivable of \$48.9 million. The increase in accounts payable and accrued liabilities was primarily due to timing of payments to vendors of our Magnox contracts in the UK. The decrease in accounts receivable was primarily due to collection of funds from the NDA.

During the nine months ended September 30, 2009, we had net cash outflows from investing activities of \$15.6 million, primarily related to purchases of property, plant and equipment. Our cash outflows from our financing activities were \$66.5 million, primarily related to repayment of debt, payment of dividends to stockholders, debt financing fees and settlement of derivative contracts.

Our principal need for liquidity has been, and will continue to be, for working capital, to pay down debt and for capital expenditures. We also expect to use cash flow from operations to pay quarterly dividends. However, the declaration and payment of future dividends to holders of our common stock will be at the discretion of our board of directors and will depend on many factors, including our results of operations, financial condition, liquidity requirements, restrictions that may be imposed by applicable law and our contracts and other factors deemed relevant by our board of directors. To the extent we maintain an annual dividend of \$0.10 per share, our annual cash requirements for this dividend would be \$8.8 million, based on the number of shares currently outstanding. We believe that our cash flow from operations, available cash and cash equivalents and available borrowings under the revolving portion of our credit facilities will be sufficient to meet our future liquidity needs, including the payment of such dividend, through at least the next twelve months.

We have accumulated benefit obligations related to our pension plans of \$2.4 billion as of December 31, 2008. See Note 19 to our audited consolidated financial statements included in the Form 10-K filed February 27, 2009 for a more detailed discussion. Approximately 99% of the accumulated benefit obligation relates to the Magnox North and Magnox South pension plans (the "Magnox Plans"). The Magnox Plans are funded by contributions from employees and the NDA pursuant to a contractual arrangement. As a result, we are reimbursed for contributions made to the Magnox Plans under the terms of these contracts. Thus, we have no potential net funding requirements relative to the accumulated benefit obligation. The plan we are required to fund related to our employees of Reactor Sites Management Company Limited, a wholly-owned subsidiary in the UK, is currently funded by regular monthly payroll contributions from us and the employees. The next triennial valuation of the plan is expected to be completed in mid 2010. In anticipation of a deficit between the amount funded and the minimum funding requirements, we contributed an additional \$3.2 million to the plan. Depending on the result of the triennial valuation, we may be required to make incremental cash payments to the plan within the next 12 months to maintain minimum funding requirements.

If we decide to pursue one or more significant strategic acquisitions, we may incur additional debt or sell additional equity to finance the purchase of those businesses.

***Capital Expenditures***

We had capital expenditures of \$15.1 million and \$9.7 million for the nine months ended September 30, 2009 and 2008, respectively. This increase of \$5.4 million is mostly attributable to equipment required for the Atlas mill tailings contract and software licensing costs and capitalizable implementation costs for a new enterprise resource planning system (Oracle EBS R12). We expect capital expenditures for the year ending December 31, 2009 will be approximately \$26.0 million, which is in compliance with the debt covenants of our credit agreement. We anticipate the sources of funds for our anticipated capital expenditures will come from cash flows provided by our operating activities.

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***Credit Facilities***

On September 23, 2009, we entered into a Third Amended and Restated Credit Agreement (the "Amended ES Credit Agreement") with Citicorp North America, Inc. ("CNAI") as administrative agent and collateral agent. Concurrently with the entry into the Amended ES Credit Agreement, Duratek, Inc., a wholly-owned subsidiary of the Company, entered into an Amended and Restated Credit Agreement (the "Amended Duratek Credit Agreement" and together with the Amended ES Credit Agreement, the "Amended Credit Agreements") with CNAI. The Amended Credit Agreements amend, restate and supersede the credit agreements dated June 7, 2006 and subsequent amendments with CNAI and the lenders identified therein.

Our credit facilities consist of a \$75.0 million revolving credit facility, which matures on June 7, 2011, term-loan facilities totaling \$770.0 million, which mature on June 7, 2013, and synthetic letter of credit facilities totaling \$100.0 million, which expire on June 7, 2013. The revolving credit facility includes a sublimit of \$60.0 million for letters of credit, of which \$11.9 million were issued as of September 30, 2009. The synthetic letter of credit facilities had \$100.0 million issued as of September 30, 2009.

As amended, borrowings under the credit facilities bear interest as follows:

- (1) in the case of the first-lien term loans, (i) the greater of the rate of interest announced by Citicorp, from time to time, as its prime rate in effect at its principal office in the city of New York, and the federal funds rate plus 0.50% per annum (the "base rate"), plus 2.25% (or 1.75% when the leverage ratio (as defined in the Amended Credit Agreements) as of the most recently completed fiscal quarter is less than 2.0 to 1.0) or (ii) for any portion of the term loans as to which we have elected to pay interest on a Eurodollar basis, LIBOR plus 3.75% (or 3.25% when the leverage ratio (as defined in the Amended Credit Agreements) as of the most recently completed fiscal quarter is less than 2.0 to 1.0);
- (2) in the case of the revolving loans, (i) the base rate plus 2.25% or (ii) for any portion of the revolving loans as to which we have elected to pay interest on a Eurodollar basis, LIBOR plus 3.75%; and
- (3) in the case of synthetic letters of credit, LIBOR for the period of the loan less the synthetic deposit return paid to the synthetic lenders plus 3.75% (or 3.25% when the leverage ratio (as defined in the Amended ES Credit Agreement) as of the most recently completed fiscal quarter is less than 2.0 to 1.0).

As of September 30, 2009 and December 31, 2008, the interest rate of borrowings under our term-loan facilities was 4.05% and 4.14% respectively.

The obligations under the credit facilities are unconditional and irrevocably guaranteed, subject to certain exceptions, by each of our existing and subsequently acquired or organized domestic subsidiaries. In addition, the credit facilities and such guarantees are secured on a first priority basis by security interests (subject to permitted liens as defined in the credit agreements governing the credit facilities) in substantially all tangible and intangible assets owned by us and each of our domestic subsidiaries, subject to certain exceptions, including limiting pledges of 65% of the equity interests of first-tier foreign subsidiaries.

According to the terms of the credit agreements, at the end of each calendar quarter, we are required to make scheduled repayments of the term loans of approximately \$1.4 million, adjusted for optional prepayments made, provided that the final installment shall be equal to the amount outstanding of the term loan facilities.

We are generally also required to prepay borrowings under the credit facilities with (1) 100% of the net proceeds we receive from non-ordinary course asset sales or as a result of a casualty or

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condemnation, subject to reinvestment provisions, (2) 100% of the net proceeds we receive from the issuance of unsecured debt obligations other than specified debt obligations (or if our total leverage ratio is less than 2.0 to 1.0, then 50% of net proceeds is applied) and (3) the excess, if any, of 50% (or, if our leverage ratio is less than 3.0 and greater than 1.0, 25%) of excess cash flow (as defined in the credit agreements) reduced by the aggregate amount of term loans optionally prepaid during the applicable fiscal year. Under the credit facilities, we are not required to prepay borrowings with excess cash flow if our leverage ratio is less than or equal to 1.0. Due to optional prepayments of \$30.0 million made during the quarter ended September 30, 2009, we were not required to make mandatory principal repayments as of September 30, 2009.

As of September 30, 2009, the interest rate of our term-loan facilities was 4.05%. At this rate and assuming an outstanding balance of \$519.1 million as of September 30, 2009, our annual debt service obligations would be \$26.6 million, consisting of \$21.0 million of interest and \$5.6 million of scheduled principal payments. However, due to optional prepayments made through September 30, 2009, only \$1.4 million of our scheduled principal payments are currently due within the next year.

As amended, the credit facilities also require us to maintain certain financial ratios, including a maximum leverage ratio (based upon the ratio of total consolidated indebtedness to consolidated operating cash flow), a maximum first-lien leverage ratio (based upon the ratio of first-lien indebtedness to consolidated operating cash flow) and a minimum cash interest coverage ratio (based upon the ratio of consolidated operating cash flow to consolidated cash interest expense), which are tested quarterly. Based on the revised formulas set forth in the Amended Credit Agreements, we are required to maintain a maximum leverage ratio of 4.0 from the quarter ending September 30, 2009 through the quarter ending December 31, 2010 and 3.5 from the quarter ending March 31, 2011 until maturity. We are required to maintain a maximum first-lien leverage ratio of 3.75 through the quarter ending December 31, 2009, 3.5 for the quarters ending March 31, 2010 through December 31, 2010, 3.25 for the quarter ending March 31, 2011 and 3.0 for quarters ending June 30, 2011 through the maturity date. We are required to maintain a minimum cash interest coverage ratio of 2.75 through the quarter ending December 31, 2009 and 3.0 from the quarter ending March 31, 2010 through the maturity date. Failure to comply with these financial ratio covenants would result in a default under our credit facilities and, absent a waiver or an amendment from the lenders, preclude us from making further borrowings under our credit facilities and permit the lenders to accelerate all outstanding borrowings under the credit facilities. As of September 30, 2009, our total leverage, first-lien leverage and interest coverage ratios were 3.31, 3.31 and 4.23, respectively.

The credit facilities also contain a number of affirmative and restrictive covenants including limitations on mergers, consolidations and dissolutions; sales of assets; investments and acquisitions; indebtedness; liens; affiliate transactions; and dividends and restricted payments. Under the credit facilities, we are permitted maximum annual capital expenditures of a \$30 million for 2009 and \$40 million for 2010 and each year thereafter, plus for each year the lesser of (1) a one year carry-forward of the unused amount from the previous fiscal year and (2) 50% of the amount permitted for capital expenditures in the previous fiscal year. The credit facilities contain events of default for non-payment of principal and interest when due, a cross-default provision with respect to other indebtedness having an aggregate principal amount of at least \$5.0 million and an event of default that would be triggered by a change of control, as defined in the credit facilities. Capital expenditures for the nine months ended September 30, 2009 were \$14.6 million. As of September 30, 2009, we were in compliance with all of the covenants under our credit agreements.

