US CONCRETE INC
Form 10-Q
August 09, 2013

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

FORM 10-Q

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

For the Quarterly Period Ended June 30, 2013

o 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: 001-34530
U.S. CONCRETE, INC.
(Exact name of registrant as specified in its charter)

Delaware	76-0586680
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

331 N. Main Street, Euless, Texas 76039
(Address of principal executive offices, including zip code)
(817) 835-4105
(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 þ No ¨

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

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

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

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

Indicate by check mark whether the registrant has filed all documents required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by the court. Yes þ No ¨

There were 14,148,654 shares of common stock, par value $.001 per share, of the registrant outstanding as of August 7, 2013.

U.S. CONCRETE, INC.

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PART I - FINANCIAL INFORMATION
Item 1. Financial Statements

U.S. CONCRETE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands)

	June 30, 2013 (unaudited)	December 31, 2012
ASSETS		
Current assets:		
Cash and cash equivalents	$7,149	$4,751
Trade accounts receivable, net of allowances of $2,687 and $2,368 as of June 30, 2013 and December 31, 2012, respectively	101,784	84,034
Inventories	25,368	25,001
Deferred income taxes	2,933	2,835
Prepaid expenses	4,784	3,651
Other receivables	11,296	4,414
Other current assets	2,016	3,080
Total current assets	155,330	127,766
Property, plant and equipment, net of accumulated depreciation, depletion, and amortization of $46,436 and $38,273 as of June 30, 2013 and December 31, 2012, respectively	121,318	120,871
Goodwill	10,526	10,717
Purchased intangible assets, net	13,813	15,033
Other assets	4,113	5,337
Total assets	$305,100	$279,724
LIABILITIES AND EQUITY		
Current liabilities:		
Current maturities of long-term debt	$1,898	$1,861
Accounts payable	57,396	48,880
Accrued liabilities	39,415	36,430
Derivative liabilities	15,738	22,030
Total current liabilities	114,447	109,201
Long-term debt, net of current maturities	88,898	61,598
Other long-term obligations and deferred credits	11,964	13,114
Deferred income taxes	3,386	3,287
Total liabilities	218,695	187,200
Commitments and contingencies (Note 17)		
Equity:		
Preferred stock	—	—
Common stock	14	13
Additional paid-in capital	140,155	136,451
Accumulated deficit	(50,885)	(43,196)
Treasury stock, at cost	(2,879)	(744)
Total stockholders’ equity	86,405	92,524
Total liabilities and equity	$305,100	$279,724

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

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U.S. CONCRETE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(in thousands, except per share amounts)

	Three months ended June 30,		Six months ended June 30,	
	2013	2012	2013	2012
Revenue	$162,520	$138,178	$290,261	$249,093
Cost of goods sold before depreciation, depletion and amortization	132,720	118,182	243,877	216,847
Selling, general and administrative expenses	16,400	13,580	30,922	27,223
Depreciation, depletion and amortization	4,570	3,771	9,424	7,393
Gain on sale of assets	(31)	(8)	(26)	(599)
Income (loss) from operations	8,861	2,653	6,064	(1,771)
Interest expense, net	(2,588)	(2,905)	(5,360)	(5,774)
Derivative loss	(1,916)	(577)	(20,362)	(3,968)
(Loss) gain on extinguishment of debt	(6)	—	4,304	—
Other income, net	499	989	997	1,520
Income (loss) from continuing operations before income taxes	4,850	160	(14,357)	(9,993)
Income tax benefit (expense)	3,088	(106)	8,285	(294)
Income (loss) from continuing operations	7,938	54	(6,072)	(10,287)
Loss from discontinued operations, net of taxes	(1,263)	(362)	(1,617)	(251)
Net income (loss)	$6,675	$(308)	$(7,689)	$(10,538)
Basic income (loss) per share:				
Income (loss) from continuing operations	$0.63	$—	$(0.49)	$(0.85)
Loss from discontinued operations, net of taxes	(0.10)	(0.03)	(0.13)	(0.02)
Net income (loss) per share – basic	$0.53	$(0.03)	$(0.62)	$(0.87)
Diluted income (loss) per share:				
Income (loss) from continuing operations	$0.59	—	$(0.49)	$(0.85)
Loss from discontinued operations, net of taxes	(0.09)	(0.03)	(0.13)	(0.02)
Net income (loss) per share – diluted	$0.50	(0.03)	$(0.62)	$(0.87)
Weighted average shares outstanding:				
Basic	12,550	12,163	12,455	12,152
Diluted	13,634	12,163	12,455	12,152

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

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U.S. CONCRETE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(Unaudited)
(in thousands)

