

CLOUD PEAK ENERGY INC.

Form 10-Q

October 26, 2018

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# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

## FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2018

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: 001-34547

## Cloud Peak Energy Inc.

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**26-3088162**

(I.R.S. Employer  
Identification No.)

**748 T-7 Road, Gillette, Wyoming**

(Address of principal executive offices)

**82718**

(Zip Code)

**(307) 687-6000**

(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                      ☐ No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted 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 such files).

☒ Yes                      ☐ No

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

Large  
accelerated filer

Accelerated  
filer

Non-accelerated filer

Smaller reporting  
company

Emerging growth  
company

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If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

☐ Yes

☒ No

Number of shares outstanding of Cloud Peak Energy Inc.'s common stock, as of the latest practicable date: Common stock, \$0.01 par value per share, 75,778,186 shares outstanding as of October 17, 2018.

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**CLOUD PEAK ENERGY INC.**

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Unless the context indicates otherwise, the terms "Cloud Peak Energy," "the Company," "we," "us," and "our" refer to Cloud Peak Energy Inc. ("CPE") and its subsidiaries.

[Table of Contents](#)**PART I FINANCIAL INFORMATION****Item 1. Financial Statements.****CLOUD PEAK ENERGY INC.****UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF  
OPERATIONS AND COMPREHENSIVE INCOME (LOSS)**

(in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Revenue	\$ 233,080	\$ 248,884	\$ 655,087	\$ 673,813
<b>Costs and expenses</b>				
Cost of product sold (exclusive of depreciation, depletion, and accretion)	208,504	205,631	597,448	571,600
Depreciation and depletion	17,392	18,789	46,788	56,683
Accretion	1,947	1,865	5,359	5,532
(Gain) loss on derivative financial instruments	(730)	(838)	(730)	3,102
Selling, general and administrative expenses	5,101	13,059	25,393	33,861
Impairments			800	
Other operating costs	149	121	331	429
Total costs and expenses	232,363	238,627	675,389	671,207
Operating income (loss)	717	10,257	(20,302)	2,606
<b>Other income (expense)</b>				
Net periodic postretirement benefit income (cost), excluding service cost	20,016	1,591	23,251	4,774
Interest income	304	147	841	304
Interest expense	(8,411)	(9,573)	(28,141)	(32,351)
Other, net	67	(98)	(535)	(546)
Total other income (expense)	11,976	(7,933)	(4,584)	(27,819)
Income (loss) before income tax provision and earnings from unconsolidated affiliates	12,693	2,324	(24,886)	(25,213)
Income tax benefit (expense)	(5)	115	(302)	(36)
Income (loss) from unconsolidated affiliates, net of tax	3	138	269	771
Net income (loss)	12,691	2,577	(24,919)	(24,478)
<b>Other comprehensive income (loss)</b>				
Postretirement medical plan amortization of prior service costs	(612)	(1,821)	(4,287)	(5,462)
Postretirement medical plan change	24,659		24,659	
Postretirement medical plan termination	(19,477)		(19,477)	
Income tax on postretirement medical plan				
Other comprehensive income (loss)	4,570	(1,821)	895	(5,462)
Total comprehensive income (loss)	\$ 17,261	\$ 756	\$ (24,024)	\$ (29,940)

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## **Income (loss) per common share:**

Basic	\$	0.17	\$	0.03	\$	(0.33)	\$	(0.34)
Diluted	\$	0.16	\$	0.03	\$	(0.33)	\$	(0.34)
Weighted-average shares outstanding - basic		75,778		75,139		75,623		72,152
Weighted-average shares outstanding - diluted		77,283		76,890		75,623		72,152

The accompanying notes are an integral part of these Unaudited Condensed Consolidated Financial Statements.

Table of Contents**CLOUD PEAK ENERGY INC.****UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS**

(in thousands)

	September 30, 2018	December 31, 2017
<b>ASSETS</b>		
<b>Current assets</b>		
Cash and cash equivalents	\$ 109,459	\$ 107,948
Accounts receivable, net	62,266	50,075
Due from related parties	1,609	122
Inventories, net	69,474	72,904
Derivative financial instruments	730	
Income tax receivable	14,727	256
Other prepaid and deferred charges	20,320	36,964
Other assets	806	1,765
Total current assets	279,391	270,034
<b>Noncurrent assets</b>		
Property, plant and equipment, net	1,333,642	1,365,755
Goodwill	2,280	2,280
Income tax receivable	14,727	29,454
Other assets	40,356	31,178
Total assets	\$ 1,670,396	\$ 1,698,701
<b>LIABILITIES AND EQUITY</b>		
<b>Current liabilities</b>		
Accounts payable	\$ 40,969	\$ 29,832
Royalties and production taxes	56,088	54,327
Accrued expenses	39,085	32,818
Current portion of federal coal lease obligations	379	
Other liabilities	1,707	2,435
Total current liabilities	138,228	119,412
<b>Noncurrent liabilities</b>		
Senior notes	401,914	405,266
Federal coal lease obligations, net of current portion	1,404	
Asset retirement obligations, net of current portion	108,359	99,297
Accumulated postretirement medical benefit obligation, net of current portion		24,958
Royalties and production taxes	27,079	21,896
Other liabilities	6,597	20,063
Total liabilities	683,581	690,892
<b>Equity</b>		
Common stock (\$0.01 par value; 200,000 shares authorized; 76,255 and 75,644 shares issued and 75,778 and 75,167 outstanding as of September 30, 2018 and December 31, 2017, respectively)	758	752
Treasury stock, at cost (477 shares as of both September 30, 2018 and December 31, 2017)	(6,498)	(6,498)
Additional paid-in capital	655,605	652,702
Retained earnings	322,248	347,046
Accumulated other comprehensive income (loss)	14,702	13,807
Total equity	986,815	1,007,809

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Total liabilities and equity	\$	1,670,396	\$	1,698,701
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The accompanying notes are an integral part of these Unaudited Condensed Consolidated Financial Statements.



Table of Contents**CLOUD PEAK ENERGY INC.****UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(in thousands)

	Nine Months Ended September 30,	
	2018	2017
<b>Cash flows from operating activities</b>		
Net income (loss)	\$ (24,919)	\$ (24,478)
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and depletion	46,788	56,683
Accretion	5,359	5,532
Impairments	800	
Loss (income) from unconsolidated affiliates, net of tax	(269)	(771)
Distributions of income from unconsolidated affiliates	1,000	4,500
Equity-based compensation expense	(1,648)	6,095
(Gain) loss on derivative financial instruments	(730)	3,102
Cash received (paid) on derivative financial instrument settlements		(1,968)
Non-cash interest expense related to early retirement of debt and refinancings	1,611	702
Payment of deferred financing costs	(3,640)	
Net periodic postretirement benefit cost (credit)	(22,792)	(4,103)
Payments for logistics contracts	(7,500)	(20,438)
Logistics throughput contract amortization expense	12,099	27,419
Other	5,296	6,388
Changes in operating assets and liabilities:		
Accounts receivable	(12,192)	(4,391)
Inventories, net	3,398	(1,212)
Due to or from related parties	(1,488)	(1,169)
Other assets	8,698	(5,545)
Accounts payable and accrued expenses	15,013	11,405
Asset retirement obligations	(816)	(719)
Net cash provided by (used in) operating activities	24,068	57,032
<b>Investing activities</b>		
Purchases of property, plant and equipment	(7,165)	(11,327)
Investment in development projects	(1,894)	(2,110)
Other	69	33
Net cash provided by (used in) investing activities	(8,990)	(13,404)
<b>Financing activities</b>		
Principal payments on federal coal leases	(574)	
Repayment of senior notes		(62,094)
Payment of debt refinancing costs		(408)
Payment of deferred financing costs	(936)	
Payment amortized to deferred gain	(6,298)	(6,294)
Proceeds from issuance of common stock		68,850
Cash paid for equity offering		(4,490)
Other	(1,952)	(1,958)
Net cash provided by (used in) financing activities	(9,760)	(6,394)
Net increase (decrease) in cash, cash equivalents, and restricted cash	5,318	37,234

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Cash, cash equivalents, and restricted cash at beginning of period		108,673		84,433
Cash, cash equivalents, and restricted cash at end of period	\$	113,991	\$	121,667

The accompanying notes are an integral part of these Unaudited Condensed Consolidated Financial Statements.

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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**1. Organization and Business**

We are one of the largest producers of coal in the United States of America ( U.S. ) and the Powder River Basin ( PRB ), based on our 2017 coal sales. We operate some of the safest mines in the coal industry. According to the most current Mine Safety and Health Administration ( MSHA ) data, we have one of the lowest employee all injury incident rates among the largest U.S. coal producing companies. We currently operate solely in the PRB, the lowest cost region of the major coal producing regions in the U.S., where we own and operate three surface coal mines: the Antelope Mine, the Cordero Rojo Mine, and the Spring Creek Mine.

Our Antelope Mine and Cordero Rojo Mine are located in Wyoming and our Spring Creek Mine is located in Montana. Our mines produce subbituminous thermal coal with low sulfur content, and we sell our coal primarily to domestic and foreign electric utilities. Thermal coal is primarily consumed by electric utilities and industrial consumers as fuel for electricity generation. In 2017, the coal we produced generated approximately 2% of the electricity produced in the U.S. We do not produce any metallurgical coal.

In addition, we have two development projects, both located in the Northern PRB. For purposes of this report, the term Northern PRB refers to the area within the PRB that lies within Montana and the northern part of Sheridan County, Wyoming. The Youngs Creek project is an undeveloped surface mine project located in Wyoming, seven miles south of our Spring Creek Mine and contiguous with the Wyoming-Montana state line. The Big Metal project is located near the Youngs Creek project on the Crow Indian Reservation in southeast Montana.

As previously disclosed, in January 2013, Big Metal Coal Co. LLC ( Big Metal ), our wholly-owned subsidiary, entered into an option agreement and a corresponding exploration agreement with the Crow Tribe of Indians ( Crow Tribe ). These agreements were approved by the U.S. Department of the Interior in June 2013. The option and exploration agreements provided for exploration rights and exclusive options to lease three separate coal deposits on the Crow Indian Reservation over an initial five-year term, which would have expired June 14, 2018, with two extension periods through 2035 if certain conditions were met. On June 7, 2018, Big Metal delivered notice to the Crow Tribe to exercise the Upper Youngs Creek coal lease option and extend the coal lease options for the Squirrel Creek and Tanner Creek project areas. In connection with the option exercise and option extensions, Big Metal paid approximately \$1.8 million to the Crow Tribe in June 2018. The coal lease will still require approval from the U.S. Department of the Interior and related regulatory actions before it is effective. Exercise of the Upper Youngs Creek option and payment of the initial option payments for the Squirrel Creek and Tanner Creek project areas trigger commencement of the first option extension periods for Squirrel Creek and Tanner Creek through December 31, 2025.

Since inception of the option agreement, Big Metal has made option and lease bonus payments totaling approximately \$12 million to the Crow Tribe, including the option exercise payments in June 2018. The coal located at the Big Metal project is similar quality to that of our Spring Creek Mine and offers lower sodium levels.

Any future development and coal production from the Big Metal project remains subject to regulatory approvals, completion of access agreements, and significant risk and uncertainty, including coal demand and pricing in the U.S. and internationally. In addition, portions of the

potential project remain subject to exercise of additional options.

Our logistics business provides a variety of services designed to facilitate the sale and delivery of coal. These services include the purchase of coal from third parties or from our owned and operated mines, coordination of the transportation and delivery of purchased coal, negotiation of take-or-pay rail agreements and take-or-pay port agreements and demurrage settlement with vessel operators. See Note 5 for further discussion.

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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

***Principles of Consolidation***

The accompanying Unaudited Condensed Consolidated Financial Statements have been prepared in conformity with accounting principles generally accepted in the United States of America ( U.S. GAAP ). In accordance with U.S. GAAP for interim financial statements, these Unaudited Condensed Consolidated Financial Statements do not include certain information and footnote disclosures that are required to be included in annual financial statements prepared in conformity with U.S. GAAP. The year-end Unaudited Condensed Consolidated Balance Sheet data was derived from the Audited Consolidated Financial Statements. Accordingly, these Unaudited Condensed Consolidated Financial Statements should be read in conjunction with the Audited Consolidated Financial Statements as of December 31, 2017 and 2016, and for each of the three years ended December 31, 2017, included in our Annual Report on Form 10-K for the year ended December 31, 2017 ( 2017 Form 10-K ). In the opinion of management, the accompanying Unaudited Condensed Consolidated Financial Statements contain all adjustments, which are of a normal and recurring nature, necessary for a fair statement of our financial position as of September 30, 2018, and the results of our operations, comprehensive income (loss), and cash flows for the nine months ended September 30, 2018 and 2017, in conformity with U.S. GAAP. Our results of operations for the three and nine months ended September 30, 2018 are not necessarily indicative of the results that may be expected for future quarters or for the year ending December 31, 2018.

The preparation of our Unaudited Condensed Consolidated Financial Statements in conformity with U.S. GAAP requires our management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting periods. Significant estimates in these Unaudited Condensed Consolidated Financial Statements include: assumptions about the amount and timing of future cash flows and related discount rates used in determining asset retirement obligations ( AROs ) and in testing long-lived assets and goodwill for impairment; the fair value of derivative financial instruments; the calculation of mineral reserves; equity-based compensation expense; workers' compensation claims; reserves for contingencies and litigation; useful lives of long-lived assets; postretirement employee benefit obligations; the recognition and measurement of income tax benefits and related deferred tax asset valuation allowances; and allowances for inventory obsolescence and net realizable value. Actual results could differ materially from those estimates.

Due to the tabular presentation of rounded amounts, certain tables reflect insignificant rounding differences.

**2. Accounting Policies and Standards Update**

***Recently Issued Accounting Pronouncements***

From time to time, the Financial Accounting Standards Board ( FASB ) or other standard setting bodies issue new accounting pronouncements. Updates to the FASB Accounting Standards Codification are communicated through issuance of an Accounting Standards Update ( ASU ). Unless otherwise discussed, we believe that the impact of recently issued guidance will not be material to our consolidated financial statements upon adoption.

In August 2018, the FASB issued ASU 2018-15, Intangibles—Goodwill and Other—Internal-Use Software, Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract (ASU 2018-15), which requires a customer in a hosting arrangement that is a service contract to follow the internal-use software guidance to determine which implementation costs to capitalize as an asset related to the service contract and which costs to expense. The new guidance is effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption is permitted. The amendments in this update should be applied either retrospectively or prospectively to all implementation costs incurred after the date of adoption. We will adopt the new standard as of January 1, 2020 on a prospective basis.