Under the terms of the Amended Credit Agreements, we will be permitted to obtain credit support in an aggregate amount of up to \$50.0 million in connection with our agreement with Exelon Generation Company LLC (the "Exelon Agreement") to dismantle Exelon's Zion nuclear facility located in Zion, Illinois ("Zion Station"), which ceased operation in 1998. Such credit support may take the form of (i) new incremental commitments under the Amended Credit Agreements with respect to a



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letter of credit facility (the "Zion Letter of Credit Facility") and/or (ii) a letter of credit, performance or fidelity bond or related obligation by a third party support provider (the "Zion Credit Support Obligation"). Each of the Zion Letter of Credit Facility and Zion Credit Support Obligation may be secured *pari passu* on the same collateral securing the obligations under the Amended Credit Agreements and shall have a one year term (with auto-renewal extension provisions) but, if secured, expire prior to the term loan maturity date. The Amended Credit Agreements also include additional loan covenants and exceptions related to the Exelon Agreement and the disposition of related assets.

***Exelon Agreement***

On December 11, 2007, we, through our subsidiary *ZionSolutions* LLC, entered into the Exelon Agreement to dismantle Exelon's Zion Station. Upon the closing of the transaction, Exelon has agreed to transfer to *ZionSolutions* substantially all of the assets (other than land) associated with Zion Station, including assets held in nuclear decommissioning trusts. In consideration for Exelon's transfer of those assets, *ZionSolutions* has agreed to assume decommissioning and other liabilities associated with the Zion Station. *ZionSolutions* also agreed to take possession and control of the land associated with the Zion Station pursuant to a lease agreement to be executed at the closing. *ZionSolutions* will be obligated to complete the required decommissioning work according to an established schedule and to construct a dry cask storage facility on the land for spent nuclear fuel currently held in spent fuel pools at the Zion Station. Closing of this transaction is subject to the satisfaction of a number of closing conditions, including approval by the NRC of the license transfer of the facility operating licenses and conforming license amendments from Exelon to *ZionSolutions* (the "License Transfer").

Subsequent to this agreement, the Zion Station decommissioning trust fund balance, a significant portion of which is invested in the stock market, declined as a result of the financial crisis that impacted the United States and world markets. On October 14, 2008, we announced that we intend to defer the transfer of the Zion Station assets until we reaffirm that there is sufficient value in the Zion decommissioning trust funds to ensure adequate funds for the accelerated decommissioning of the plant. On August 17, 2009 we entered into an amended agreement with Exelon to extend the latest closing date under the agreement to December 11, 2011. Under the terms of the amendment, Exelon has the right to terminate the agreement at any time after December 11, 2010 upon 60 days written notice to us.

Prior to our announcement to defer the transfer of the Zion Station assets, we had anticipated that the closing of this transaction would occur in late third quarter or during the fourth quarter of 2008. Accordingly, we hired employees, entered into subcontracts and performed services for Exelon under a planning contract. Invoicing for some of these services provided is subject to the closing of the transaction. As of September 30, 2009 and December 31, 2008, we have incurred costs of \$14.1 million and \$12.4 million, respectively, which have been deferred until the closing of the transaction. Since we believe that it is probable that we will close or be granted an extension to close this transaction before December 11, 2010, we will continue to defer these costs until we close the transaction, at which time we will recognize the costs and related revenues. If we determine that it is not probable that we will close this transaction, we will expense these costs in the period of such determination. We have taken steps to reduce the monthly project costs including the termination of certain employees, transferring employees to other projects and the termination of certain subcontracts and lease agreements. Any costs relating to the termination of employees, subcontractors and lease or other agreements are expensed in the period terminated.

On May 4, 2009, the NRC issued an order approving the License Transfer subject to *ZionSolutions* satisfying the NRC that (i) a \$200 million letter of credit facility has been established, (ii) an irrevocable easement of disposal capacity of 7.5 million cubic feet has been established and (iii) the appropriate amount of insurance required of a licensee under the NRC's regulations has been obtained. If the License Transfer is not completed by May 4, 2010, the order approving the License

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Transfer expires; however, upon written application and for good cause shown, the expiration date may be extended by order of the NRC.

The Third Amended and Restated Credit Agreement includes provisions for additional credit facilities and other changes in order to facilitate the completion of the Zion Station transaction and replaces the earlier June 2008 Amendment Agreements in this respect. The Amended Credit Agreement provides for an incremental facility commitment for the Zion transaction of up to \$50.0 million, inclusive of any letter of credit obligations. We are currently in discussions with Exelon regarding alternative approaches to securing our performance under the Exelon Agreement other than by providing the \$200.0 million letter of credit that is currently required. Accordingly, the completion of the Zion Station acquisition is dependent among other things, on the continued recovery and stabilization of the value of the decommissioning fund and our ability to reach a mutually agreeable amendment to the Exelon Agreement regarding the letter of credit requirement.

A change to the Exelon Agreement may require us to seek additional regulatory approvals or amend our previous approval applications, including our application and the conditional consent from the NRC to the License Transfer. These amendments and approvals may take significant additional time to obtain and whether they can be obtained may be dependent on the nature of the changes to the Exelon Agreement that are ultimately negotiated with Exelon.

**Off Balance Sheet Arrangements**

We have routine operating leases, primarily related to real estate and rail equipment at September 30, 2009.

As of September 30, 2009, we had outstanding floating-rate term loans of \$519.1 million. Under our credit facilities, we are required to maintain one or more interest rate swap agreements for the aggregate notional amount of at least 33% of the outstanding aggregate principal amount of the term loans. Accordingly, we entered into a swap agreement effective December 18, 2008. As of September 30, 2009, the swap agreement had a notional amount of \$200.0 million and a fair value liability of approximately \$2.0 million.

We are required to post, from time to time, standby letters of credit and surety bonds to support contractual obligations to customers, self-insurance programs, closure and post-closure financial assurance and other obligations. As of September 30, 2009, we had \$100.0 million in letters of credit issued under our synthetic letters of credit facilities and \$11.9 million in letters of credit issued under our revolving credit facilities. As of September 30, 2009, we had \$0.7 million in surety bonds outstanding. With respect to the surety bonds, we have entered into certain indemnification agreements with the providers of the surety bonds, which would require funding by us only if we fail to perform under the contracts being insured and the surety bond issuer was obligated to make payment to the insured parties.

Our processing and disposal facilities operate under licenses and permits that require financial assurance for closure and post-closure costs. We provide for these requirements through a combination of restricted cash, cash deposits, letters of credit and insurance policies. As of September 30, 2009, the closure and post-closure state regulatory requirements for our facilities were \$142.0 million, which amount is not determined on the same basis as the asset retirement obligation, or ARO, calculated under authoritative guidance for Asset Retirement Obligations.

**Critical Accounting Policies**

This management's discussion and analysis of financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements

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requires us to make estimates and assumptions about matters that are uncertain. These estimates and assumptions are often based on judgments that we believe to be reasonable under the circumstances, but all such estimates and assumptions are inherently uncertain and unpredictable. Actual results may differ from those estimates and assumptions, and it is possible that other professionals, applying their own judgment to the same facts and circumstances, could develop and support alternative estimates and assumptions that would result in material changes to our operating results and financial condition. For a further discussion of our critical accounting policies, see our Annual Report on Form 10-K for the year ended December 31, 2008, which was filed on February 27, 2009.

**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

Our primary market risk relates to changing interest rates. As of September 30, 2009, we had outstanding floating-rate term loan debt of \$519.1 million, of which \$1.4 million is currently due within the next year. Under our credit facilities, we are required to maintain one or more interest rate swap agreements for the aggregate notional amount of at least 33% of the outstanding aggregate principal amount of the term loans. As of September 30, 2009, our swap agreement had a notional amount of \$200.0 million and a fair value liability of approximately \$2.0 million.

A hypothetical interest rate change of 1% on our credit facilities would change our annual interest expense and related cash payment by approximately \$5.2 million. In addition, a hypothetical interest rate change of 1% on our swap agreement would have changed the fair value of the interest swap at September 30, 2009 by approximately \$1.2 million. Changes in market interest rates would impact the fair value of our long-term obligations. As of September 30, 2009 we had outstanding borrowings under our credit facilities of \$519.1 million with an approximate fair value of \$513.9 million.

We have foreign currency exposure related to our operations in the United Kingdom as well as other foreign locations. This foreign currency exposure arises primarily from the translation or re-measurement of our foreign subsidiaries' financial statements into U.S. dollars. For example, a substantial portion of our annual sales and operating costs are denominated in pound sterling and we have exposure related to sales and operating costs increasing or decreasing based on changes in currency exchange rates. If the U.S. dollar increases in value against these foreign currencies, the value in U.S. dollars of the assets and liabilities originally recorded in these foreign currencies will decrease. Conversely, if the U.S. dollar decreases in value against these foreign currencies, the value in U.S. dollars of the assets and liabilities originally recorded in these foreign currencies will increase. Thus, increases and decreases in the value of the U.S. dollar relative to these foreign currencies have a direct impact on the value in U.S. dollars of our foreign currency denominated assets and liabilities, even if the value of these items has not changed in their original currency. We attempt to mitigate the impact of this exchange rate risk by utilizing financial instruments, including derivative transactions pursuant to our policies. As such, a 10% change in the U.S. dollar exchange rates in effect as of September 30, 2009, would cause a change in consolidated net assets of approximately \$12.5 million and a change in gross profit of approximately \$3.5 million, primarily due to pound sterling-denominated exposures.

**Item 4. Controls and Procedures.**

*Evaluation of Disclosure Controls and Procedures*

Based on their evaluation as the end of the period covered by this report, our principal executive officer and principal financial officer have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) or 15d-15(e) of the Exchange Act) are effective, based upon an evaluation of those controls and procedures required by paragraph (b) of Rule 13a-15 or Rule 15d-15 of the Exchange Act.