	Common Stock					
	# of Shares	Par Value	Additional Paid-In Capital	Accumulated Deficit	Treasury Stock	Total Equity
BALANCE, December 31, 2011	12,867	$13	$133,939	$(17,457)	$(415)	$116,080
Stock-based compensation expense	—	—	1,465	—	—	1,465
Restricted stock vesting	58	—	—	—	—	—
Restricted stock grants	398	—	—	—	—	—
Purchase of treasury shares	(10)	—	—	—	(40)	(40)
Net loss	—	—	—	(10,538)	—	(10,538)
BALANCE, June 30, 2012	13,313	$13	$135,404	$(27,995)	$(455)	$106,967
BALANCE, December 31, 2012	13,358	$13	$136,451	$(43,196)	$(744)	$92,524
Stock-based compensation expense	—	—	3,545	—	—	3,545
Restricted stock vesting	90	—	—	—	—	—
Restricted stock grants	182	1	—	—	—	1
Stock options exercised	10	—	122	—	—	122
Conversion of convertible debt	2	—	37	—	—	37
Purchase of treasury shares	(154)	—	—	—	(2,135)	(2,135)
Net loss	—	—	—	(7,689)	—	(7,689)
BALANCE, June 30, 2013	13,488	$14	$140,155	$(50,885)	$(2,879)	$86,405

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

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U.S. CONCRETE, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(in thousands)

	Six months ended June 30,	
	2013	2012
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	$(7,689)	$(10,538)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation, depletion and amortization	9,440	7,843
Debt issuance cost amortization	1,389	2,112
Gain on extinguishment of debt	(4,304)	—
Amortization of facility exit costs	(106)	—
Amortization of discount on long-term incentive plan and other accrued interest	252	—
Net loss on derivative	20,362	3,968
Net loss (gain) on sale of assets	204	(601)
Deferred income taxes	(8,644)	(21)
Deferred rent	516	—
Provision for doubtful accounts	637	436
Stock-based compensation	3,545	1,465
Changes in assets and liabilities:		
Accounts receivable	(18,139)	(18,929)
Inventories	(367)	(868)
Prepaid expenses and other current assets	2,313	(2,367)
Other assets and liabilities	(1,377)	(253)
Accounts payable and accrued liabilities	11,379	12,102
Net cash provided by (used in) operating activities	9,411	(5,651)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property, plant and equipment	(8,116)	(2,985)
Proceeds from disposals of property, plant and equipment	173	1,765
Payments related to disposals of business units	(1,866)	—
Net cash used in investing activities	(9,809)	(1,220)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from borrowings	68,474	77,737
Repayments of borrowings	(60,774)	(67,268)
Proceeds from exercise of stock options	122	—
Payments for seller-financed debt and joint venture	(921)	(949)
Debt issuance costs	(1,970)	—
Purchase of treasury shares	(2,135)	(165)
Net cash provided by financing activities	2,796	9,355
NET INCREASE IN CASH AND CASH EQUIVALENTS	2,398	2,484
CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD	4,751	4,229
CASH AND CASH EQUIVALENTS AT END OF PERIOD	$7,149	$6,713

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

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U.S. CONCRETE, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. BASIS OF PRESENTATION

The accompanying condensed consolidated financial statements include the accounts of U.S. Concrete, Inc. and its subsidiaries (collectively, “we,” “us,” “our,” “U.S. Concrete,” or the “Company”) and have been prepared by us, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission (the “SEC”). Some information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles in the United States ("U.S. GAAP") have been condensed or omitted pursuant to the SEC’s rules and regulations. These unaudited condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and related notes in our Annual Report on Form 10-K for the year ended December 31, 2012 (the “2012 Form 10-K”). In the opinion of our management, all adjustments necessary to state fairly the information in our unaudited condensed consolidated financial statements and to make such financial statements not misleading have been included. All adjustments are of a normal or recurring nature. Operating results for the three and six months ended June 30, 2013 are not necessarily indicative of our results expected for the year ending December 31, 2013, or for any future period.

The preparation of financial statements and accompanying notes in conformity with U.S. GAAP requires management to make estimates and assumptions in determining the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Estimates and assumptions that we consider critical and involve complex judgment in the preparation of our financial statements include those related to our goodwill, accruals for self-insurance, income taxes, the valuation of long-lived assets, and the valuation of derivative instruments.

2. RECENT ACCOUNTING PRONOUNCEMENTS AND SIGNIFICANT ACCOUNTING POLICIES

In January 2013, the Financial Accounting Standards Board (the "FASB") issued an amendment to clarify the scope of a prior amendment issued in December 2011. The January 2013 amendment limits the December 2011 amendment's disclosure requirements regarding offsetting and related arrangements to specific derivative, borrowing, and lending transactions. Thus, certain master netting arrangements are no longer subject to the December 2011 amendment's requirements. Both the December 2011 and January 2013 amendments are effective for annual and interim periods beginning on or after January 1, 2013. The Company adopted this guidance on the first day of fiscal year 2013 and there was no material impact on the consolidated financial statements.