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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

In February 2018, the FASB issued ASU 2018-02, Income Statement – Reporting Comprehensive Income – Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income (ASU 2018-02), which allows companies to make a one-time reclassification of the stranded tax effects (as defined by ASU 2018-02) from accumulated other comprehensive income to retained earnings as a result of the tax legislation enacted in December 2017, commonly known as the Tax Cuts and Jobs Act (TCJA), and requires certain disclosures about stranded tax effects. The new guidance is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early adoption is permitted. The amendments in this update should be applied either in the period of adoption or retrospectively to each period (or periods) in which the effects of the change in the U.S. federal corporate income tax rate in the TCJA is recognized. We are still evaluating the impact the adoption of ASU 2018-02 will have. We will adopt the new standard as of January 1, 2019.

In January 2017, the FASB issued ASU 2017-04, Goodwill – Simplifying the Test for Goodwill Impairment (ASU 2017-04), which eliminates the second step in the goodwill impairment test whereby a company measures an impairment loss by calculating the implied fair value of goodwill of a reporting unit and comparing it against its carrying value. As a result, a goodwill impairment loss will be calculated by comparing the fair value of a reporting unit with its carrying amount. The new guidance is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted. The amendments in this update should be applied prospectively, with added disclosure regarding the nature of and reason for the change in accounting principal. We will early adopt this standard as of December 31, 2018 in conjunction with our fourth-quarter impairment analysis.

From February 2016 through July 2018, the FASB issued several ASUs on Leases (ASC 842), which would require the lessee to recognize the assets and liabilities on all leases that may have not been recognized in the past, specifically, leases classified as operating leases under current U.S. GAAP (ASC 840). The core principal of ASC 842 is that a lessee should recognize both a lease liability for its obligation to make lease payments to the lessor and a right-of-use asset reflecting its right to use the underlying asset during the term of the lease. Under ASC 842, a lessee recognizes either an operating or a finance lease, with the pattern of expense recognition in the income statement differing depending on classification of the lease. There are also additional disclosure requirements under ASC 842, including expanded quantitative disclosures regarding the location and amounts related to operating and finance leases included in the financial statements, as well as qualitative disclosures about the nature of an entity's leases. Certain arrangements are outside the scope of ASC 842, including leases to explore for or use natural resources.

The new guidance is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. We will adopt the new standard effective January 1, 2019 and will elect the optional transition practical expedient, which allows us to adopt the standard on the adoption date by recognizing a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. We will not retrospectively adjust prior periods, which will continue to be reported under ASC 840. Further, disclosures related to prior periods will also be reported under ASC 840. We will also elect the transitional package of practical expedients available within the new standard, which, among other things, allows a lessee to carry forward existing lease classification. Lastly, ASC 842 includes an accounting policy election whereby a lessee may choose not to apply ASC 842 to leases with terms of one year or less. Instead, a lessee recognizes the lease payments in the statement of operations on a straight-line basis over the term of the lease. We have made this policy election and leases of this nature will not be included on our Unaudited Condensed Consolidated Balance Sheets.

During 2017 and throughout the third quarter of 2018, we have continued to evaluate our contracts with our vendors under ASC 842. Based upon this review, we do not expect the adoption of this standard to have a material impact on our results of operations, financial position, and

cash flows. The impact of ASC 842 is not expected to be material to our results due to our ownership of substantially all of our equipment and the fact that we have entered into very few operating leases. Additionally, the result of our review of our contracts with vendors through the third quarter yielded no change to our initial conclusion that these contracts did not contain a lease, as there were either no identified assets, or we did not obtain the right to control the use of an identified asset



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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

over a period of time. The adoption of ASC 842 will not have an impact on our accounting for capital leases, which will be classified as finance leases under ASC 842.

***Recently Adopted Accounting Pronouncements***

In August 2018, the FASB issued ASU 2018-13, Fair Value Measurement, Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement ( ASU 2018-13 ), which modifies the disclosure requirements on fair value measurement. The new guidance is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Early adoption is permitted. The guidance allows an entity to early adopt any removed or modified disclosures and delay adoption of the additional disclosures until their effective date. Certain amendments should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption, with all other amendments applied retrospectively to all periods presented upon adoption. We have early adopted the removed or modified disclosures as of September 30, 2018, which had little impact on our disclosures. We have evaluated the additional disclosures required and have concluded that they will not have an impact on our current disclosures. See Note 10 for our updated disclosure that reflects the early adoption of ASU 2018-13.

In May 2017, the FASB issued ASU 2017-09, Compensation – Stock Compensation – Scope of Modification Accounting ( ASU 2017-09 ), which provides guidance about the types of changes to terms or conditions of a share-based payment award that would require an entity to apply modification accounting. The new guidance is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The amendments in this update should be applied prospectively to an award modified on or after the adoption date. We adopted this standard on January 1, 2018.

In March 2017, the FASB issued ASU 2017-07, Compensation – Retirement Benefits – Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Cost ( ASU 2017-07 ), which requires separate presentation of service costs and all other components of net benefit costs on the income statement. Under ASU 2017-07, service cost is included in the same line item as other compensation costs arising from services rendered by employees during the period, with all other components of net benefit costs on the income statement outside of income from operations. The new guidance is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. We adopted this standard on January 1, 2018. We retrospectively adopted the presentation of service costs separate from the other components of net periodic costs. The interest costs and amortization of prior service costs have been reclassified from *Cost of product sold and Selling, general and administrative expenses* to *Net periodic postretirement benefit income (cost), excluding service cost*.

Table of Contents**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

The effect of the retrospective presentation change related to the net periodic cost of our other postretirement employee benefits ( OPEB ) plan on our Unaudited Condensed Consolidated Statement of Operations and Comprehensive Income (Loss) for the three and nine months ended September 30, 2017 was as follows (in thousands):

	Three Months Ended September 30, 2017			Nine Months Ended September 30, 2017		
	Previously Reported	Adjustment	As Revised	Previously Reported	Adjustment	As Revised
Cost of product sold	\$ 204,301	\$ 1,330	\$ 205,631	\$ 567,610	\$ 3,990	\$ 571,600
Selling, general and administrative expenses	\$ 12,798	\$ 261	\$ 13,059	\$ 33,077	\$ 784	\$ 33,861
Operating income (loss)	\$ 11,848	\$ (1,591)	\$ 10,257	\$ 7,380	\$ (4,774)	\$ 2,606
Net periodic postretirement benefit income (cost), excluding service cost	\$	\$ 1,591	\$ 1,591	\$	\$ 4,774	\$ 4,774
Total other income (expense)	\$ (9,524)	\$ 1,591	\$ (7,933)	\$ (32,593)	\$ 4,774	\$ (27,819)

In November 2016, the FASB issued ASU 2016-18, Statement of Cash Flows – Restricted Cash ( ASU 2016-18 ), which requires the statement of cash flows to explain the change during the period in total cash, cash equivalents, and amounts generally described as restricted cash and restricted cash equivalents. The new guidance is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The amendments in this update should be applied using a retrospective transition method to each period presented. We adopted this standard on January 1, 2018. Refer to Note 19, as well as the Unaudited Condensed Consolidated Statements of Cash Flows, for further information regarding the reconciliation of cash, cash equivalents, restricted cash, and restricted cash equivalents.

In October 2016, the FASB issued ASU 2016-16, Accounting for Income Taxes – Intra-Entity Asset Transfers of Assets other than Inventory ( ASU 2016-16 ), which would require the recognition of the tax expense from the sale of an asset other than inventory when the transfer occurs, rather than when the asset is sold to a third party or otherwise recovered through use. The new guidance is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The amendments in this update should be applied on a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of adoption. We adopted this standard on January 1, 2018. We completed a review of our intra-entity transfers as of December 31, 2017, and determined that ASU 2016-16 does not have an impact on our Unaudited Condensed Consolidated Financial Statements.

In August 2016, the FASB issued ASU 2016-15, Classification of Certain Cash Receipts and Cash Payments ( ASU 2016-15 ), which standardizes cash flow statement classification of certain transactions, including cash payments for debt prepayment or extinguishment, proceeds from insurance claim settlements, and distributions received from equity method investments. The new guidance is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. The amendments in this update should be applied using a retrospective transition method to each period presented. If impracticable to apply the amendments retrospectively for some of the issues, the amendments for those issues would be applied prospectively as of the earliest date practicable. We adopted this standard on January 1, 2018, with no impact on our Unaudited Condensed Consolidated Statements of Cash Flows.

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From May 2014 through December 2016, the FASB issued several ASUs related to Revenue from Contracts with Customers ( ASC 606 ). These ASUs are intended to provide greater insight into both revenue that has been recognized and revenue that is expected to be recognized in the future from existing

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contracts. The core principle of the new standard is that a company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. The new guidance is effective for interim and annual periods beginning after December 15, 2017. The two permitted transition methods under the new standard are the full retrospective method, in which case the standard would be applied to each prior reporting period presented and the cumulative effect of applying the standard would be recognized at the earliest period shown, or the modified retrospective method, in which case the cumulative effect of applying the standard would be recognized at the date of initial application. We have adopted the new standard as of January 1, 2018 and utilized the modified retrospective method. This approach allowed us to apply the new standard to (1) all new contracts entered into after January 1, 2018 and (2) all existing contracts for which all (or substantially all) of the revenue has not been recognized under legacy revenue guidance as of January 1, 2018 through a cumulative adjustment to equity. Consolidated revenue presented in our comparative financial statements for periods prior to January 1, 2018 has not been revised and continues to be reported under legacy revenue recognition guidance.

The following table reflects the adoption of ASC 606 on our Unaudited Condensed Consolidated Balance Sheets as of January 1, 2018 (in thousands):

	Balance as of December 31, 2017	Adjustment Due to ASC 606	Balance as of January 1, 2018
<b>Assets</b>			
Accounts receivable	\$ 50,075	\$ 781	\$ 50,856
Inventories, net	\$ 72,904	\$ (660)	\$ 72,244
<b>Equity</b>			
Retained Earnings	\$ 347,046	\$ 121	\$ 347,167

As part of the adoption of ASC 606, we also will not recognize approximately 64,400 tons that were delivered in January 2018 in our tons sold figure for 2018. These tons were delivered on a contract where title transferred to the customer upon delivery, while risk of loss transferred at the shipping point, or the mine. Under legacy revenue recognition guidance, the revenue related to these tons was recognized upon delivery. However, under ASC 606, revenue is now recognized at the shipping point, as this is when control passes to the customer. As of December 31, 2017, these tons were appropriately placed back into inventory in accordance with legacy revenue recognition guidance. The revenue recognition process was complete upon adoption of ASC 606 on January 1, 2018.

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In accordance with the new revenue standard requirements, the impact of the adoption of ASC 606 on our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss) and Unaudited Condensed Consolidated Balance Sheets is as follows (in thousands):

	<b>Three Months Ended September 30, 2018</b>			<b>Nine Months Ended September 30, 2018</b>		
	<b>As Reported</b>	<b>Balances Without the Adoption of ASC 606</b>	<b>Effect of Change Higher (Lower)</b>	<b>As Reported</b>	<b>Balances Without the Adoption of ASC 606</b>	<b>Effect of Change Higher (Lower)</b>
Revenue	\$ 233,080	\$ 233,322	\$ (242)	\$ 655,087	\$ 655,606	\$ (519)
Cost of product sold	208,504	208,675	(171)	597,448	597,929	(481)
Net income (loss)	12,691	12,762	(71)	(24,919)	(24,881)	(38)
Income (loss) per common share:						
Basic	\$ 0.17	\$ 0.17	\$	\$ (0.33)	\$ (0.33)	\$
Diluted	\$ 0.16	\$ 0.17	\$ (0.01)	\$ (0.33)	\$ (0.33)	\$

	<b>September 30, 2018</b>		
	<b>As Reported</b>	<b>Balances Without the Adoption of ASC 606</b>	<b>Effect of Change Higher (Lower)</b>
Accounts receivable	\$ 62,266	\$ 62,004	\$ 262
Inventories, net	69,474	69,652	(178)
Retained earnings	322,248	322,319	(71)

***Revenue from Contracts with Customers***

We account for a contract with a customer when the parties have approved the contract and are committed to performing their respective obligations, the rights of each party are identified, payment terms are identified, the contract has commercial substance, and collectability of consideration is probable. We recognize revenue when we satisfy a performance obligation by transferring control of a good or service to a customer.

Our revenue is derived from sales to customers of coal produced at our facilities and coal purchased from other companies. We categorize our customers by how we sell coal to them. Our mine customers purchase coal directly from our mine sites, where the sale occurs at the mine site and where title, risk of loss, and control typically pass to the customer at that point. This revenue is generally recorded in our Owned and Operated Mines Segment. Mine customers arrange for and bear the costs of transporting their coal from our mines to their plants or other specified discharge points. Our mine customers are typically domestic utility companies primarily located in the mid-west and south central U.S., although we also sell to other domestic utility companies, as well as to third-party brokers. Our coal sales agreements with our mine customers are generally fixed-price, fixed-volume supply contracts, or include a pre-determined escalation in price for each year. Some of our customer contracts may include variable pricing and volumes. Price re-opener and index provisions may allow either party to commence a renegotiation of the contract price at a pre-determined time. Price re-opener provisions may automatically set a new price based on prevailing market price or, in some instances, require us to negotiate a new price, sometimes within specified ranges of prices. In some agreements, if the parties do not agree on a new price, either party has an option to terminate the contract. The terms of our coal sales agreements result from

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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

competitive bidding and extensive negotiations with customers. Consequently, the terms of these contracts vary by customer.

Our logistics customers purchase coal from us, along with logistics services to deliver the coal to the customer at a terminal or the customer's plant or other delivery point remote from our mine site. Title, risk of loss, and control pass to the customer at the remote delivery point. This revenue is recorded in our Logistics and Related Activities Segment. Our logistics services are designed to facilitate the sale and delivery of coal. These services include the purchase of coal from third parties or from our owned and operated mines, coordination of the transportation and delivery of purchased coal, negotiation of take-or-pay rail agreements and take-or-pay port agreements and demurrage settlements with vessel operators. We also bear the costs of transporting the coal to the delivery point. For our international customers, this means that we cover the costs associated with an export terminal located in the Pacific Northwest. Refer to Note 5 for further information. Our logistics customers located overseas are generally responsible for paying the cost of ocean freight, although occasionally we may arrange or be responsible for the cost of that transportation as well. Logistics customers are primarily foreign and domestic utility companies as well as third-party brokers. With respect to our international sales, at present, we are primarily focused on end-user customers. However, a portion of our sales are made to international traders who sell on to end-user customers. Our coal sales agreements with our domestic logistics customers are generally fixed-price, fixed-volume supply contracts with terms of one to three years, or less. The terms of our coal sales agreements result from competitive bidding and extensive negotiations with customers. Consequently, the terms of these contracts vary by customer. With our international logistics customers, we often enter into contracts that contain multi-year terms with future year pricing to be agreed upon, meaning that there is an expectation of sales, provided that mutual agreement on pricing can be reached. This is consistent with conventional industry standards for sales into the Asian Pacific region. We typically agree upon volumes and pricing under these international customer agreements one to six months in advance of shipment. Our Asian delivered shipments are typically priced broadly in line with a number of relevant international coal indices adjusted for energy content and other quality and delivery criteria. These indices have included the Newcastle benchmark price, as published by Global Coal and others, and the Platts Kalimantan 5000. Contracts with our logistics customers include terms similar to those described for our mine customers and may also include terms relating to: demurrage fees for international contracts, fixed pricing for the current year of sales, and additional coal quality requirements.

