Vulcan Materials CO
Form 10-Q
November 08, 2012
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# UNITED STATES

# SECURITIES AND EXCHANGE COMMISSION

**WASHINGTON, D.C. 20549**

## FORM 10-Q

(Mark One)

x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended **September 30, 2012**

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 **001-33841**

# VULCAN MATERIALS COMPANY

(Exact name of registrant as specified in its charter)

| | |
|---|---|
| **New Jersey** | **20-8579133** |
| (State or other jurisdiction of incorporation) | (I.R.S. Employer Identification No.) |
| **1200 Urban Center Drive, Birmingham, Alabama** | **35242** |
| (Address of principal executive offices) | (zip code) |

**(205) 298-3000** (Registrant s telephone number including area code)

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 x 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 x No ¨

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

(Check one):

| | |
|---|---|
| Large accelerated filer x | Accelerated filer ¨ |
| Non-accelerated filer (Do not check if a smaller reporting company) ¨ | Smaller reporting company ¨ |

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

Indicate the number of shares outstanding of each of the issuer s classes of common stock, as of the latest practicable date:

| Class | Shares outstanding at September 30, 2012 |
|---|---|
| Common Stock, $1 Par Value | 129,596,459 |

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VULCAN MATERIALS COMPANY

# FORM 10-Q

# QUARTER ENDED SEPTEMBER 30, 2012

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# PART I FINANCIAL INFORMATION

ITEM 1
FINANCIAL STATEMENTS

**VULCAN MATERIALS COMPANY AND SUBSIDIARY COMPANIES**

## CONDENSED CONSOLIDATED BALANCE SHEETS

| *Unaudited, except for December 31* | ***September 30 2012*** | *December 31 2011* | *September 30 2011* |
|---|---|---|---|
| *in thousands, except per share data* | | | |
| **Assets** | | | |
| Cash and cash equivalents | **$243,126** | $155,839 | $152,379 |
| Restricted cash | **0** | 81 | 81 |
| Accounts and notes receivable | | | |
| Accounts and notes receivable, gross | **403,520** | 321,391 | 437,754 |
| Less: Allowance for doubtful accounts | **(6,106)** | (6,498) | (7,715) |
| Accounts and notes receivable, net | **397,414** | 314,893 | 430,039 |
| Inventories | | | |
| Finished products | **263,893** | 260,732 | 249,265 |
| Raw materials | **28,221** | 23,819 | 26,284 |
| Products in process | **6,209** | 4,198 | 3,473 |
| Operating supplies and other | **38,655** | 38,908 | 38,755 |
| Inventories | **336,978** | 327,657 | 317,777 |
| Current deferred income taxes | **45,353** | 43,032 | 48,743 |
| Prepaid expenses | **26,384** | 21,598 | 27,809 |
| Assets held for sale | **0** | 0 | 26,883 |
| Total current assets | **1,049,255** | 863,100 | 1,003,711 |
| Investments and long-term receivables | **42,226** | 29,004 | 28,917 |
| Property, plant & equipment | | | |
| Property, plant & equipment, cost | **6,690,448** | 6,705,546 | 6,665,937 |
| Reserve for depreciation, depletion & amortization | **(3,477,496)** | (3,287,367) | (3,222,469) |
| Property, plant & equipment, net | **3,212,952** | 3,418,179 | 3,443,468 |
| Goodwill | **3,086,716** | 3,086,716 | 3,086,716 |
| Other intangible assets, net | **693,308** | 697,502 | 698,703 |
| Other noncurrent assets | **141,459** | 134,813 | 122,011 |
| Total assets | **$8,225,916** | $8,229,314 | $8,383,526 |
| **Liabilities** | | | |
| Current maturities of long-term debt | **$285,153** | $134,762 | $5,215 |
| Trade payables and accruals | **133,209** | 103,931 | 134,853 |
| Other current liabilities | **213,735** | 167,560 | 239,438 |
| Liabilities of assets held for sale | **0** | 0 | 1,474 |
| Total current liabilities | **632,097** | 406,253 | 380,980 |
| Long-term debt | **2,527,450** | 2,680,677 | 2,816,223 |
| Noncurrent deferred income taxes | **680,880** | 732,528 | 794,921 |
| Other noncurrent liabilities | **618,292** | 618,239 | 524,485 |
| Total liabilities | **4,458,719** | 4,437,697 | 4,516,609 |
| Other commitments and contingencies (Note 18) | | | |
| **Equity** | | | |
| Common stock, $1 par value | **129,596** | 129,245 | 129,233 |
| Capital in excess of par value | **2,567,859** | 2,544,740 | 2,538,987 |
| Retained earnings | **1,274,465** | 1,334,476 | 1,363,640 |
| Accumulated other comprehensive loss | **(204,723)** | (216,844) | (164,943) |
| Total equity | **3,767,197** | 3,791,617 | 3,866,917 |

| | | | |
|---|---|---|---|
| Total liabilities and equity | **$8,225,916** | $8,229,314 | $8,383,526 |

*The accompanying Notes to the Condensed Consolidated Financial Statements are an integral part of these statements.*

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VULCAN MATERIALS COMPANY AND SUBSIDIARY COMPANIES

# CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

| *Unaudited* *in thousands, except per share data* | *Three Months Ended September 30* *2012* | *2011* | *Nine Months Ended September 30* *2012* | *2011* |
|---|---|---|---|---|
| Net sales | **$687,616** | $714,947 | **$1,836,357** | $1,828,720 |
| Delivery revenues | **41,245** | 45,805 | **122,522** | 121,203 |
| Total revenues | **728,861** | 760,752 | **1,958,879** | 1,949,923 |
| Cost of goods sold | **560,693** | 599,167 | **1,581,537** | 1,619,206 |
| Delivery costs | **41,245** | 45,805 | **122,522** | 121,203 |
| Cost of revenues | **601,938** | 644,972 | **1,704,059** | 1,740,409 |
| Gross profit | **126,923** | 115,780 | **254,820** | 209,514 |
| Selling, administrative and general expenses | **65,441** | 67,020 | **192,267** | 218,290 |
| Gain on sale of property, plant & equipment and businesses, net | **2,009** | 41,457 | **21,687** | 44,831 |
| Recovery from legal settlement (Note 18) | **0** | 20,857 | **0** | 46,404 |
| Restructuring charges (Note 1) | **(3,056)** | (839) | **(9,018)** | (2,977) |
| Exchange offer costs (Note 1) | **(1,206)** | 0 | **(43,331)** | 0 |
| Other operating income (expense), net | **(3,363)** | (3,567) | **(2,642)** | (10,509) |
| Operating earnings | **55,866** | 106,668 | **29,249** | 68,973 |
| Other nonoperating income (expense), net | **1,806** | (3,745) | **4,196** | (2,384) |
| Interest expense, net | **53,043** | 50,678 | **158,997** | 163,839 |
| Earnings (loss) from continuing operations before income taxes | **4,629** | 52,245 | **(125,552)** | (97,250) |
| Provision for (benefit from) income taxes | **(10,992)** | 29,833 | **(67,138)** | (47,938) |
| Earnings (loss) from continuing operations | **15,621** | 22,412 | **(58,414)** | (49,312) |
| Earnings (loss) on discontinued operations, net of tax | **(1,361)** | (2,453) | **2,338** | 6,399 |
| Net earnings (loss) | **$14,260** | $19,959 | **($56,076)** | ($42,913) |
| Other comprehensive income, net of tax | | | | |
| Reclassification adjustment for cash flow hedges | **975** | 900 | **2,868** | 6,353 |
| Amortization of pension and postretirement benefit plans actuarial loss and prior service cost | **3,084** | 1,885 | **9,252** | 6,043 |
| Other comprehensive income | **4,059** | 2,785 | **12,120** | 12,396 |
| Comprehensive income (loss) | **$18,319** | $22,744 | **($43,956)** | ($30,517) |
| Basic earnings (loss) per share | | | | |
| Continuing operations | **$0.12** | $0.17 | **($0.45)** | ($0.38) |
| Discontinued operations | **($0.01)** | ($0.02) | **$0.02** | $0.05 |
| Net earnings (loss) per share | **$0.11** | $0.15 | **($0.43)** | ($0.33) |
| Diluted earnings (loss) per share | | | | |
| Continuing operations | **$0.12** | $0.17 | **($0.45)** | ($0.38) |
| Discontinued operations | **($0.01)** | ($0.02) | **$0.02** | $0.05 |
| Net earnings (loss) per share | **$0.11** | $0.15 | **($0.43)** | ($0.33) |
| Weighted-average common shares outstanding | | | | |
| Basic | **129,753** | 129,493 | **129,674** | 129,341 |
| Assuming dilution | **130,215** | 129,768 | **129,674** | 129,341 |
| Dividends declared per share | **$0.01** | $0.25 | **$0.03** | $0.75 |
| Depreciation, depletion, accretion and amortization | **$84,108** | $90,948 | **$253,391** | $273,671 |
| Effective tax rate from continuing operations | **NMF** | 57.1% | **53.5%** | 49.3% |

*The accompanying Notes to the Condensed Consolidated Financial Statements are an integral part of these statements.*

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**VULCAN MATERIALS COMPANY AND SUBSIDIARY COMPANIES**

# CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

| | | |
|---|---|---|
| | | ***Nine Months Ended*** |
| *Unaudited* | | ***September 30*** |
| *in thousands* | ***2012*** | *2011* |
| **Operating Activities** | | |
| Net loss | **($56,076)** | ($42,913) |
| Adjustments to reconcile net loss to net cash provided by operating activities | | |
| Depreciation, depletion, accretion and amortization | **253,391** | 273,671 |
| Net gain on sale of property, plant & equipment and businesses | **(31,886)** | (55,886) |
| Contributions to pension plans | **(3,379)** | (3,762) |
| Share-based compensation | **9,362** | 12,991 |
| Deferred tax provision | **(66,194)** | (58,569) |
| Cost of debt purchase | **0** | 19,153 |
| Changes in assets and liabilities before initial effects of business acquisitions and dispositions | **(9,886)** | (31,858) |
| Other, net | **(1,573)** | 8,899 |
| Net cash provided by operating activities | **93,759** | 121,726 |
| **Investing Activities** | | |
| Purchases of property, plant & equipment | **(49,418)** | (77,332) |
| Proceeds from sale of property, plant & equipment | **28,930** | 11,730 |
| Proceeds from sale of businesses, net of transaction costs | **10,690** | 72,830 |
| Other, net | **963** | 1,684 |
| Net cash provided by (used for) investing activities | **(8,835)** | 8,912 |
| **Financing Activities** | | |
| Net short-term payments | **0** | (285,500) |
| Payment of current maturities and long-term debt | **(120)** | (737,952) |
| Cost of debt purchase | **0** | (19,153) |
| Proceeds from issuance of long-term debt | **0** | 1,100,000 |
| Debt issuance costs | **0** | (17,904) |
| Proceeds from settlement of interest rate swap agreements | **0** | 23,387 |
| Proceeds from issuance of common stock | **0** | 4,936 |
| Dividends paid | **(3,885)** | (96,878) |
| Proceeds from exercise of stock options | **6,167** | 3,232 |
| Other, net | **201** | 32 |
| Net cash provided by (used for) financing activities | **2,363** | (25,800) |
| Net increase in cash and cash equivalents | **87,287** | 104,838 |
| Cash and cash equivalents at beginning of year | **155,839** | 47,541 |
| Cash and cash equivalents at end of period | **$243,126** | $152,379 |

*The accompanying Notes to the Condensed Consolidated Financial Statements are an integral part of these statements.*

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# NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

## NOTE 1: BASIS OF PRESENTATION

Vulcan Materials Company (the Company, Vulcan, we, our ), a New Jersey corporation, is the nation s largest producer of construction aggregates, primarily crushed stone, sand and gravel; a major producer of asphalt mix and ready-mixed concrete and a leading producer of cement in Florida.

Our accompanying unaudited condensed consolidated financial statements were prepared in compliance with the instructions to Form 10-Q and Article 10 of Regulation S-X and thus do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. Our condensed consolidated balance sheet as of December 31, 2011 was derived from the audited financial statement at that date. In the opinion of our management, the statements reflect all adjustments, including those of a normal recurring nature, necessary to present fairly the results of the reported interim periods. Operating results for the three and nine month periods ended September 30, 2012 are not necessarily indicative of the results that may be expected for the year ended December 31, 2012. For further information, refer to the consolidated financial statements and footnotes included in our most recent Annual Report on Form 10-K.

Due to the 2005 sale of our Chemicals business as presented in Note 2, the operating results of the Chemicals business are presented as discontinued operations in the accompanying Condensed Consolidated Statements of Comprehensive Income.

### RECLASSIFICATIONS

Certain items previously reported in specific financial statement captions have been reclassified to conform with the 2012 presentation.

### RESTRUCTURING CHARGES

In 2011, we substantially completed the implementation of a multi-year project to replace our legacy information technology systems with new ERP and Shared Services platforms. These platforms are helping us streamline processes enterprise-wide and standardize administrative and support functions while providing enhanced flexibility to monitor and control costs. Leveraging this significant investment in technology allowed us to reduce overhead and administrative staff, resulting in $2,977,000 of severance and related charges in the first nine months of 2011 and $12,971,000 for the full year 2011. There were no significant charges related to this restructuring plan in 2012.