In July 2012, the FASB issued an amendment to its indefinite-lived intangible assets impairment testing guidance to simplify how entities test for indefinite-lived intangible asset impairments. The objective of the amendment is to reduce cost and complexity by providing an entity with the option to make a qualitative assessment about the likelihood that an indefinite-lived intangible asset is impaired to determine whether it should perform a quantitative impairment test. The amendment also enhances the consistency of impairment testing guidance among long-lived asset categories by permitting an entity to assess qualitative factors to determine whether it is necessary to calculate the asset's fair value when testing an indefinite-lived intangible asset for impairment, which is equivalent to the impairment testing requirements for other long-lived assets. The amendment is effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012, although early adoption is permitted. The Company adopted this guidance on the first day of fiscal year 2013 and does not expect it to have a material impact on the consolidated financial statements. Annual impairment tests are completed during the fourth quarter.

For a description of our significant accounting policies, see Note 1 of the consolidated financial statements in our 2012 Form 10-K.

3. ACQUISITIONS AND DISPOSITIONS

Sale of California Precast Operations

On August 2, 2012, we executed a definitive asset purchase agreement to sell substantially all of the Company’s California precast operations to Oldcastle Precast, Inc. ("Oldcastle") for $21.3 million in cash, plus net working capital adjustments. The assets purchased by Oldcastle included certain facilities, fixed assets, and working capital items. The transaction was completed on August 20, 2012. The results of operations for these units have been included in discontinued operations for the periods presented.

U.S. CONCRETE, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

In conjunction with the sale to Oldcastle, we also entered into certain sublease and license agreements with Oldcastle for certain land and property that is leased or owned by us. As the sublease and license agreements provide payment for the full amount of our obligation under the leases, we did not record any liability for exit obligations associated with these agreements.

During the first quarter of 2013, we made payments totaling $1.9 million to Oldcastle related to the reacquisition of certain uncollected receivables as well as the settlement of certain accrued liabilities. At June 30, 2013, $0.4 million of the acquired receivables are recorded in other receivables on the condensed consolidated balance sheet.

Purchase of Colorado River Concrete Assets

On September 14, 2012, we purchased four ready-mixed concrete plants and related assets and inventory from Colorado River Concrete L.P., Cindy & Robin Concrete, L.P., and E&R Artecona Family Limited Partnership (collectively, "CRC") in our west Texas market for $2.4 million in cash and a $1.9 million promissory note at an annual interest rate of 4.5%. This note is being paid in twenty-four equal monthly installments which began in January 2013. We made cash payments on the promissory note of approximately $0.5 million during the six months ended June 30, 2013. The purchase of these assets allows us to expand our business in two of our major markets: west Texas and north Texas. We acquired plant and equipment valued at $3.2 million, inventory valued at $0.2 million, and goodwill valued at $1.0 million. No liabilities were assumed in the purchase. The goodwill ascribed to the purchase is related to the synergies we expect to achieve with expansion of these areas in which we already operate. We expect the goodwill to be deductible for tax purposes.

Purchase of Bode Gravel and Bode Concrete Equity Interests

On October 30, 2012, we completed the acquisition of all the outstanding equity interests of Bode Gravel Co. and Bode Concrete LLC (collectively, the "Bode Companies") pursuant to an equity purchase agreement dated October 17, 2012. The Bode Companies operated two fixed and one portable ready-mixed concrete plants and 41 mixer trucks in the San Francisco area, and produced approximately 243,000 cubic yards of ready-mix concrete in 2011. The purchase price for the acquisition was $24.5 million in cash, plus working capital and closing adjustments of $1.6 million, plus potential earn-out payments. The earn-out payments are contingent upon reaching negotiated volume hurdles, with an aggregate present value of up to $7.0 million in cash payable over a six-year period, resulting in total consideration fair value of $33.1 million. We funded the acquisition from cash on hand and borrowings under our 2012 Credit Agreement as defined in Note 8.

The purchase price allocation has been prepared and recorded on a preliminary basis and may change as additional information becomes available regarding the fair value and tax basis of the assets and liabilities acquired. Changes to the purchase price allocation will be made as soon as practical, but no later than one year from the acquisition date of October 30, 2012. The excess of the purchase price over the fair values of the assets acquired and liabilities assumed represents the goodwill resulting from the acquisition. The goodwill ascribed to the purchase is related to the synergies we expect to achieve, as well as expansion of our business in the San Francisco, California area in which we already operate. We expect a portion of the goodwill to be deductible for tax purposes. See Note 14 for additional information regarding income taxes.

Sale of Smith Precast Operations

On December 17, 2012, we completed the sale of substantially all of our assets associated with our Smith Precast operations ("Smith") located in Phoenix, Arizona, to Jensen Enterprises, Inc. ("Jensen") for $4.3 million in cash and the assumption of certain obligations. The assets purchased by Jensen included certain facilities, fixed assets, and working capital items. In addition, Jensen assumed the obligations of a capital lease previously held by Smith. The results of operations for this unit have been included in discontinued operations for the periods presented.