Coal sales agreements with both mine and logistics customers typically contain coal quality specifications. With coal quality specifications in place, the raw coal sold by us to the customer at the delivery point must be substantially free of magnetic material and other foreign material impurities, and crushed to a maximum size as set forth in the respective coal sales agreement. Prior to billing the customer, price adjustments are made based on quality standards that are specified in the coal sales agreement, such as Btu factor, moisture, ash, and sodium content and can result in either increases or decreases in the value of the coal shipped.

Table of Contents**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS*****Disaggregation of Revenue***

In the following table, *Revenue* is disaggregated by primary geographic markets, as we believe this best depicts how the nature, amount, timing, and uncertainty of our revenue and cash flows are affected by economic factors (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
United States (1)	\$ 143,963	\$ 183,428	\$ 411,060	\$ 519,699
South Korea (2)	73,642	60,951	210,176	141,568
Other (2)	15,475	4,505	33,851	12,546
Total revenue from external customers	\$ 233,080	\$ 248,884	\$ 655,087	\$ 673,813

(1) The majority of our domestic revenue is attributable to the Owned and Operated segment.

(2) All South Korean revenue and the majority of Other geographical revenue is attributable to our Logistics and Related Activities segment.

We attribute revenue to individual countries based on the location of the physical delivery of the coal. All of our revenue for the nine months ended September 30, 2018 and 2017 originated in the United States.

***Performance Obligations***

A performance obligation is a promise in a contract with a customer to provide distinct goods or services. Performance obligations are the unit of account for purposes of applying the revenue recognition standard and therefore determine when and how revenue is recognized. In most of our contracts, the customer contracts with us to provide coal that meets certain quality criteria, and, for our logistics customers, delivery of that coal to a certain destination. These promises are highly interrelated and interdependent, and cannot be transferred to the customer without the other promises in the contract also being fulfilled. As such, these promises are not separately identifiable within the context of the contract, and therefore, are not distinct. Therefore, the entire contract is accounted for as one performance obligation. We allocate the transaction price based on the base price per the contract, which is also the standalone selling price, increased or decreased for quality adjustments.

Under ASC 606, shipping and handling services may be considered a separate performance obligation if control of the goods transfers to the customer before shipment, but the entity has promised to ship the goods, or arrange for their shipment. In contrast, if control of a good does not transfer to the customer before shipment, shipping is not a promised service to the customer. This is because shipping is a fulfillment activity as



the costs are incurred as part of transferring the goods to the customer. ASC 606 includes an accounting policy election that permits entities to account for shipping and handling activities that occur after the customer has obtained control of a good as fulfillment cost rather than as an additional promised service. We have made this accounting policy election, and will recognize the corresponding transportation expenses for contracts in which we arrange and pay for shipping costs when the customer has obtained control of the related coal.

We generally recognize revenue at a point in time as the customer does not have control over the asset at any point during the fulfillment of the contract. For the majority of our customers in our Owned and Operated Segment, this is supported by the fact that title and risk of loss transfer to the customer upon loading of the railcar at the mine. This is also the point at which physical possession of the coal transfers to the customer, as well as the significant risks and rewards in ownership of the coal. Similarly, for customers in our Logistics and Related Activity Segment, this is supported by the fact that title and risk of loss transfer to the customer when the coal is delivered to an agreed-upon destination or loaded and trimmed on a vessel. This is also the point at which physical possession of the coal transfers to the customer, as well as the significant risks and rewards in ownership of the coal.

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In our Owned and Operated Segment, we have remaining performance obligations relating to fixed priced contracts of approximately \$844 million, which represent the average fixed prices on our committed contracts as of September 30, 2018. We expect to recognize approximately 62% of this revenue through 2019, with the remainder recognized thereafter. We have remaining performance obligations relating to index priced contracts or contracts with price reopeners of approximately \$278 million, which represent the average re-opener/indexed price on committed contracts as of September 30, 2018. We expect to recognize approximately 30% of this revenue through 2019, with the remainder recognized thereafter. In our Logistics and Related Activities segment, we have remaining performance obligations relating to our fixed price contracts of approximately \$59 million, which we expect to recognize in 2018.

The tons used to determine the remaining performance obligations are subject to adjustment in instances of force majeure and exercise of customer options to either take additional tons, or reduce tonnage, if such option exists in the customer contract. Furthermore, export tons are subject to adjustment upon loading of vessels at the port and therefore represent the estimated tons we anticipate shipping. The elimination of the purchase and sale of coal between reportable segments is not reflected above.

***Contract Balances***

Under ASC 606, the timing of when a performance obligation is satisfied can affect the presentation of accounts receivable, contract assets, and contract liabilities. The main distinction between accounts receivable and contract assets is whether consideration is conditional on something other than the passage of time. A receivable is an entity's right to consideration that is unconditional. Under the typical payment terms of our contracts with customers, the customer pays us a base price for the coal, increased or decreased for any quality adjustments. In our contracts with mine customers, adjustments are known at the time of invoicing as we conduct our own tests of quality. In contracts with our logistics customers, adjustments are also known at the time of billing as they are based on quality tests performed at the port. Amounts billed and due are recorded as trade accounts receivable and included in *Accounts receivable* on our Unaudited Condensed Consolidated Balance Sheets. In cases where we invoice based on customers' quality tests, we estimate the transaction price using our quality testing results. Historically, the differences between customers' testing results and our testing results have been immaterial. We do not currently have any contracts in place where we would transfer coal in advance of knowing the final price of the coal sold, and thus do not have any contract assets recorded. Contract liabilities arise when consideration is received in advance of performance. This deferred revenue is included in *Accrued expenses* on our Unaudited Condensed Consolidated Balance Sheets when consideration is received and revenue is not recognized until the performance obligation is satisfied. We are rarely paid in advance of performance and do not currently have any deferred revenue recorded on our Unaudited Condensed Consolidated Balance Sheets.

*Accounts receivable, net* consisted of the following (in thousands):

	September 30, 2018	December 31, 2017
Trade accounts receivable	\$ 61,891	\$ 47,872
Other receivables	375	2,203
Accounts receivable, net	\$ 62,266	\$ 50,075

#### 4. Segment Information

We have two reportable segments; our Owned and Operated Mines segment and our Logistics and Related Activities segment.

Our Owned and Operated Mines segment is characterized by the predominant focus on thermal coal production where the sale occurs at the mine site and where title and risk of loss generally pass to the customer

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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

at that point. This segment includes our Antelope Mine, Cordero Rojo Mine, and Spring Creek Mine. Sales in this segment are primarily to domestic electric utilities and some industrials, although a portion may be made to our Logistics and Related Activities segment. Sales between reportable segments are priced based on prevailing market prices for arm's length transactions. Our mines utilize surface mining extraction processes and are all located in the PRB. The gains and losses resulting from any domestic coal futures contracts and WTI derivative financial instruments are reported within this segment.

Our Logistics and Related Activities segment is characterized by the services we provide to our international and certain of our domestic customers where we deliver coal to the customer at a terminal or the customer's plant or other delivery point, remote from our mine site. Services provided include the purchase of coal from third parties or from our Owned and Operated Mines segment, at market prices, as well as the contracting and coordination of the transportation and other handling services from third-party operators, which are typically rail and terminal companies and may include chartering of a vessel. Title and risk of loss are retained by the Logistics and Related Activities segment through the transportation and delivery process. Title and risk of loss pass to the customer in accordance with the contract and typically occur at a vessel loading terminal, a vessel unloading terminal or an end use facility. Risk associated with rail and terminal take-or-pay agreements is also borne by the Logistics and Related Activities segment. The gains and losses resulting from any international coal forward contracts and international coal put options are reported within this segment. Amortization related to the amended port and rail take-or-pay agreements are also included in this segment. See Note 5 for additional information about the amended transportation agreements. Incremental production taxes and royalties associated with the sales made by our Logistics and Related Activities segment are included in this segment for the current year. These taxes and royalties were immaterial in the prior year and have not been reclassified from the Owned and Operated Mines segment.

Our business activities that are not considered operating segments are included in Other, although they are not required to be included in this footnote. They are provided for reconciliation purposes and include *Selling, general and administrative expenses* (SG&A) as well as results relating to broker activity.

Eliminations represent the purchase and sale of coal between reportable segments and the associated elimination of intercompany profit or loss in inventory and are provided for reconciliation purposes.

***Revenue***

The following table presents *Revenue* (in thousands):

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	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Owned and Operated Mines	\$ 161,977	\$ 197,974	\$ 459,570	\$ 550,228
Logistics and Related Activities	90,982	67,679	249,951	161,905
Other	3	595	8	3,028
Eliminations	(19,882)	(17,364)	(54,442)	(41,348)
Consolidated	\$ 233,080	\$ 248,884	\$ 655,087	\$ 673,813

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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

***Capital Expenditures***

The following table presents purchases of property, plant and equipment, investment in development projects, and capital expenditures included in *Property, plant and equipment, net*, *Other assets*, and *Accounts payable* (in thousands):

		Nine Months Ended September 30,	
		2018	2017
Owned and Operated Mines	\$	14,224	\$ 13,053
Logistics and Related Activities			
Other		299	1,420
Consolidated	\$	14,523	\$ 14,473

***Adjusted EBITDA***

EBITDA represents net income (loss) before: (1) interest income (expense) net, (2) income tax provision, (3) depreciation and depletion, and (4) amortization. Adjusted EBITDA represents EBITDA as further adjusted for accretion, which represents non-cash increases in asset retirement obligation liabilities resulting from the passage of time, and specifically identified items that management believes do not directly reflect our core operations. The specifically identified items that we routinely adjust for are: (1) adjustments to exclude non-cash impairment charges, (2) adjustments for derivative financial instruments, excluding fair value mark-to-market gains or losses and including cash amounts received or paid, (3) adjustments to exclude debt restructuring costs, and (4) non-cash throughput amortization expense and contract termination payments made to amend the BNSF and Westshore agreements.

Adjusted EBITDA is an additional tool intended to assist our management in comparing our performance on a consistent basis for purposes of business decision making by removing the impact of certain items that management believes do not directly reflect our core operations. Adjusted EBITDA is a metric intended to assist management in evaluating operating performance, compensation decisions, comparing performance across periods, planning and forecasting future business operations and helping determine levels of operating and capital investments.

The following table reconciles segment Adjusted EBITDA to *Income (loss) before income tax provision and earnings from unconsolidated affiliates* (in thousands):

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	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2018</b>	<b>2017</b>	<b>2018</b>	<b>2017</b>
<b>Adjusted EBITDA</b>				
Owned and Operated Mines (1)	\$ 32,289	\$ 45,597	\$ 56,195	\$ 116,056
Logistics and Related Activities	10,471	3,150	24,858	2,215
Total Adjusted EBITDA for reportable segments	42,760	48,747	81,053	118,271
Unallocated net expenses	(2,059)	(12,794)	(21,487)	(32,307)
<b>Adjustments to Income (loss) before income tax provision and earnings from unconsolidated affiliates</b>				
Depreciation and depletion	(17,392)	(18,789)	(46,788)	(56,683)
Accretion	(1,947)	(1,865)	(5,359)	(5,532)
Impairments			(800)	
Debt restructuring costs				(23)
Derivative financial instruments:				
Gain (loss) on derivative financial instruments (2)	730	838	730	(3,102)
Inclusion of cash amounts (received) paid (3)		821		1,968
Total derivative financial instruments	730	1,659	730	(1,134)
Interest expense, net	(8,107)	(9,426)	(27,300)	(32,047)
(Income) loss from unconsolidated affiliates, net of tax	(3)	(138)	(269)	(771)
Non-cash throughput amortization expense and contract termination payments	(1,288)	(5,069)	(4,668)	(14,989)
Income (loss) before income tax provision and earnings from unconsolidated affiliates (4)	\$ 12,693	\$ 2,324	\$ (24,886)	\$ (25,213)

(1) Adjusted EBITDA for the Owned and Operated Mines segment includes a non-cash gain on the termination of our postretirement medical plan of \$16.2 million for the three and nine months ended September 30, 2018. Excluding this non-cash gain, Adjusted EBITDA for the Owned and Operated Mines segment would have been \$16.1 million and \$40.0 million for the three and nine months ended September 30, 2018, respectively.

(2) *(Gain) loss on derivative financial instruments* reflected in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

(3) Cash amounts received and paid reflected within operating cash flows in the Unaudited Condensed Consolidated Statements of Cash Flows.

(4) Includes a non-cash gain on the termination of our postretirement medical plan of \$19.5 million for the three and nine months ended September 30, 2018. See Note 15 for a discussion regarding the termination of our postretirement medical plan effective January 1, 2019.

**5. Transportation Agreements**

To ensure export terminal and rail capacity for export sales, we enter into multi-year throughput agreements with export terminal companies and railroads. These types of take-or-pay agreements require us to pay for a minimum quantity of coal to be transported on the railway or through the terminal regardless of whether we sell any coal. If we fail to make sufficient export sales to meet our minimum obligations under the take-or-pay agreements, we are still obligated to make payments to the export terminal company and railroad.



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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

We have a throughput agreement with Westshore Terminals Limited Partnership ( Westshore ) for our export sales through their export terminal in Vancouver, British Columbia, and a complementary agreement with Burlington Northern Santa Fe Railroad ( BNSF ).

***Current Agreements***

In December 2016, we terminated our previous agreement with Westshore and entered into an agreement effective January 1, 2017. In February 2017, we terminated our previous agreement with BNSF and entered into an agreement effective April 1, 2017. These agreements provided for shipments in 2017 and 2018 and required minimum payments for those two years. In exchange for the termination of the previous agreements in 2015 and 2016, we made termination payments.

In December 2017, we extended the agreement with Westshore through the end of 2020 with minimum payment commitments for each year. We further amended this agreement in July 2018 to extend through 2022 and allow for greater capacity in 2021 and 2022 to 10.5 million total annual throughput tons. We retain the right to terminate our commitments at any time in exchange for a buyout payment. The termination payment varies throughout the period based upon an agreed schedule. Additionally, after this Westshore agreement terminates and through 2024, if we ship to export customers, we are required to offer to ship through Westshore up to a specified annual tonnage on terms similar to the agreement before shipping through any other export terminal. Westshore has the right to accept or reject our offer in its sole discretion.

In January 2018, we extended the agreement with BNSF through the end of 2020 with minimum payment commitments for each year. We have the right to terminate our commitments for the remaining years at any time in exchange for buyout payments. We are currently in discussions with BNSF regarding an extension through December 2022 to support our increased port capacity for our Asian export business.