In 2012, our Board approved a Profit Enhancement Plan that further leverages our streamlined management structure and substantially completed ERP and Shared Services platforms to achieve cost reductions and other earnings enhancements. During the third quarter and for the first nine months of 2012, we incurred $3,056,000 and $9,018,000, respectively, of costs (primarily project design, outside advisory and severance) related to the implementation of this plan. We do not anticipate any additional significant future costs.

### UNSOLICITED EXCHANGE OFFER

In December 2011, Martin Marietta Materials, Inc. (Martin Marietta) commenced an unsolicited exchange offer for all outstanding shares of our common stock at a fixed exchange ratio of 0.50 shares of Martin Marietta common stock for each Vulcan common share and indicated its intention to nominate a slate of directors to our Board. After careful consideration, including a thorough review of the offer with its financial and legal advisors, our Board unanimously determined that Martin Marietta s offer was inadequate, substantially undervalued Vulcan, was not in the best interests of Vulcan and its shareholders and had substantial risk.

In May 2012, the Delaware Chancery Court ruled and the Delaware Supreme Court affirmed that Martin Marietta had breached two confidentiality agreements between the companies, and enjoined Martin Marietta through September 15, 2012 from pursuing its exchange offer for our shares, prosecuting its proxy contest, or otherwise taking steps to acquire control of our shares or assets and from any further violations of the two confidentiality agreements between the parties.

In response to Martin Marietta s actions, we incurred legal, professional and other costs of $43,331,000 during the nine months ended September 30, 2012 and $2,227,000 during the fourth quarter of 2011. As of September 30, 2012, $43,010,000 of the costs incurred has been paid.

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**CORRECTION OF PRIOR PERIOD FINANCIAL STATEMENTS**

In preparation for an Internal Revenue Service (IRS) exam during 2011, we identified improper deductions and errors in the calculation of taxable income for items primarily associated with the 2007 acquisition of Florida Rock. These items have been voluntarily submitted to the IRS for use in their examination.

The errors arose during periods prior to 2009, did not impact earnings or cash flows for any years presented and are not material to previously issued financial statements. As a result, we did not amend previously filed financial statements but have restated the affected Condensed Consolidated Balance Sheet presented in this Form 10-Q. The correction of these errors resulted in adjustments to the following opening balances:

- an increase to current deferred income tax assets of $910,000
- an increase to prepaid income taxes of $735,000
- an increase to current income taxes payable of $16,676,000
- a decrease to noncurrent deferred income tax liabilities of $5,849,000
- a decrease to retained earnings of $9,182,000

A summary of the effects of the correction of the errors on our Condensed Consolidated Balance Sheet as of September 30, 2011, is presented in the table below:

| | *As of September 30, 2011* | | |
|---|---|---|---|
| *in thousands* | *As Reported* | *Correction* | *As Restated* |
| **Balance Sheet** | | | |
| **Assets** | | | |
| Current deferred income taxes | $47,833 | $910 | $48,743 |
| Prepaid expenses | 27,074 | 735 | 27,809 |
| Total current assets | 1,002,066 | 1,645 | 1,003,711 |
| Total assets | $8,381,881 | $1,645 | $8,383,526 |
| **Liabilities** | | | |
| Other current liabilities | $222,762 | $16,676 | $239,438 |
| Total current liabilities | 364,304 | 16,676 | 380,980 |
| Noncurrent deferred income taxes | 800,770 | (5,849) | 794,921 |
| Total liabilities | $4,505,782 | $10,827 | $4,516,609 |
| **Equity** | | | |
| Retained earnings | $1,372,822 | ($9,182) | $1,363,640 |
| Total equity | 3,876,099 | (9,182) | 3,866,917 |
| Total liabilities and equity | $8,381,881 | $1,645 | $8,383,526 |

## NOTE 2: DISCONTINUED OPERATIONS

In 2005, we sold substantially all the assets of our Chemicals business to Basic Chemicals, a subsidiary of Occidental Chemical Corporation. In addition to the initial cash proceeds, Basic Chemicals was required to make payments under two earn-out agreements subject to certain conditions. During 2007, we received the final payment under the ECU (electrochemical unit) earn-out, bringing cumulative cash receipts to its $150,000,000 cap.

Proceeds under the second earn-out agreement are based on the performance of the hydrochlorocarbon product HCC-240fa (commonly referred to as 5CP) from the closing of the transaction through December 31, 2012 (5CP earn-out). The primary determinant of the value for this earn-out is the level of growth in 5CP sales volume.

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During the nine months ended September 30, 2012, we received payments totaling $11,369,000 under the 5CP earn-out related to performance during the year ended December 31, 2011. During the first quarter of 2011, we received $12,284,000 under the 5CP earn-out related to the year ended December 31, 2010. Through September 30, 2012, we have received a total of $66,360,000 under the 5CP earn-out, a total of $33,259,000 in excess of the receivable recorded on the date of disposition.

We are liable for a cash transaction bonus payable annually to certain former key Chemicals employees based on the prior year s 5CP earn-out results. Payments for this transaction bonus were $1,137,000 during the first nine months of 2012 and $1,228,000 during the first nine months of 2011.

The financial results of the Chemicals business are classified as discontinued operations in the accompanying Condensed Consolidated Statements of Comprehensive Income for all periods presented. There were no net sales or revenues from discontinued operations for the periods presented. Results from discontinued operations are as follows:

| | *Three Months Ended* | | *Nine Months Ended* | |
|---|---|---|---|---|
| | *September 30* | | *September 30* | |
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| **Discontinued Operations** | | | | |
| Pretax earnings (loss) from results | **($2,283)** | ($4,068) | **($6,360)** | ($481) |
| Gain on disposal, net of transaction bonus | **30** | 0 | **10,232** | 11,056 |
| Income tax (provision) benefit | **892** | 1,615 | **(1,534)** | (4,176) |
| Earnings (loss) on discontinued operations, net of tax | **($1,361)** | ($2,453) | **$2,338** | $6,399 |

The third quarter pretax losses from results of discontinued operations of $2,283,000 in 2012 and $4,068,000 in 2011 were due primarily to general and product liability costs, including legal defense costs, and environmental remediation costs associated with our former Chemicals business. The pretax loss from results of discontinued operations of $6,360,000 for the nine months ended September 30, 2012 was also due primarily to general and product liability claims, including legal defense costs, and environmental remediation costs associated with our former Chemicals business. The pretax loss from results of discontinued operations of $481,000 for the nine months ended September 30, 2011 include a $7,500,000 pretax gain recognized on recovery from an insurer in lawsuits involving perchloroethylene. This gain was offset by general and product liability costs, including legal defense costs, and environmental remediation costs.

## NOTE 3: EARNINGS PER SHARE (EPS)

We report two earnings per share numbers: basic and diluted. These are computed by dividing net earnings by the weighted-average common shares outstanding (basic EPS) or weighted-average common shares outstanding assuming dilution (diluted EPS) as set forth below:

| | *Three Months Ended* | | *Nine Months Ended* | |
|---|---|---|---|---|
| | *September 30* | | *September 30* | |
| *in thousands* | ***2012*** | 2011 | ***2012*** | 2011 |
| Weighted-average common shares outstanding | **129,753** | 129,493 | **129,674** | 129,341 |
| Dilutive effect of | | | | |
| Stock options/SOSARs | **120** | 35 | **0** | 0 |
| Other stock compensation plans | **342** | 240 | **0** | 0 |
| Weighted-average common shares outstanding, assuming dilution | **130,215** | 129,768 | **129,674** | 129,341 |

All dilutive common stock equivalents are reflected in our earnings per share calculations. Antidilutive common stock equivalents are not included in our earnings per share calculations. In periods of loss, shares that otherwise would have been included in our diluted weighted-average common shares outstanding computation are excluded. These excluded shares are as follows: nine months ended September 30, 2012 471,000 and nine months ended September 30, 2011 304,000.

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The number of antidilutive common stock equivalents for which the exercise price exceeds the weighted-average market price is as follows:

| | ***Three Months Ended*** | | ***Nine Months Ended*** | |
|---|---|---|---|---|
| | ***September 30*** | | ***September 30*** | |
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| Antidilutive common stock equivalents | **5,046** | 5,871 | **5,046** | 5,871 |

## NOTE 4: INCOME TAXES

Our income tax provision and the corresponding annual effective tax rate are based on expected income, statutory tax rates, percentage depletion and tax planning alternatives available in the various jurisdictions in which we operate. For interim financial reporting, except in circumstances as described in the following paragraph, we estimate the annual effective tax rate based on projected taxable income for the full year and record a quarterly tax provision in accordance with the annual effective tax rate. As the year progresses, we refine the estimates of the year s taxable income as new information becomes available, including year-to-date financial results. This continual estimation process often results in a change to our annual effective tax rate for the year. When this occurs, we adjust the income tax provision during the quarter in which the change in estimate occurs so that the year-to-date income tax provision reflects the annual effective tax rate. Significant judgment is required in determining our annual effective tax rate and in evaluating our tax positions.

When projected book income for the full year is close to breakeven, the annual effective tax rate becomes volatile and will distort the income tax provision for an interim period due to the nature and amount of our permanent differences. When this happens, we calculate the interim income tax provision or benefit using the year-to-date effective tax rate. This method results in an income tax provision or benefit based solely on the year-to-date pretax income or loss as adjusted for permanent differences on a pro rata basis.

We recorded an income tax benefit from continuing operations of $10,992,000 in the third quarter of 2012 compared to an income tax provision of $29,833,000 in the third quarter of 2011. In the first two quarters of 2012, income taxes were calculated based on the year-to-date effective tax rate as described above. In the third quarter, income taxes were calculated based on the annual effective tax rate as described above. Therefore, a true-up adjustment was required in the third quarter to record the year-to-date income tax benefit consistent with the annual effective tax rate.

We recorded income tax benefits from continuing operations of $67,138,000 for the nine months ended September 30, 2012 compared to $47,938,000 for the nine months ended September 30, 2011. After applying the pretax loss at the statutory rate, the largest difference is a decrease in unfavorable discrete income tax adjustments as compared to the prior year.

We recognize an income tax benefit associated with an uncertain tax position when, in our judgment, it is more likely than not that the position will be sustained upon examination by a taxing authority. For a tax position that meets the more-likely-than-not recognition threshold, we initially and subsequently measure the income tax benefit as the largest amount that we judge to have a greater than 50% likelihood of being realized upon ultimate settlement with a taxing authority. Our liability associated with unrecognized tax benefits is adjusted periodically due to changing circumstances, such as the progress of tax audits, case law developments and new or emerging legislation. Such adjustments are recognized entirely in the period in which they are identified. Our income tax provision includes the net impact of changes in the liability for unrecognized income tax benefits and subsequent adjustments as we consider appropriate.

We recognize deferred tax assets and liabilities based on the differences between the financial statement carrying amounts and the tax basis of assets and liabilities. Deferred tax assets represent items to be used as a tax deduction or credit in future tax returns for which we have already properly recorded the tax benefit in the income statement. At least quarterly, we assess all positive and negative evidence to determine the likelihood that the deferred tax asset balance will be recovered from future taxable income. We take into account such factors as:

¡ cumulative losses in recent years

¡ taxable income in prior carryback years, if carryback is permitted under tax law

¡ future reversal of existing taxable temporary differences against deductible temporary differences

¡ future taxable income exclusive of reversing temporary differences

¡ the mix of taxable income in the jurisdictions in which we operate

¡ tax planning strategies

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Deferred tax assets are reduced by a valuation allowance if, based on an analysis of the factors above, it is more likely than not that some portion or all of a deferred tax asset will not be realized.

## NOTE 5: DERIVATIVE INSTRUMENTS

During the normal course of operations, we are exposed to market risks including fluctuations in interest rates, foreign currency exchange rates and commodity pricing. From time to time, and consistent with our risk management policies, we use derivative instruments to hedge against these market risks. We do not utilize derivative instruments for trading or other speculative purposes.

The accounting for gains and losses that result from changes in the fair value of derivative instruments depends on whether the derivatives have been designated and qualify as hedging instruments and the type of hedging relationship. The interest rate swap agreements described below were designated as either cash flow hedges or fair value hedges. The changes in fair value of our interest rate swap cash flow hedges are recorded in accumulated other comprehensive income (AOCI) and are reclassified into interest expense in the same period the hedged items affect earnings. The changes in fair value of our interest rate swap fair value hedges are recorded as interest expense consistent with the change in the fair value of the hedged items attributable to the risk being hedged.

### CASH FLOW HEDGES

We use interest rate swap agreements designated as cash flow hedges to minimize the variability in cash flows of liabilities or forecasted transactions caused by fluctuations in interest rates. In December 2007, we issued $325,000,000 of floating-rate notes due in 2010 that bore interest at 3-month London Interbank Offered Rate (LIBOR) plus 1.25% per annum. Concurrently, we entered into a 3-year interest rate swap agreement in the stated amount of $325,000,000. Under this agreement, we paid a fixed interest rate of 5.25% and received 3-month LIBOR plus 1.25% per annum. Concurrent with each quarterly interest payment, the portion of this swap related to that interest payment was settled and the associated realized gain or loss was recognized. This swap agreement terminated December 15, 2010, coinciding with the maturity of the notes due in 2010.

During 2007, we entered into fifteen forward starting interest rate swap agreements for a total stated amount of $1,500,000,000. Upon the 2007 and 2008 issuances of the related fixed-rate debt, we terminated and settled these forward starting swaps for cash payments of $89,777,000. Amounts in AOCI are being amortized to interest expense over the term of the related debt. For the 12-month period ending September 30, 2013, we estimate that $5,567,000 of the pretax loss in AOCI will be reclassified to earnings.