Other

In October 2006, we acquired certain aggregates assets located in New Jersey. Pursuant to the purchase agreement, additional consideration would be due if we were able to receive permits that allowed us to mine the minerals from certain areas. In April 2012, we obtained the permits necessary to allow us to mine this area of property. Accordingly, we accrued $1.4 million in additional purchase consideration during the quarter ended June 30, 2012. On October 5, 2012, we signed an agreement with the seller to pay a total of $1.0 million in lieu of the $1.4 million contractual payment due to a lower volume of aggregate assets available to mine than originally contemplated in the agreement. We signed a promissory note for the $1.0 million settlement, payable in eight equal quarterly installments at an annual interest rate of 2.5%, which began in November 2012. We made cash payments on the promissory note of approximately $0.2 million during the six months ended June 30, 2013.

U.S. CONCRETE, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

In October 2010, we acquired three ready-mixed concrete plants and related assets and inventory in our west Texas market for approximately $3.0 million. We made cash payments of $0.4 million at closing and issued promissory notes for the remaining $2.6 million at an annual interest rate of 5%. We made cash payments on these notes of approximately $0.2 million during each of the six months ended June 30, 2013 and 2012.

In August 2010, we entered into a redemption agreement to have our 60% interest in our Michigan subsidiary, Superior Materials Holdings, LLC (“Superior”), redeemed by Superior. At the closing of the redemption on September 30, 2010, we and certain of our subsidiaries paid $0.6 million in cash and issued a $1.5 million promissory note to Superior as partial consideration for certain indemnifications and other consideration provided by the minority owner and their new joint venture partner pursuant to the redemption agreement. In January 2012, we paid $0.8 million to complete payment of the note.

4. DISCONTINUED OPERATIONS

As disclosed in Note 3 above, we completed the sale of our California and Arizona precast operations in August 2012 and December 2012, respectively. We have presented the results of operations for these units for all periods as discontinued operations.

The results of these discontinued operations included in the accompanying condensed consolidated statements of operations were as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2013	2012	2013	2012
Revenue	$—	$12,906	$—	$24,995
Depreciation, depletion and amortization (“DD&A”)	8	224	16	450
Operating expenses excluding DD&A	1,306	13,041	1,441	24,797
Loss from discontinued operations	(1,314)	(359)	(1,457)	(252)
(Loss) gain on settlement of assets	(4)	(4)	(230)	2
Loss from discontinued operations, before income taxes	(1,318)	(363)	(1,687)	(250)
Income tax benefit (expense)	55	1	70	(1)
Net loss from discontinued operations	$(1,263)	$(362)	$(1,617)	$(251)

5. INVENTORIES

Inventory consists of the following (in thousands):

	June 30, 2013	December 31, 2012
Raw materials	$22,292	$22,082
Building materials for resale	2,018	1,645
Precast finished goods	11	—
Other	1,047	1,274
	$25,368	$25,001

U.S. CONCRETE, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

6. PURCHASED INTANGIBLE ASSETS, NET

Our purchased intangible assets are as follows (in thousands) as of June 30, 2013:

	Gross	Accumulated Amortization	Net	Weighted Average Remaining Life (in years)
Customer relationships	$ 13,500	$ (900)	$ 12,600	9.33
Trade name	1,300	(87)	1,213	9.33
Backlog	800	(800)	—	0
Total purchased intangible assets	$ 15,600	$ (1,787)	$ 13,813	9.33

We recorded $0.4 million and $1.2 million of amortization on our intangibles for the three and six months ended June 30, 2013, respectively, which is included in our condensed consolidated statement of operations. We did not have any purchased intangible assets as of June 30, 2012.

The estimated remaining amortization of our finite-lived intangible assets as of June 30, 2013, is as follows (in thousands):

	Total for year
2013	$ 740
2014	1,480
2015	1,480
2016	1,480
2017	1,480
Thereafter	7,153
Total	$ 13,813

7. ACCRUED LIABILITIES

A summary of our accrued liabilities is as follows (in thousands):

	June 30, 2013	December 31, 2012
Accrued insurance reserves	$ 10,123	$ 9,816
Accrued materials	8,987	5,745
Accrued compensation and benefits	7,379	7,381
Accrued property, sales and other taxes	3,828	4,632
Accrued rent	2,416	1,904
Accrued interest	1,757	547
Other	4,925	6,405
	$ 39,415	$ 36,430

8. DEBT

A summary of our debt is as follows (in thousands):

	June 30, 2013	December 31, 2012
Senior secured credit facility due 2015	$21,000	$13,300
Senior secured notes due 2015	61,113	—
Convertible notes due 2015	5,587	46,142
Notes payable and other financing	3,096	4,017
	90,796	63,459
Less: current maturities	1,898	1,861
Total long-term debt	$88,898	$61,598

The carrying value of outstanding amounts under the 2012 Credit Agreement (as defined below) approximates fair value due to the floating interest rate. The fair value of our 9.5% Convertible Notes due 2015 (the “Convertible Notes”) was approximately $9.2 million, including the embedded derivative of $3.7 million, at June 30, 2013 (see Note 11), and was $68.8 million, including the embedded derivative of $17.2 million, at December 31, 2012. The weighted average interest rate for the 2012 Credit Agreement was 2.94% as of June 30, 2013. The weighted average interest rate for the remaining Convertible Notes was 17.50% as of June 30, 2013.