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***Changes in Internal Control Over Financial Reporting***

There were no changes to our internal control over financial reporting that occurred as of the end of the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**PART II**

**Item 1. Legal Proceedings.**

As previously reported, we have engaged in discussions with Sogin, SpA, the Italian state-owned utility company, to provide D&D and radioactive materials management services in support of the clean-up of Sogin's nuclear facilities. Our pending license application with the Nuclear Regulatory Commission ("NRC") to import material from Italy, to process it at our facility in Tennessee and to dispose of the residual material at our Clive facility in Utah has generated local and national expressions of opposition. We believe our license application is consistent with all applicable laws and regulations and with past practices. Moreover, the Italian material metals, paper and clothing is the same type of material that we handle routinely from the domestic nuclear industry.

The NRC has issued numerous licenses over the past ten years allowing the importation of low-level radioactive waste ("LLRW") to be processed and ultimately disposed at our Clive facility. Under these licenses, our Clive Facility has received Class A LLRW originating in Germany, Canada, France, Taiwan, and the United Kingdom.

The States of Tennessee and Utah have confirmed to the NRC that the proposed Italian project is consistent with the licenses and permits issued by those states. However, the former Governor of the State of Utah announced on April 23, 2008 that he would send his representative to the May 8, 2008 meeting of the Northwest Interstate Compact on Low-Level Radioactive Waste Management (the "Northwest Compact") to vote against any proposal that would allow us to receive international waste at our Clive facility.

On May 5, 2008, we filed a declaratory judgment action in the U.S. District Court of Utah (the "Declaratory Judgment Action") asking the court to declare that (i) the Northwest Compact does not have regulatory authority over our Clive facility, which is a private commercial facility rather than a regional facility created by the Compact, (ii) the U.S. Constitution does not allow the Northwest Compact to discriminate between identical domestic and foreign materials handled at our Clive facility, and (iii) any effort by the Northwest Compact to restrict our receipt of foreign LLRW is pre-empted by federal statutes and regulations. The State of Utah and the Rocky Mountain Interstate Compact on Low-level Radioactive Waste have intervened as defendants in the Declaratory Judgment Action.

At the Northwest Compact meeting on May 8, 2008, the representatives of the eight member States of the Northwest Compact, despite our commitment to restrict our receipt of international waste to 5% of the remaining capacity at our Clive facility, unanimously adopted a clarifying resolution proposed by the Utah committee member, clarifying that the Northwest Compact has never adopted a resolution permitting us to receive international waste at our Clive facility. We continue to believe that the Northwest Compact does not have regulatory authority over our Clive facility, and that neither the U.S. Constitution nor Federal law permits the Northwest Compact to prohibit us from receiving international waste at our Clive facility.

On October 6, 2008, the NRC approved an order holding in abeyance its decision with respect to our pending import license application until the Company's declaratory judgment action has been resolved by the Courts.

On May 15, 2009, the U.S. District Court for the District of Utah issued a Memorandum Decision And Order Granting In Part And Denying In Part Motions For Partial Summary Judgment (the

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"District Court Order") finding that the Northwest Compact has no authority to restrict the flow of out of region waste to EnergySolutions' facility in Clive, Utah. The court later concluded that those holdings obviated the need for further proceedings, and entered final judgment in favor of EnergySolutions on June 17, 2009. The defendants in the Declaratory Judgment Action have appealed the judgment to the United States Circuit Court of Appeals for the 10<sup>th</sup> Circuit. After issuance of the District Court Order the NRC has solicited the views of potential parties but has not yet lifted its order holding the review of our pending import license application in abeyance.

We intend to vigorously prosecute our declaratory judgment action, but we do not believe we will be able to process and dispose of any radioactive materials contemplated by the Italian initiative during fiscal 2009 and beyond until the appellate process is concluded.

On October 9, 2009 a purported class-action lawsuit captioned City of Roseville Employees' Retirement System vs. EnergySolutions, et al., was filed in the United States District Court for the Southern District of New York, Civil Number 09 CV 8633. On October 12, 2009 a second complaint was filed in the same court captioned Building Trades United Pension Trust Fund vs. EnergySolutions Inc., et al., Civil Number 09 CV 8648. The complaints are very similar and name as defendants the Company, current and prior directors, certain officers of the Company, the lead underwriters in the Company's initial public offering ("IPO") in November 2007 and the secondary offering in July 2008 (the "July 2008 Offering") and ENV Holdings, LLC, the former parent of the Company. The plaintiffs allege that the registration statements and prospectus for the IPO and the July 2008 Offering contained inaccurate statements of material facts and omitted material information required to be disclosed therein regarding the potential size of the nuclear services market, the Company's ability to take advantage of opportunities in that market in the near term, the status and prospects of the Company's rule making petition to the NRC to permit the use of decommissioning funds for disposal of major components prior to the cessation of activities at nuclear facilities, the status and prospects of the Company's license stewardship initiative, and other matters. The complaints seek to include all purchasers of the Company's stock from November 14, 2007 through October 14, 2008 as a plaintiff class and seek damages, costs and interest, rescission of the IPO and July 2008 Offering, and such other relief as the court may find just and proper.

We believe the facts and legal claims alleged in the complaints are without merit and intend to vigorously defend the litigation.

**Item 1A. Risk Factors.**

The following risks and uncertainties have the potential to affect our business, financial condition, results of operations, cash flows, strategies or prospects in a material and adverse manner. These risk factors do not reflect any material changes from the risk factors previously disclosed in our report on Form 10-K for the year ended December 31, 2008 except as follows:

we have added a risk factor, "Investor lawsuits could adversely affect our business and financial position," to address the risks associated with the recently filed purported class actions and other investor lawsuits that may be filed in the future;

we have modified the risk factors "We and our customers operate in a politically sensitive environment, and the public perception of nuclear power and radioactive materials can affect our customers and us" and "Our business depends on the continued operation of our Clive, Utah facility" to address the NRC limited rulemaking to require the preparation of a site-specific analysis at sites that dispose of significant quantities of depleted uranium;

we have modified the risk factor "As a government contractor and recipient of Recovery Act funds, we are subject to extensive government regulation, and our failure to comply with applicable regulations could subject us to penalties that may restrict our ability to conduct our

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business" to discuss the risks associated with our receipt of funds from the federal American Recovery and Reinvestment Act and similar programs;

we have updated the risk factor "We may not be successful in entering into license stewardship arrangements with owners and operators of shut-down nuclear reactors" to address the risks associated with the interplay between our Amended Credit Agreements and the Exelon Agreement;

we have updated the risk factor "The agreements governing our credit facilities contain financial covenants which we may not meet with our future financial results" to reflect changes in the terms of our credit facilities; and

we have generally updated financial information and cross-references to reflect changes to our financial results since December 31, 2008.

### ***We and our customers operate in a highly regulated industry that requires us and them to obtain, and to comply with, national, state and local government permits and approvals.***

We and our customers operate in a highly regulated environment. Our facilities are required to obtain, and to comply with, national, state and local government permits and approvals. Any of these permits or approvals may be subject to denial, revocation or modification under various circumstances. Failure to obtain or comply with the conditions of permits or approvals may adversely affect our operations by temporarily suspending our activities or curtailing our work and may subject us to penalties and other sanctions. Although existing licenses are routinely renewed by various regulators, renewal could be denied or jeopardized by various factors, including:

failure to provide adequate financial assurance for decommissioning or closure;

failure to comply with environmental and safety laws and regulations or permit conditions;

local community, political or other opposition;

executive action; and

legislative action.

In addition, if new environmental legislation or regulations are enacted or existing laws or regulations are amended or are interpreted or enforced differently, we or our customers may be required to obtain additional operating permits or approvals. Changes in requirements imposed by our environmental or other permits may lead us to incur additional expenses by requiring us to change or improve our waste management technologies and services to achieve and maintain compliance. We may be unable to meet all potential regulatory changes.

### ***We and our customers operate in a politically sensitive environment, and the public perception of nuclear power and radioactive materials can affect our customers and us.***

We and our customers operate in a politically sensitive environment. The risks associated with radioactive materials and the public perception of those risks can affect our business. Various public interest groups and political representatives frequently oppose the operation of processing and disposal sites for radioactive materials such as our Barnwell, South Carolina, Oak Ridge, Tennessee and Clive, Utah facilities. For example, public interest groups and the former governor of Utah have made public statements regarding their desire to limit the source and volume of radioactive materials that we process and dispose at our Clive facility. Representatives in Congress have introduced legislation to ban the importation of foreign waste, and public interest groups have argued for a moratorium on disposal of depleted uranium at our Clive facility. Depleted uranium is Class A waste that has been disposed at our Clive facility. The NRC has announced that it is undertaking a limited rulemaking to require the



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preparation of a site-specific analysis at sites that dispose of significant quantities of depleted uranium. Although preliminary NRC analyses indicate that our Clive facility will continue to be suitable for the disposal of depleted uranium, preparation of the site-specific analysis that we expect to be required could result in a delay or changes in how we dispose of depleted uranium at our Clive facility, which could adversely affect our business. If any regulatory, environmental or legislative efforts to limit or delay our operations at our current or future facilities were successful, then our business would be adversely affected.

Opposition by third parties to particular projects can delay or prohibit the construction of new nuclear power plants and can limit the operation of nuclear reactors or the handling and disposal of radioactive materials. Adverse public reaction to developments in the use of nuclear power or the disposal of radioactive materials, including any high profile incident involving the discharge of radioactive materials, could directly affect our customers and indirectly affect our business. In the past, adverse public reaction, increased regulatory scrutiny and litigation have contributed to extended construction periods for new nuclear reactors, sometimes extending construction schedules by decades or more, contributing to the result that no new reactor has been ordered since the 1970s. Adverse public reaction also could lead to increased regulation or outright prohibition, limitations on the activities of our customers, more onerous operating requirements or other conditions that could have a material adverse impact on our customers and our business.