The effects of changes in the fair values of derivatives designated as cash flow hedges on the accompanying Condensed Consolidated Statements of Comprehensive Income are as follows:

| *in thousands* | *Location on Statement* | ***Three Months Ended September 30*** ***2012*** | *2011* | ***Nine Months Ended September 30*** ***2012*** | *2011* |
|---|---|---|---|---|---|
| **Cash Flow Hedges** | | | | | |
| Loss reclassified from AOCI (effective portion) | Interest expense | **($1,615)** | ($1,499) | **($4,755)** | ($10,131) |

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**FAIR VALUE HEDGES**

We use interest rate swap agreements designated as fair value hedges to minimize exposure to changes in the fair value of fixed-rate debt that results from fluctuations in the benchmark interest rates for such debt. In June 2011, we issued $500,000,000 of 6.50% fixed-rate notes due in 2016. Concurrently, we entered into interest rate swap agreements in the stated amount of $500,000,000. Under these agreements, we paid 6-month LIBOR plus a spread of 4.05% and received a fixed interest rate of 6.50%. Additionally, in June 2011, we entered into interest rate swap agreements on our $150,000,000 10.125% fixed-rate notes due in 2015. Under these agreements, we paid 6-month LIBOR plus a spread of 8.03% and received a fixed interest rate of 10.125%. In August 2011, we terminated and settled these interest rate swap agreements for $25,382,000 of cash proceeds. The $23,387,000 forward component of the settlement (cash proceeds less $1,995,000 of accrued interest) was added to the carrying value of the related debt and is being amortized as a reduction to interest expense over the remaining lives of the related debt using the effective interest method. This amortization was reflected in the accompanying Condensed Consolidated Statements of Comprehensive Income as follows:

| | ***Three Months Ended September 30*** | | ***Nine Months Ended September 30*** | |
|---|---|---|---|---|
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| **Deferred Gain on Settlement** | | | | |
| Amortized to earnings as a reduction to interest expense | **$1,021** | $320 | **$3,014** | $320 |

## NOTE 6: FAIR VALUE MEASUREMENTS

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 at the measurement date. The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels as described below:

**Level 1:** Quoted prices in active markets for identical assets or liabilities

**Level 2:** Inputs that are derived principally from or corroborated by observable market data

**Level 3:** Inputs that are unobservable and significant to the overall fair value measurement

Our assets and liabilities subject to fair value measurements on a recurring basis are summarized below:

| | | ***Level 1*** | |
|---|---|---|---|
| *in thousands* | ***September 30 2012*** | *December 31 2011* | *September 30 2011* |
| **Fair Value Recurring** | | | |
| Rabbi Trust | | | |
| Mutual funds | **$13,144** | $13,536 | $12,816 |
| Equities | **8,427** | 7,057 | 5,746 |
| Total | **$21,571** | $20,593 | $18,562 |

| | | ***Level 2*** | |
|---|---|---|---|
| *in thousands* | ***September 30 2012*** | *December 31 2011* | *September 30 2011* |
| **Fair Value Recurring** | | | |
| Rabbi Trust | | | |
| Common/collective trust funds | **$2,229** | $2,192 | $1,965 |
| Total | **$2,229** | $2,192 | $1,965 |

The Rabbi Trust investments provide funding for the executive nonqualified deferred compensation and excess benefit plans. The fair values of these investments are estimated using a market approach. The Level 1 investments include mutual funds and equity securities for which quoted prices in active markets are available. Investments in Level 2 common/collective trust funds are stated at estimated fair value based on the underlying investments in those funds. The underlying investments are comprised of short-term, highly liquid assets in commercial paper, short-term bonds and treasury bills.

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The carrying values of our cash equivalents, accounts and notes receivable, current maturities of long-term debt, short-term borrowings, trade payables and accruals, and other current liabilities approximate their fair values because of the short-term nature of these instruments. Additional disclosures for derivative instruments and interest-bearing debt are presented in Notes 5 and 10, respectively.

There were no assets or liabilities subject to fair value measurements on a nonrecurring basis in 2012 and 2011.

## NOTE 7: OTHER COMPREHENSIVE INCOME

Comprehensive income includes charges and credits to equity from nonowner sources and comprises two subsets: net earnings and other comprehensive income (OCI). The components of other comprehensive income are presented in the accompanying Condensed Consolidated Statements of Comprehensive Income, net of applicable taxes.

Amounts in accumulated other comprehensive income (loss), net of tax, are as follows:

| *in thousands* | ***September 30 2012*** | *December 31 2011* | *September 30 2011* |
|---|---|---|---|
| **Accumulated Other Comprehensive Loss** | | | |
| Cash flow hedges | **($29,118)** | ($31,986) | ($32,785) |
| Pension and postretirement plans | **(175,605)** | (184,858) | (132,158) |
| Total | **($204,723)** | ($216,844) | ($164,943) |

Amounts reclassified from accumulated other comprehensive income (loss) to earnings, are as follows:

| | ***Three Months Ended September 30*** | | ***Nine Months Ended September 30*** | |
|---|---|---|---|---|
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| **Reclassification Adjustment for Cash Flow Hedges** | | | | |
| Interest expense | **$1,615** | $1,499 | **$4,755** | $10,131 |
| Benefit from income taxes | **(640)** | (599) | **(1,887)** | (3,778) |
| Total | **$975** | $900 | **$2,868** | $6,353 |
| **Amortization of Pension and Postretirement Plan Actuarial Loss and Prior Service Cost** | | | | |
| Cost of goods sold | **$4,092** | $2,407 | **$12,066** | $7,104 |
| Selling, administrative and general expenses | **977** | 715 | **3,141** | 2,260 |
| Benefit from income taxes | **(1,985)** | (1,237) | **(5,955)** | (3,321) |
| Total | **$3,084** | $1,885 | **$9,252** | $6,043 |
| Total reclassifications from AOCI to earnings | **$4,059** | $2,785 | **$12,120** | $12,396 |

## NOTE 8: EQUITY

In September 2012 and February 2011, we issued 60,855 and 372,992 shares, respectively, of common stock in connection with a business acquisition as described in Note 13.

We periodically sell shares of common stock to the trustee of our 401(k) savings and retirement plan to satisfy the plan participants elections to invest in our common stock. The resulting cash proceeds provide a means of improving cash flow, increasing equity and reducing leverage. Under this arrangement, the stock issuances and resulting cash proceeds were as follows:

¡ nine months ended September 30, 2012 0 shares issued

¡ twelve months ended December 31, 2011 issued 110,881 shares for cash proceeds of $4,745,000

¡ nine months ended September 30, 2011 issued 110,881 shares for cash proceeds of $4,745,000

No shares were held in treasury as of September 30, 2012, December 31, 2011 and September 30, 2011. As of September 30, 2012, 3,411,416 shares may be repurchased under the current purchase authorization of our Board of Directors.

## NOTE 9: BENEFIT PLANS

The following tables set forth the components of net periodic benefit cost:

| **PENSION BENEFITS** | *Three Months Ended September 30* | | *Nine Months Ended September 30* | |
|---|---|---|---|---|
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| **Components of Net Periodic Benefit Cost** | | | | |
| Service cost | **$5,587** | $5,190 | **$16,762** | $15,571 |
| Interest cost | **10,798** | 10,595 | **32,395** | 31,787 |
| Expected return on plan assets | **(12,195)** | (12,370) | **(36,585)** | (37,110) |
| Amortization of prior service cost | **69** | 85 | **206** | 255 |
| Amortization of actuarial loss | **4,882** | 2,918 | **14,645** | 8,753 |
| Net periodic pension benefit cost | **$9,141** | $6,418 | **$27,423** | $19,256 |
| Pretax reclassification from AOCI included in net periodic pension benefit cost | **$4,951** | $3,003 | **$14,851** | $9,008 |

| **OTHER POSTRETIREMENT BENEFITS** | *Three Months Ended September 30* | | *Nine Months Ended September 30* | |
|---|---|---|---|---|
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| **Components of Net Periodic Benefit Cost** | | | | |
| Service cost | **$1,166** | $1,197 | **$3,499** | $3,592 |
| Interest cost | **1,563** | 1,613 | **4,687** | 4,838 |
| Amortization of prior service credit | **(169)** | (169) | **(506)** | (506) |
| Amortization of actuarial loss | **287** | 288 | **862** | 862 |
| Net periodic postretirement benefit cost | **$2,847** | $2,929 | **$8,542** | $8,786 |
| Pretax reclassification from AOCI included in net periodic postretirement benefit cost | **$118** | $119 | **$356** | $356 |

The reclassifications from AOCI noted in the tables above are related to amortization of prior service costs or credits and actuarial losses as shown in Note 7.

Prior contributions, along with the existing funding credits, are sufficient to cover required contributions to the qualified plans through 2012.

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## NOTE 10: DEBT

| *in thousands* | ***September 30 2012*** | *December 31 2011* | *September 30 2011* |
|---|---|---|---|
| **Short-term Borrowings** | | | |
| Bank line of credit | | | $0 |
| Total short-term borrowings | | | $0 |
| **Long-term Debt** | | | |
| Bank line of credit | **$0** | $0 | |
| 5.60% notes due 2012 [1] | **134,548** | 134,508 | $134,496 |
| 6.30% notes due 2013 [2] | **140,398** | 140,352 | 140,337 |
| 10.125% notes due 2015 [3] | **152,911** | 153,464 | 153,640 |
| 6.50% notes due 2016 [4] | **515,887** | 518,293 | 519,072 |
| 6.40% notes due 2017 [5] | **349,883** | 349,869 | 349,865 |
| 7.00% notes due 2018 [6] | **399,721** | 399,693 | 399,684 |
| 10.375% notes due 2018 [7] | **248,637** | 248,526 | 248,491 |
| 7.50% notes due 2021 [8] | **600,000** | 600,000 | 600,000 |
| 7.15% notes due 2037 [9] | **239,551** | 239,545 | 239,544 |
| Medium-term notes | **16,000** | 16,000 | 21,000 |
| Industrial revenue bonds | **14,000** | 14,000 | 14,000 |
| Other notes | **1,067** | 1,189 | 1,309 |
| Total long-term debt including current maturities | **$2,812,603** | $2,815,439 | $2,821,438 |
| Less current maturities of long-term debt | **285,153** | 134,762 | 5,215 |
| Total long-term debt | **$2,527,450** | $2,680,677 | $2,816,223 |
| Estimated fair value of long-term debt | **$2,796,358** | $2,796,504 | $2,649,207 |

[1] *Includes decreases for unamortized discounts, as follows: September 30, 2012 $9 thousand, December 31, 2011 $49 thousand and September 30, 2011 $61 thousand. The effective interest rate for these notes is 6.57%.*

[2] *Includes decreases for unamortized discounts, as follows: September 30, 2012 $46 thousand, December 31, 2011 $92 thousand and September 30, 2011 $107 thousand. The effective interest rate for these notes is 7.48%.*

[3] *Includes an increase for the unamortized portion of the deferred gain realized upon the August 2011 settlement of interest rate swaps, as follows: September 30, 2012 $3,195 thousand, December 31, 2011 $3,802 thousand and September 30, 2011 $3,995 thousand. Additionally, includes decreases for unamortized discounts, as follows: September 30, 2012 $284 thousand, December 31, 2011 $338 thousand and September 30, 2011 $355 thousand. The effective interest rate for these notes is 9.59%.*

[4] *Includes an increase for the unamortized portion of the deferred gain realized upon the August 2011 settlement of interest rate swaps, as follows: September 30, 2012 $15,887 thousand, December 31, 2011 $18,293 thousand and September 30, 2011 $19,072 thousand. The effective interest rate for these notes is 6.02%.*

[5] *Includes decreases for unamortized discounts, as follows: September 30, 2012 $117 thousand, December 31, 2011 $131 thousand and September 30, 2011 $135 thousand. The effective interest rate for these notes is 7.41%.*

[6] *Includes decreases for unamortized discounts, as follows: September 30, 2012 $279 thousand, December 31, 2011 $307 thousand and September 30, 2011 $316 thousand. The effective interest rate for these notes is 7.87%.*

[7] *Includes decreases for unamortized discounts, as follows: September 30, 2012 $1,363 thousand, December 31, 2011 $1,474 thousand and September 30, 2011 $1,509 thousand. The effective interest rate for these notes is 10.62%.*

[8] *The effective interest rate for these notes is 7.75%.*

[9] *Includes decreases for unamortized discounts, as follows: September 30, 2012 $637 thousand, December 31, 2011 $643 thousand and September 30, 2011 $644 thousand. The effective interest rate for these notes is 8.05%.*

Our long-term debt is presented in the table above net of unamortized discounts from par and unamortized deferred gains realized upon settlement of interest rate swaps. Discounts, deferred gains and debt issuance costs are being amortized using the effective interest method over the respective terms of the notes.

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The estimated fair value of long-term debt presented in the table above was determined by averaging price quotes for the notes. The fair value estimates were based on Level 2 information (as defined in Note 6) available to us as of the respective balance sheet dates. Although we are not aware of any factors that would significantly affect the estimated fair value amounts, such amounts have not been comprehensively revalued since those dates.

During 2011, we replaced our $1,500,000,000 bank line of credit that was set to expire on November 16, 2012 with a $600,000,000 bank line of credit. The $600,000,000 bank line of credit expires on December 15, 2016 and is secured by certain domestic accounts receivable and inventory. Borrowing capacity fluctuates with the level of eligible accounts receivable and inventory and may be less than $600,000,000 at any point in time.