All termination payments made in prior years related to these agreements have been deferred and will be amortized, along with the previous amendment payments made in 2015, over the remaining life of the latest agreements. As of September 30, 2018 and December 31, 2017, there was \$17.8 million and \$22.4 million, respectively, recorded as a deferred asset for these agreements and these amounts are included in *Other prepaid and deferred charges* in the Unaudited Condensed Consolidated Balance Sheets. We incurred \$58.4 million and \$49.1 million in costs under our export logistics agreements with Westshore and BNSF, including amortization of \$3.8 million and \$8.4 million, during the three months ended September 30, 2018 and 2017, respectively. We incurred \$161.1 million and \$120.6 million in costs under our export logistics agreements with Westshore and BNSF, including amortization of \$12.1 million and \$27.4 million, during the nine months ended September 30, 2018 and 2017, respectively. These costs are included in *Cost of product sold* in the Unaudited Condensed Statements of Operations and Comprehensive Income (Loss).

We had outstanding purchase commitments related to transportation agreements consisting of the following (in thousands):

	September 30, 2018	December 31, 2017
<b>Services</b>		
Transportation agreements (1) (2)	\$ 85,119	\$ 45,708

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(1) Includes undiscounted port take-or-pay commitments as agreed to in July 2018 for 2018-2022. We have the right to terminate our commitments at any time in exchange for a buyout payment. These amounts are considered minimum payments on services. The per tonne loading charges reflect these advance payments.

(2) Includes undiscounted rail take-or-pay commitments as agreed to in January 2018 for 2018-2020. We have the right to terminate our commitments at any time in exchange for a buyout payment. If we do not

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meet the required portion of our future nominated tons, there would be incremental liquidated damages due under the agreement.

**6. Interest Expense**

Interest expense consisted of the following (in thousands):

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2018</b>	<b>2017</b>	<b>2018</b>	<b>2017</b>
Senior notes	\$ 6,359	\$ 6,559	\$ 19,213	\$ 21,127
Credit facility unutilized fee	495	949	1,849	3,328
Federal coal lease obligations imputed interest	69	88	205	259
Amortization of deferred financing costs and original issue discount	1,453	1,930	5,151	5,862
Other	35	47	112	193
Subtotal	8,411	9,573	26,530	30,769
Premium on early retirement of debt				880
Write-off of deferred financing costs and original issue discount			1,611	702
Total cost of early retirement of debt and refinancings			1,611	1,582
Total interest expense	\$ 8,411	\$ 9,573	\$ 28,141	\$ 32,351

Debt issuance costs of \$1.6 million, related to a decrease in the Amended Credit Agreement's borrowing capacity, were written off in the nine months ended September 30, 2018. See Note 14 for a discussion of the changes in the Amended Credit Agreement.

In connection with the public offering discussed in Note 13, upon redemption of the 2019 Notes (defined in Note 13), we paid \$1.5 million in accrued and unpaid interest, \$0.9 million in premium on the early retirement of debt, and wrote off \$0.7 million in deferred financing and original issue discount in the nine months ended September 30, 2017.

**7. Income Taxes**

TCJA made significant changes to U.S. tax laws. We have historically been subject to the Alternative Minimum Tax (AMT) under which taxes were imposed at a 20% rate on taxable income, subject to certain adjustments, and we assumed that we would be subject to the AMT rate in future periods. As such, the elimination of the AMT and reduction in the federal corporate tax rate to 21% does not have a material impact on

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our estimates for cash taxes payable in the next several years. The corporate rate reduction required a revaluation of our net deferred tax asset at December 31, 2017. However, since we had a full valuation allowance on our net deferred tax asset, there was no revaluation impact to our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

A material immediate impact of TCJA was the elimination of the AMT and the ability to offset our regular tax liability or claim refunds for taxable years 2018 through 2021 for our AMT credits carried forward from prior periods. We currently anticipate we will realize approximately \$30 million in AMT value over the next four years with approximately half of this value realized in 2019 for taxable year 2018.

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As of September 30, 2018 and December 31, 2017, we had deferred tax assets principally arising from: AROs, postretirement benefits, contract rights, and net operating loss carry-forwards. As management cannot determine that it is more likely than not that we will realize the benefit of the deferred tax assets, a valuation allowance equal to the net deferred tax asset has been established.

Our statutory income tax rate including state income taxes, for the three and nine months ended September 30, 2018 was approximately 23%, while the rate for the three and nine months ended September 30, 2017, was approximately 37%. Our effective tax rate for the three months ended September 30, 2018 and 2017 was 0.0% and (4.9)%, respectively. Our effective tax rate for the nine months ended September 30, 2018 and 2017 was (1.2)% and (0.1)%, respectively. The difference between the statutory rates for each period is due to TCJA. In addition, the difference between our statutory income tax rates and our effective income tax rates for the three and nine months ended September 30, 2018 and 2017 is primarily the result of the impact of percentage depletion, income tax in the states in which we do business and changes in our valuation allowance.

As of September 30, 2018 and December 31, 2017, we had no uncertain tax positions that we expect to have a material impact on the financial statements as a result of tax deductions taken during the year or in prior periods or due to settlements with taxing authorities or lapses of applicable statutes of limitations. We are open to federal and state tax audits until the applicable statutes of limitations expire. The statute of limitations has expired for all federal and state returns filed for periods ending before 2012.

**8. Equity Method Investments**

Equity method investments include our 50% equity investment in Venture Fuels Partnership, a coal marketing company. We have received distributions of \$1.0 million and \$4.5 million from the Venture Fuels Partnership during the nine months ended September 30, 2018 and 2017, respectively. Our equity method investments are included in noncurrent *Other assets* on the Unaudited Condensed Consolidated Balance Sheets and had a carrying amount of the following (in thousands):

	September 30, 2018		December 31, 2017
Venture Fuels Partnership	\$ 3,028	\$	3,774
Other	1,003		989
Total equity method investments	\$ 4,031	\$	4,763

**9. Earnings (Loss) per Share**

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Potential dilutive shares of common stock may include restricted units, options, and performance share units issued under our Long Term Incentive Plan ( LTIP ). See Note 16. We apply the treasury stock method to determine dilution from restricted units, options, and performance share units. On February 28, 2017, we issued 13.5 million shares of common stock through a registered underwritten public offering.

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The following table summarizes the calculation of diluted earnings (loss) per share (in thousands, except per share amounts):

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2018</b>	<b>2017</b>	<b>2018</b>	<b>2017</b>
Numerator for calculation of diluted earnings (loss) per share:				
Net income (loss)	\$ 12,691	\$ 2,577	\$ (24,919)	\$ (24,478)
Denominator for basic income (loss) per share weighted-average shares outstanding	75,778	75,139	75,623	72,152
Dilutive effect of stock equivalents	1,505	1,751		
Denominator for diluted earnings (loss) per share	77,283	76,890	75,623	72,152
Basic earnings (loss) per share	\$ 0.17	\$ 0.03	\$ (0.33)	\$ (0.34)
Diluted earnings (loss) per share	\$ 0.16	\$ 0.03	\$ (0.33)	\$ (0.34)

For the periods presented, the following items were excluded from the diluted earnings (loss) per share calculation because they were anti-dilutive (in thousands):

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2018</b>	<b>2017</b>	<b>2018</b>	<b>2017</b>
Anti-dilutive stock equivalents	2,075	2,461	3,239	3,944

**10. Fair Value of Financial Instruments**

We use a three-level fair value hierarchy that categorizes assets and liabilities measured at fair value based on the observability of the inputs utilized in the valuation. The levels of the hierarchy, as defined below, give the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs.

- Level 1 is defined as observable inputs such as quoted prices in active markets for identical assets. Our Level 1 assets currently include money market funds.
- Level 2 is defined as observable inputs other than Level 1 prices, including quoted prices for similar assets or liabilities in an active market, quoted prices for identical assets and liabilities 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. Our Level 2 assets and liabilities include derivative financial instruments with fair values derived from quoted prices in over-the-counter markets or from prices received from direct broker quotes.

- Level 3 is defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions. We had no Level 3 financial instruments as of September 30, 2018 or December 31, 2017.



Table of Contents**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

The tables below set forth, by level, our financial assets and liabilities that are recorded at fair value in the accompanying Unaudited Condensed Consolidated Balance Sheets (in thousands):

	Fair Value as of September 30, 2018		
	Level 1	Level 2	Total
<b>Assets</b>			
Money market funds (1)	\$ 33,581	\$	\$ 33,581
Derivative financial instruments(2)	\$	\$ 730	\$ 730

	Fair Value as of December 31, 2017		
	Level 1	Level 2	Total
<b>Assets</b>			
Money market funds (1)	\$ 49,102	\$	\$ 49,102
Derivative financial instruments(2)	\$	\$	\$

(1) Included in *Cash and cash equivalents* in the Unaudited Condensed Consolidated Balance Sheets along with \$75.9 million and \$58.8 million of demand deposits as of September 30, 2018 and December 31, 2017, respectively.

(2) See Note 11 for information on the *(Gain) loss on derivative financial instruments* recognized in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

**11. Derivative Financial Instruments*****WTI Derivatives***

We use derivative financial instruments, such as swaps and collars, to help manage our exposure to market changes in diesel fuel prices. The derivatives are indexed to the West Texas Intermediate ( WTI ) crude oil price as quoted on the New York Mercantile Exchange. As such, the nature of the derivatives did not directly offset market changes to our diesel costs.

Under a swap agreement, if the monthly average index price is higher than the swap price, we receive the difference and if the monthly average index price is lower than the swap price, we pay the difference. We used swap agreements to fix our forecasted diesel costs for 2017. All swap agreements were settled as of December 31, 2017. We currently do not hold any swap agreements.

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In July 2018, we entered into collar agreements to fix a portion of our forecasted diesel costs for the remainder of 2018 and all of 2019. Under a collar agreement, we pay the difference between the monthly average index price and a floor price if the index price is below the floor, and we receive the difference between the ceiling price and the monthly average index price if the index price is above the ceiling price. No amounts are paid or received if the index price is between the floor and ceiling prices. While we would not receive the full benefit of price decreases beyond the floor price, the collars mitigate the risk of crude oil price increases and thereby increased diesel costs that would otherwise have a negative impact on our cash flow.

As of September 30, 2018, we held the following WTI derivative financial instruments:

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## CLOUD PEAK ENERGY INC.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Settlement Period	Notional Amount (barrels in thousands)	Floor		Notional Amount (barrels in thousands)	Ceiling	
		Weighted-Average per Barrel			Weighted-Average per Barrel	
2018 collar positions(1)	132	\$	55.00	132	\$	76.00
2019 collar positions(2)	252	\$	55.00	252	\$	76.00
Total	384			384		

(1) Represents 100% of expected diesel consumption for the remainder of 2018.

(2) Represents 50% of expected diesel consumption for 2019.

*Offsetting and Balance Sheet Presentation*

	Gross Amounts Recognized		September 30, 2018 Gross Amounts Offset in the Consolidated Balance Sheet		Net Amounts Presented in the Consolidated Balance Sheet	
	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities
WTI derivative financial instruments	\$ 730	\$	\$	\$	\$ 730	\$

	Gross Amounts Recognized		December 31, 2017 Gross Amounts Offset in the Consolidated Balance Sheet		Net Amounts Presented in the Consolidated Balance Sheet	
	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities
WTI derivative financial instruments	\$	\$	\$	\$	\$	\$

*Derivative Gains and Losses*

(Gain) loss on derivative financial instruments recognized in the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss) were as follows (in thousands):

Three Months Ended September 30,		Nine Months Ended September 30,	
2018	2017	2018	2017

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WTI derivative financial instruments	\$	(730)	\$	(838)	\$	(730)	\$	3,102
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See Note 10 for a discussion related to the fair value of derivative financial instruments.

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*Inventories, net* consisted of the following (in thousands):

	September 30, 2018	December 31, 2017
Materials and supplies	\$ 69,364	\$ 68,461
Less: Obsolescence allowance	(1,062)	(1,094)
Material and supplies, net	68,302	67,367
Coal inventory	1,172	5,537
Inventories, net	\$ 69,474	\$ 72,904

**13. Senior Notes and Equity**

On February 28, 2017, we issued 13.5 million shares of common stock through a registered underwritten public offering and received proceeds, net of underwriting discounts and commissions, of \$64.7 million. We used the net proceeds from the offering to fund the full redemption of our outstanding 8.50% Senior Notes due 2019 ( 2019 Notes ). On March 31, 2017, we redeemed the 2019 Notes at a total cost of \$64.5 million, reflecting a redemption price of 101.417% of the principal amount of \$62.1 million, or \$63.0 million, plus accrued and unpaid interest of \$1.5 million. In addition, we wrote off \$0.7 million in deferred financing costs and original issue discount as of the redemption date.

*Senior notes* consisted of the following (in thousands):

	Carrying Value	Unamortized Discount and Debt Issuance Costs	September 30, 2018 Unamortized Deferred Gain on Forgiven Debt	Principal	Fair Value (1)
12.00% second lien senior notes due 2021	\$ 346,263	\$ 10,771	\$ (66,668)	\$ 290,366	\$ 293,996
6.375% senior notes due 2024	55,651	757		56,408	42,024
Total senior notes	\$ 401,914	\$ 11,528	\$ (66,668)	\$ 346,774	\$ 336,020

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	December 31, 2017					
	Carrying Value	Unamortized Discount and Debt Issuance Costs	Unamortized Deferred Gain on Forgiven Debt	Principal	Fair Value (1)	
12.00% second lien senior notes due 2021	\$ 349,719	\$ 13,614	\$ (72,967)	\$ 290,366	\$ 315,773	
6.375% senior notes due 2024	55,547	861		56,408	45,973	
Total senior notes	\$ 405,266	\$ 14,475	\$ (72,967)	\$ 346,774	\$ 361,746	

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(1) The fair value of the senior notes was based on observable market inputs, which are considered Level 2 in the fair value hierarchy. See Note 10 for further information on Level 2 fair value measurements.

Table of Contents**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****14. Other Obligations*****Capital Equipment Lease Obligations***

From time to time, we enter into capital leases on equipment under various lease schedules, which are subject to a master lease agreement, and are pre-payable at our option. Our capital equipment lease obligations are included in *Other liabilities*. As of September 30, 2018, future payments for these obligations are as follows (in thousands):

2018	\$	512
2019		1,706
2020		857
2021		27
2022		
Thereafter		
Total		3,102
Less: interest		115
Total principal payments		2,987
Less: current portion		1,707
Capital equipment lease obligations, net of current portion	\$	1,280

***Federal Coal Lease Obligations***

Our federal coal lease obligations, as reflected in the Unaudited Condensed Consolidated Balance Sheets, consist of obligations payable to the Bureau of Land Management of the U.S. Department of the Interior for the West Antelope II South lease modification. The future payments for our federal coal lease obligations are \$0.6 million per year through 2022. The balance of our federal coal lease obligations is \$1.8 million as of September 30, 2018.