In addition, we may seek to address public and political opposition to our business activities through voluntary limitations on our operations. For example, as part of our response to public statements made by public interest groups and the former governor of Utah regarding their desire to limit the source and volume of radioactive materials that we process and dispose at our Clive facility, we voluntarily agreed with the former governor to withdraw a request for a license amendment to increase our capacity at our Clive facility. We are also experiencing both local and national expressions of opposition to the importation of LLRW from international sources, including opposition articulated in U.S. congressional proposals and from the Northwest Compact. The Northwest Compact, which consists of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming, was created pursuant to a federal statute that enables states to enter into interstate compacts for the purposes of managing LLRW. In response to this opposition, we have volunteered to limit the amount of foreign LLRW accepted at our Clive facility to a maximum of 5% of the total remaining facility capacity. We also filed a declaratory judgment action in the U.S. District Court in Utah seeking an order that the Northwest Compact does not have jurisdictional or regulatory authority over our Clive facility and that the Northwest Compact may not discriminate between domestic and foreign materials. See the discussion under "Legal Proceedings" for the current status of this litigation. Our actions to diffuse public and political opposition to our business can divert time and resources away from our core business operations and strategies, and failure to achieve the intended results of our actions may have a material adverse effect on our business, financial condition and results of operations.

***Our business depends on the continued operation of our Clive, Utah facility.***

Our disposal facility in Clive, Utah is a strategic asset and is vital to our business. This facility is the largest privately owned commercial facility for the disposal of LLRW in the United States, and contributed 7.1% and 7.4% of our revenues for the nine months ended September 30, 2009 and 2008, respectively. Because of the greater profitability of the Clive facility in comparison with the rest of our business, a loss of revenue from Clive would have a disproportionate impact on our gross profit and gross margin. The Clive facility is subject to the normal hazards of operating any disposal facility, including accidents and natural disasters. In addition, access to the facility is limited, and any interruption in rail or other transportation services to and from the facility will affect our ability to operate the facility. Our Clive facility is highly regulated and subject to extensive licensing and permitting requirements and continuous air and ground water monitoring. Changes in federal, state or



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local regulations, including changes in the interpretation of those regulations, including regulations addressing the disposition of depleted uranium and the importation of foreign waste, can affect our ability to operate the facility. Depleted uranium is Class A waste that has been disposed at our Clive facility. The NRC has announced that it is undertaking a limited rulemaking to require the preparation of a site-specific analysis at sites that dispose of significant quantities of depleted uranium. Although preliminary NRC analyses indicate that our Clive facility will continue to be suitable for the disposal of depleted uranium, preparation of the site-specific analysis that we expect to be required could result in a delay or changes in how we dispose of depleted uranium at our Clive facility, which could adversely affect our business. Actions by states or the federal government may affect facility capacity, expansion or extension of the Clive facility. The Northwest Compact also has asserted it has authority over our Clive facility and is seeking to restrict our ability to import foreign LLRW for disposal at the facility, and federal legislation has been introduced to prohibit the importation of foreign LLRW waste. Any of the foregoing actions may hinder, delay or stop shipments to the facility, which could seriously impair our ability to execute disposal projects and significantly reduce future revenues. We believe that we have sufficient capacity for more than 30 years of operations based on our estimate of future disposal volumes, our ability to optimize disposal capacity utilization and our assumption that we will obtain a license amendment to convert a disposal cell originally intended for 11e(2) waste to Class A LLRW. If we are unable to obtain the license amendment, our projected capacity to dispose of Class A LLRW would be materially reduced. If future disposal volumes increase beyond our expectations or if our other assumptions prove to be incorrect, then the remaining capacity at Clive would be exhausted more quickly than projected.

Any interruption in our operation of the Clive facility or decrease in the effective capacity of the facility would adversely affect our business, and any prolonged disruption in the operation of the facility or reduction in the capacity or useful life of the facility would have a material adverse effect on our business, financial condition and results of operations.

***Our quarterly operating results may fluctuate significantly and may not meet our financial guidance or published analyst forecasts, which could have a negative effect on the price of our common stock.***

Our quarterly operating results may fluctuate significantly because of a number of factors, many of which are outside our control, including:

the seasonality of our contracts, the spending cycle of our government customers and the spending patterns of our commercial customers;

the number and significance of projects commenced and completed during a quarter;

uncertainty in timing for receiving government contract awards;

our contract with the NDA, under which we generally recognize most efficiency fees in the first and fourth calendar quarter of each year;

unanticipated changes in contract performance, particularly with contracts that have funding limits;

the timing of resolutions of change orders, requests for equitable adjustments and other contract adjustments;

decisions by customers to terminate our contracts;

delays incurred in connection with a project;

seasonal variations in shipments of radioactive materials;

weather conditions that delay work at project sites;

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the timing of expenses incurred in connection with acquisitions or other corporate initiatives;

staff levels and utilization rates;

changes in the prices of services offered by our competitors; and

general economic or political conditions.

Fluctuations in quarterly results, lower than anticipated revenues or our failure to meet financial guidance or published analysts' forecasts, could have a negative effect on the price of our common stock.

***Our international operations involve risks that could have a material adverse effect on our results of operations.***

For the nine months ended September 30, 2009, we derived 62.2% and 22.2% of our revenues and segment operating income, respectively, and for the nine months ended September 30, 2008, we derived 66.6% and 30.1% of our revenues and segment operating income, respectively, from our operations outside of North America. Our business is dependent on the success of our international operations, and we expect that our international operations will continue to account for a significant portion of our total revenues. In addition to risks applicable to our business generally, our international operations are subject to a variety of heightened or distinct risks, including:

recessions in foreign economies and the impact on our costs of doing business in those countries;

difficulties in staffing and managing foreign operations;

changes in regulatory requirements;

foreign currency fluctuations;

the adoption of new, and the expansion of existing, trade restrictions;

acts of war and terrorism;

the ability to finance efficiently our foreign operations;

social, political and economic instability;

increases in taxes;

limitations on the ability to repatriate foreign earnings; and

natural disasters or other crisis.

*Changes in existing environmental and other laws, regulations and programs could harm our business.*

A significant amount of our business of processing and disposing of radioactive materials derives directly or indirectly from existing national and state laws, regulations and programs related to pollution and environmental protection. National, state and local environmental legislation and regulations require substantial expenditures and impose liabilities for noncompliance. Accordingly, a real or perceived relaxation or repeal of these laws and regulations, or changes in government policies regarding the funding, implementation or enforcement of these programs, could result in a material decline in demand for nuclear services. The ultimate impact of any changes will depend upon a number of factors, including the overall strength of the economy and the industry's views on the cost-effectiveness of remedies available under the changed laws and regulations.

Our operations are subject to taxation by the U.S. and UK governments, the State of Utah, Tooele County and other foreign governments. In the event of a material increase in our taxes resulting from

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an increase in our effective tax rate or change in our scheme of taxation, we may not have the ability to pass on the effect of such increase to our customers and, as a result, our stockholders could bear the burden of any such tax increase. The risk of a material tax increase may be exacerbated by political pressure to limit our operations. See risk factor " We and our customers operate in a politically sensitive environment, and the public perception of nuclear power and radioactive materials can affect our customers and us."

Our facilities are also subject to political actions by government entities which can reduce or completely curtail their operations. For example, the State of South Carolina closed the Barnwell disposal site on July 1, 2008 to customers outside of the Atlantic Compact States of South Carolina, New Jersey and Connecticut. Although the Barnwell closure did not have a significant impact on our revenues or net income, political pressures to reduce or curtail other operations could have a material adverse effect on our results of operations.

***Our life-of-plant contracts may not remain effective through a nuclear power plant's decontamination and decommissioning.***

Although our life-of-plant contracts are intended to provide us with revenue streams from the processing and disposal of substantially all LLRW and mixed low-level waste ("MLLW") generated over the remaining lives of nuclear power plants operated by our commercial power and utility customers, and ultimately waste disposal revenue streams when the plants are shut down, these contracts may not actually remain effective for that entire period. A typical "life-of-plant" contract may terminate before D&D because the contract may:

have a shorter initial term than the useful life of the plant and the contract may not be extended by the utility;

include a provision that allows the customer to terminate the contract after a certain period of time or upon certain events;

allow for renegotiation of pricing terms if market conditions change; and

allow for renegotiation of pricing terms based on increases in taxes and pass-through or other costs.

The early termination or renegotiation of a life-of-plant contract may reduce our revenues and profits. In addition, life-of-plant contracts may expose us to liability in the event that government bodies limit our ability to accept radioactive materials by capping the capacity of one or more of our disposal facilities or taking other actions.

***We may not be successful in winning new business mandates from our government and commercial customers.***

We must be successful in winning new business mandates from our government and commercial customers to replace revenues from projects that are nearing completion and to increase our revenues. Our business and operating results can be harmed by the size and timing of a single material contract. For example, during 2005, we were the primary subcontractor to Kaiser-Hill Company, LLC for the transportation and disposal of LLRW, MLLW and other contaminated materials from the DOE's Rocky Flats Environmental Technology site near Denver, Colorado. Pursuant to this contract, we generated \$105.4 million of revenues during 2005. The DOE declared the clean-up complete in October 2005, and we have not generated significant revenues from Rocky Flats since 2005.

Our business strategy includes bidding on government contracts as a lead prime contractor in a consortium. We expect to bid on a significant portion of the approximately \$21.3 billion of federal nuclear services contracts that we estimate will be awarded within the next five years. In the past, we have operated primarily as a subcontractor or in a minority position on a prime contractor team. In

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pursuing a lead prime contractor role, we will be competing directly with a number of large national and regional nuclear services firms that may possess or develop technologies superior to our technologies and have greater financial, management and marketing resources than we do. Many of these companies also have long-established customer relationships and reputations. As a result, we may not be successful in being awarded the lead prime contractor role for any of these contracts.