Borrowings under the $600,000,000 bank line of credit bear interest at a rate determined at the time of borrowing equal to the lower of LIBOR plus a margin ranging from 1.75% to 2.25% based on the level of utilization, or an alternative rate derived from the lender s prime rate. Borrowings bearing interest at LIBOR plus the margin are made for periods of 1, 2, 3 or 6 months, and may be extended. Borrowings bearing interest at the alternative rate are made on an overnight basis and may be extended each day. As of September 30, 2012, the applicable margin for LIBOR based borrowing was 1.75%.

Borrowings under the $600,000,000 bank line of credit are classified as long-term debt due to our ability to extend borrowings at the end of each borrowing period. Prior to December 31, 2011, we classified bank line of credit borrowings as short-term debt based on our intent to pay outstanding borrowings within one year.

In June 2011, we issued $1,100,000,000 of long-term notes in two series, as follows: $500,000,000 of 6.50% notes due in 2016 and $600,000,000 of 7.50% notes due in 2021. These notes were issued principally to:

¡ repay and terminate our $450,000,000 floating-rate term loan due in 2015

¡ fund the purchase through a tender offer of $165,443,000 of our outstanding 5.60% notes due in 2012 and $109,556,000 of our outstanding 6.30% notes due in 2013

¡ repay $275,000,000 outstanding under our revolving credit facility

¡ and for general corporate purposes

Unamortized deferred financing costs of $2,423,000 associated with the terminated $450,000,000 floating-rate term loan were recognized in June 2011 as a component of interest expense upon the termination of this floating-rate term loan.

The June 2011 purchases of the 5.60% and 6.30% notes cost $294,533,000, including a $19,534,000 premium above the $274,999,000 face value of the notes. This premium primarily reflects the trading price of the notes at the time of purchase relative to par value. Additionally, $4,711,000 of expense associated with a proportional amount of unamortized discounts, deferred financing costs and amounts accumulated in OCI was recognized in June 2011 upon the partial termination of the notes. The combined expense of $24,245,000 was recognized as a component of interest expense in June 2011.

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## NOTE 11: STANDBY LETTERS OF CREDIT

We provide certain third parties with irrevocable standby letters of credit in the normal course of business. We use commercial banks to issue such letters of credit to back our obligations to pay or perform when required to do so according to the requirements of an underlying agreement. The standby letters of credit listed below are cancelable only at the option of the beneficiaries.

| | ***September 30*** |
|---|---|
| *in thousands* | ***2012*** |
| **Standby Letters of Credit** | |
| Risk management requirement for insurance claims | **$36,805** |
| Payment surety required by utilities | **100** |
| Contractual reclamation/restoration requirements | **7,451** |
| Financial requirement for industrial revenue bond | **14,230** |
| Total | **$58,586** |

Since banks consider standby letters of credit as contingent extensions of credit, we are required to pay a fee until they expire or are canceled. Substantially all of our standby letters of credit have a one-year term and are automatically renewed unless cancelled with the approval of the beneficiary. All $58,586,000 of our outstanding standby letters of credit as of September 30, 2012, is backed by our $600,000,000 bank line of credit which expires December 15, 2016.

## NOTE 12: ASSET RETIREMENT OBLIGATIONS

Asset retirement obligations (AROs) are legal obligations associated with the retirement of long-lived assets resulting from the acquisition, construction, development and/or normal use of the underlying assets.

Recognition of a liability for an ARO is required in the period in which it is incurred at its estimated fair value. The associated asset retirement costs are capitalized as part of the carrying amount of the underlying asset and depreciated over the estimated useful life of the asset. The liability is accreted through charges to operating expenses. If the ARO is settled for other than the carrying amount of the liability, we recognize a gain or loss on settlement.

We record all AROs for which we have legal obligations for land reclamation at estimated fair value. Essentially all these AROs relate to our underlying land parcels, including both owned properties and mineral leases. For the three and nine month periods ended September 30, we recognized ARO operating costs related to accretion of the liabilities and depreciation of the assets as follows:

| | ***Three Months Ended September 30*** | | ***Nine Months Ended September 30*** | |
|---|---|---|---|---|
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| **ARO Operating Costs** | | | | |
| Accretion | **$ 1,973** | $ 1,894 | **$ 5,990** | $ 6,189 |
| Depreciation | **1,110** | 1,947 | **4,837** | 5,342 |
| Total | **$ 3,083** | $ 3,841 | **$ 10,827** | $ 11,531 |

ARO operating costs are reported in cost of goods sold. AROs are reported within other noncurrent liabilities in our accompanying Condensed Consolidated Balance Sheets.

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Reconciliations of the carrying amounts of our AROs are as follows:

| | Three Months Ended September 30 | | Nine Months Ended September 30 | |
|---|---|---|---|---|
| *in thousands* | ***2012*** | *2011* | ***2012*** | *2011* |
| **Asset Retirement Obligations** | | | | |
| Balance at beginning of period | **$150,413** | $160,733 | **$153,979** | $162,730 |
| Liabilities incurred | **82** | 1,456 | **127** | 1,734 |
| Liabilities settled | **(822)** | (6,238) | **(2,241)** | (12,202) |
| Accretion expense | **1,973** | 1,894 | **5,990** | 6,189 |
| Revisions up (down), net | **(2,923)** | 139 | **(9,132)** | (467) |
| Balance at end of period | **$148,723** | $157,984 | **$148,723** | $157,984 |

Revisions to our asset retirement obligations during 2012 relate primarily to extensions in the estimated settlement dates at numerous sites reflecting lower level of shipments, which has the effect of extending the useful life of our operations reserves.

## NOTE 13: ACQUISITIONS AND DIVESTITURES

During the first quarter of 2011, we acquired ten ready-mixed concrete facilities for 432,407 shares of common stock valued at the closing date price of $42.85 per share (total consideration of $18,529,000 net of acquired cash). We issued 372,992 shares to the seller at closing and retained the remaining shares to fulfill certain indemnification obligations. During the third quarter of 2012, we issued 60,855 shares (including shares accrued for dividends) of common stock to the seller as the final payment. As a result of this acquisition, we recognized $6,419,000 of amortizable intangible assets, none of which is expected to be deductible for income tax purposes. The amortizable intangible assets consist of contractual rights in place and are amortized over an estimated weighted-average period of 20 years.

During the third quarter of 2011, we completed the sale of four aggregates facilities. The sale resulted in net cash proceeds of $64,174,000 and a pretax gain on sale of $39,659,000. The book value of the divested operations included $10,300,000 of goodwill. Goodwill was allocated based on the relative fair value of the divested operations as compared to the relative fair value of the retained portion of the reporting unit.

During the fourth quarter of 2011, we consummated a transaction resulting in an exchange of assets. We acquired three aggregates facilities and a rail distribution yard. In return, we divested two aggregates facilities, an asphalt mix facility, two ready-mixed concrete facilities, a recycling operation and undeveloped real property, and paid $10,000,000 in cash. As of September 30, 2011, the exchanged assets met the criteria for classification as held for sale.

The accompanying Condensed Consolidated Balance Sheets reflect our assets held for sale and liabilities of assets held for sale as of September 30, 2011 (exchange of assets described above) as follows:

| *in thousands* | ***September 30 2011*** |
|---|---|
| **Held for Sale** | |
| Current assets | $2,644 |
| Property, plant & equipment, net | 20,934 |
| Other assets | 3,305 |
| Total assets held for sale | $26,883 |
| Other liabilities | $1,474 |
| Total liabilities of assets held for sale | $1,474 |

There were no significant assets held for sale as of September 30, 2012 and December 31, 2011.

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## NOTE 14: GOODWILL

Goodwill is recognized when the consideration paid for a business combination (acquisition) exceeds the fair value of the tangible and identifiable intangible assets acquired. Goodwill is allocated to reporting units for purposes of testing goodwill for impairment. There were no charges for goodwill impairment in the nine month periods ended September 30, 2012 and 2011.

We have four reportable segments organized around our principal product lines: aggregates, concrete, asphalt mix and cement. Changes in the carrying amount of goodwill by reportable segment from December 31, 2011 to September 30, 2012 are summarized below:

**GOODWILL**

| *in thousands* | *Aggregates* | *Concrete* | *Asphalt Mix* | *Cement* | *Total* |
|---|---|---|---|---|---|
| **Gross Carrying Amount** | | | | | |
| Total as of December 31, 2011 | $2,995,083 | $0 | $91,633 | $252,664 | $3,339,380 |
| **Total as of September 30, 2012** | $2,995,083 | $0 | $91,633 | $252,664 | $3,339,380 |
| **Accumulated Impairment Losses** | | | | | |
| Total as of December 31, 2011 | $0 | $0 | $0 | ($252,664) | ($252,664) |
| **Total as of September 30, 2012** | $0 | $0 | $0 | ($252,664) | ($252,664) |
| **Goodwill, net of Accumulated Impairment Losses** | | | | | |
| Total as of December 31, 2011 | $2,995,083 | $0 | $91,633 | $0 | $3,086,716 |
| **Total as of September 30, 2012** | **$2,995,083** | **$0** | **$91,633** | **$0** | **$3,086,716** |

We test goodwill for impairment on an annual basis or more frequently if events or circumstances change in a manner that would more likely than not reduce the fair value of a reporting unit below its carrying value. While we have not identified any events or changes in circumstances that indicate the fair value of any of our reporting units is below its carrying value, the timing of a sustained recovery in the construction industry may have a significant effect on the fair value of our reporting units. A decrease in the estimated fair value of one or more of our reporting units could result in the recognition of a material, noncash write-down of goodwill.

## NOTE 15: NEW ACCOUNTING STANDARDS

**ACCOUNTING STANDARDS RECENTLY ADOPTED**

AMENDMENTS ON FAIR VALUE MEASUREMENT REQUIREMENTS As of and for the interim period ended March 31, 2012, we adopted Accounting Standards Update (ASU) No. 2011-04, Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS. The amendments in this ASU achieve the objectives of developing common fair value measurement and disclosure requirements in U.S. GAAP and International Financial Reporting Standards (IFRS) and improving their understandability. Some of the requirements clarify the Financial Accounting Standards Board s (FASB s) intent about the application of existing fair value measurement requirements while other amendments change a particular principle or requirement for measuring fair value or for disclosing information about fair value measurements. Our adoption of this standard had no impact on our financial position, results of operations or liquidity.

AMENDMENTS ON GOODWILL IMPAIRMENT TESTING As of and for the interim period ended March 31, 2012, we adopted ASU No. 2011-08, Testing Goodwill for Impairment which amends the goodwill impairment testing guidance in ASC 350-20, Goodwill. Under the amended guidance, an entity has the option of performing a qualitative assessment when testing goodwill for impairment. The two-step impairment test would be required only if, on the basis of the qualitative factors, an entity determines that the fair value of the reporting unit is more likely than not (a likelihood of more than 50%) less than the carrying amount. Additionally, this ASU revises the examples of events and circumstances that an entity should consider when determining if an interim goodwill impairment test is required. Our adoption of this standard had no impact on our financial position, results of operations or liquidity.

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**ACCOUNTING STANDARDS PENDING ADOPTION**

NEW DISCLOSURE REQUIREMENTS ON OFFSETTING ASSETS AND LIABILITIES In December 2011, the FASB issued ASU No. 2011-11, Disclosures About Offsetting Assets and Liabilities which creates new disclosure requirements about the nature of an entity s rights of setoff and related arrangements associated with its financial and derivative instruments. These new disclosures are designed to facilitate comparisons between financial statements prepared under U.S. GAAP and those prepared under IFRS. This ASU is effective for annual and interim reporting periods beginning on or after January 1, 2013, with retrospective application required. We will adopt this standard as of and for the interim period ending March 31, 2013. We do not expect the adoption of this standard to have a material impact on our consolidated financial statements.

AMENDMENTS ON INDEFINITE-LIVED INTANGIBLE ASSET IMPAIRMENT TESTING In July 2012, the FASB issued ASU No. 2012-02, Testing Indefinite-Lived Intangible Assets for Impairment which amends the impairment testing guidance in ASC 350-30, General Intangibles Other Than Goodwill. Under the amended guidance, an entity has the option of performing a qualitative assessment when testing an indefinite-lived intangible asset for impairment. Further testing would be required only if, on the basis of the qualitative factors, an entity determines that the fair value of the intangible asset is more likely than not (a likelihood of more than 50%) less than the carrying amount. Additionally, this ASU revises the examples of events and circumstances that an entity should consider when determining if an interim impairment test is required. The amendments in this ASU are effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012, with early adoption permitted. We will adopt this standard as of and for the interim period ending March 31, 2013. We do not expect the adoption of this standard to have a material impact on our consolidated financial statements.

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## NOTE 16: SEGMENT REPORTING

We have four operating segments organized around our principal product lines: aggregates, concrete, asphalt mix and cement. The vast majority of our activities are domestic. We sell a relatively small amount of products outside the United States. Transactions between our reportable segments are recorded at prices approximating market levels. Management reviews earnings from the product line reporting segments principally at the gross profit level.