***Credit Agreement***

Cloud Peak Energy Resources LLC entered into a Credit Agreement with PNC Bank, National Association, as administrative agent, and a syndicate of lenders, originally dated as of February 21, 2014, (as previously amended, the Credit Agreement ). The Credit Agreement provides us with a senior secured revolving credit facility that can be used to borrow funds or obtain letters of credit.

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On May 24, 2018, we entered into an Amended and Restated Credit Agreement (the "Amended Credit Agreement") that amended and restated the existing Credit Agreement. The Amended Credit Agreement extended the maturity of the Credit Agreement from February 21, 2019 to May 24, 2021 and reduced the maximum borrowing capacity to \$150 million from the previous maximum capacity of \$400 million. The borrowing capacity under the Amended Credit Agreement is reduced by the undrawn face amount of letters of credit issued and outstanding under the Amended Credit Agreement, which may be up to \$70 million at any time. The Amended Credit Agreement also requires new quarterly financial covenants of (a) a ratio of first lien gross debt under the Amended Credit Agreement, capital leases and the A/R Securitization Program (including issued but undrawn letters of credit) to EBITDA (as defined in the Amended Credit Agreement) equal to or less than 1.75 to 1; (b) a ratio of EBITDA less capital expenditures to Fixed Charges (as defined in the Amended Credit Agreement) of not less than 1.15 to 1; and (c) a ratio of funded debt (excluding issued but undrawn letters of credit) less unrestricted cash to EBITDA equal to or less than (i) 4.00 to 1 through June 30, 2019, (ii) 3.50 to 1 from September 30, 2019 to December 31, 2019, (iii) 3.00 to 1 from March 31, 2020 to June 30, 2020 and (iv) 2.50 to 1 from September 30, 2020 to maturity. The Amended Credit Agreement also revised the minimum liquidity covenant to require minimum liquidity of not less than \$100 million as of the last day of each fiscal



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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

quarter, which was reduced from the prior requirement under the Credit Agreement to maintain monthly liquidity of not less than \$125 million. Lastly, it revised various negative covenants and baskets that would apply to, among other things, the incurrence of debt, making investments, asset dispositions, and restricted payments. The borrowing capacity is limited by the financial covenants, calculated on a quarterly basis, and will fluctuate from quarter to quarter.

We were in compliance with the covenants contained in the Amended Credit Agreement as of September 30, 2018 and December 31, 2017. As of September 30, 2018, based upon the quarterly financial covenant calculation, we had \$16.2 million of borrowing capacity available under the Amended Credit Agreement.

As of September 30, 2018 and December 31, 2017, we had no borrowings under the Amended Credit Agreement. There were no undrawn letters of credit under the Amended Credit Agreement as all issued letters of credit had been transferred to the A/R Securitization Program as of December 31, 2017. Based on current operating plans and forecasts and ongoing challenging industry conditions, there are no assurances that we will remain in compliance with the Amended Credit Agreement's financial covenants for the next 12 months.

A default under the Amended Credit Agreement would permit the lenders to terminate their commitment to make cash advances or issue letters of credit, and require cash collateralization if there were any outstanding letters of credit obligations. A default and acceleration of obligations under the Amended Credit Agreement would also trigger cross-defaults for our Senior Notes due 2021 and 2024, which would permit the Senior Notes' lenders to require immediate repayment of all principal, interest, fees and other amounts payable thereunder. A default under the Amended Credit Agreement would also trigger a cross-default for our A/R Securitization Program, which would permit the lender to terminate the A/R Securitization Program and trigger collateralization requirements for outstanding letter of credit obligations. In the event of a potential or actual default, we may not be granted waivers or be able to reach agreement on amendments under our Amended Credit Agreement.

We reserve the right to terminate the Amended Credit Agreement should we deem it appropriate to achieve our business objectives and priorities. A potential Amended Credit Agreement termination would not result in a default under the A/R Securitization Program or Senior Notes due 2021 and 2024. Based on our current forecast, we expect that we will not remain in compliance with our Amended Credit Agreement within the next 12 months. We are currently evaluating various scenarios, which include the potential near-term termination of the Amended Credit Agreement, which would eliminate any potential noncompliance with the Amended Credit Agreement. This would permanently reduce our sources of liquidity to our cash and our A/R Securitization Program capacity, which would have been \$115.4 million at September 30, 2018.

***Accounts Receivable Securitization Program***

On May 24, 2018, the Accounts Receivable Securitization Program (the "A/R Securitization Program") was amended to extend the term of the A/R Securitization Program to May 24, 2021 from January 23, 2020. All other terms of the program remained substantially the same. The A/R Securitization Program allows for a maximum borrowing capacity of \$70 million. The borrowing capacity is limited by eligible accounts

receivable (as defined under the terms of the A/R Securitization Program), calculated on a monthly basis, and will fluctuate from month to month. The borrowing capacity is reduced by the undrawn face amount of letters of credit issued and outstanding under the A/R Securitization Program. As of September 30, 2018, we had \$27.9 million of borrowing capacity under the A/R Securitization Program, of which \$5.9 million was available. The undrawn face amount of letters of credit outstanding was \$22.0 million as of September 30, 2018. As of December 31, 2017, there was a \$1.1 million deficit between the borrowing capacity and the undrawn face amount of letters of credit, which was cash-collateralized into a restricted cash account in early January 2018. The restriction was lifted on the \$1.1 million in early March 2018. There were no borrowings outstanding under the A/R Securitization Program as of September 30, 2018 or December 31, 2017.

Our A/R Securitization Program supports the current collateral requirements associated with outstanding third-party surety bonds that primarily secure the performance of our reclamation and lease obligations.

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Our aggregate availability for borrowing under the Amended Credit Agreement and the A/R Securitization Program was approximately \$22.1 million as of September 30, 2018. Our total liquidity, which includes cash and cash equivalents and amounts available under both our Amended Credit Agreement and the A/R Securitization Program, was \$131.6 million as of September 30, 2018.

***Debt Issuance Costs***

Debt issuance costs of \$1.6 million, related to the decrease in the Amended Credit Agreement's borrowing capacity, were written off in the nine months ended September 30, 2018. Debt issuance costs of \$4.6 million were incurred in connection with the changes to the Amended Credit Agreement and A/R Securitization Program described above. These costs were deferred and are being amortized to *Interest expense* over the remaining terms of the agreements. There were \$5.1 million and \$4.4 million of unamortized debt issuance costs as of September 30, 2018 and December 31, 2017, respectively, related to the Amended Credit Agreement and the A/R Securitization Program included in noncurrent *Other assets*.

**15. Postretirement Medical Plan**

We maintain an unfunded postretirement medical plan to provide certain postretirement medical benefits to eligible employees. Net periodic postretirement benefit costs included the following components (in thousands):

	<b>Three Months Ended September 30,</b>		<b>Nine Months Ended September 30,</b>	
	<b>2018</b>	<b>2017</b>	<b>2018</b>	<b>2017</b>
Service cost	\$ 66	\$ 223	\$ 459	\$ 670
Interest cost	73	230	513	689
Amortization of prior service cost (credit)	(612)	(1,821)	(4,287)	(5,462)
Postretirement medical plan termination (gain) loss	(19,477)		(19,477)	
Net periodic benefit cost (credit)	\$ (19,950)	\$ (1,368)	\$ (22,792)	\$ (4,103)

On January 1, 2018, we adopted ASU 2017-07, which requires separate presentation of service costs and all other components of net periodic benefit costs on the income statement. See Note 2 for further information regarding the impact of this ASU on our Unaudited Condensed

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### Consolidated Statements of Operations and Comprehensive Income (Loss).

In August 2018, we communicated the termination of our postretirement medical plan, effective January 1, 2019, to our employees. Employees who retire on, or after, January 1, 2019 will not be eligible for postretirement benefits. As part of this termination, we will provide contributions for the remainder of 2018 and a lump-sum contribution for 2019 benefits to all eligible retirees. These changes reduced the number of employees who are eligible for the plan and, therefore, reduced our Accumulated postretirement medical benefit obligation by \$24.7 million as of September 30, 2018. As a result of these changes, we recognized a non-cash net gain on the termination of the plan of \$19.5 million in the three and nine months ended September 30, 2018 in *Net periodic postretirement benefit income (cost), excluding service cost* on the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). An additional non-cash gain of \$8.2 million will be released ratably through the plan termination date of December 31, 2019.

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Our LTIP permits awards to our employees and eligible non-employee directors, which we generally grant in the first quarter of each year. The LTIP allows for the issuance of equity-based compensation in the form of restricted stock, restricted stock units, options, stock appreciation rights, dividend equivalent rights, performance awards, and share awards. At our 2018 annual meeting, stockholders approved an additional 3.0 million shares for issuance under the LTIP. As of September 30, 2018, shares available for issuance under the LTIP were approximately 3.5 million shares.

Generally, each form of equity-based compensation awarded to eligible employees cliff vests on the third anniversary of the grant date, subject to meeting any applicable performance criteria for the award. However, the awards will pro-rata vest sooner if an employee terminates employment with or stops providing services to us because of death, disability, redundancy or retirement (as such terms are defined in the award agreement or the LTIP, as applicable), or if an employee subject to an employment agreement is terminated by us for any reason other than for cause or leaves for good reason (as such terms are defined in the relevant employment agreement). In addition, the awards will fully vest if an employee is terminated without cause (or leaves for good reason, if the employee is subject to an employment agreement) within two years after a change in control (as such term is defined in the LTIP) occurs.

The restricted stock units granted to our directors generally vest upon their resignation or retirement (except for a removal for cause) or upon certain events constituting a change in control (as such term is defined in the award agreement). They will pro-rata vest if a director resigns or retires within one year of the date of grant.

***Restricted Stock Units***

We have granted restricted stock units under the LTIP to eligible employees and non-employee directors. A summary of restricted stock unit award activity is as follows (in thousands, except per share amounts):

	<b>Number of Shares</b>	<b>Weighted- Average Grant-Date Fair Value (per share)</b>
Non-vested units as of January 1, 2018	2,813	\$ 3.75
Granted	866	\$ 3.50
Forfeited	(227)	\$ 3.23
Vested	(504)	\$ 5.99
Non-vested units as of September 30, 2018	2,948	\$ 3.33

As of September 30, 2018, unrecognized compensation cost related to restricted stock awards was \$3.1 million, which will be recognized over a weighted-average period of 1.9 years prior to vesting, which is included within *Additional paid-in capital* in our Unaudited Condensed Consolidated Balance Sheets. These awards are ultimately delivered in common stock and are classified as equity awards.

***Performance Share Units***

Performance share units represent the right to receive a number of shares of common stock (or the equivalent cash value thereof) based on the achievement of targeted performance levels related to pre-established total stockholder return goals over a three-year period, and pay out may range from 0% to 200% of the targeted share number.

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In most years, including 2018 and 2017, the performance-based units are expected to be settled in shares of common stock and the grant date fair value of the awards is calculated using a Monte Carlo simulation and amortized over the performance period. The 2016 grants are currently expected to be settled in cash upon any vesting in March 2019, and therefore, are accounted for as a liability award and are included within *Accrued expenses* in the Unaudited Condensed Consolidated Balance Sheets and marked to market on a quarterly basis. The balance of the liability relating to the 2016 grants was \$5.2 million as of September 30, 2018. Using the current fair market value of this award, the total cash payout in March 2019 is currently estimated at \$6.2 million. The fair market value is driven by the Company's share price and total stockholder return and these amounts will not be finalized and known until December 31, 2018. If we were to have sufficient available shares under our LTIP as approved by our stockholders, the Compensation Committee could elect to settle the 2016 performance-based share units in shares of common stock. There are currently 2.1 million shares outstanding relating to the 2016 grant and a payout of 200% would equate to approximately 4.2 million shares.

The weighted-average grant date fair values of the performance share units granted during the nine months ended September 30, 2018 and the year ended December 31, 2017 were \$4.05 and \$5.85 per share, respectively. As of September 30, 2018, \$5.7 million of unrecognized compensation cost, which represents the unvested portion of the fair market value of performance share units granted, is expected to be recognized over a weighted-average vesting period of 1.8 years.

A summary of performance share unit award activity is as follows (in thousands, except per share amounts):

	<b>Number of Shares</b>	<b>Weighted- Average Grant-Date Fair Value (per share)</b>
Non-vested units as of January 1, 2018	3,685	\$ 4.08
Granted	1,153	\$ 4.05
Forfeited	(334)	\$ 3.89
Vested	(530)	\$ 9.66
Non-vested units as of September 30, 2018	3,974	\$ 3.34

The assumptions used to estimate the fair value of the performance-based share units granted on March 2, 2018 are as follows:

Risk-free interest rate	2.4%
Expected volatility	62.3%
Term (in years)	2.8
Fair value (per share)	\$ 4.05

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**CLOUD PEAK ENERGY INC.**

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

**17. Commitments and Contingencies**

*Commitments*

*Purchase Commitments (1)*

We had outstanding purchase commitments consisting of the following (in thousands):

	September 30, 2018	December 31, 2017
<b>Capital Commitments</b>		
Equipment	\$ 5,269	\$ 4,191

(1) See Note 5 for information regarding Transportation Commitments.

*Contingencies*

*Litigation*

*Administrative Appeals of the BLM's Approval of the West Antelope II South Lease Modification*

*Background* On February 1, 2, and 5, 2018, the Powder River Basin Resource Council ( PRBRC ), the Sierra Club, and WildEarth Guardians ( WildEarth ), respectively, filed separate appeals with the Interior Board of Land Appeals ( IBLA ) challenging the Deputy State Wyoming BLM Director's November 11, 2017 decision, which was publicly noticed on Bureau of Land Management's ( BLM ) website on January 5, 2018 ( 2018 BLM Decision ), to approve Antelope Coal LLC's ( Antelope Coal ) proposed modification of Antelope Coal's West Antelope II South ( WAILI South ) lease. Antelope Coal is a 100% owned subsidiary of Cloud Peak Energy. The 2018 BLM Decision that is the subject of all three appeals approves the proposed amendment of WAILI South lease. This lease modification, which was



entered into on February 1, 2018, by BLM and Antelope Coal, adds coal underlying nearly 857 surface acres to Antelope Coal's existing federal leases. PRBRC, the Sierra Club, and WildEarth have asked the IBLA to vacate the 2018 BLM Decision and direct the BLM to prepare additional environmental analysis on the impacts of the lease modification.

The 2018 BLM Decision was issued after a previous August 15, 2014 decision ( 2014 BLM Decision ) had been set aside by the IBLA following previous administrative appeals filed by PRBRC, WildEarth, and the Sierra Club. On February 7, 2017, the IBLA issued a decision setting aside the 2014 BLM Decision to issue the WAI South lease modification and remanding that decision to BLM on the narrow ground that the Wyoming High Plains District Manager lacked the appropriate delegation of authority to approve such a leasing decision. The IBLA specifically declined to address the merits of WildEarth's and PRBRC's claims challenging whether BLM's underlying environmental analysis was sufficient to support the agency's lease modification decision. On April 10, 2017, BLM filed a petition with the Director of the Department of Interior's Office of Hearings and Appeals (the OHA Director ) asking the OHA Director to reverse the IBLA's February 7, 2017 decision and remand to the IBLA with instructions to decide the merits of the underlying WildEarth and PRBRC appeals. On September 11, 2017, after full briefing by the parties, the OHA Director denied BLM's Petition for OHA Director Review thereby concluding the appeals and giving full force and effect to the IBLA's February 7, 2017 order remanding the matter to BLM and providing BLM with broad discretion on how to proceed. Upon remand, the BLM reapproved the WAI South lease modification through the 2018 BLM Decision.