***We may fail to win re-bids in the United Kingdom for the Southern and Northern Region decommissioning contracts currently held by our subsidiary RSMC.***

In December 2008, the NDA announced that the current NDA contracts held by RSMC through its subsidiaries, Magnox North Limited and Magnox South Limited, in relation to the Southern Region sites and Northern Region sites will be put out for re-bid in 2011. During the contract year ended March 31, 2009, RSMC recognized revenues of \$1.1 billion from these contracts. We expect the competition for these contracts to be intense, and our failure to win the re-bid of either or both contracts would have a material adverse effect on our results of operations. Even if we win the re-bid, the participation of a partner could reduce our profits from these contracts. In addition, any limitations on our ability to import international waste to our Clive facility could reduce one of our competitive advantages in competing for these contracts. See risk factor " We and our customers operate in a politically sensitive environment, and the public perception of nuclear power and radioactive materials can affect our customers and us."

***Investor lawsuits could adversely affect our business and financial position.***

Two purported class-action lawsuits were filed against us in October, 2009. These lawsuits name the Company, current and prior directors of the Company, certain of our officers, the lead underwriters in our initial public offering and the July 2008 registered public offering, and ENV Holdings, LLC, our former parent. Under our organizational documents and contractual agreements, we have indemnification obligations to all of the named defendants. The lawsuits allege that the registration statements and prospectuses for the two offerings contained inaccurate statements of material facts and omitted material information required to be disclosed therein. The lawsuits seek to certify a class consisting of all purchasers of our stock from November 14, 2007 through October 14, 2008. Our stock price varied from approximately \$27.90 to \$5.64 during that period. We expect there will be additional similar lawsuits filed in the near future. If plaintiffs' are successful in certifying a class and establishing the allegations in the lawsuits, it could materially adversely affect our financial condition. Even if we are successful in defending against the allegations of the lawsuits, we may incur significant costs for legal fees and our indemnification obligations to other named defendants. We may also incur increased costs for renewal of our directors and officers' liability insurance. In addition, defense of the lawsuits will involve the commitment of significant Company resources and may demand the time and attention of our employees, officers and directors, particularly those who are personally named, to the detriment of our business operations.

***The loss of one or a few customers could have an adverse effect on us.***

One or a few government and commercial customers have in the past and may in the future account for a significant portion of our revenues in any one year or over a period of several consecutive years. For example, the NDA accounts for virtually all of our revenue in the International segment (which is our largest segment based on 2008 revenues). For the nine months ended September 30, 2009 and 2008, respectively, 62.7% and 66.3% of our revenues were from contracts funded by the NDA. In addition, from time to time we typically have contracts with various offices within the DOE, including with the Office of Environmental Management, the Office of Civilian Radioactive Waste Management, the National Nuclear Security Administration and the Office of Nuclear Energy. For the nine months ended September 30, 2009 and 2008, respectively, 14.9% and

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10.5% of our revenues were from contracts funded by the DOE. Because customers generally contract with us for specific projects, we may lose these significant customers from year to year as their projects with us are completed. Our inability to replace this business with other projects could have an adverse effect on our business and results of operations.

***The elimination or any modification of the Price-Anderson Act's indemnification authority could harm our business.***

In the United States, the Atomic Energy Act of 1954, as amended (the "AEA"), comprehensively regulates the manufacture, use and storage of radioactive materials. Section 170 of the AEA, which is known as the Price-Anderson Act, supports the nuclear services industry by offering broad indemnification to commercial nuclear power plant operators and DOE contractors for liabilities arising out of nuclear incidents at power plants licensed by the NRC and at DOE nuclear facilities. That indemnification protects not only the NRC licensee or DOE prime contractor, but also companies like us that work under contract or subcontract for a licensed power plant or under a DOE prime contract or transporting radioactive material to or from a site. The indemnification authority of the NRC and DOE under the Price-Anderson Act was extended through 2025 by the Energy Policy Act of 2005.

The Price-Anderson Act's indemnification provisions generally do not apply to our processing and disposal facilities, and do not apply to all liabilities that we might incur while performing services as a contractor for the DOE and the nuclear energy industry. If an incident or evacuation is not covered under Price-Anderson Act indemnification, we could incur substantial losses, regardless of fault, which could have an adverse effect on our results of operations and financial condition. In connection with international transportation of toxic, hazardous and radioactive materials, it is possible for a claim to be asserted which may not fall within the indemnification provided by the Price-Anderson Act. If such indemnification authority is not applicable in the future, our business could be adversely affected if the owners and operators of new facilities fail to retain our services in the absence of commercially adequate insurance and indemnification.

***Our existing and future customers may reduce or halt their spending on nuclear services from outside vendors, including us.***

A variety of factors may cause our existing or future customers to reduce or halt their spending on nuclear services from outside vendors, including us. These factors include, but are not limited to:

accidents, terrorism, natural disasters or other incidents occurring at nuclear facilities or involving shipments of nuclear materials;

disruptions in the nuclear fuel cycle, such as insufficient uranium supply or conversion;

the financial condition and strategy of the owners and operators of nuclear reactors;

civic opposition to or changes in government policies regarding nuclear operations; or

a reduction in demand for nuclear generating capacity.

These events also could adversely affect us to the extent that they result in the reduction or elimination of contractual requirements, the suspension or reduction of nuclear reactor operations, the reduction of supplies of nuclear raw materials, lower demand for nuclear services, burdensome regulation, disruptions of shipments or production, increased operational costs or difficulties or increased liability for actual or threatened property damage or personal injury.

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***Economic downturns and reductions in government funding could harm our businesses.***

Demand for our services has been, and we expect that demand will continue to be, subject to significant fluctuations due to a variety of factors beyond our control, including economic and industry conditions. The stress experienced by global capital markets that began in the second half of 2007 substantially increased during 2008 and has continued into 2009. Recently, concerns over inflation, energy costs, geopolitical issues, the availability and cost of credit, the U.S. mortgage market and a declining real estate market have contributed to increased volatility and diminished expectations for the global economy and expectations of slower global economic growth going forward. These factors, combined with volatile oil prices, declining business and consumer confidence and increased unemployment, have precipitated an economic recession.

During economic downturns, the ability of private and government entities to make expenditures on nuclear services may decline significantly. Economic or political conditions may be unfavorable to our industry and there may be significant fluctuations adversely affecting our industry as a whole. In addition, our operations depend, in part, upon government funding, particularly funding levels at the NDA or DOE. Significant changes in the level of government funding (for example, the annual budget of the NDA or DOE) or specifically mandated levels for different programs that are important to our business could have an unfavorable impact on our business, financial position, results of operations and cash flows. For example, although the Magnox contract funding for the 2008/09 contract year increased over the 2007/08 contract year, the NDA has stated that the Magnox North and Magnox South sites, for which we are currently a prime contractor, may receive reduced funding allocations in the future so that the NDA may address other sites that contain more hazardous materials that pose a greater degree of risk. In addition, if Congress does not pass annual appropriations bills in a timely fashion, it may delay spending on new government contracts.

In addition, current market conditions have exerted downward pressure on the price of our common stock, which could limit our ability to raise capital, if necessary, through borrowings or the issuance of additional securities. A protracted economic downturn could exacerbate these adverse conditions. Although numerous governments have taken steps to mitigate the disruption to financial markets, there can be no assurances that government responses will restore consumer confidence for the foreseeable future.

The current state of the financial markets could also exert pressure on our customers and could limit their ability to secure working capital. This may impact their liquidity and their ability to make timely payments of their invoices to us. The inability of our customers to make timely payments of our invoices may negatively impact our cash flows.

***As a government contractor and recipient of American Recovery and Reinvestment Act funds, we are subject to extensive government regulation, and our failure to comply with applicable regulations could subject us to penalties that may restrict our ability to conduct our business.***

Our government contracts, which are primarily with the NDA and the DOE, are a significant part of our business. Allowable costs under U.S. government contracts are subject to audit by the U.S. government. Similarly, some UK contracts are subject to audit by UK regulatory authorities, including the NDA. If these audits result in determinations that costs claimed as reimbursable are not allowed costs or were not allocated in accordance with applicable regulations, we could be required to reimburse government authorities for amounts previously received.

Government contracts are often subject to specific procurement regulations, contract provisions and a variety of other requirements relating to the formation, administration, performance and accounting of these contracts. Many of these contracts include express or implied certifications of compliance with applicable regulations and contractual provisions. We may be subject to qui tam litigation brought by private individuals on behalf of the government under the Federal Civil False



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Claims Act, which could include claims for up to treble damages. Additionally, we may be subject to the Truth in Negotiations Act, which requires certification and disclosure of all factual costs and pricing data in connection with contract negotiations. Some of our projects receive funding under the federal American Recovery and Reinvestment Act or similar federal and state programs designed to provide financial assistance to create jobs, improve energy efficiency, encourage the development of renewable energy, and meet critical infrastructure needs. The receipt of these funds subjects us to additional regulatory oversight and reporting requirements, which impose additional administrative burdens and costs on our business. Failure to comply with applicable regulations, requirements or statutes could disqualify us from receiving recovery funding, result in the termination or suspension of our existing government contracts, impose fines or other penalties on us, or result in our suspension or debarment from government contracting. If one or more of our government contracts are terminated for any reason, or if we are suspended or debarred from government work, we could suffer a significant reduction in expected revenues and profits. Furthermore, as a result of our government contracting or the receipt of recovery funding, claims for civil or criminal fraud may be brought by the government for violations of these regulations, requirements or statutes.