**SEGMENT FINANCIAL DISCLOSURE**

| | ***Three Months Ended*** | | ***Nine Months Ended*** | |
|---|---|---|---|---|
| | ***September 30*** | | ***September 30*** | |
| *in millions* | ***2012*** | *2011* | ***2012*** | *2011* |
| **Total Revenues** | | | | |
| Aggregates [1] | | | | |
| Segment revenues | **$491.1** | $514.7 | **$1,317.9** | $1,324.8 |
| Intersegment sales | **(42.5)** | (42.4) | **(112.9)** | (111.8) |
| Net sales | **448.6** | 472.3 | **1,205.0** | 1,213.0 |
| Concrete [2] | | | | |
| Segment revenues | **108.7** | 101.4 | **303.3** | 281.8 |
| Intersegment sales | **0.0** | 0.0 | **0.0** | 0.0 |
| Net sales | **108.7** | 101.4 | **303.3** | 281.8 |
| Asphalt Mix | | | | |
| Segment revenues | **118.2** | 128.9 | **293.3** | 304.4 |
| Intersegment sales | **0.0** | 0.0 | **0.0** | 0.0 |
| Net sales | **118.2** | 128.9 | **293.3** | 304.4 |
| Cement [3] | | | | |
| Segment revenues | **22.7** | 19.1 | **63.6** | 52.5 |
| Intersegment sales | **(10.6)** | (6.7) | **(28.8)** | (23.0) |
| Net sales | **12.1** | 12.4 | **34.8** | 29.5 |
| Total | | | | |
| Net sales | **687.6** | 715.0 | **1,836.4** | 1,828.7 |
| Delivery revenues | **41.3** | 45.8 | **122.5** | 121.2 |
| Total revenues | **$728.9** | $760.8 | **$1,958.9** | $1,949.9 |
| **Gross Profit** | | | | |
| Aggregates | **$124.9** | $113.4 | **$270.8** | $227.0 |
| Concrete | **(8.5)** | (8.9) | **(29.9)** | (32.3) |
| Asphalt Mix | **10.9** | 12.3 | **15.5** | 20.4 |
| Cement | **(0.4)** | (1.0) | **(1.6)** | (5.6) |
| Total | **$126.9** | $115.8 | **$254.8** | $209.5 |
| **Depreciation, Depletion, Accretion and Amortization** | | | | |
| Aggregates | **$62.3** | $70.3 | **$191.8** | $211.5 |
| Concrete | **11.4** | 13.1 | **34.9** | 39.3 |
| Asphalt Mix | **2.3** | 1.9 | **7.1** | 5.9 |
| Cement | **6.4** | 4.5 | **15.0** | 13.6 |
| Corporate and other unallocated | **1.7** | 1.1 | **4.6** | 3.4 |
| Total | **$84.1** | $90.9 | **$253.4** | $273.7 |

[1] *Includes crushed stone, sand and gravel, sand, other aggregates, as well as transportation and service revenues associated with the aggregates business.*

[2] *Includes ready-mixed concrete, concrete block, precast concrete, as well as building materials purchased for resale.*

[3] *Includes cement and calcium products.*

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## NOTE 17: SUPPLEMENTAL CASH FLOW INFORMATION

Supplemental information referable to our Condensed Consolidated Statements of Cash Flows is summarized below:

| | *Nine Months Ended September 30* | |
|---|---|---|
| *in thousands* | ***2012*** | *2011* |
| **Cash Payments (Refunds)** | | |
| Interest (exclusive of amount capitalized) | **$104,440** | $102,260 |
| Income taxes | **19,219** | (31,127) |
| **Noncash Investing and Financing Activities** | | |
| Accrued liabilities for purchases of property, plant & equipment | **4,316** | 6,511 |
| Amounts referable to business acquisition (Note 13) | | |
| Liabilities assumed | **0** | 13,774 |
| Fair value of equity consideration | **0** | 18,529 |

## NOTE 18: COMMITMENTS AND CONTINGENCIES

In September 2001, we were named a defendant in a suit brought by the Illinois Department of Transportation (IDOT) alleging damage to a 0.9-mile section of Joliet Road that bisects our McCook quarry in McCook, Illinois, a Chicago suburb. In 2010, we settled this lawsuit for $40,000,000 and recognized the full charge pending arbitration with our insurers. In the first and third quarters of 2011, we were awarded $25,546,000 and $24,111,000, respectively, in payment of the insurers share of the settlement amount, and including attorneys fees and interest of $3,254,000.

We are a defendant in various lawsuits in the ordinary course of business. It is not possible to determine with precision the outcome, or the amount of liability, if any, under these lawsuits, especially where the cases involve possible jury trials with as yet undetermined jury panels.

In addition to these lawsuits in which we are involved in the ordinary course of business, certain other legal proceedings are specifically described below. At this time, we cannot determine the likelihood or reasonably estimate a range of loss pertaining to these matters.

**SHAREHOLDER LITIGATION**

- CLASS ACTION COMPLAINTS Two putative class-action complaints challenging Vulcan s response to the Martin Marietta exchange offer were filed against Vulcan and its directors. One of these complaints styled *Stationary Engineers Local 39 Pension Trust Fund v. Carroll, et al., No. 12-cv-00349* was filed in the United States District Court for the District of New Jersey. The other complaint was filed in the United States District Court for the Northern District of Alabama, Southern Division: *KBC Asset Management NV v. James, et al.*, No. 11-cv-04323 (the KBC Action ). The KBC action was subsequently transferred to the District of New Jersey. These actions have now been voluntarily dismissed without prejudice by the plaintiffs. Thus we will not report on these matters further.

- IRELAND LITIGATION On May 25, 2012, a shareholder lawsuit was filed in state court in Jefferson County, Alabama, styled *Glenn Ireland II, and William C. Ireland, Jr., Derivatively on behalf of Vulcan Materials Company v. Donald M. James, et al., Case No. CV-2012-901655*. The lawsuit was amended to add the Charles Byron Ireland Trust. This lawsuit is brought as a derivative action against the current Board of Directors and two former directors. It makes claims of breaches of fiduciary duty and mismanagement by the defendants based primarily upon (i) Vulcan s merger with Florida Rock, (ii) the compensation of the CEO of Vulcan, and (iii) the Martin Marietta hostile takeover bid. The Company and its directors believe the lawsuit is meritless and have filed a motion to dismiss the complaint.

**PERCHLOROETHYLENE CASES**

We are a defendant in cases involving perchloroethylene (perc), which was a product manufactured by our former Chemicals business. Perc is a cleaning solvent used in dry cleaning and other industrial applications. These cases involve various allegations of groundwater contamination or exposure to perc allegedly resulting in personal injury. Vulcan is vigorously defending these cases, which are listed below:

¡ CALIFORNIA WATER SERVICE COMPANY On June 6, 2008, we were served in an action styled *California Water Service Company v. Dow, et al.*, filed in the San Mateo County Superior Court, California. According to the complaint, California Water Service Company owns and/or operates public drinking water systems, and supplies drinking water to hundreds of thousands of residents and businesses throughout California. The complaint alleges that water wells in a number of communities have been contaminated with perc. The plaintiff is seeking compensatory damages and punitive damages. The parties have settled this matter for an immaterial amount which is reflected in our Condensed Consolidated Statements of Comprehensive Income. Therefore, we will not report as to this matter going forward.

- CITY OF SUNNYVALE CALIFORNIA   On January 6, 2009, we were served in an action styled *City of Sunnyvale v. Legacy Vulcan Corporation, f/k/a Vulcan Materials Company*, filed in the San Mateo County Superior Court, California. The plaintiffs are seeking cost recovery and other damages for alleged environmental contamination from perc and its breakdown products at the Sunnyvale Town Center Redevelopment Project. The parties have settled this matter for an immaterial amount which is reflected in our Condensed Consolidated Statements of Comprehensive Income. Therefore, we will not report as to this matter going forward.

- SUFFOLK COUNTY WATER AUTHORITY   On July 29, 2010, we were served in an action styled *Suffolk County Water Authority v. The Dow Chemical Company, et al.*, in the Supreme Court for Suffolk County, State of New York. The complaint alleges that the plaintiff owns and/or operates drinking water systems and supplies drinking water to thousands of residents and businesses, in Suffolk County, New York. The complaint alleges that perc and its breakdown products have been and are contaminating and damaging Plaintiff s drinking water supply wells. The plaintiff is seeking compensatory and punitive damages. The trial court recently ruled that any detectable amount of perc in a well constitutes a legal injury. We are appealing this and other rulings of the trial court. Discovery is ongoing. At this time, plaintiffs have not established that our perc was used at any specific dry cleaner, or that we are liable for any alleged contamination.

- R.R. STREET INDEMNITY   Street, a former distributor of perc manufactured by us, alleges that we owe Street, and its insurer (National Union), a defense and indemnity in several litigation matters. National Union alleges that we are obligated to contribute to National Union s share of defense fees, costs and any indemnity payments made on Street s behalf. We have had discussions with Street about the nature and extent of indemnity obligations, if any, and to date there has been no resolution of these issues.

**LOWER PASSAIC RIVER MATTERS**

- NJDEP LITIGATION   In 2009, Vulcan and over 300 other parties were named as third-party defendants in *New Jersey Department of Environmental Protection, et al. v. Occidental Chemical Corporation, et al.*, a case originally brought by the New Jersey Department of Environmental Protection (NJDEP) in the New Jersey Superior Court. Vulcan was brought into the suit due to alleged discharges to the Lower Passaic River (River) from the former Chemicals Division Newark Plant. This suit by the NJDEP seeks recovery of past and future clean-up costs, as well as unspecified economic damages, punitive damages, penalties and a variety of other forms of relief. This case is in the discovery stage, and a liability trial is scheduled for April 2013, and a separate damages trial, if required, is scheduled for January 2014. At this time, we cannot reasonably estimate our liability related to this case because it is unclear what contaminants and legal issues will be presented at trial and the extent to which the Newark operation may have impacted the River.

- LOWER PASSAIC RIVER STUDY AREA (SUPERFUND SITE)   Vulcan and approximately 70 other companies are parties to a May 2007 Administrative Order on Consent (AOC) with the U.S. Environmental Protection Agency (EPA) to perform a Remedial Investigation/Feasibility Study (RI/FS) of the lower 17 miles of the River. Separately, the EPA issued a draft Focused Feasibility Study (FFS) that evaluated early action remedial alternatives for a portion of the River. The EPA s range of estimated cost for these alternatives was between $0.9 billion and $2.3 billion, although estimates of the cost and timing of future environmental remediation requirements are inherently imprecise. The EPA has not released the final FFS. As an interim step related to the 2007 AOC, Vulcan and sixty-nine (69) other companies voluntarily entered into an Administrative Settlement Agreement and Order on Consent on June 18, 2012 with the EPA for remediation actions focused at River Mile 10.9 in the lower Passaic River. Estimated costs related to this focused remediation action are immaterial and have been accrued. On June 25, 2012, the EPA issued a Unilateral Administrative Order for Removal Response Activities to Occidental Chemical Corporation ordering Occidental to participate and cooperate in this remediation action at River Mile 10.9.

At this time, we cannot reasonably estimate our liability related to this matter because the RI/FS is ongoing; the ultimate remedial approach and associated cost has not been determined; and the parties that will participate in funding the remediation and their respective allocations are not yet known.

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It is not possible to predict with certainty the ultimate outcome of these and other legal proceedings in which we are involved and a number of factors, including developments in ongoing discovery or adverse rulings, could cause actual losses to differ materially from accrued costs. No liability was recorded for claims and litigation for which a loss was determined to be only reasonably possible or for which a loss could not be reasonably estimated. Legal costs incurred in defense of lawsuits are expensed as incurred. In addition, losses on certain claims and litigation described above may be subject to limitations on a per occurrence basis by excess insurance, as described in our most recent Annual Report on Form 10-K.

# GENERAL COMMENTS

## OVERVIEW

Vulcan provides the basic materials for the infrastructure needed to expand the U.S. economy. We are the nation s largest producer of construction aggregates, primarily crushed stone, sand and gravel. We also are a major producer of asphalt mix and ready-mixed concrete as well as a leading producer of cement in Florida.

Demand for our products is dependent on construction activity. The primary end uses include public construction, such as highways, bridges, airports, schools and prisons, as well as private nonresidential (e.g., manufacturing, retail, offices, industrial and institutional) and private residential construction (e.g., single-family houses, duplexes, apartment buildings and condominiums). Customers for our products include heavy construction and paving contractors; commercial building contractors; concrete products manufacturers; residential building contractors; state, county and municipal governments; railroads and electric utilities.

We operate primarily in the United States and our principal product aggregates is used in virtually all types of public and private construction projects and in the production of asphalt mix and ready-mixed concrete. Aggregates have a high weight-to-value ratio and, in most cases, must be produced near where they are used; if not, transportation can cost more than the materials. Exceptions to this typical market structure include areas along the U.S. Gulf Coast and the Eastern Seaboard where there are limited supplies of locally available high quality aggregates. We serve these markets from inland quarries shipping by barge and rail and from our quarry on Mexico s Yucatan Peninsula. We transport aggregates from Mexico to the U.S. principally on our three Panamax-class, self-unloading ships.

There are practically no substitutes for quality aggregates. Because of barriers to entry created by zoning and permitting regulation and because of high transportation costs relative to the value of the product, the location of reserves is a critical factor to long-term success.

While aggregates is our primary business, we believe vertical integration between aggregates and downstream products, such as asphalt mix and concrete, can be managed effectively in certain markets to generate acceptable financial returns. We produce and sell asphalt mix and ready-mixed concrete primarily in our mid-Atlantic, Georgia, Florida, southwestern and western markets. Aggregates comprise approximately 95% of asphalt mix by weight and 78% of ready-mixed concrete by weight. In all of these downstream businesses, we supply virtually all of the required aggregates from our own operations.