Senior Secured Credit Facility due 2015

On August 31, 2012, we and certain of our subsidiaries entered into a Loan and Security Agreement (as subsequently amended, the “2012 Credit Agreement”) with certain financial institutions named therein, as lenders (the “Lenders”), and Bank of America, N.A., as agent and sole lead arranger (the "Administrative Agent”), which provided for an $80.0 million asset-based revolving credit facility (the “2012 Revolving Commitment”). On March 28, 2013, we entered into a First Amendment to Loan and Security Agreement (the "Amendment") with certain financial institutions party thereto (the "New Lenders") and the Administrative Agent, which amended the 2012 Credit Agreement. The Amendment, among other things, increased the 2012 Revolving Commitment by $22.5 million from $80.0 million to $102.5 million. The expiration date of the 2012 Credit Agreement remains July 1, 2015 and draws under the 2012 Credit Agreement may be prepaid from time to time without penalty or premium. The 2012 Revolving Commitment retains an uncommitted accordion feature that may allow for an increase in the total commitments under the facility to as much as $125.0 million. As of June 30, 2013, we had $21.0 million of outstanding borrowings and $11.3 million of undrawn standby letters of credit under the 2012 Credit Agreement.

Our actual maximum credit availability under the 2012 Credit Agreement varies from time to time and is determined by calculating a borrowing base, which is based on the value of our eligible accounts receivable, inventory and vehicles, which serve as priority collateral on the facility, minus reserves imposed by the Lenders and other adjustments, all as specified in the 2012 Credit Agreement and discussed further below. Our availability under the 2012 Credit Agreement at June 30, 2013 increased to $67.8 million from availability of $52.4 million at December 31, 2012. The 2012 Credit Agreement also contains a provision for discretionary over-advances and involuntary protective advances by the Lenders of up to $8.0 million in excess of the 2012 Revolving Commitment. The 2012 Credit Agreement provides for swingline loans, up to a $10.0 million sublimit, and letters of credit, up to a $30.0 million sublimit.

Advances under the 2012 Credit Agreement are in the form of either base rate loans or “LIBOR Loans” denominated in U.S. dollars. The interest rate for base rate loans denominated in U.S. dollars fluctuates and is equal to the greater of

(a) Bank of America's prime rate; (b) the Federal funds rate, plus 0.50%; or (c) the rate per annum for a 30-day interest period equal to the British Bankers Association LIBOR Rate, as published by Reuters at approximately 11:00 a.m. (London time) two business days prior ("LIBOR"), plus 1.0%; in each case plus 1.50%. The interest rate for LIBOR Loans denominated in U.S. dollars is equal to the rate per annum for the applicable interest period equal to LIBOR, plus 2.75%. Issued and outstanding letters of credit are subject to a fee equal to 2.75%, a fronting fee equal to 0.125% per annum on the stated amount of such letters of credit, and customary charges associated with the issuance and administration of letters of credit. Among other fees, we pay a commitment fee of 0.375% per annum (due monthly) on the aggregate unused revolving commitments under the 2012 Credit Agreement.

Up to $30.0 million of the 2012 Revolving Commitment is available for the issuance of letters of credit, and any such issuance of letters of credit will reduce the amount available for loans under the 2012 Revolving Commitment. Advances under the 2012

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Revolving Commitment are limited by a borrowing base of (a) 90% of the face amount of eligible accounts receivable (reduced to 85% under certain circumstances), plus (b) the lesser of (i) 55% of the value of eligible inventory or (ii) 85% of the product of (x) the net orderly liquidation value of inventory divided by the value of the inventory and (y) multiplied by the value of eligible inventory, and (c) the lesser of (i) \$20.0 million or (ii) the sum of (A) 85% of the net orderly liquidation value (as determined by the most recent appraisal) of eligible trucks plus (B) 80% of the cost of newly acquired eligible trucks since the date of the latest appraisal of eligible trucks minus (C) 85% of the net orderly liquidation value of eligible trucks that have been sold since the latest appraisal date and 85% of the depreciation amount applicable to eligible trucks since the date of the latest appraisal of eligible trucks, minus (D) such reserves as the Administrative Agent may establish from time to time in its permitted discretion. The Administrative Agent may, in its permitted discretion, reduce the advance rates set forth above, adjust reserves or reduce one or more of the other elements used in computing the borrowing base.

The 2012 Credit Agreement contains usual and customary negative covenants for transactions of this type, including, but not limited to, restrictions on our ability to consolidate or merge; substantially change the nature of our business; sell, lease or otherwise transfer any of our assets; create or incur indebtedness; create liens; pay dividends; and make investments or acquisitions. The negative covenants are subject to certain exceptions as specified in the 2012 Credit Agreement. The 2012 Credit Agreement also requires that we, upon the occurrence of certain events, maintain a fixed charge coverage ratio of at least 1.0 to 1.0 for each period of twelve calendar months, as determined in accordance with the 2012 Credit Agreement. For the trailing twelve month period ended June 30, 2013, our fixed charge coverage ratio was 3.14 to 1.0. As of June 30, 2013, the Company was in compliance with all covenants.