***Our commercial customers may decide to store radioactive materials on-site rather than contract with us to transport, process and dispose of the radioactive materials at one of our off-site facilities.***

Our LP&D segment's results of operations may be affected by the decisions of our commercial customers to store radioactive materials on-site. There has been little regulatory, political or economic pressure for commercial utilities and power companies to dispose of radioactive materials at off-site facilities. Some of these commercial entities have the ability to store radioactive materials generated by their operations on-site, instead of contracting with an outside service provider, such as us, to transport, process and dispose of the radioactive materials at an off-site location, such as our Clive facility. The decision to store radioactive materials on-site rather than contracting to dispose of them at an off-site facility may be influenced by the accounting treatment for radioactive materials. Currently, the liability for the disposal of radioactive materials stored on-site may be capitalized on the owner's balance sheet and amortized over the expected on-site storage period. In contrast, radioactive materials shipped off-site for disposal are expensed during the period in which the materials are shipped off-site. The NRC has rejected our proposal to undertake an amendment of current NRC rules to permit operators of nuclear reactors to access decommissioning funds for transportation and disposal of retired large components of currently operating nuclear power plants. We will continue to work with the NRC to request, on a case-by-case basis, that operators of these nuclear reactors be permitted to access decommissioning funds for transportation and disposal of retired large components. The NRC's refusal to grant such requests could have an adverse impact on the prospects for our Commercial Services and LP&D segments.

***We may not be successful in entering into license stewardship arrangements with owners and operators of shut-down nuclear reactors.***

We are marketing our license stewardship solution to the owners and operators of shut-down nuclear reactors in SAFSTOR or monitored storage. Although we believe that our license stewardship initiative is an attractive alternative to deferring decommissioning and related risks to the reactor owner, including future cost increases and the future availability of disposal capacity, the following factors may adversely affect our license stewardship initiative:

owners and operators of shut-down nuclear reactors have the option of maintaining their reactors in SAFSTOR or monitored storage, allowing their decommissioning trust funds to grow and eventually pursue a D&D program in the future;

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uncertainty regarding the appropriate tax and regulatory treatment of aspects of our license stewardship initiative may prevent owners and operators of nuclear power plants from entering into these kinds of arrangements with us;

if a plant's decommissioning trust fund has decreased or failed to grow, the fund may not be large enough to make license stewardship economically feasible;

we may fail to obtain the necessary approvals and licenses from the NRC and the applicable state public utility commission on terms we find acceptable, or at all;

these contracts may require us to post letters of credit or surety bonds that we may be unable to obtain on reasonable terms, or at all;

as the owner of the reactor assets and the holder of the NRC license, we may be subject to unforeseen environmental liabilities, including fines for non-compliance with environmental requirements and costs associated with the clean-up of unanticipated contamination; and

if we underestimate the costs or timing of D&D activities at a particular site, the project may not be profitable for us.

As discussed elsewhere in this report, we have entered into an agreement with Exelon to dismantle Exelon's nuclear facility located in Zion, Illinois, which ceased operation in 1998. The NRC has issued an order approving the license transfer of the facility operating licenses and conforming license amendments from Exelon to ZionSolutions subject to the performance of certain conditions, including the issuing of a letter of credit required under the agreement with Exelon in the amount of \$200.0 million. By its terms, this order expires if the transaction has not closed by May 4, 2010. However, because of the recent market downturn, the nuclear decommissioning trust fund balance for the Zion Station, a significant portion of which was invested in the stock market, declined in value. As a result, we intend to defer the completion of this transaction until we reaffirm that there is sufficient value in the decommissioning trust funds to ensure adequate funds for the accelerated decommissioning of the plant. On August 17, 2009 we amended our agreement with Exelon to extend the required closing date to December 11, 2011. Under the terms of the amendment Exelon has the right to terminate the agreement if it is not closed by December 11, 2010 upon 60 days notice to us. On September 23, 2009 we entered into an amended and restated credit agreement that limited our credit facility for the Exelon transaction to \$50.0 million inclusive of any letter of credit obligation. Consequently, we will not be able to close the transaction with Exelon unless we are able to negotiate a mutually acceptable amendment or obtain an increase to our credit facility in the future. If we do negotiate an amendment with Exelon, or if the transaction does not close by May 4, 2010, we may need to obtain a new order from the NRC or seek an amendment of the current order. As of September 30, 2009, we have incurred costs of \$14.1 million that have been deferred until the closing of the transaction. We will continue to defer these costs until we close the transaction, at which time we will recognize the costs and related revenues. If we determine that it is not probable that we will close this transaction, we will expense these costs in the period of such determination.

Our inability to successfully complete the transaction with Exelon may adversely affect our ability to enter into other license stewardship arrangements, which may have an adverse effect on our future business, financial position, results of operations and cash flows.

***We are subject to liability under environmental laws and regulations.***

We are subject to a variety of environmental, health and safety laws and regulations governing, among other things, discharges to air and water, the handling, storage and disposal of hazardous or radioactive materials and wastes, the remediation of contamination associated with releases of hazardous substances and human health and safety. These laws and regulations and the risk of attendant litigation can cause significant delays to a project and add significantly to its cost. Our

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projects often involve highly regulated materials, including hazardous and radioactive materials and wastes. Environmental laws and regulations generally impose limitations and standards for regulated materials and require us to obtain permits and licenses and comply with various other requirements. Fees associated with such environmental permits and licenses can be costly. In addition, the improper characterization, handling, testing, transportation or disposal of regulated materials or any other failure to comply with these environmental, health and safety laws, regulations, permits or licenses have resulted in fines or penalties from time to time and could subject us and our management to civil and criminal penalties, the imposition of investigatory or remedial obligations or the issuance of injunctions that could restrict or prevent our operations. These laws and regulations may also become more stringent, or be more stringently enforced, in the future.

Various national, state and local environmental laws and regulations, as well as common law, may impose liability for property damage and costs of investigation and clean-up of hazardous or toxic substances on property currently or previously owned by us or arising out of our waste management, environmental remediation or nuclear D&D activities. These laws may impose responsibility and liability without regard to knowledge of or causation of the presence of contaminants. The liability under these laws can be joint and several, meaning liability for the entire cost of clean-up can be imposed upon any responsible party. We have potential liabilities associated with our past radioactive materials management activities and with our current and prior ownership of various properties. The discovery of additional contaminants or the imposition of unforeseen clean-up obligations at these or other sites could have an adverse effect on our results of operations and financial condition.

When we perform our services, our personnel and equipment may be exposed to radioactive and hazardous materials and conditions. We may be subject to liability claims by employees, customers and third parties as a result of such exposures. In addition, we may be subject to fines, penalties or other liabilities arising under environmental or safety laws. Although to date we have been able to obtain liability insurance for the operation of our business, there can be no assurance that our existing liability insurance is adequate or that it will be able to be maintained or that all possible claims that may be asserted against us will be covered by insurance. A partially or completely uninsured claim, if successful and of sufficient magnitude, could have a material adverse effect on our results of operations and financial condition.

***Our operations involve the handling, transportation and disposal of radioactive and hazardous materials and could result in liability without regard to our fault or negligence.***

Our operations involve the handling, transportation and disposal of radioactive and hazardous materials. Failure to properly handle these materials could pose a health risk to humans or animals and could cause personal injury and property damage (including environmental contamination). If an accident were to occur, its severity could be significantly affected by the volume of the materials and the speed of corrective action taken by emergency response personnel, as well as other factors beyond our control, such as weather and wind conditions. Actions taken in response to an accident could result in significant costs.

In our contracts, we seek to protect ourselves from liability associated with accidents, but there is no assurance that such contractual limitations on liability will be effective in all cases or that our, or our customers', insurance will cover all the liabilities we have assumed under those contracts. The costs of defending against a claim arising out of a nuclear incident or precautionary evacuation, and any damages awarded as a result of such a claim, could adversely affect our results of operations and financial condition.

We maintain insurance coverage as part of our overall risk management strategy and due to requirements to maintain specific coverage in our financing agreements and in many of our contracts. These policies do not protect us against all liabilities associated with accidents or for unrelated claims.

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In addition, comparable insurance may not continue to be available to us in the future at acceptable prices, or at all.

***We are engaged in highly competitive businesses and typically must bid against other competitors to obtain major contracts.***

We are engaged in highly competitive businesses in which most of our government contracts and some of our commercial contracts are awarded through competitive bidding processes. We compete with national and regional firms with nuclear services practices, as well as small or local contractors. Some of our competitors have greater financial and other resources than we do, which can give them a competitive advantage. In addition, even if we are qualified to work on a new government contract, we might not be awarded the contract because of existing government policies designed to protect small businesses and underrepresented minority contractors. Competition also places downward pressure on our contract prices and profit margins. Intense competition is expected to continue for nuclear service contracts, challenging our ability to maintain strong growth rates and acceptable profit margins. If we are unable to meet these competitive challenges, we could lose market share and experience an overall reduction in our profits. In the event that a competitor is able to obtain the necessary permits, licenses and approvals to operate a new commercial LLRW disposal site, our business could be adversely affected.

For example, Waste Control Specialists LLC, or WCS, filed a license application with the Texas Commission on Environmental Quality in August 2004 for a LLRW disposal facility and announced receipt of a conditional license on January 20, 2009. In order to receive an active license, the conditional license requires WCS to complete several major environmental studies, examples of which include groundwater, air emissions, and seismic stability studies. WCS must also demonstrate that the leachate from the landfill will not reach the Ogallala-Antlers-Gatuna Aquifer. The conditional license states that prior to accepting federal facility waste, WCS must receive an agreement signed by the U.S. Secretary of Energy that it will assume all rights, title and interest in land and buildings for the disposal of federal facility waste. Should the conditional license become active, WCS will be allowed to receive waste from the Texas Compact, which includes the states of Texas and Vermont, and from federal facilities (i.e., DOE). WCS will not be able to receive waste via railcar or receive depleted uranium, and will be required to dispose of commercial waste in specially designed containers in the compact portion of the facility. We cannot predict whether WCS will successfully resolve the contingencies related to the draft LLRW license, or whether the State of Texas will issue a final license to WCS. In addition, WCS recently received a separate license to permanently dispose of 11e(2) materials at its facility.

***Our business and operating results could be adversely affected by losses under fixed-price contracts.***

Fixed-price contracts require us to perform all work under the contract for a specified lump-sum. Fixed-price contracts expose us to a number of risks not inherent in cost-reimbursable contracts, including underestimation of costs, ambiguities in specifications, unforeseen costs or difficulties, problems with new technologies, delays beyond our control, failures of subcontractors to perform and economic or other changes that may occur during the contract period. If we have under estimated the costs of our fixed-price contracts, we may experience losses on such contracts.