## SEASONALITY AND CYCLICAL NATURE OF OUR BUSINESS

Almost all our products are produced and consumed outdoors. Seasonal changes and other weather-related conditions can affect the production and sales volumes of our products. Therefore, the financial results for any quarter do not necessarily indicate the results expected for the year. Normally, the highest sales and earnings are in the third quarter and the lowest are in the first quarter. Furthermore, our sales and earnings are sensitive to national, regional and local economic conditions and particularly to cyclical swings in construction spending, primarily in the private sector. The levels of construction spending are affected by changing interest rates and demographic and population fluctuations.

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# EXECUTIVE SUMMARY

## FINANCIAL HIGHLIGHTS FOR THIRD QUARTER 2012

- Aggregates segment gross profit improved $11.5 million, or 10%, reflecting increased pricing and lower unit cost of sales due to improved productivity and cost reduction initiatives
  - Aggregates pricing increased 4% from the prior year, reflecting price increases in most markets
  - Unit cost of sales decreased 1% from the prior year
  - On a same-store basis, aggregates shipments decreased 6% from the prior year
  - Aggregates gross profit margin was 25.4%, an increase of 3.4 percentage points (340 basis points) from the prior year
- Gross profit from non-aggregates segments was in line with the prior year s third quarter as overall non-aggregates segment revenues approximated the prior year
- Total gross profit increased 10% and gross profit margin expanded 2.3 percentage points (230 basis points) as the earnings effect of higher pricing and effective cost control more than offset the earnings effects of declines in aggregates and asphalt shipments
- Adjusted EBITDA was $146.0 million, an increase of $11.8 million over the prior year
- Earnings from continuing operations were $0.12 per diluted share versus $0.17 per diluted share in the prior year. The prior year s earnings included $0.30 per diluted share from the gain on sale of real estate and businesses and recovery from a legal settlement. The current year s earnings include $0.02 per diluted share referable to restructuring charges and exchange offer costs. On a comparable basis, third quarter earnings from continuing operations were $0.14 per diluted share compared to a loss of $0.13 per diluted share in the prior year

This quarter marks the fourth consecutive quarter of higher year-over-year gross profit in aggregates, lower SAG expense and growth in Adjusted EBITDA. These results demonstrate the benefits of our ongoing focus on reducing controllable costs and maximizing operating efficiency across the organization.

Leading indictors in private sector construction markets, including residential and nonresidential buildings, continue to improve. This should benefit our aggregates, concrete and cement businesses going forward. Year-to-date, concrete and cement volumes are up 8% and 23%, respectively, reflecting the upturn in private construction, particularly in Florida and Texas.

Our employees are keenly focused on managing controllable costs and are implementing actions that are contributing to our results. Thanks to their continued efforts, Adjusted EBITDA has increased 25% year-to-date and the earnings leverage in our aggregates business continues to increase, as evidenced by the increase in gross profit. Through the nine months ended September 30, 2012, Adjusted EBITDA was $320.9 million, up $63.7 million from the prior year in the face of a 1% decline in aggregates volumes. Cost reduction initiatives across a wide array of spending categories continue to improve our run-rate profitability. The effect of these initiatives is evidenced by the 12% decline in SAG expenses over the comparative nine month period.

We believe economic and construction-related fundamentals that drive demand for our products will continue to improve from the historically low levels created by the economic downturn. Leading indicators of private construction activity, specifically residential housing starts and contract awards for nonresidential buildings, continue to improve in our markets. Consequently, aggregates demand into private construction, particularly residential, is beginning to grow. We are seeing evidence of this growth in several key states, including Florida, Texas and Arizona. However, the positive effect of these indicators takes time to materialize and impact our shipments given the low point from which the recovery began. For public construction, the passage of a new federal highway bill in July will provide stability and predictability to future highway funding, although it had no material impact on third quarter shipments which reflected softness in highway construction and the ending of stimulus-related construction activity. The large increase in TIFIA (Transportation Infrastructure Finance and Innovation Act) funding contained in the new highway bill should positively impact demand in the future.

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# RECONCILIATION OF NON-GAAP FINANCIAL MEASURES

Generally Accepted Accounting Principles (GAAP) does not define free cash flow and Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA). Thus, free cash flow should not be considered as an alternative to net cash provided by operating activities or any other liquidity measure defined by GAAP and EBITDA should not be considered as an alternative to earnings measures defined by GAAP. We present these metrics for the convenience of investment professionals who use such metrics in their analyses, and for shareholders who need to understand the metrics we use to assess performance and to monitor our cash and liquidity positions. The investment community often uses these metrics as indicators of a company s ability to incur and service debt. We use free cash flow, EBITDA and other such measures to assess the operating performance of our various business units and the consolidated company. We do not use these metrics as a measure to allocate resources. Reconciliations of these metrics to their nearest GAAP measures are presented below:

## FREE CASH FLOW

Free cash flow deducts purchases of property, plant & equipment from net cash provided by operating activities.

| | ***Three Months Ended September 30*** | | ***Nine Months Ended September 30*** | |
|---|---|---|---|---|
| *in millions* | ***2012*** | *2011* | ***2012*** | *2011* |
| Net cash provided by operating activities | **$96.9** | $114.7 | **$93.8** | $121.7 |
| Purchases of property, plant & equipment | **(16.0)** | (25.8) | **(49.5)** | (77.3) |
| Free cash flow | **$80.9** | $88.9 | **$44.3** | $44.4 |

## EBITDA AND ADJUSTED EBITDA

EBITDA is an acronym for Earnings Before Interest, Taxes, Depreciation and Amortization.

| | ***Three Months Ended September 30*** | | ***Nine Months Ended September 30*** | |
|---|---|---|---|---|
| *in millions* | ***2012*** | *2011* | ***2012*** | *2011* |
| Net earnings (loss) | **$14.3** | $20.0 | **($56.1)** | ($42.9) |
| Provision for (benefit from) income taxes | **(11.0)** | 29.8 | **(67.1)** | (47.9) |
| Interest expense, net | **53.0** | 50.7 | **159.0** | 163.8 |
| (Earnings) loss on discontinued operations, net of taxes | **1.4** | 2.5 | **(2.3)** | (6.4) |
| Depreciation, depletion, accretion and amortization | **84.1** | 90.9 | **253.3** | 273.7 |
| EBITDA | **$141.8** | $193.9 | **$286.8** | $340.3 |
| Gain on sale of real estate and businesses | **$0.0** | ($39.7) | **($18.3)** | ($39.7) |
| Recovery from legal settlement | **0.0** | (20.9) | **0.0** | (46.4) |
| Restructuring charges | **3.0** | 0.9 | **9.0** | 3.0 |
| Exchange offer costs | **1.2** | 0.0 | **43.4** | 0.0 |
| Adjusted EBITDA | **$146.0** | $134.2 | **$320.9** | $257.2 |

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# RESULTS OF OPERATIONS

Net sales and cost of goods sold exclude intersegment sales and delivery revenues and cost. This presentation is consistent with the basis on which we review results of operations. We discuss separately our discontinued operations, which consist of our former Chemicals business.

The following table shows net earnings in relationship to net sales, cost of goods sold, operating earnings, EBITDA and Adjusted EBITDA.

## CONSOLIDATED OPERATING RESULTS

| | *Three Months Ended September 30* | | *Nine Months Ended September 30* | |
|---|---|---|---|---|
| *in millions, except per share data* | ***2012*** | *2011* | ***2012*** | *2011* |
| Net sales | **$687.6** | $714.9 | **$1,836.4** | $1,828.7 |
| Cost of goods sold | **560.7** | 599.1 | **1,581.6** | 1,619.2 |
| Gross profit | **$126.9** | $115.8 | **$254.8** | $209.5 |
| Operating earnings | **$55.9** | $106.7 | **$29.2** | $69.0 |
| Earnings (loss) from continuing operations before income taxes | **$4.6** | $52.2 | **($125.6)** | ($97.3) |
| Earnings (loss) from continuing operations | **$15.6** | $22.4 | **($58.4)** | ($49.3) |
| Earnings (loss) on discontinued operations, net of taxes | **(1.3)** | (2.4) | **2.3** | 6.4 |
| Net earnings (loss) | **$14.3** | $20.0 | **($56.1)** | ($42.9) |
| Basic earnings (loss) per share | | | | |
| Continuing operations | **$0.12** | $0.17 | **($0.45)** | ($0.38) |
| Discontinued operations | **(0.01)** | (0.02) | **0.02** | 0.05 |
| Basic net earnings (loss) per share | **$0.11** | $0.15 | **($0.43)** | ($0.33) |
| Diluted earnings (loss) per share | | | | |
| Continuing operations | **$0.12** | $0.17 | **($0.45)** | ($0.38) |
| Discontinued operations | **(0.01)** | (0.02) | **0.02** | 0.05 |
| Basic net earnings (loss) per share | **$0.11** | $0.15 | **($0.43)** | ($0.33) |
| EBITDA | **$141.8** | $193.9 | **$286.8** | $340.3 |
| Adjusted EBITDA | **$146.0** | $134.2 | **$320.9** | $257.2 |

## THIRD QUARTER 2012 COMPARED TO THIRD QUARTER 2011

Third quarter net sales were $687.6 million, down 4% from the third quarter of 2011. Shipping volumes increased/decreased, as follows: aggregates -7%, ready-mixed concrete +7%, asphalt mix -9% and cement +17%. Average unit sales prices were up 4% in aggregates and 7% in cement while relatively flat in ready-mixed concrete and asphalt mix.

Net earnings were $14.3 million, or $0.11 per diluted share, for the third quarter of 2012 compared to $20.0 million, or $0.15 per diluted share, for the third quarter of 2011. The current quarter s earnings include $4.3 million of pretax cost related to restructuring charges and exchange offer costs. The prior quarter s earnings include a $39.7 million pretax gain from the sale of four aggregates facilities and a $20.9 million pretax gain referable to the final recovery from an insurer related to the lawsuit settled in 2010 with the Illinois Department of Transportation (IDOT). Additionally, higher unit costs for diesel fuel and liquid asphalt resulted in higher pretax costs of $1.8 million.

CONTINUING OPERATIONS Changes in earnings from continuing operations before income taxes for the third quarter of 2012 versus the third quarter of 2011 are summarized below:

**EARNINGS FROM CONTINUING OPERATIONS BEFORE INCOME TAXES**

| *in millions* | |
|---|---|
| Third quarter 2011 | $52.2 |
| Higher aggregates gross profit due to | |
| Higher selling prices | 15.4 |
| Lower costs and other items | 14.5 |
| Lower volumes | (18.4) |
| Higher concrete gross profit | 0.4 |
| Lower asphalt mix gross profit | (1.3) |
| Higher cement gross profit | 0.6 |
| Lower selling, administrative and general expense | 1.6 |
| Lower gain on sale of property, plant & equipment and businesses | (39.4) |
| Legal settlement recovery - 2011 | (20.9) |
| Higher restructuring charges | (2.2) |
| Exchange offer costs - 2012 | (1.2) |
| Higher interest expense | (2.4) |
| All other | 5.7 |
| **Third quarter 2012** | **$4.6** |

Aggregates segment gross profit increased $11.5 million from the prior year s third quarter and gross profit margin expanded 3.4 percentage points (340 basis points) despite a 5% decline in segment revenues. Higher Aggregates segment earnings were driven by a 4% increase in the average sales price and lower unit costs. The improvement in operating cost was due to increased productivity in a number of key operating metrics and was achieved despite lower production volume. Most of our markets realized increased pricing, including key markets in Florida, Texas and States in the Southeast, the mid-Atlantic and the Midwest. Private construction activity, particularly residential, continued to improve during the third quarter, offsetting some residual softness in highway construction resulting from the prolonged delay in renewing the federal highway bill. The new bill (Map-21) was signed into law in July of this year, nearly three years after expiration of the previous multi-year bill. On a same-store basis, aggregates shipments decreased 6% versus the prior year. In total, aggregates shipments in Arizona, Florida and Texas increased 12% due primarily to growing demand from private construction. Most other markets experienced declines in aggregates volumes compared to the third quarter of 2011, reflecting weakness in public construction activity that more than offset growth in private construction activity.

Collectively, third quarter earnings from our non-aggregates segments were in-line with the prior year. Earnings improvements in the Cement and Concrete segments offset a slight decrease in Asphalt Mix gross profit. The unit cost for liquid asphalt increased 3%, reducing Asphalt Mix segment earnings by $1.4 million. Continued recovery in private construction activity led to solid increases in ready-mixed concrete and cement volumes as well as year-over-year growth in pricing for both products.

SAG expenses decreased $1.6 million from the prior year s third quarter. This marks the fourth consecutive quarterly decline in year-over-year SAG expenses.

Gain on sale of property, plant & equipment and businesses was $2.0 million in the third quarter of 2012 compared to $41.5 million in the third quarter of 2011. The prior year s quarter included a $39.7 million pretax gain on the sale of four aggregates facilities.

The $3.1 million of restructuring charges in the third quarter of 2012 relates to the implementation of the Profit Enhancement Plan. The prior year s $0.8 million of restructuring charges relates to the cost reduction and restructuring initiatives undertaken in 2011. For additional details, see Note 1 to the condensed consolidated financial statements.