*Intervention by Cloud Peak Energy and State of Wyoming* On February 16 and March 5, 2018, Antelope Coal and the State of Wyoming, respectively, moved to intervene in the PRBRC, WildEarth, and Sierra Club appeals as respondents to defend the 2018 BLM Decision. On April 10, 2018, the IBLA granted both motions to intervene.

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*Current Schedule.* On March 21, 2018, BLM filed a Motion to Dismiss the Sierra Club appeal due to the Sierra Club's failure to file a Statement of Reasons by the briefing deadline. On February 27 and March 5, 2018, PRBRC and WildEarth, respectively, each filed a Statement of Reasons in their appeals. On March 29, March 30, and April 2, 2018, the State of Wyoming, BLM, and Antelope Coal, respectively, filed Answer briefs in the PRBRC appeal. On April 3, 5, and 9, 2018, the State of Wyoming, BLM, and Antelope Coal, respectively, filed Answer briefs in the WildEarth appeal. On April 11, 2018, PRBRC filed a reply brief and on April 12, 2018, BLM filed a clarification to PRBRC's Reply Brief. On June 6, 2018, the IBLA denied BLM's motion to dismiss Sierra Club's appeal and instead rejected Sierra Club's appeal on the merits and affirmed the underlying 2018 BLM's Decision. The IBLA has not yet ruled on the PRBRC or WildEarth appeals.

We believe the PRBRC and WildEarth pending appeals challenging the BLM's West Antelope II South lease modification Decision Record are without merit. Nevertheless, if the appellants' claims are successful, the timing and ability of Cloud Peak Energy to mine the coal underlying the lease modification surface acres could be materially adversely impacted. We are unable to estimate a loss or range of loss for this contingency because (1) the challenges do not seek monetary relief, (2) the nature of the relief sought is to require the regulatory agency to address alleged deficiencies in complying with applicable regulatory and legal requirements and (3) even if the challenges are successful in whole or in part, the IBLA has broad discretion in determining the nature of the relief ultimately granted.

*WildEarth's Regulatory Challenge to OSM's Approval Process for Antelope Mine Plan*

*Background* On September 15, 2015, WildEarth filed a complaint in the Colorado District Court challenging the Department of Interior's and Office of Surface Mining Reclamation and Enforcement's (collectively, OSM) approvals of mine plans for four different coal mines, one of which is located in Colorado and three of which are located in Wyoming. The challenged approvals included one mine plan modification that was issued to Antelope Coal for the Antelope Mine in Wyoming. The plaintiff seeks to vacate existing, required regulatory approvals and to enjoin mining operations at Antelope Mine.

*Intervention by Cloud Peak Energy and Others* In November and December of 2015, the State of Wyoming and all the operators of the mines whose mine plans are being challenged (Antelope Coal, New Mexico Coal Resources, LLC, Bowie Resources, LLC, and Thunder Basin Coal, L.L.C.), moved to intervene as Defendants to defend the challenged mine plans. On February 18, 2016, the Colorado District Court granted all the parties' intervention motions.

*Current Schedule* On November 25, 2015, the OSM filed a motion to sever WildEarth's complaint and transfer those claims against the two Wyoming mines (Antelope and Black Thunder) to the District of Wyoming and the New

Mexico mine (El Segundo) to the District of New Mexico. Each of the prospective intervenors filed conditional responses in support of OSM's transfer motion, and WildEarth filed an opposition to OSM's transfer motion. On June 17, 2016, the Colorado District Court granted OSM's motion to sever and transfer WildEarth's claims against the Antelope and Black Thunder mine plans to the District of Wyoming and the El Segundo mine plan to the District of New Mexico. The challenges against the Antelope and Black Thunder mine plans, which are docketed as separate cases, have both been assigned to Judge Johnson of the District of Wyoming. Because Antelope Coal and Wyoming had each been granted intervention by the Colorado District Court, the Wyoming District Court acknowledged both parties as Intervenor-Defendants after WildEarth's challenge to the Antelope Mine was transferred to the District of Wyoming. On October 7, 2016, OSM filed its administrative record for the case challenging the Antelope mine plan. On October 21, 2016, WildEarth filed a motion to supplement the administrative record with three administrative documents prepared by other federal agencies. On November 4, 2016, OSM and Antelope Coal each filed opposition briefs. On December 1, 2016, after full briefing, the court denied WildEarth's motion to supplement the record. WildEarth filed its opening merits brief on January 27, 2017. Opposition briefs by OSM, Antelope Coal, and the State of Wyoming were filed April 5, 2017. On June 2, 2017, WildEarth filed its reply brief. On August 22, 2017 and September 20, 2017, WildEarth filed two separate notices of supplemental authority. OSM and Antelope Coal each filed responses to WildEarth's first notice on September 6, 2017 and September 21, 2017, respectively. Antelope Coal and the State of Wyoming

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filed a joint response to WildEarth's second notice on October 27, 2017. The merits briefing has been completed and the parties are awaiting a decision from the court.

We believe WildEarth's challenge is without merit. Nevertheless, if WildEarth's claims against OSM's approval of the Antelope mine plan modification are successful, any court order granting the requested relief could have a material adverse impact on our shipments, financial results and liquidity, and could result in claims from third parties if we are unable to meet our commitments under pre-existing commercial agreements as a result of any required reductions or modifications to our mining activities. We are unable to estimate a loss or range of loss for this contingency because (1) the challenge does not seek monetary relief, (2) the nature of the relief sought is to require the regulatory agency to address alleged deficiencies in complying with applicable regulatory and legal requirements and (3) even if the challenges are successful in whole or in part, the court has broad discretion in determining the nature of the relief ultimately granted.

*WildEarth's Regulatory Challenge to OSM's Approval Process for Spring Creek Mine Plan*

*Background* On June 8, 2017, WildEarth and the Montana Environmental Information Center ( MEIC ) filed a complaint in the Montana District Court challenging OSM's re-approval of a mine plan modification that was issued to Cloud Peak Energy for the Spring Creek Mine in Montana. WildEarth and MEIC seek to vacate existing, required regulatory approvals and to enjoin mining operations at the Spring Creek Mine.

*Intervention by Spring Creek Coal* On August 31, 2017, Spring Creek Coal LLC moved to intervene in the WildEarth and MEIC's challenge to the mine plan. On September 26, 2017, the court granted Spring Creek Coal's intervention motion.

*Current Schedule* OSM answered the plaintiffs' complaint on August 24, 2017. OSM lodged the administrative record with the court and served the record on all parties on January 17, 2018. Plaintiffs filed their motion for summary judgment on April 6, 2018. Federal Defendants filed their response and cross motion for summary judgment on June 1, 2018; and Spring Creek filed its opposition and cross motion on June 6, 2018. Plaintiffs filed their reply brief on June 29, 2018 and the reply briefs for the Federal Defendants and Spring Creek were filed on July 23, 2018 and July 25, 2018, respectively. Merits briefing has been completed. The parties are waiting for the Court to schedule a hearing on the pending cross motions for summary judgment.

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We believe WildEarth's and MEIC's challenge is without merit. Nevertheless, if WildEarth's and MEIC's claims against OSM's approval of the Spring Creek mine plan modification are successful, any court order granting the requested relief could have a material adverse impact on our shipments, financial results and liquidity, and could result in claims from third parties if we are unable to meet our commitments under pre-existing commercial agreements as a result of any required reductions or modifications to our mining activities. We are unable to estimate a loss or range of loss for this contingency because (1) the challenge does not seek monetary relief, (2) the nature of the relief sought is to require the regulatory agency to address alleged deficiencies in complying with applicable regulatory and legal requirements and (3) even if the challenges are successful in whole or in part, the court has broad discretion in determining the nature of the relief ultimately granted.

### *California Climate Change Litigation*

*Background* On July 17, 2017, three California local governments filed separate but largely identical complaints in California Superior Court, naming numerous fossil fuel companies as defendants (together, the California Climate Change Litigation). The Plaintiffs are the County of San Mateo, the County of Marin, and the City of Imperial Beach. Defendants include Rio Tinto PLC, Rio Tinto LTD, Rio Tinto Energy America Inc., Rio Tinto Minerals Inc., Rio Tinto Services Inc., Chevron Corp., Chevron U.S.A. Inc., ExxonMobil Corp, BP P.L.C., BP America, Inc., Royal Dutch Shell Company LLC, Citgo Petroleum Corp., ConocoPhillips, ConocoPhillips Company, Phillips 66, Peabody Energy Corp., Total E&P USA Inc., Total Specialties USA Inc., Arch Coal, Inc., ENI S.p.A., ENI Oil & Gas Inc., Statoil ASA, Anadarko Petroleum Corp., Occidental Petroleum Corp., Repsol S.A., Repsol Energy North America Corp., Repsol Trading USA Corp., Marathon Oil Company, Marathon Oil

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Corporation, Marathon Petroleum Corp., Hess Corp., Devon Energy Corp., Devon Energy Production Company, L.P., Encana Corp., and Apache Corp. Cloud Peak Energy is not a named defendant.

By way of summary only, Plaintiffs allege that defendants knowingly contributed to GHG emissions through the production and sale of fossil fuels that have adversely impacted the environment, thereby creating financial liabilities for the plaintiffs. Plaintiffs also allege that defendants engaged in a coordinated effort to conceal and deny their own knowledge of those climate change threats, discredit scientific evidence and create doubt in the minds of customers, consumers, regulators, the media, journalists, teachers and the public about the consequences of the impacts of their fossil fuel pollution. Based on these allegations, plaintiffs assert that defendants are liable under various causes of action including public nuisance, failure to warn, design defect, private nuisance, negligence, and trespass. Plaintiffs seek unspecified compensatory damages, equitable relief to abate the alleged nuisances, attorneys' fees, punitive damages, disgorgement of profits, costs of suit and other relief as the court may deem proper.

*Indemnity Sought From Cloud Peak Energy by Rio Tinto* In August 2017, Cloud Peak Energy received a notice from various Rio Tinto entities, including Rio Tinto Energy America Inc., Rio Tinto Minerals Inc., and Rio Tinto Services Inc., seeking indemnification from Cloud Peak Energy for liabilities in connection with the California Climate Change Litigation. Cloud Peak Energy entered into various agreements with Rio Tinto and its affiliates in connection with the 2009 IPO and separation from Rio Tinto. Under the Master Separation Agreement, Cloud Peak Energy agreed to indemnify Rio Tinto for certain liabilities relating to Cloud Peak Energy's business conducted prior to and after the closing of our separation from Rio Tinto, which may potentially include liabilities in connection with the California Climate Change Litigation.

*Current Schedule* On July 17, 2017, Plaintiffs filed their lawsuits in the Superior Court of the State of California for the County of San Mateo, the Superior Court of the State of California for the County of Marin, and the Superior Court for the County of Contra Costa, respectively. On August 24, 2017, the cases were removed to the U.S. District Court for the Northern District of California, where they were deemed related and assigned to Judge Vince Chhabria. Plaintiffs indicated that they intended to move to remand the cases back to state court, and the parties stipulated that Defendants would not be required to respond to the complaints until the Court ruled on the motion to remand. The Court signed that Stipulation and Order on September 22, 2017. On September 25, 2017, Plaintiffs filed their motion to remand. The Court granted Plaintiffs' motion to remand on March 16, 2018. On March 26, 2018, Defendants filed (1) a Notice of Appeal to the U.S. Court of Appeals for the Ninth Circuit relating to the District Court's order granting remand, and (2) a motion to stay the remand order pending appeal. On April 9, 2018, Judge Chhabria granted Defendants' motion to stay the remand order pending appeal. On June 6, 2018, Plaintiffs filed a motion to partially dismiss Defendants' appeal, arguing the Court of Appeals lacked jurisdiction to consider certain aspects of the remand order. Defendants opposed the motion. On August 20, 2018, the Ninth Circuit motions panel referred Plaintiffs' motion to partially dismiss to the merits panel for decision, and set a schedule for briefing on the merits. Defendants' opening brief is currently due October 22, 2018; Plaintiffs' answering brief is currently due November 21, 2018; and Defendants' reply brief is due 21 days after service of the answering brief.

If the Plaintiffs were to prevail in the California Climate Change Litigation and if we are required to indemnify Rio Tinto for any portion of the resulting liabilities, those amounts could be significant and could have a material adverse impact on our financial condition, results and liquidity. We are unable to estimate a loss or range of loss for this contingency because of the broad claims and unspecified damages alleged by the plaintiffs against a significant number of defendants and because of the early stage of the California Climate Change Litigation.

*Challenge to BLM's Approval of Revised Resource Management Plans for MT and WY*

*Background* On March 15, 2016, a group of environmental plaintiffs Western Organization of Resource Councils, Montana Environmental Information Center, Powder River Basin Resource Council, Northern Plains Resource Council, Sierra Club, and Natural Resources Defense Council filed a complaint in the U.S.

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District Court for Montana challenging the BLM's September 2015 approval of the Miles City, MT and Buffalo, WY, revised Resource Management Plans (RMPs). The Plaintiffs seek to vacate the 2015 RMPs, require BLM to undertake supplemental environmental analysis under the National Environmental Policy Act (NEPA), and enjoin BLM and the federal defendants from approving any new leases or project permits for coal or oil and gas resources within the two planning areas until BLM prepares a new NEPA analysis and revises its RMPs.

*Intervention by Cloud Peak Energy and Others* In February, March, and April, 2017, Cloud Peak Energy, the State of Wyoming, and Peabody Caballo Mining, LLC and BTU Western Resources, Inc. (Peabody), respectively, moved to intervene in the case. The Court granted all the parties intervention motions in March (Cloud Peak) and April (Wyoming and Peabody), 2017.

*Current Schedule* On March 26, 2018, the Court issued an Amended Opinion and Order (revising the Court's March 23, 2018 Order) granting the Plaintiffs' Cross-Motion for Summary Judgment on three claims and granting Defendants' and Defendant-Intervenors' Cross-Motions for Summary Judgment on three claims. The Court held that BLM must prepare supplemental environmental impact statements for both the Miles City and Buffalo RMPs. The Court also directed BLM to incorporate the Court's conclusions in any pending or future coal or oil and gas leases or permits in the Miles City and Buffalo planning areas until BLM completes the supplemental NEPA analysis for both RMPs. The Court further ordered the parties to meet and confer in good faith in an attempt to reach an agreement regarding the appropriate remedy. The parties were ordered to submit separate briefs to the Court by May 25, 2018 recommending appropriate remedies in light of the Court's March 26th Order if they could not reach a voluntary agreement on remedy.