***If we guarantee the timely completion or performance standards of a project, we could incur additional costs to cover our guarantee obligations.***

In some instances, we guarantee a customer that we will complete a project by a scheduled date. For example, in connection with our license stewardship initiative, we guarantee that we will complete the decommissioning of a nuclear power plant that is currently shut down within both a particular time frame and budget. We also sometimes guarantee that a project, when completed, will achieve certain

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performance standards. If we fail to complete the project as scheduled or if the project fails to meet guaranteed performance standards, we may be held responsible for the impact to the customer resulting from any delay or for the cost of further work to achieve the performance standards, generally in the form of contractually agreed-upon penalty provisions. As a result, the project costs could exceed our original estimate, leading to reduced profits or a loss for that project.

***Our use of proportional performance accounting could result in a reduction or elimination of previously reported profits.***

A significant portion of our revenues are recognized using the proportional performance method of accounting. Generally, the proportional performance accounting practices we use result in recognizing contract revenues and earnings based on output measures, where estimable, or on other measures such as the proportion of costs incurred to total estimated contract costs. For some of our long-term contracts, completion is measured on estimated physical completion or units of production. The cumulative effect of revisions to contract revenues and estimated completion costs, including incentive awards, penalties, change orders, claims and anticipated losses, is recorded in the accounting period in which the amounts are known or can be reasonably estimated. Due to uncertainties inherent in the estimation process, it is possible that actual completion costs may vary from estimates. A significant downward revision to our estimates could result in a material charge to our results of operations in the period of such a revision.

***Acquisitions that we pursue may present unforeseen integration obstacles and costs, increase our debt and negatively impact our performance.***

Our growth strategy includes selective acquisitions of other nuclear services businesses, both domestic and international, that we expect will enhance our existing portfolio of services and strengthen our relationships with our government and commercial customers. In 2007, we completed the acquisitions of Reactor Sites Management Company Limited, Parallax, Inc., NUKEM Corporation and Monserco Limited. From time to time, we may consider additional acquisitions, which, if consummated, could be material. We cannot give any assurance as to whether any such transaction could be completed or as to the price, terms or timetable on which we may do so. If we are able to consummate any such acquisition, it could result in dilution of our earnings, an increase in indebtedness or other consequences that could be adverse.

The expense incurred in consummating acquisitions, or our failure to integrate such businesses successfully into our existing businesses, could result in our incurring unanticipated expenses and losses. Furthermore, we may not be able to realize anticipated benefits from acquisitions. The process of integrating acquired operations into our existing operations may result in unforeseen operating difficulties and may require significant financial resources that would otherwise be available for the ongoing development or expansion of existing operations. Some of the risks associated with our acquisition strategy include:

potential disruption of our ongoing business and distraction of management;

unexpected loss of key employees or customers of the acquired company;

conforming the acquired company's standards, processes, procedures and controls with our operations;

hiring additional management and other critical personnel; and

increasing the scope, geographic diversity and complexity of our operations.

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We may not be able to identify suitable acquisition targets or negotiate attractive terms in the future. In addition, our ability to complete acquisitions is limited by covenants in our credit facilities and our financial resources, including available cash and borrowing capacity. Given the serious decline in our stock price and tight debt markets, we may be unable to make acquisitions. If we are unable to make successful acquisitions, our ability to grow our business could be adversely affected. We made no significant acquisitions during 2008 or 2009 to date.

***Our success depends on attracting and retaining qualified personnel in a competitive environment.***

Our operations require the services of highly qualified managerial and business development personnel, skilled technology specialists and experts in a wide range of scientific, engineering and health and safety fields. Partly because no new nuclear reactors have commenced construction since the mid-1970s, there have been a limited number of qualified students graduating from universities with specialized nuclear engineering or nuclear science-based degrees. As a result, the nuclear services industry is experiencing a shortage of qualified personnel. We face increasing competition and expense to attract and retain such personnel. Loss of key personnel or failure to attract personnel to expand our operations could have an adverse effect on our ability to operate our business and execute our business strategy.

***Our failure to maintain our safety record could have an adverse effect on our business.***

Our safety record is critical to our reputation. In addition, many of our government and commercial customers require that we maintain certain specified safety record guidelines to be eligible to bid for contracts with these customers. Furthermore, contract terms may provide for automatic termination in the event that our safety record fails to adhere to agreed-upon guidelines during performance of the contract. As a result, our failure to maintain our safety record could have a material adverse effect on our business, financial condition and results of operations.

***An impairment charge could have a material adverse effect on our financial condition and results of operations.***

Under Statement of Financial Accounting Standards No. 142, *Goodwill and Other Intangible Assets*, we are required to test acquired goodwill for impairment on an annual basis based upon a fair value approach, rather than amortizing it over time. Goodwill represents the excess of the amount we paid to acquire our subsidiaries and other businesses over the fair value of their net assets at the date of the acquisition. We have chosen to perform our annual impairment reviews of goodwill as of the end of the first quarter of each fiscal year. We also are required to test goodwill for impairment between annual tests if events occur or circumstances change that would more likely than not reduce our enterprise fair value below its book value. In addition, we are required to test our finite-lived intangible assets for impairment if events occur or circumstances change that would indicate the remaining net book value of the finite-lived intangible assets might not be recoverable. These events or circumstances could include a significant change in the business climate, including a significant sustained decline in an entity's market value, legal factors, operating performance indicators, competition, sale or disposition of a significant portion of our business, potential government actions towards our facilities and other factors. If the fair market value of our reporting units is less than their book value, we could be required to record an impairment charge. The valuation of reporting units requires judgment in estimating future cash flows, discount rates and other factors. In making these judgments, we evaluate the financial health of our business, including such factors as industry performance, changes in technology and operating cash flows. The amount of any impairment could be significant and could have a material adverse effect on our reported financial results for the period in which the charge is taken.

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In June 2006, we acquired Duratek for an aggregate purchase price of \$440.8 million. Goodwill recognized for this acquisition was \$310.5 million. We paid a premium in excess of the fair value of \$216.9 million. We were willing to pay this premium as a result of our identification of significant synergies that we expect to realize through the acquisition. However, if we determine that we are not able to realize these expected synergies and determine that the fair value of the assets acquired is less than the book value of those assets, then we would have to recognize an impairment to goodwill as a current-period expense. Because of the significant amount of goodwill recognized in the Duratek acquisition, an impairment of that goodwill could result in a material expense and could result in a decrease in the market price of our common stock.

Changes in our forecasts or decreases in the value of our common stock could cause book values of certain operating segments to exceed their fair values, which may result in goodwill impairment charges in future periods. We had \$518.8 million of goodwill and \$326.3 million of finite-lived intangible assets, which collectively represented 53.3% of our total assets of \$1.6 billion as of September 30, 2009.

### ***We have substantial debt, which could harm our financial condition, business and growth prospects.***

As of September 30, 2009, the outstanding balance under our credit facilities was \$519.1 million. Our substantial debt could have important consequences to us, including the following:

we must use a substantial portion of our cash flow from operations to pay interest and other fees on our debt, which reduces the funds available to us for other purposes;

our ability to obtain additional debt financing in the future for working capital, capital expenditures, acquisitions or general corporate purposes may be limited;

we may be unable to renew, replace or repay long-term debt as it becomes due, particularly in light of the tightening of lending standards as a result of the ongoing financial crisis;

our flexibility in reacting to changes in the industry may be limited and we could be more vulnerable to adverse changes in our business or economic conditions in general; and

we may be at a competitive disadvantage to competitors that have less debt.

We currently have \$11.9 million letters of credit issued against our \$75.0 million revolving credit facility, which matures on June 7, 2011; a \$519.1 million balance on our first-lien term loan facilities, which mature on June 7, 2013 with minimum payments of \$2.8 million in 2010 and \$5.6 million in 2011 and 2012; and a \$100.0 million synthetic letter of credit facility, which expires on June 7, 2013.

Borrowings under our credit facilities bear interest at variable rates. As of September 30, 2009, the interest rate of our term-loan facilities was 4.05%. At this rate and assuming an outstanding balance of \$519.1 million as of September 30, 2009, our annual debt service obligations would be \$26.6 million. Based on the amount of debt outstanding and the interest rate at September 30, 2009, a hypothetical 1% increase in interest rates would increase our annual interest expense by approximately \$5.2 million. If interest rates were to increase significantly, our ability to borrow additional funds may be reduced, our interest expense would significantly increase and the risks related to our substantial debt would intensify.

### ***The agreements governing our debt restrict our ability to engage in certain business transactions.***

The agreements governing the credit facilities restrict our ability to, among other things, engage in the following actions, subject to limited exceptions:

incur or guarantee additional debt;

declare or pay dividends to holders of our common stock;





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make investments and acquisitions;

incur or permit to exist liens;

enter into transactions with affiliates;

make material changes in the nature or conduct of our business;

merge or consolidate with, or sell substantially all of our assets to, other companies;

make capital expenditures; and

transfer or sell assets.

***The agreements governing our credit facilities contain financial covenants which we may not meet with our future financial results.***

Our credit facilities contain financial covenants requiring us to maintain specified maximum leverage and minimum cash interest coverage ratios. The results of our future operations may not allow us to meet these covenants, or may require that we take action to reduce our debt or to act in a manner contrary to our business objectives.

Our failure to comply with obligations under our credit facilities, including satisfaction of the financial ratios, would result in an event of default under the facilities. A default, if not cured or waived, would prohibit us from obtaining further loans under our credit facilities and permit the lenders thereunder to accelerate payment of their loans and withdraw the letters of credit which support our bonding obligations. If we are not current in our bonding obligations, we may be in breach of our contracts with our customers, which generally require bonding. In addition, we would be unable to bid or be awarded new contracts that required bonding. If our debt is accelerated, we currently would not have funds available to pay the accelerated debt and may not have the ability to refinance the accelerated debt on terms favorable to us or at all particularly in light of the tightening of lending standards as a result of the ongoing financial crisis. If we could not repay or refinance the accelerated debt, we would be insolvent and could seek to file for bankruptcy protection. Any such default, acceleration or insolvency would likely have a material adverse effect on the market value of our common stock.