The $1.2 million of exchange offer costs in the current year s third quarter results reflects legal, professional and other costs incurred in response to the unsolicited exchange offer by Martin Marietta. For additional details, see Note 1 to the condensed consolidated financial statements.

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Net interest expense of $53.0 million in the third quarter of 2012 was up $2.4 million from the comparable 2011 level due to higher interest rates stemming from the 2011 refinancing.

We recorded an income tax benefit from continuing operations of $11.0 million in the third quarter of 2012 compared to an income tax provision of $29.8 million in the third quarter of 2011. In the first two quarters of 2012, income taxes were calculated based on the year-to-date effective tax rate as described in Note 4 to the condensed consolidated financial statements. In the third quarter income taxes were calculated based on the annual effective tax rate as described in Note 4. Therefore, a true-up adjustment was required in the third quarter to record the year-to-date income tax benefit consistent with the annual effective tax rate.

DISCONTINUED OPERATIONS Third quarter results from discontinued operations were a pretax loss of $2.3 million in 2012 compared to a pretax loss of $4.1 million in 2011. Both periods results consisted of general and product liability costs, including legal defense costs, and environmental remediation costs associated with our former Chemicals business.

## YEAR-TO-DATE SEPTEMBER 30, 2012 COMPARED TO YEAR-TO-DATE SEPTEMBER 30, 2011

Net sales of $1,836.4 million for the first nine months of 2012 were relatively flat compared to the $1,828.7 million for the same period of 2011. Shipments were down in aggregates (-1%) and asphalt (-6%) and up in ready-mixed concrete (+8%) and cement (+23%). Pricing was slightly up in all product lines with the only significant increase in cement (+3%).

Results for the first nine months of 2012 were a net loss of $56.1 million, or $0.43 per diluted share, compared to a net loss of $42.9 million, or $0.33 per diluted share, for the first nine months of 2011. Higher unit costs for diesel fuel and liquid asphalt resulted in higher pretax costs of $11.1 million. Additionally, each period s results were impacted by discrete items, as follows:

¡ The first nine months of 2012 results include a pretax charge of $43.3 million related to the unsolicited exchange offer, an $18.3 million gain related to the sale of real estate and mitigation credits, and $9.0 million of restructuring charges.

¡ The first nine months of 2011 results include pretax gains totaling $46.4 million related to the recovery from legal settlement (see Note 18 to the condensed consolidated financial statements), a pretax gain of $39.7 million on the sale of four non-strategic aggregates facilities, additional interest expense charges of $26.5 million referable to our tender offer and debt retirement completed in June 2011, and $3.0 million of restructuring charges.

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CONTINUING OPERATIONS Changes in the loss from continuing operations before income taxes for year-to-date September 30, 2012 versus year-to-date September 30, 2011 are summarized below:

**LOSS FROM CONTINUING OPERATIONS BEFORE INCOME TAXES**

*in millions*

| | |
|---|---|
| Year-to-date September 30, 2011 | ($97.3) |
| Higher aggregates gross profit due to | |
| Higher selling prices | 14.1 |
| Lower costs and other items | 35.0 |
| Lower volumes | (5.3) |
| Higher concrete gross profit | 2.5 |
| Lower asphalt mix gross profit | (4.9) |
| Higher cement gross profit | 4.0 |
| Lower selling, administrative and general expenses | 26.0 |
| Lower gain on sale of property, plant & equipment and businesses | (23.1) |
| Legal settlement recovery - 2011 | (46.4) |
| Higher restructuring charges | (6.0) |
| Exchange offer costs - 2012 | (43.3) |
| Lower interest expense | 4.8 |
| All other | 14.3 |
| **Year-to-date September 30, 2012** | **($125.6)** |

Aggregates segment gross profit increased $43.8 million from the prior year s first nine months and margin increased 3.4 percentage points (340 basis points). As shown in the table above, the increase in profits resulted from lower costs and higher selling prices slightly offset by the decline in volumes. All key labor productivity and energy efficiency metrics improved from the prior year, more than offsetting a 2% increase in the unit cost for diesel fuel. Total aggregates shipments were down 1% from the comparable nine month period. However, on a same-store basis, aggregates shipments were slightly up from the comparable prior year.

The Concrete segment gross profit was a loss of $29.9 million, an improvement of $2.5 million from the first nine months of 2011. Shipments of ready-mixed concrete increased 8% from the prior year as pricing remained essentially flat.

Asphalt Mix segment gross profit of $15.5 million was down $4.9 million from the comparable 2011 level. The average sales price for asphalt mix increased 1% from the 2011 level offsetting some of the earnings effect of a 6% decline in volume. The unit cost for liquid asphalt increased 7%, reducing segment profits by $9.3 million.

The Cement segment gross profit was a loss of $1.6 million compared to a loss of $5.6 million for the first nine months of 2011. Shipments and pricing were up 23% and 3%, respectively.

SAG expenses in the first nine months of 2012 were down $26.0 million, or 12%, from the prior year benefitting from the cost reduction initiatives.

Gain on sale of property, plant & equipment and businesses was $21.7 million for the first nine months of 2012 compared to $44.8 million in the first nine months of 2011. The 2011 amount includes a $39.7 million gain on the sale of four aggregates facilities while the 2012 amount includes an $18.3 million gain on the sale of real estate and mitigation credits.

The $46.4 million recovery from legal settlement included in the prior year s first nine month results reflects arbitration awards from insurers related to the lawsuit settled in 2010 with the Illinois Department of Transportation (IDOT). For additional details, see Note 18 to the condensed consolidated financial statements.

The $9.0 million of restructuring charges in the first nine months of 2012 relates to the implementation of the Profit Enhancement Plan. The $3.0 million of restructuring charges in the prior year relate to the cost reduction and restructuring initiative undertaken in 2011. For additional details, see Note 1 to the condensed consolidated financial statements.

The $43.3 million of exchange offer costs in the current year s first nine months reflects legal, professional and other costs incurred in response to an unsolicited exchange offer. For additional details, see Note 1 to the condensed consolidated financial statements.

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Net interest expense was $159.0 million in the first nine months of 2012 compared to $163.8 million in 2011. This decrease resulted from the aforementioned $26.5 million of charges incurred in 2011 in connection with our debt refinancing (tender offer and debt retirement) partially offset by higher interest rates, and somewhat to a higher level of debt, stemming from the debt refinancing.

We recorded income tax benefits from continuing operations of $67.1 million for the nine months ended September 30, 2012 compared to $47.9 million for the nine months ended September 30, 2011. After applying the pretax loss at the statutory rate, the largest difference is a decrease in unfavorable discrete income tax adjustments as compared to the prior year.

DISCONTINUED OPERATIONS Year-to-date September pretax earnings on discontinued operations were $3.9 million in 2012 and $10.6 million in 2011. The 2012 earnings include a $10.2 million 5CP earn-out gain (net of transaction costs) while the 2011 earnings include an $11.1 million 5CP earn-out gain and $7.5 million of gains related to litigation settlements. These gains were partially offset by charges related to general and product liability costs, including legal defense costs, and environmental remediation costs associated with our former Chemicals business. For additional details, see Note 2 to the condensed consolidated financial statements.

## LIQUIDITY AND CAPITAL RESOURCES

Our primary sources of liquidity are cash provided by our operating activities, a bank line of credit and access to the capital markets. Additional financial resources include the sale of reclaimed and surplus real estate, and dispositions of non-strategic operating assets. We believe these financial resources are sufficient to fund our future business requirements, including:

- cash contractual obligations
- capital expenditures
- debt service obligations
- potential future acquisitions
- dividend payments

We actively manage our capital structure and resources in order to minimize the cost of capital while properly managing financial risk. We seek to meet these objectives by adhering to the following principles:

- maintain substantial bank line of credit borrowing capacity
- use the bank line of credit only for seasonal working capital requirements and other temporary funding requirements
- proactively manage our long-term debt maturity schedule such that repayment/refinancing risk in any single year is low
- avoid financial and other covenants that limit our operating and financial flexibility

- opportunistically access the capital markets when conditions and terms are favorable

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## CASH

Included in our September 30, 2012 cash and cash equivalents balance of $243.1 million is $55.7 million of cash held at one of our foreign subsidiaries. The large majority of this $55.7 million of cash relates to earnings prior to January 1, 2012 that are permanently reinvested offshore.

### CASH FROM OPERATING ACTIVITIES

Net cash provided by operating activities is derived primarily from net earnings before deducting noncash charges for depreciation, depletion, accretion and amortization.

| *in millions* | ***Nine Months Ended September 30*** ***2012*** | *2011* |
|---|---|---|
| Net loss | **($56.1)** | ($42.9) |
| Depreciation, depletion, accretion and amortization | **253.4** | 273.7 |
| Net gain on sale of property, plant & equipment and businesses | **(31.9)** | (55.9) |
| Cost of debt purchase | **0.0** | 19.2 |
| Other operating cash flows, net | **(71.6)** | (72.4) |
| Net cash provided by operating activities | **$93.8** | $121.7 |

As noted in the table above, net cash provided by operating activities decreased $27.9 million for the nine months ended September 30, 2012 compared to the same period of 2011. This decrease resulted primarily from a $33.5 million reduction in net earnings before noncash deductions for depreciation, depletion, accretion and amortization. The 2012 net loss included $49.4 million of additional restructuring and unsolicited exchange offer costs as described in Note 1 to the condensed consolidated financial statements.

### CASH FLOWS FROM INVESTING ACTIVITIES

Net cash used for investing activities was $8.8 million during the nine months ended September 30, 2012, a $17.7 million decrease compared to the same period in the prior year. This decrease in investing cash flow consisted of a $44.9 million decrease in proceeds from the sale of businesses and property, plant and equipment as the 2011 results included the sale of four aggregates facilities. This decrease was partially offset by the current period s $27.9 million decrease in cash purchases of property, plant and equipment as we continue to closely evaluate the nature and timing of all capital projects.

### CASH FLOWS FROM FINANCING ACTIVITIES

Net cash provided by financing activities was $2.4 million during the nine months of 2012, a $28.2 million increase compared to the same period of 2011. This increase resulted from a $93.0 million decrease in dividends (a quarterly dividend rate of $0.25 per share in 2011 versus $0.01 per share in 2012). This dividend reduction in 2012 was partially offset by the prior year s receipt of $39.5 million in net proceeds from debt restructuring that included $1.1 billion of debt issuance and $1.06 billion of debt retirement and related costs.

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## DEBT

Our weighted-average interest rates, total debt as a percentage of total capital and percentage of floating and fixed rate debt are summarized below:

| *dollars in millions* | ***September 30 2012*** | *December 31 2011* | *September 30 2011* |
|---|---|---|---|
| **Debt** | | | |
| Current maturities of long-term debt | **$285.2** | $134.8 | $5.2 |
| Long-term debt | **2,527.4** | 2,680.7 | 2,816.2 |
| Total debt | **$2,812.6** | $2,815.5 | $2,821.4 |
| **Capital** | | | |
| Total debt | **$2,812.6** | $2,815.5 | $2,821.4 |
| Equity [1] | **3,767.2** | 3,791.6 | 3,866.9 |
| Total capital | **$6,579.8** | $6,607.1 | $6,688.3 |
| **Weighted-average Effective Interest Rates** | | | |
| Bank line of credit [2] | **0.92%** | 0.93% | 0.14% |
| Long-term debt excluding bank line of credit | **7.65%** | 7.64% | 7.64% |
| **Total Debt as a Percentage of Total Capital** | **42.7%** | 42.6% | 42.2% |
| **Total Debt Percentage of** | | | |
| Floating-rate debt | **0.5%** | 0.5% | 0.5% |
| Fixed-rate debt | **99.5%** | 99.5% | 99.5% |

*1 As restated for September 30, 2011, see Note 1 to the condensed consolidated financial statements.*

*2 Interest expense accrues for the amortization of deferred issuance costs, and fees for unused borrowing capacity and standby letters of credit.*

Our $285.2 million of current maturities of long-term debt as of September 30, 2012 is due as follows:

| *in millions* | ***Current Maturities*** |
|---|---|
| Fourth quarter 2012 | $134.7 |
| First quarter 2013 | 10.0 |
| Second quarter 2013 | 140.5 |
| Third quarter 2013 | 0.0 |

We expect to retire the 2012 maturities using existing cash. We expect to retire the 2013 maturities using cash generated from operations or by drawing on our bank line of credit.

During the fourth quarter of 2011, we replaced our $1.5 billion bank line of credit that was due to expire on November 16, 2012 with a $600.0 million bank line of credit. We reduced the size of the bank line of credit to match the current and expected needs of the business the $1.5 billion bank line of credit was established in connection with the acquisition of Florida Rock and the initial borrowings were largely refinanced with other debt instruments.

The $600.0 million bank line of credit expires on December 15, 2016 and is secured by certain domestic accounts receivable and inventory. Borrowing capacity fluctuates with the level of eligible accounts receivable and inventory and may be less than $600.0 million at any point in time.

Utilization of the borrowing capacity under our bank line of credit as of September 30, 2012:

¡ none was drawn

¡ $58.6 million of borrowing capacity was used to support outstanding standby letters of credit

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Borrowings under the $600.0 million bank line of credit bear interest at a rate determined at the time of borrowing equal to the lower of the London Interbank Offered Rate (LIBOR) plus a margin ranging from 1.75% to 2.25% based on the level of utilization, or an alternative rate derived from the lender s prime rate. Borrowings bearing interest at LIBOR plus the margin are made for periods of 1, 2, 3 or 6 months, and may be extended. Borrowings bearing interest at an alternative rate are made on an overnight basis and may be extended each day. Letters of credit issued under the $600.0 million bank line of credit are charged a fee equal to the applicable margin for borrowings. As of September 30, 2012, the applicable margin was 1.75%.