The parties were unable to reach agreement on the appropriate remedy and each filed a separate remedy brief on May 25, 2018. On June 14, 2018, Federal Defendants and Defendant-Intervenors each filed a motion seeking the Court's leave to file a brief in response to Plaintiffs' remedies brief. Plaintiffs filed a joint opposition brief to these motions on June 28, 2018. On July 31, 2018, the Court issued a final remedy order that directed BLM to complete a new remedial environmental analysis (and related coal screening) by November 29, 2019. During the pendency of that supplemental analysis, BLM is also ordered to undertake a comprehensive environmental analysis for any new coal or oil & gas leasing decision in compliance with the Court's March 26, 2018 Order. The Court rejected Plaintiffs' request for injunctive relief that would have impacted mining operations during the completion of BLM's supplemental environmental analysis.

On August 1, 2018, the Court entered judgment for the Plaintiffs on Claims 1, 3, and 5 of their complaint, and for Defendants and Defendant-Intervenors (including Cloud Peak Energy) on Claims 2, 4, and 6 of Plaintiffs' complaint. The Court's judgment also implemented the Court's July 31, 2018 remedy order. On October 1, 2018, BLM filed a protective notice of appeal in the Montana District Court appealing that Court's August 1, 2018 judgment to the U.S. Court of Appeals for the Ninth Circuit. On October 11, 2018, the State of Wyoming filed a notice of appeal. On October 12, 2018, Plaintiffs filed a notice of cross-appeal. On October 15, 2018, Cloud Peak and Peabody each filed notices of appeal.



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We believe the Plaintiffs' challenge is without merit. Nevertheless, if Plaintiffs are successful in obtaining their requested remedies on appeal, the timing and ability of Cloud Peak Energy to obtain leases and permit approvals could be materially adversely impacted. We are unable to estimate a loss or range of loss for this contingency because (1) the challenge does not seek monetary relief, (2) the nature of the relief sought is broad and the only relief the Court has ordered to date would require BLM to prospectively address alleged deficiencies in complying with applicable legal and regulatory requirements, and (3) although the Court has declined to issue any injunctive relief that might adversely affect Cloud Peak Energy's leases and permit approvals, that decision could potentially be revised on appeal.

### *Other Legal Proceedings*

We are involved in other legal proceedings arising in the ordinary course of business and may become involved in additional proceedings from time to time. We believe that there are no other legal proceedings.

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pending that are likely to have a material adverse effect on our consolidated financial condition, results of operations or cash flows. Nevertheless, we cannot predict the impact of future developments affecting our claims and lawsuits, and any resolution of a claim or lawsuit or an accrual within a particular fiscal period may materially and adversely impact our results of operations for that period. In addition to claims and lawsuits against us, our leases by application, leases by modification, permits, and other industry regulatory processes and approvals, including those applicable to the utility and coal logistics and transportation industries, may also continue to be subject to legal challenges that could materially and adversely impact our mining operations, results, and liquidity. These regulatory challenges may seek to vacate prior regulatory decisions and authorizations that are legally required for some or all of our current or planned mining activities. If we are required to reduce or modify our mining activities as a result of these challenges, the impact could have a material adverse effect on our shipments, financial results and liquidity, and could result in claims from third parties if we are unable to meet our commitments under pre-existing commercial agreements as a result of any such required reductions or modifications to our mining activities.

*Tax Contingencies*

Our income tax calculations are based on application of the respective U.S. federal or state tax laws. Our tax filings, however, are subject to audit by the respective tax authorities. Accordingly, we recognize tax benefits when it is more likely than not a position will be upheld by the tax authorities. To the extent the final tax liabilities are different from the amounts originally accrued, the increases or decreases are recorded as income tax expense.

Several non-income based production tax audits related to federal and state royalties and severance taxes are currently in progress. The financial statements reflect our best estimate of taxes and related interest and penalties due for potential adjustments that may result from the resolution of such tax audits. From time to time, we receive audit assessments and engage in settlement discussions with applicable tax authorities, which may result in adjustments to our estimates of taxes and related interest and penalties.

*Concentrations of Risk and Major Customers*

For the nine months ended September 30, 2018, there was one customer that represented 10% or more of consolidated revenue. For the nine months ended September 30, 2017, there was no single customer that represented 10% or more of consolidated revenue. We generally do not require collateral or other security on accounts receivable because our customers are comprised primarily of investment grade electric utilities. Credit risk is controlled through credit approvals and monitoring procedures.

*Guarantees and Off-Balance Sheet Risk*

In the normal course of business, we are party to guarantees and financial instruments with off-balance sheet risk, such as bank letters of credit, performance or surety bonds and indemnities, which are not reflected on the Unaudited Condensed Consolidated Balance Sheets. In our past experience, virtually no claims have been made against these financial instruments. Management does not expect any material losses to result from these guarantees or off-balance sheet instruments.

U.S. federal and state laws require we secure certain of our obligations to reclaim lands used for mining and to secure coal lease obligations. The primary method we have used to meet these reclamation obligations and to secure coal lease obligations is to provide a third-party surety bond, typically through an insurance company. Specific bond amounts may change over time, depending on the activity at the respective site and any specific requirements by federal or state laws. As of September 30, 2018, we had \$407.6 million of reclamation and lease bonds backed by collateral of \$22.0 million in the form of letters of credit under our A/R Securitization Program used for mining, securing coal lease obligations, and for other operating requirements. If we are unable to obtain or retain required surety bonds, we may be unable to satisfy legal requirements necessary to conduct our mining operations.

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**18. Accumulated Other Comprehensive Income (Loss)**

In August 2018, we communicated the termination of our postretirement medical plan, effective January 1, 2019, to our employees. Employees who retire on, or after, January 1, 2019 will not be eligible for postretirement benefits. As part of this termination, we will provide contributions for the remainder of 2018, in addition to a lump-sum contribution for 2019 benefits, to all eligible retirees. These changes reduced the number of employees who are eligible for the plan, and therefore reduced our Accumulated postretirement medical benefit obligation by \$24.7 million as of September 30, 2018.

As a result of these changes we recognized a net gain on the termination of the plan of \$19.5 million in the three and nine months ended September 30, 2018 in *Net periodic postretirement benefit income (cost), excluding service cost* on the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). This gain was reclassified from *Accumulated Other Comprehensive Income (Loss)* ( AOCI ), and was primarily related to the existing negative prior service cost base from the plan amendment in 2016.

The termination of the plan resulted in a negative plan amendment and established a new negative prior service cost base of \$24.4 million. The new negative prior service cost, in addition to the actuarial loss in AOCI will be amortized into *Net periodic postretirement benefit income (cost), excluding service cost* on the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss) over the remaining term of the plan, which was 17 months at the date of the termination.

The changes in AOCI related to our postretirement medical plan by component, net of tax are as follows (in thousands):

		Nine Months Ended September 30,	
		2018	2017
Beginning balance, January 1,	\$	13,807	\$ 21,884
Amounts reclassified from accumulated other comprehensive income (loss)		(18,298)	(5,462)
Postretirement medical plan change		24,659	
Tax expense (benefit)		(5,466)	
Net current period other comprehensive income (loss)		895	(5,462)
Ending balance, September 30,	\$	14,702	\$ 16,422

The reclassifications out of AOCI are as follows (in thousands):

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	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
<b>Postretirement Medical Plan (1)</b>				
Amortization of prior service costs (credits), before tax(2)	\$ (612)	\$ (1,821)	\$ (4,287)	\$ (5,462)
Postretirement medical plan termination	(19,477)		(19,477)	
Total before tax	(20,089)	(1,821)	(23,764)	(5,462)
Tax expense (benefit)	4,620		5,466	
Amounts reclassified from AOCI	\$ (15,469)	\$ (1,821)	\$ (18,298)	\$ (5,462)

(1) See Note 15 for the components of our net periodic postretirement benefit costs.

(2) Presented on the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss). The balances disclosed for the three and nine months ended September 30, 2017 were

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previously included in *Cost of product sold* and *Selling, general, and administrative expenses*, respectively. See Note 2 for information regarding ASU 2017-07, which we adopted on January 1, 2018.

**19. Supplemental Cash Flow Information*****Restricted Cash***

The following table provides a reconciliation of *Cash and cash equivalents* and restricted cash reported in the Unaudited Condensed Consolidated Balance Sheets as of September 30, 2018 and 2017 that sum to the total of such amounts in the Unaudited Condensed Consolidated Statements of Cash Flows:

	<b>September 30,</b>	
	<b>2018</b>	<b>2017</b>
Cash and cash equivalents	\$ 109,459	\$ 120,942
Restricted cash in other current assets	725	725
Restricted cash in other noncurrent assets	3,807	
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	\$ 113,991	\$ 121,667

The restricted cash in other noncurrent assets represents the difference between the borrowing capacity of the A/R Securitization Program and the undrawn face amount of the letters of credit that was cash-collateralized as of September 30, 2018 based on the prior month's calculation.

***Other Cash Flow Information***

	<b>Nine Months Ended September 30,</b>	
	<b>2018</b>	<b>2017</b>
<b>Supplemental cash flow disclosures</b>		
Interest paid	\$ 17,190	\$ 21,485
Income taxes paid (refunded)	\$ 220	\$ (538)
<b>Supplemental non-cash investing and financing activities</b>		
Capital expenditures included in accounts payable	\$ 3,108	\$ 1,036
Assets acquired under federal coal lease	\$ 2,356	\$

**20. Supplemental Guarantor/Non-Guarantor Financial Information**

In accordance with the indentures governing the senior notes outstanding as of September 30, 2018, CPE Inc. and certain of our 100% owned U.S. subsidiaries (the "Guarantor Subsidiaries") have fully and unconditionally guaranteed the senior notes on a joint and several basis. These guarantees of either series of senior notes are subject to release in the following customary circumstances:

- a sale or other disposition (including by way of consolidation or merger or otherwise) of the Guarantor Subsidiary or the sale or other disposition of all or substantially all the assets of the Guarantor Subsidiary (other than to CPE Inc. or a Restricted Subsidiary (as defined in the applicable indenture) of CPE Inc.) otherwise not in violation of the applicable indenture;
- a disposition of the majority of the capital stock of a Guarantor Subsidiary to a third person otherwise not in violation of the applicable indenture, after which the applicable Guarantor Subsidiary is no longer a Restricted Subsidiary;

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- upon a liquidation or dissolution of a Guarantor Subsidiary so long as no default under the applicable indenture occurs as a result thereof;
- the designation in accordance with the applicable indenture of the Guarantor Subsidiary as an Unrestricted Subsidiary or the Guarantor Subsidiary otherwise ceases to be a Restricted Subsidiary of CPE Inc. in accordance with the applicable indenture;
- defeasance or discharge of such series of senior notes;
- the release, other than the discharge through payment by the Guarantor Subsidiary, of all other guarantees by such Restricted Subsidiary of Debt (as defined in the applicable indenture) of either issuer of the senior notes or the debt of another Guarantor Subsidiary under the Amended Credit Agreement; or
- in the case of the indenture for the 12% Second Lien Senior Notes due 2021, as set forth in the First Lien/Second Lien Intercreditor Agreement, dated October 17, 2016, among Cloud Peak Energy Resources LLC, Cloud Peak Energy Finance Corp., PNC Bank, National Association, as Senior Representative for the First Lien Credit Agreement Secured Parties and Wilmington Trust, National Association, as the Second Priority Representative for the Second Lien Indenture Secured Parties.



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The following historical financial statement information is provided for CPE Inc., Cloud Peak Energy Resources LLC, and the Guarantor/Non-Guarantor Subsidiaries:

**Supplemental Condensed Consolidating Statements of Operations and Comprehensive Income (Loss)**

(in thousands)

	Three Months Ended September 30, 2018					
	Parent Guarantor (CPE Inc.)	Issuing Company (CPE Resources)	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Consolidated
Revenue	\$ 1,650	\$	\$ 233,080	\$	\$ (1,650)	\$ 233,080
<b>Costs and expenses</b>						
Cost of product sold (exclusive of depreciation, depletion, and accretion)		11	208,493			208,504
Depreciation and depletion		305	17,087			17,392
Accretion			1,947			1,947
(Gain) loss on derivative financial instruments			(730)			(730)
Selling, general and administrative expenses		6,751			(1,650)	5,101
Other operating costs			149			149
Total costs and expenses		7,067	226,946		(1,650)	232,363
Operating income (loss)	1,650	(7,067)	6,134			717
<b>Other income (expense)</b>						
Net periodic postretirement benefit income (cost), excluding service cost		3,354	16,662			20,016
Interest income		301	3			304
Interest expense		(7,975)	(103)	(333)		(8,411)
Other, net		(101)	67	101		67
Total other income (expense)		(4,421)	16,629	(232)		11,976
Income (loss) before income tax provision and earnings from unconsolidated affiliates	1,650	(11,488)	22,763	(232)		12,693
Income tax benefit (expense)	(5)					(5)
Income (loss) from unconsolidated affiliates, net of tax		6	(3)			3
Income (loss) from consolidated affiliates, net of tax	11,046	22,528	(232)		(33,342)	
Net income (loss)	12,691	11,046	22,528	(232)	(33,342)	12,691
<b>Other comprehensive income (loss)</b>						
Postretirement medical plan amortization of prior service cost	(612)	(612)	(612)		1,224	(612)
Postretirement medical plan change	24,659	24,659	24,659		(49,318)	24,659

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Postretirement medical plan termination	(19,477)	(19,477)	(19,477)				38,954	(19,477)
Income tax on postretirement medical plan								
Other comprehensive income (loss)	4,570	4,570	4,570				(9,140)	4,570
Total comprehensive income (loss)	\$ 17,261	\$ 15,616	\$ 27,098	\$ (232)	\$ (42,482)	\$ 17,261		

Table of Contents**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****Supplemental Condensed Consolidating Statements of Operations and Comprehensive Income (Loss)**

(in thousands)