***We rely on intellectual property law and confidentiality agreements to protect our intellectual property. Our failure to protect our intellectual property rights could adversely affect our future performance and growth.***

Protection of our proprietary processes, methods and other technology is important to our business. Failure to protect our existing intellectual property rights may result in the loss of valuable technologies. We rely on patent, trade secret, trademark and copyright law as well as judicial enforcement to protect such technologies. A majority of our patents relate to the development of new products and processes for the processing and disposal of radioactive materials. Our intellectual property could be challenged, invalidated, circumvented or rendered unenforceable.

We also rely upon unpatented proprietary nuclear expertise, continuing technological innovation and other trade secrets to develop and maintain our competitive position. We generally enter into confidentiality agreements with our employees and third parties to protect our intellectual property, but these agreements are limited in duration and could be breached, and therefore they may not provide meaningful protection for our trade secrets or proprietary nuclear expertise. Adequate remedies may not be available in the event of an unauthorized use or disclosure of our trade secrets and nuclear expertise. Others may obtain knowledge of our trade secrets through independent development or other access by legal means. The failure of our intellectual property or confidentiality agreements to protect our processes, technology, trade secrets and proprietary nuclear expertise and methods could have an adverse effect on our business by jeopardizing our rights to use critical intellectual property.

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In addition, effective intellectual property protection may be limited or unavailable in some foreign countries where we may pursue operations.

***If our partners fail to perform their contractual obligations on a project or if we fail to coordinate effectively with our partners, we could be exposed to legal liability, loss of reputation and reduced profit on the project.***

We often perform projects jointly with contractual partners. For example, we enter into contracting consortia and other contractual arrangements to bid and perform jointly on large projects. Success on these joint projects depends in part on whether our partners fulfill their contractual obligations satisfactorily. If any of our partners fails to perform its contractual obligations satisfactorily, we may be required to make additional investments and provide additional services in order to compensate for that partner's failure. If we are unable to adequately address our partner's performance issues, then our customer may exercise its right to terminate a joint project, exposing us to legal liability, loss of reputation and reduced profit.

Our collaborative arrangements also involve risks that participating parties may disagree on business decisions and strategies. These disagreements could result in delays, additional costs and risks of litigation. Our inability to successfully maintain existing collaborative relationships or enter into new collaborative arrangements could have a material adverse effect on our results of operations.

***We conduct a portion of our operations through joint venture entities, over which we may have limited control.***

We currently have equity interests in joint ventures and may enter into additional joint ventures in the future. As with most joint venture arrangements, differences in views among the joint venture participants may result in delayed decisions or disputes. We also cannot control the actions of our joint venture partners, and we typically have joint and several liabilities with our joint venture partners under the applicable contracts for joint venture projects. These factors could potentially harm the business and operations of a joint venture and, in turn, our business and operations.

Operating through joint ventures in which we are minority holders results in us having limited control over many decisions made with respect to projects and internal controls relating to projects. These joint ventures may not be subject to the same requirements regarding internal controls and internal control over financial reporting that we follow. As a result, internal control problems may arise with respect to the joint ventures.

***Our dependence on subcontractors and equipment manufacturers could adversely affect us.***

We rely on subcontractors and equipment manufacturers to complete our projects. For example, when providing D&D services to a government customer, we may rely on one or more subcontractors to conduct demolition work. To the extent that we cannot engage subcontractors or acquire equipment or materials to provide such services, our ability to complete the project in a timely fashion or at a given profit margin may be impaired. Our LP&D segment also enters into contracts with various railroads for the transportation of radioactive materials from project sites to our processing and disposal facilities. In the event that the railroads fail to deliver radioactive materials to our facilities on time, we could be forced to delay recognizing LP&D revenues until the time of delivery.

In addition, if a subcontractor or a manufacturer is unable to deliver its services, equipment or materials according to the negotiated terms for any reason, including the deterioration of its financial condition, we may be required to purchase those services, equipment or materials from another source at a higher price. This may reduce our profitability or result in a loss on the project for which the services, equipment or materials were needed.

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***Letters of credit and adequate bonding are necessary for us to win certain types of new work.***

We are required to post, from time to time, standby letters of credit and surety bonds to support contractual obligations to customers as well as other obligations. These letters of credit and bonds indemnify the customer if we fail to perform our obligations under the contract. For example, in connection with our agreement with Exelon Corporation regarding the decommissioning of its Zion nuclear facility located in Zion, Illinois, we are required to deliver a \$200 million letter of credit to Exelon relating to our present and future obligations. If a letter of credit or bond is required for a particular project and we are unable to obtain it due to insufficient liquidity or other reasons, we will not be able to pursue that project. We have a bonding facility but, as is typically the case, the issuance of bonds under that facility is at the surety's sole discretion. In addition, we have limited capacity under our credit facilities for letters of credit. Moreover, due to events that affect the insurance and bonding and credit markets generally, bonding and letters of credit may be more difficult to obtain in the future or may only be available at significant additional cost. There can be no assurance that letters of credit or bonds will continue to be available to us on reasonable terms. Our inability to obtain adequate letters of credit and bonding and, as a result, to bid on new work could have a material adverse effect on our business, financial condition and results of operations. As of September 30, 2009, we had \$100.0 million in letters of credit which are issued under our synthetic letter of credit facility, \$11.9 million in letters of credit which are issued under the revolving portion of our credit facility and \$0.7 million in surety bonds outstanding.

***Because we publish earnings guidance for our company, our common stock may be subject to increased volatility and we may be subject to lawsuits by investors.***

Because we publish earnings guidance, we are subject to a number of risks. Based on the timing of winning key contracts, regulatory decision making and other uncertainties relating to assumptions that management makes in calculating our expected financial results, actual results may vary from the guidance we provide investors. Our stock price may decline following an announcement of disappointing earnings or earnings guidance or if we revise our earnings guidance downward as the estimates and assumptions we make in calculating guidance become more certain. On October 14, 2008, we announced a reduction in our earnings guidance due, among other things, to the current economic downturn. Following that announcement, our stock price declined by 44% on October 14, 2008.

Our earnings guidance reflects our assumptions regarding future performance, including, among other things, the likelihood of securing and performing work under new contracts. If we fail to secure and perform work under contracts in accordance with our assumptions, we may be unable to achieve our earnings guidance. Some companies that have made downward revisions to their earnings guidance or did not meet the guidance provided have been subject to lawsuits by investors. Such lawsuits may have merit and result in adverse settlements or judgments. Even if such lawsuits are dismissed or have no merit, they may be costly and may divert management attention and other resources away from our business, which could harm our business and the price of our common stock.

***If securities or industry analysts stop publishing research or reports about our business, if they change their recommendations regarding our stock adversely or if our operating results do not meet their expectations, our stock price could decline.***

The trading market for our common stock is influenced by the research and reports that industry or securities analysts publish about us or our business. If one or more of these analysts cease coverage of our company or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline. Moreover, if one or more of the analysts who cover our company downgrade our stock or if our operating results do not meet their expectations, our stock price could decline.

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*As a public company, we are subject to additional financial and other reporting and corporate governance requirements that may be difficult for us to satisfy.*

In connection with our initial public offering in November 2007, we became obligated to file with the SEC annual and quarterly information and other reports that are specified in Section 13 of the Securities Exchange Act of 1934, as amended. We are also required to ensure that we have the ability to prepare financial statements that are fully compliant with all SEC reporting requirements on a timely basis. We are also subject to other reporting and corporate governance requirements, including the requirements of the NYSE and certain provisions of the Sarbanes-Oxley Act of 2002 and the regulations promulgated thereunder, which impose significant compliance obligations upon us. As a public company, we are required to, among other things:

prepare and distribute periodic public reports and other shareholder communications in compliance with our obligations under the federal securities laws and NYSE rules;

create or expand the roles and duties of our board of directors and committees of the board;

institute more comprehensive financial reporting and disclosure compliance functions;

involve and retain to a greater degree outside counsel and accountants in the activities listed above;

enhance our investor relations function; and

establish new internal policies, including those relating to disclosure controls and procedures.

These changes require a significant commitment of additional resources. We may not be successful in implementing these requirements and implementing them could adversely affect our business or operating results. In addition, if we fail to implement the requirements with respect to our internal accounting and audit functions, our ability to report our operating results on a timely and accurate basis could be impaired.

*If we or our independent registered public accounting firm identify a material weakness in our internal controls and such material weakness is not properly remediated, it could result in material misstatements of our financial statements in future periods.*

We or our independent registered public accounting firm may, in the future, identify a material weakness in our internal control over financial reporting. A material weakness is defined by the standards issued by the Public Company Accounting Oversight Board as a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected.

If material weaknesses in our internal control over financial reporting are identified in the future, we may be unable to provide required financial information in a timely and reliable manner, or otherwise comply with the standards applicable to us as a public company, and our management may not be able to report that our internal control over financial reporting is effective in accordance with Section 404 of the Sarbanes-Oxley Act. There could also be a negative reaction in the markets due to a loss of investor confidence in us and the reliability of our financial statements and, as a result, our business may be harmed and the price of our common stock may decline.

**Item 6. Exhibits.**

10.1 Form of Director Compensation Term Sheet.

31.1 Certification of Chief Executive Officer Pursuant to Rule 13a-14a. Filed herewith.

31.2 Certification of Chief Financial Officer Pursuant to Rule 13a-14a. Filed herewith.

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32.1 Certification of Chief Executive Officer and Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.  
Furnished herewith.

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, this 6th day of November, 2009.

ENERGYSOLUTIONS, INC.

By:           /s/ PHILIP O. STRAWBRIDGE          

Philip O. Strawbridge  
*Executive Vice President and  
Chief Financial Officer*

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