The 2012 Credit Agreement also includes customary events of default, including, among other things, payment default, covenant default, breach of representation or warranty, bankruptcy, cross-default, material ERISA events, a change of control of the Company, material money judgments and failure to maintain subsidiary guarantees.

The 2012 Credit Agreement is secured by a first-priority lien on certain assets of the Company and the guarantors, including inventory (including as extracted collateral), accounts, certain specified mixer trucks, general intangibles (other than collateral securing the 2013 Notes, as defined below, on a first-priority basis, as described below), instruments, documents, chattel paper, cash, deposit accounts, securities accounts, commodities accounts, letter of credit rights and all supporting obligations and related books and records and all proceeds and products of the foregoing, subject to permitted liens and certain exceptions. The 2012 Credit Agreement is also secured by a second-priority lien on the collateral securing the 2013 Notes on a first-priority basis (see “Senior Secured Notes due 2015” below).

Senior Secured Notes due 2015

On March 22, 2013, we completed our offer to exchange (the “Exchange Offer”) up to \$69.3 million aggregate principal amount of newly issued 9.5% Senior Secured Notes due 2015 (the “2013 Notes”) for all \$55.0 million aggregate principal amount of our Convertible Notes, pursuant to the terms of the prospectus, dated March 20, 2013, and the related letter of transmittal and consent. At the time of settlement, we issued \$61.1 million aggregate principal amount of 2013 Notes in exchange for \$48.5 million of Convertible Notes, plus approximately \$0.3 million in cash for accrued and unpaid interest on the Convertible Notes exchanged in the Exchange Offer. After giving effect to the exchange, \$6.5 million aggregate principal amount of Convertible Notes remained outstanding as of June 30, 2013.

The 2013 Notes are governed by the terms of an Indenture, dated as of March 22, 2013 (the “2013 Indenture”), by and among the Company and U.S. Bank National Association, as trustee and noteholder collateral agent. The Company will pay interest on the 2013 Notes on April 1 and October 1 of each year, commencing on October 1, 2013. The 2013

Notes will mature on October 1, 2015, and are redeemable at the Company's option prior to maturity at prices specified in the 2013 Indenture. The 2013 Indenture contains negative covenants that restrict the ability of the Company and its restricted subsidiaries to engage in certain transactions, as described below, and also contains customary events of default.

The 2013 Indenture contains certain covenants that restrict our ability to, among other things,

- incur additional indebtedness or issue disqualified stock or preferred stock;
- pay dividends or make other distributions or repurchase or redeem our stock or subordinated indebtedness or make investments;
- sell assets or issue capital stock of our restricted subsidiaries;
- incur liens;

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- enter into transactions with affiliates; or
- consolidate, merge or sell all or substantially all of our assets.

Our obligations under the 2013 Notes are jointly and severally and fully and unconditionally guaranteed on a senior secured basis by each of our existing and future domestic subsidiaries that guarantee the indebtedness under our 2012 Revolving Commitment. Each guarantee is subject to release in the following customary circumstances:

- a disposition of all or substantially all of the assets of the guarantor subsidiary, by way of merger, consolidation or otherwise; provided the proceeds of the disposition are applied in accordance with the 2013 Indenture;
- a disposition of the capital stock of the guarantor subsidiary to a third person, if the disposition complies with the 2013 Indenture and as a result the guarantor subsidiary ceases to be a Restricted Subsidiary;
- the designation by us of the guarantor subsidiary as an Unrestricted Subsidiary or the guarantor subsidiary otherwise ceasing to be a Restricted Subsidiary, in each case in accordance with the 2013 Indenture; or
- legal or covenant defeasance of the 2013 Notes and discharge of our obligations under the 2013 Indenture.

All of the Company's (the parent company's) existing consolidated subsidiaries are 100% owned. The Company has no independent assets or operations, and all subsidiaries other than the guarantor subsidiaries are minor. Additionally, there are no significant restrictions on the ability of the Company or any guarantor to obtain funds from its subsidiaries by dividend or loan.

The 2013 Notes and the guarantees thereof rank equally in right of payment with all of our existing and future senior indebtedness. The 2013 Notes and the guarantees thereof are secured by first-priority liens on certain of the property and assets directly owned by the Company, including material owned real property, fixtures, intellectual property, capital stock of subsidiaries and certain equipment, subject to permitted liens and certain exceptions, and by a second-priority lien on the Company’s assets securing the 2012 Revolving Commitment on a first-priority basis, including inventory (including as-extracted collateral), accounts, certain specified mixer trucks, chattel paper, general intangibles (other than collateral securing the 2013 Notes on a first-priority basis), instruments, documents, cash, deposit accounts, securities accounts, commodities accounts, letter of credit rights and all supporting obligations and related books and records and all proceeds and products of the foregoing, subject to permitted liens and certain exceptions. The 2013 Notes and the guarantees thereof are effectively subordinated to all indebtedness and other obligations, including trade payables, of each of the Company’s future subsidiaries that are not guarantors.