Borrowings under the $600.0 million bank line of credit are classified as long-term debt due to our ability to extend borrowings at the end of each borrowing period. Prior to December 31, 2011, we classified bank line of credit borrowings as short-term debt based on our intent to pay outstanding borrowings within one year.

In June 2011, we issued $1.1 billion of long-term notes in two series, as follows: $500.0 million of 6.50% notes due in 2016 and $600.0 million of 7.50% notes due in 2021. These notes were issued principally to:

¡ repay and terminate our $450.0 million floating-rate term loan due in 2015

¡ fund the purchase through a tender offer of $165.4 million of our outstanding 5.60% notes due in 2012 and $109.6 million of our outstanding 6.30% notes due in 2013

¡ repay $275.0 million outstanding under our bank line of credit

¡ and for general corporate purposes

**DEBT RATINGS**

Our short-term debt rating/outlook as of September 30, 2012 was:

¡ *Moody s* not prime/negative (rating dated September 16, 2011; outlook changed from stable to negative)

In October 2011, Standard and Poor s withdrew our short-term debt rating/outlook at our request. The rating (B/negative) was deemed unnecessary as we had no outstanding commercial paper and access to the commercial paper market was unavailable at the current credit rating.

Our long-term debt ratings/outlooks as of September 30, 2012 were:

¡ *Standard and Poor s* BB/stable (rating dated June 11, 2012; outlook changed from watch positive to stable)

¡ *Moody s* Ba3/negative (rating dated July 12, 2012; downgraded from Ba2/negative)

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## EQUITY

Our common stock issuances are summarized below:

| *in thousands* | ***September 30 2012*** | *December 31 2011* | *September 30 2011* |
|---|---|---|---|
| Common stock shares at beginning of year issued and outstanding | **129,245** | 128,570 | 128,570 |
| **Common Stock Issuances** | | | |
| Acquisition | **61** | 373 | 373 |
| 401(k) savings and retirement plan | **0** | 111 | 111 |
| Share-based compensation plans | **290** | 191 | 179 |
| Common stock shares at end of period issued and outstanding | **129,596** | 129,245 | 129,233 |

During 2011 and 2012, we issued 0.4 million shares of common stock in connection with a business acquisition as explained in Note 13 to the condensed consolidated financial statements.

We periodically sell shares of common stock to the trustee of our 401(k) savings and retirement plan to satisfy the plan participants elections to invest in our common stock. This arrangement provides a means of improving cash flow, increasing equity and reducing leverage. Under this arrangement, the stock issuances and resulting cash proceeds for the periods presented were:

- nine months ended September 30, 2012 0 shares issued
- twelve months ended December 31, 2011 issued 0.1 million shares for cash proceeds of $4.7 million
- nine months ended September 30, 2011 issued 0.1 million shares for cash proceeds of $4.7 million

There were no shares held in treasury as of September 30, 2012, December 31, 2011 and September 30, 2011. There were 3,411,416 shares remaining under the current purchase authorization of the Board of Directors as of September 30, 2012.

## OFF-BALANCE SHEET ARRANGEMENTS

We did not enter into any new material off-balance sheet arrangements during the first nine months of 2012.

## STANDBY LETTERS OF CREDIT

For a discussion of our standby letters of credit see Note 11 to the condensed consolidated financial statements.

## CASH CONTRACTUAL OBLIGATIONS

Our obligation to make future payments under contracts is presented in our most recent Annual Report on Form 10-K.

# CRITICAL ACCOUNTING POLICIES

We follow certain significant accounting policies when preparing our consolidated financial statements. A summary of these policies is included in our Annual Report on Form 10-K for the year ended December 31, 2011 (Form 10-K).

We prepare these financial statements to conform with accounting principles generally accepted in the United States of America. These principles require us to make estimates and judgments that affect our reported amounts of assets, liabilities, revenues and expenses, and the related disclosures of contingent assets and contingent liabilities at the date of the financial statements. We base our estimates on historical experience, current conditions and various other assumptions we believe reasonable under existing circumstances and evaluate these estimates and judgments on an ongoing basis. The results of these estimates form the basis for our judgments about the carrying values of assets and liabilities as well as identifying and assessing the accounting treatment with respect to commitments and contingencies. Our actual results may differ from these estimates.

We believe that the accounting policies described in the Management s Discussion and Analysis of Financial Condition and Results of Operations section of our Form 10-K require the most significant judgments and estimates used in the preparation of our financial statements, so we consider these to be our critical accounting policies. There have been no changes to our critical accounting policies during the nine months ended September 30, 2012.

# NEW ACCOUNTING STANDARDS

For a discussion of the accounting standards recently adopted or pending adoption and the affect such accounting changes will have on our results of operations, financial position or liquidity, see Note 15 to the condensed consolidated financial statements.

# FORWARD-LOOKING STATEMENTS

Certain matters discussed in this report, including expectations regarding future performance, contain forward-looking statements that are subject to assumptions, risks and uncertainties that could cause actual results to differ materially from those projected. These assumptions, risks and uncertainties include, but are not limited to:

- cost reductions, profit enhancements and asset sales, as well as streamlining and other strategic actions we adopted, will not be able to be realized to the desired degree or within the desired time period and that the results thereof will differ from those anticipated or desired
- uncertainties as to the timing and valuations that may be realized or attainable with respect to intended asset sales
- general economic and business conditions
- the timing and amount of federal, state and local funding for infrastructure
- the impact of a prolonged economic recession on our industry, business and financial condition and access to capital markets
- changes in the level of spending for private residential and nonresidential construction
- the highly competitive nature of the construction materials industry
- the impact of future regulatory or legislative actions
- the outcome of pending legal proceedings

¡ pricing of our products

¡ weather and other natural phenomena

¡ energy costs

¡ costs of hydrocarbon-based raw materials

¡ healthcare costs

¡ the amount of long-term debt and interest expense we incur

¡ changes in interest rates

¡ the impact of our below investment grade debt rating on our cost of capital

¡ volatility in pension plan asset values which may require cash contributions to the pension plans

¡ the impact of environmental clean-up costs and other liabilities relating to previously divested businesses

¡ our ability to secure and permit aggregates reserves in strategically located areas

¡ our ability to manage and successfully integrate acquisitions

¡ the potential of goodwill impairment

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- the potential impact of future legislation or regulations relating to climate change or greenhouse gas emissions or the definition of minerals

- other assumptions, risks and uncertainties detailed from time to time in our periodic reports

All forward-looking statements are made as of the date of filing. We undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise. Investors are cautioned not to rely unduly on such forward-looking statements when evaluating the information presented in our filings, and are advised to consult any of our future disclosures in filings made with the Securities and Exchange Commission and our press releases with regard to our business and consolidated financial position, results of operations and cash flows.

# INVESTOR INFORMATION

We make available on our website, *www.vulcanmaterials.com*, free of charge, copies of our:

- Annual Report on Form 10-K

- Quarterly Reports on Form 10-Q

- Current Reports on Form 8-K

We also provide amendments to those reports filed with or furnished to the Securities and Exchange Commission (SEC) pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 as well as all Forms 3, 4 and 5 filed with the SEC by our executive officers and directors, as soon as the filings are made publicly available by the SEC on its EDGAR database (*www.sec.gov*).

The public may read and copy materials filed with the SEC at the Public Reference Room of the SEC at 100 F Street, NE, Washington, D. C. 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-732-0330. In addition to accessing copies of our reports online, you may request a copy of our Annual Report on Form 10-K, including financial statements, by writing to Jerry F. Perkins Jr., Secretary, Vulcan Materials Company, 1200 Urban Center Drive, Birmingham, Alabama 35242.

We have a:

- Business Conduct Policy applicable to all employees and directors

- Code of Ethics for the CEO and Senior Financial Officers

Copies of the Business Conduct Policy and the Code of Ethics are available on our website under the heading Corporate Governance. If we make any amendment to, or waiver of, any provision of the Code of Ethics, we will disclose such information on our website as well as through filings with the SEC.

Our Board of Directors has also adopted:

- Corporate Governance Guidelines

- Charters for its Audit, Compensation and Governance Committees

These documents meet all applicable SEC and New York Stock Exchange regulatory requirements.

Each of these documents is available on our website under the heading, Corporate Governance, or you may request a copy of any of these documents by writing to Jerry F. Perkins Jr., Secretary, Vulcan Materials Company, 1200 Urban Center Drive, Birmingham, Alabama 35242.

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ITEM 3

## QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to certain market risks arising from transactions that are entered into in the normal course of business. In order to manage or reduce these market risks, we may utilize derivative financial instruments. We do not enter into derivative financial instruments for speculative or trading purposes.

We are exposed to interest rate risk due to our various credit facilities and long-term debt instruments. At times, we use interest rate swap agreements to manage this risk.

At September 30, 2012, the estimated fair value of our long-term debt instruments including current maturities was $3,081.5 million compared to a book value of $2,812.6 million. The estimated fair value was determined by discounting expected future cash flows based on credit-adjusted interest rates on U.S. Treasury bills, notes or bonds, as appropriate. The fair value estimate is based on information available as of the measurement date. Although we are not aware of any factors that would significantly affect the estimated fair value amount, it has not been comprehensively revalued since the measurement date. The effect of a decline in interest rates of 1 percentage point would increase the fair value of our liability by $154.5 million.

We are exposed to certain economic risks related to the costs of our pension and other postretirement benefit plans. These economic risks include changes in the discount rate for high-quality bonds, the expected return on plan assets, the rate of compensation increase for salaried employees and the rate of increase in the per capita cost of covered healthcare benefits. The impact of a change in these assumptions on our annual pension and other postretirement benefits costs is discussed in our most recent Annual Report on Form 10-K.

ITEM 4

## CONTROLS AND PROCEDURES

### DISCLOSURE CONTROLS AND PROCEDURES

We maintain a system of controls and procedures designed to ensure that information required to be disclosed in reports we file with the SEC is recorded, processed, summarized and reported within the time periods specified by the SEC s rules and forms. These disclosure controls and procedures (as defined in the Securities and Exchange Act of 1934 Rules 13a - 15(e) and 15d - 15(e)), include, without limitation, controls and procedures designed to ensure that information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding required disclosure. Our Chief Executive Officer and Chief Financial Officer, with the participation of other management officials, evaluated the effectiveness of the design and operation of the disclosure controls and procedures as of September 30, 2012. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective.

We are in the process of replacing our legacy information technology systems and have substantially completed the implementation of new financial reporting software, which is a major component of the replacement. We are also in the process of implementing a new quote to cash software system, which is another significant component of the replacement. The new information technology systems were a source for most of the information presented in this Quarterly Report on Form 10-Q. We are continuing to work towards the full implementation of the new information technology systems.

No other changes were made to our internal controls over financial reporting or other factors that could materially affect these controls during the third quarter of 2012.

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# PART II OTHER INFORMATION

ITEM 1

## LEGAL PROCEEDINGS

Certain legal proceedings in which we are involved are discussed in Note 12 to the consolidated financial statements and Part I, Item 3 of our Annual Report on Form 10-K for the year ended December 31, 2011, and in Note 18 to the condensed consolidated financial statements and Part II, Item 1 of our Quarterly Report on Form 10-Q for the quarters ended March 31, 2012 and June 30, 2012. See Note 18 to the condensed consolidated financial statements of this Form 10-Q for a discussion of certain recent developments concerning our legal proceedings.

ITEM 1A

## RISK FACTORS

There were no material changes to the risk factors disclosed in Item 1A of Part 1 in our Form 10-K for the year ended December 31, 2011 as previously updated by disclosure in Item IA of Part 1 of our Form 10-Q for the quarter ended June 30, 2012.

ITEM 4

## MINE SAFETY DISCLOSURES

The information concerning mine safety violations or other regulatory matters required by Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 104 of Regulation S-K is included in Exhibit 95 of this report.

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ITEM 6
EXHIBITS

| | |
|---|---|
| Exhibit 31(a) | Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 |
| Exhibit 31(b) | Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 |
| Exhibit 32(a) | Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 |
| Exhibit 32(b) | Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 |
| Exhibit 95 | MSHA Citations and Litigation |
| Exhibit 101.INS | XBRL Instance Document |
| Exhibit 101.SCH | XBRL Taxonomy Extension Schema Document |
| Exhibit 101.CAL | XBRL Taxonomy Extension Calculation Linkbase Document |
| Exhibit 101.LAB | XBRL Taxonomy Extension Label Linkbase Document |
| Exhibit 101.PRE | XBRL Taxonomy Extension Presentation Linkbase Document |
| Exhibit 101.DEF | XBRL Taxonomy Extension Definition Linkbase Document |

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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.

| | | |
|---|---|---|
| | | **VULCAN MATERIALS COMPANY** |
| Date | November 8, 2012 | /s/ Ejaz A. Khan |
| | | Ejaz A. Khan |
| | | Vice President, Controller and Chief |
| | | Information Officer |
| | | (Principal Accounting Officer) |
| Date | November 8, 2012 | /s/ Daniel F. Sansone |
| | | Daniel F. Sansone |
| | | Executive Vice President, Chief Financial |
| | | Officer |
| | | (Principal Financial Officer) |