Under the terms of the 2013 Indenture, we are required to meet a consolidated secured debt ratio test, which could restrict our ability to borrow the amount available under the 2012 Credit Agreement. We must meet a consolidated secured debt ratio, as of the last day of each fiscal month, as shown below not to exceed:

Period	Consolidated Secured Debt Ratio
April 1, 2013 — March 31, 2014	7.00 : 1.00
April 1, 2014 — March 31, 2015	6.75 : 1.00
April 1, 2015 — and thereafter	6.50 : 1.00

The consolidated secured debt ratio is the ratio of (a) our consolidated total indebtedness (as defined in the 2013 Indenture) on the date of determination that constitutes the 2013 Notes, any other pari passu lien obligations and any indebtedness incurred under the 2012 Credit Agreement (including any letters of credit issued thereunder) to (b) the aggregate amount of consolidated cash flow (as defined in the 2013 Indenture) for our most recent four fiscal quarters available at the date of determination. Based on our consolidated cash flows for the four fiscal quarters ended June 30, 2013, our consolidated secured debt ratio was 2.83 to 1.00. In the event that we are not able to meet this ratio in the future, we would need to seek an amendment to the 2013 Indenture to provide relief from this covenant.

Convertible Notes due 2015

On August 31, 2010 (the "Effective Date"), we issued $55.0 million aggregate principal amount of the Convertible Notes. The Convertible Notes are governed by an indenture, dated as of August 31, 2010 (the "2010 Indenture"). Under the terms of the 2010 Indenture, the Convertible Notes bear interest at a rate of 9.5% per annum and will mature on August 31, 2015. Interest payments are payable quarterly in cash in arrears. Additionally, we recorded a discount of approximately $13.6 million related to an embedded derivative that was bifurcated and separately valued (see Note 11). This discount is being accreted over the term of the Convertible Notes and is included in interest expense.

Immediately prior to the consummation of the Exchange Offer, we entered into the Second Supplemental Indenture, dated as of March 22, 2013 (the “Supplemental Indenture”). The Supplemental Indenture amended the 2010 Indenture to eliminate the following: substantially all of the restrictive covenants contained in the 2010 Indenture, including the requirement to meet a consolidated secured debt ratio test and the limitations on additional indebtedness; the provisions regarding purchase at the option of the holder upon a fundamental change in control; and certain events of default. The Supplemental Indenture also provided for a release of all of the liens on the collateral securing the Convertible Notes and securing the related guarantees under the 2010 Indenture. After giving effect to the exchange, $6.5 million aggregate principal amount of Convertible Notes remained outstanding as of June 30, 2013.

The remaining Convertible Notes are convertible, at the option of the holder, at any time on or prior to maturity, into shares of our common stock, at an initial conversion rate of 95.23809524 shares of common stock per $1,000 principal amount of Convertible Notes (the “Conversion Rate”). The Conversion Rate is subject to adjustment to prevent dilution resulting from stock splits, stock dividends, combinations or similar events. In connection with any such conversion, holders of the Convertible Notes to be converted shall also have the right to receive accrued and unpaid interest on such Convertible Notes to the date of conversion (the “Accrued Interest”). We may elect to pay the Accrued Interest in cash or in shares of common stock in accordance with the terms of the 2010 Indenture, as amended.

In addition, if a “Fundamental Change of Control” (as defined in the 2010 Indenture) occurs prior to the maturity date, in addition to any conversion rights the holders of Convertible Notes may have, each holder of Convertible Notes will have (i) a make-whole provision calculated as provided in the 2010 Indenture pursuant to which each holder may be entitled to additional shares of common stock upon conversion (the “Make Whole Premium”), and (ii) an amount equal to the interest on such Convertible Notes that would have been payable from the date of the occurrence of such Fundamental Change of Control (the “Fundamental Change of Control Date”) through the third anniversary of the Effective Date (or August 31, 2013), plus any accrued and unpaid interest to the Fundamental Change of Control Date (the amount in this clause (ii), the “Make Whole Payment”). We may elect to pay the Make Whole Payment in cash or in shares of common stock.

If the closing price of the common stock exceeds 150% of the Conversion Price (defined as $1,000 divided by the Conversion Rate) then in effect for at least 20 trading days during any consecutive 30-day trading period (the “Conversion Event”), we may provide, at our option, a written notice (the “Conversion Event Notice”) of the occurrence of the Conversion Event to each remaining holder of Convertible Notes in accordance with the 2010 Indenture, as amended. Except as set forth in an Election Notice (as defined below), the right to convert Convertible Notes with respect to the occurrence of the Conversion Event shall terminate on the date that is 46 days following the date of the Conversion Event Notice (the “Conversion Termination Date”), such that the holder shall have a 45-day period in which to convert its Convertible Notes up to the amount of the Conversion Cap (as defined below). Any Convertible Notes not converted prior to the Conversion Termination Date as a result of the Conversion Cap shall be, at the holder’s election and upon written notice to the Company (the “Election Notice”), converted into shares of common stock on a date or dates prior to the date that is 180 days following the Conversion Termination Date. The “Conversion Cap” means the number of shares of common stock into which the Convertible Notes are convertible and that would cause the related holder to “beneficially own” (as such term is used in the Securities Exchange Act as of 1934, as amended (the “Exchange Act”)) more than 9.9% of the common stock at any time outstanding.

Any Convertible Notes not otherwise converted prior to the Conversion Termination Date or specified for conversion in an Election Notice shall be redeemable, in whole or in part, at our election at any time prior to maturity at par plus accrued and unpaid interest thereon to the Conversion Termination Date.

On June 17, 2013, the common stock price hurdle necessary to constitute a Conversion Event was met. As such, we provided a Conversion Event Notice to the remaining bond holders on June 18, 2013. Bond holders had until August 3, 2013, the Conversion Termination Date, to tender their Convertible Notes for shares of common stock. See Note 19 for further information regarding this event.

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9. EXTINGUISHMENT OF DEBT

As described in Note 8 above, in connection with the Exchange Offer, we exchanged $48.5 million of Convertible Notes for $61.1 million of 2013 Notes. As such, during the first quarter of 2013, we wrote-off $2.4 million of previously deferred financing costs, $26.6 million in derivative liabilities and $7.3 million of discount; all associated with the exchanged Convertible Notes. We recorded a net gain on extinguishment of debt associated with this transaction of $4.3 million on the accompanying condensed consolidated statements of operations.

In connection with the Exchange Offer and the Amendment to the 2012 Credit Agreement, we incurred $2.2 million of deferred financing costs, which are classified as Other Assets on the accompanying condensed consolidated balance sheet. The deferred financing costs for the Exchange Offer and the Amendment to the 2012 Credit Agreement are being amortized over the term of the 2013 Notes and the 2012 Credit Agreement, respectively, using the straight line method, which approximates the effective interest method.

10. WARRANTS

On August 31, 2010, we issued warrants to acquire common stock (the “Warrants”) in two tranches: Class A Warrants to purchase an aggregate of approximately 1.5 million shares of common stock and Class B Warrants to purchase an aggregate of approximately 1.5 million shares of common stock. The Warrants were issued to holders of our predecessor common stock pro rata based on a holder’s stock ownership. These Warrants have been included in derivative liabilities on the accompanying condensed consolidated balance sheets in accordance with authoritative accounting guidance (see Note 11).

11. DERIVATIVES

General

We are exposed to certain risks relating to our ongoing business operations. However, derivative instruments are not used to hedge these risks. We are required to account for derivative instruments as a result of the issuance of the Warrants and Convertible Notes on August 31, 2010. None of our derivative contracts manage business risk or are executed for speculative purposes.

Our derivative instruments are summarized as follows:

		Fair Value	
Derivative Instruments not designated as hedging instruments under ASC 815	Balance Sheet Location	June 30, 2013	December 31, 2012
Warrants	Derivative liabilities	$12,088	$4,857
Convertible Notes embedded derivative	Derivative liabilities	3,650	17,173
		$15,738	$22,030

The following table presents the effect of derivative instruments on the accompanying condensed consolidated statement of operations for the three and six months ended June 30, 2013, excluding income tax effects:

Derivative Instruments not designated as hedging instruments under ASC 815	Location of Income/(Loss) Recognized	Three months ended June 30, 2013	Six months ended June 30, 2013

Warrants	Derivative loss	$(1,518)	$(7,231)
Convertible Notes embedded derivative	Derivative loss	(398)	(13,131)
		$(1,916)	$(20,362)

Warrant and Convertible Note volume positions are presented in the number of shares underlying the respective instruments. The table below presents our volume positions (in thousands) as of June 30, 2013 and December 31, 2012:

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Derivative Instruments not designated as hedging instruments under ASC 815	Number of Shares June 30, 2013	December 31, 2012
Warrants	3,000	3,000
Convertible Notes embedded derivative	616	5,238
	3,616	8,238

We do not have any derivative instruments with credit features requiring the posting of collateral in the event of a credit downgrade or similar credit event.

12. FAIR VALUE DISCLOSURES

Fair value is defined as the exit price, or the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants as of the measurement date. Accounting guidance also establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs market participants would use in valuing the asset or liability and are developed based on market data obtained from sources independent of us. Unobservable inputs are inputs that reflect our assumptions about the factors market participants would use in valuing the asset or liability. The guidance establishes three levels of inputs that may be used to measure fair value:

Level 1—Quoted prices in active markets for identical assets or liabilities.

Level 2—Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurements. We review the fair value hierarchy classification on a quarterly basis. Changes in the observability of valuation inputs may result in a reclassification of levels for certain securities within the fair value hierarchy.

The following tables present our fair value hierarchy for liabilities measured at fair value on a recurring basis (in thousands):

	June 30, 2013	
	Total	Level 1