	Three Months Ended September 30, 2017					
	Parent Guarantor (CPE Inc.)	Issuing Company (CPE Resources)	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Consolidated
Revenue	\$ 2,238	\$	\$ 248,884	\$	\$ (2,238)	\$ 248,884
<b>Costs and expenses</b>						
Cost of product sold (exclusive of depreciation, depletion, and accretion)		2	205,629			205,631
Depreciation and depletion		245	18,544			18,789
Accretion			1,865			1,865
(Gain) loss on derivative financial instruments			(838)			(838)
Selling, general and administrative expenses		15,297			(2,238)	13,059
Other operating costs			121			121
Total costs and expenses		15,544	225,321		(2,238)	238,627
Operating income (loss)	2,238	(15,544)	23,563			10,257
<b>Other income (expense)</b>						
Net periodic postretirement benefit income (cost), excluding service cost		261	1,330			1,591
Interest income		147				147
Interest expense		(9,243)	(135)	(195)		(9,573)
Other, net		(54)	(98)	54		(98)
Total other income (expense)		(8,889)	1,097	(141)		(7,933)
Income (loss) before income tax provision and earnings from unconsolidated affiliates	2,238	(24,433)	24,660	(141)		2,324
Income tax benefit (expense)	115					115
Income (loss) from unconsolidated affiliates, net of tax		5	133			138
Income (loss) from consolidated affiliates, net of tax	224	24,652	(141)		(24,735)	
Net income (loss)	2,577	224	24,652	(141)	(24,735)	2,577
<b>Other comprehensive income (loss)</b>						
Postretirement medical plan amortization of prior service cost	(1,821)	(1,821)	(1,821)		3,642	(1,821)
Income tax on postretirement medical plan						
Other comprehensive income (loss)	(1,821)	(1,821)	(1,821)		3,642	(1,821)
Total comprehensive income (loss)	\$ 756	\$ (1,597)	\$ 22,831	\$ (141)	\$ (21,093)	\$ 756



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## CLOUD PEAK ENERGY INC.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

## Supplemental Condensed Consolidating Statements of Operations and Comprehensive Income (Loss)

(in thousands)

	Nine Months Ended September 30, 2018					
	Parent Guarantor (CPE Inc.)	Issuing Company (CPE Resources)	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Consolidated
Revenue	\$ 6,053	\$	\$ 655,087	\$	\$ (6,053)	\$ 655,087
<b>Costs and expenses</b>						
Cost of product sold (exclusive of depreciation, depletion, and accretion)		3	597,404	41		597,448
Depreciation and depletion		859	45,929			46,788
Accretion			5,359			5,359
(Gain) loss on derivative financial instruments			(730)			(730)
Selling, general and administrative expenses		31,446			(6,053)	25,393
Impairments			800			800
Other operating costs			331			331
Total costs and expenses		32,308	649,093	41	(6,053)	675,389
Operating income (loss)	6,053	(32,308)	5,994	(41)		(20,302)
<b>Other income (expense)</b>						
Net periodic postretirement benefit income (cost), excluding service cost		3,894	19,357			23,251
Interest income	2	836	3			841
Interest expense		(27,014)	(317)	(810)		(28,141)
Other, net		(323)	(535)	323		(535)
Total other income (expense)	2	(22,607)	18,508	(487)		(4,584)
Income (loss) before income tax provision and earnings from unconsolidated affiliates	6,055	(54,915)	24,502	(528)		(24,886)
Income tax benefit (expense)	(302)					(302)
Income (loss) from unconsolidated affiliates, net of tax		15	254			269
Income (loss) from consolidated affiliates, net of tax	(30,673)	24,228	(528)		6,973	
Net income (loss)	(24,919)	(30,673)	24,228	(528)	6,973	(24,919)
<b>Other comprehensive income (loss)</b>						
Postretirement medical plan amortization of prior service cost	(4,287)	(4,287)	(4,287)		8,574	(4,287)
Postretirement medical plan change	24,659	24,659	24,659		(49,318)	24,659
Postretirement medical plan termination	(19,477)	(19,477)	(19,477)		38,954	(19,477)
Income tax on postretirement medical plan						
Other comprehensive income (loss)	895	895	895		(1,790)	895
Total comprehensive income (loss)	\$ (24,024)	\$ (29,778)	\$ 25,123	\$ (528)	\$ 5,183	\$ (24,024)



[Table of Contents](#)**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****Supplemental Condensed Consolidating Statements of Operations and Comprehensive Income (Loss)****(in thousands)**

	Nine Months Ended September 30, 2017					
	Parent Guarantor (CPE Inc.)	Issuing Company (CPE Resources)	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Consolidated
Revenue	\$ 5,887	\$	\$ 673,813	\$	\$ (5,887)	\$ 673,813
<b>Costs and expenses</b>						
Cost of product sold (exclusive of depreciation, depletion, and accretion)		9	571,588	3		571,600
Depreciation and depletion		626	56,057			56,683
Accretion			5,532			5,532
(Gain) loss on derivative financial instruments			3,102			3,102
Selling, general and administrative expenses		39,748			(5,887)	33,861
Impairments						
Other operating costs		23	406			429
Total costs and expenses		40,406	636,685	3	(5,887)	671,207
Operating income (loss)	5,887	(40,406)	37,128	(3)		2,606
<b>Other income (expense)</b>						
Net periodic postretirement benefit income (cost), excluding service cost		784	3,990			4,774
Interest income	1	303				304
Interest expense	(48)	(31,309)	(404)	(590)		(32,351)
Other, net		(183)	(546)	183		(546)
Total other income (expense)	(47)	(30,405)	3,040	(407)		(27,819)
Income (loss) before income tax provision and earnings from unconsolidated affiliates	5,840	(70,811)	40,168	(410)		(25,213)
Income tax benefit (expense)	(36)					(36)
Income (loss) from unconsolidated affiliates, net of tax		15	756			771
Income (loss) from consolidated affiliates, net of tax	(30,282)	40,514	(410)		(9,822)	
Net income (loss)	(24,478)	(30,282)	40,514	(410)	(9,822)	(24,478)
<b>Other comprehensive income (loss)</b>						
Postretirement medical plan amortization of prior service cost	(5,462)	(5,462)	(5,462)		10,924	(5,462)
Income tax on postretirement medical plan						
Other comprehensive income (loss)	(5,462)	(5,462)	(5,462)		10,924	(5,462)
Total comprehensive income (loss)	\$ (29,940)	\$ (35,744)	\$ 35,052	\$ (410)	\$ 1,102	\$ (29,940)





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## CLOUD PEAK ENERGY INC.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

## Supplemental Condensed Consolidating Balance Sheet

(in thousands)

September 30, 2018

	Parent Guarantor (CPE Inc.)	Issuing Company (CPE Resources)	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS</b>						
<b>Current assets</b>						
Cash and cash equivalents	\$	\$ 109,347	\$ 112	\$	\$	\$ 109,459
Accounts receivable			19,751	42,515		62,266
Due from related parties		45,888	46,055		(90,334)	1,609
Inventories, net			69,474			69,474
Derivative financial instruments			730			730
Income tax receivable	14,727					14,727
Other prepaid and deferred charges	482		19,838			20,320
Other assets			806			806
Total current assets	15,209	155,235	156,766	42,515	(90,334)	279,391
<b>Noncurrent assets</b>						
Property, plant and equipment, net		2,916	1,330,726			1,333,642
Goodwill			2,280			2,280
Income tax receivable	14,727					14,727
Other assets	1,014,268	1,268,159	37,679	4,881	(2,284,631)	40,356
Total assets	\$ 1,044,204	\$ 1,426,310	\$ 1,527,451	\$ 47,396	\$ (2,374,965)	\$ 1,670,396
<b>LIABILITIES AND MEMBER S EQUITY</b>						
<b>Current liabilities</b>						
Accounts payable	\$	\$ 185	\$ 40,708	\$ 76	\$	\$ 40,969
Royalties and production taxes			56,088			56,088
Accrued expenses	7,139	9,919	22,027			39,085
Due to related parties	50,250	72		40,012	(90,334)	
Current portion of federal coal lease obligations			379			379
Other liabilities			1,707			1,707
Total current liabilities	57,389	10,176	120,909	40,088	(90,334)	138,228
<b>Noncurrent liabilities</b>						
Senior notes		401,914				401,914
Federal coal lease obligations, net of current portion			1,404			1,404
Asset retirement obligations, net of current portion			108,359			108,359
Accumulated postretirement medical benefit obligation, net of current portion						

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Royalties and production taxes	27,079						27,079
Other liabilities	6,597						6,597
Total liabilities	57,389	412,090	264,348	40,088	(90,334)		683,581
Total equity	986,815	1,014,220	1,263,103	7,308	(2,284,631)		986,815
Total liabilities and equity	\$ 1,044,204	\$ 1,426,310	\$ 1,527,451	\$ 47,396	\$ (2,374,965)	\$	1,670,396

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## CLOUD PEAK ENERGY INC.

## NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

## Supplemental Condensed Consolidating Balance Sheet

(in thousands)

	December 31, 2017					
	Parent Guarantor (CPE Inc.)	Issuing Company (CPE Resources)	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Consolidated
<b>ASSETS</b>						
<b>Current assets</b>						
Cash and cash equivalents	\$	\$ 107,818	\$ 130	\$	\$	\$ 107,948
Accounts receivable			17,359	32,716		50,075
Due from related parties		46,350	23,044		(69,272)	122
Inventories, net			72,904			72,904
Income tax receivable	256					256
Other prepaid and deferred charges	283		36,681			36,964
Other assets			1,765			1,765
Total current assets	539	154,168	151,883	32,716	(69,272)	270,034
<b>Noncurrent assets</b>						
Property, plant and equipment, net		3,480	1,362,275			1,365,755
Goodwill			2,280			2,280
Income tax receivable	29,454					29,454
Other assets	1,036,162	1,289,487	33,612	341	(2,328,424)	31,178
Total assets	\$ 1,066,155	\$ 1,447,135	\$ 1,550,050	\$ 33,057	\$ (2,397,696)	\$ 1,698,701
<b>LIABILITIES AND MEMBER S EQUITY</b>						
<b>Current liabilities</b>						
Accounts payable	\$ 1	\$ 24	\$ 29,748	\$ 59	\$	\$ 29,832
Royalties and production taxes			54,327			54,327
Accrued expenses	3,160	5,659	23,999			32,818
Due to related parties	44,039	71		25,162	(69,272)	
Other liabilities			2,435			2,435
Total current liabilities	47,200	5,754	110,509	25,221	(69,272)	119,412
<b>Noncurrent liabilities</b>						
Senior notes		405,266				405,266
Asset retirement obligations, net of current portion			99,297			99,297
Accumulated postretirement medical benefit obligation, net of current portion			24,958			24,958
Royalties and production taxes			21,896			21,896
Other liabilities	11,146		8,917			20,063
Total liabilities	58,346	411,020	265,577	25,221	(69,272)	690,892

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Total equity		1,007,809		1,036,115		1,284,473		7,836		(2,328,424)		1,007,809
Total liabilities and equity	\$	1,066,155	\$	1,447,135	\$	1,550,050	\$	33,057	\$	(2,397,696)	\$	1,698,701

[Table of Contents](#)**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****Supplemental Condensed Consolidating Statement of Cash Flows****(in thousands)**

<b>Nine Months Ended September 30, 2018</b>						
	<b>Parent Guarantor (CPE Inc.)</b>	<b>Issuing Company (CPE Resources)</b>	<b>Guarantor Subsidiaries</b>	<b>Non- Guarantor Subsidiaries</b>	<b>Eliminations</b>	<b>Consolidated</b>
Net cash provided by (used in) operating activities	\$	\$ 7,928	\$ 11,397	\$ 4,743	\$	\$ 24,068
<b>Investing activities</b>						
Purchases of property, plant and equipment		(114)	(7,051)			(7,165)
Investment in development projects			(1,894)			(1,894)
Other		13	56			69
Net cash provided by (used in) investing activities		(101)	(8,889)			(8,990)
<b>Financing activities</b>						
Principal payments of federal coal leases			(574)			(574)
Payment of deferred financing costs				(936)		(936)
Payment amortized to deferred gain		(6,298)				(6,298)
Other			(1,952)			(1,952)
Net cash provided by (used in) financing activities		(6,298)	(2,526)	(936)		(9,760)
Net increase (decrease) in cash, cash equivalents, and restricted cash		1,529	(18)	3,807		5,318
Cash, cash equivalents, and restricted cash at beginning of period		107,818	856			108,673
Cash, cash equivalents, and restricted cash at the end of period	\$	\$ 109,347	\$ 837	\$ 3,807	\$	\$ 113,991

Table of Contents**CLOUD PEAK ENERGY INC.****NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****Supplemental Condensed Consolidating Statement of Cash Flows**

(in thousands)

	Nine Months Ended September 30, 2017					
	Parent Guarantor (CPE Inc.)	Issuing Company (CPE Resources)	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Eliminations	Consolidated
Net cash provided by (used in) operating activities	\$	\$ 42,610	\$ 14,014	\$ 408	\$	\$ 57,032
<b>Investing activities</b>						
Purchases of property, plant and equipment		(1,420)	(9,907)			(11,327)
Investment in development projects			(2,110)			(2,110)
Other			33			33
Net cash provided by (used in) investing activities		(1,420)	(11,984)			(13,404)
<b>Financing activities</b>						
Repayment of senior notes		(62,094)				(62,094)
Payment of debt refinancing costs				(408)		(408)
Payment amortized to deferred gain		(6,294)				(6,294)
Proceeds from issuance of common stock		68,850				68,850
Cash paid for equity offering		(4,490)				(4,490)
Other		(23)	(1,935)			(1,958)
Net cash provided by (used in) financing activities		(4,051)	(1,935)	(408)		(6,394)
Net increase (decrease) in cash, cash equivalents, and restricted cash		37,139	95			37,234
Cash, cash equivalents, and restricted cash at beginning of period		83,673	760			84,433
Cash, cash equivalents, and restricted cash at the end of period	\$	\$ 120,812	\$ 855	\$	\$	\$ 121,667

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**CAUTIONARY NOTICE REGARDING FORWARD-LOOKING STATEMENTS**

This report contains forward-looking statements that involve substantial risks and uncertainties. You can identify these statements by forward-looking words such as anticipate, believe, could, estimate, expect, intend, may, plan, potential, should, will, would. You should read statements that contain these words carefully because they discuss our current plans, strategies, prospects, and expectations concerning our business, operating results, financial condition, and other similar matters. While we believe that these forward-looking statements are reasonable as and when made, there may be events in the future that we are not able to predict accurately or control, and there can be no assurance that future developments affecting our business will be those that we anticipate. Additionally, all statements concerning our expectations regarding future operating results are based on current forecasts for our existing operations and do not include the potential impact of any future acquisitions, divestitures, or other transactions. The factors listed under Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2017 (our 2017 Form 10-K) and Item 1A of Part II of this report, as well as any cautionary language in this report, describe the known material risks, uncertainties, and events that may cause our actual results to differ materially and adversely from the expectations we describe in our forward-looking statements. Additional factors or events that may emerge from time to time, or those that we currently deem to be immaterial, could cause our actual results to differ, and it is not possible for us to predict all of them. You are cautioned not to place undue reliance on the forward-looking statements contained herein. We undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events, or otherwise, except as required by law. The following factors are among those that may cause actual results to differ materially and adversely from our forward-looking statements:

- the timing and extent of any sustained recovery of the currently depressed thermal coal industry and the impact of ongoing or further depressed industry conditions on our financial performance, liquidity, and financial covenant compliance;
- the prices we receive for our coal and logistics services, our ability to effectively execute our forward sales strategy, and changes in utility purchasing patterns resulting in decreased long-term purchases of coal;
- the timing of reductions or increases in customer coal inventories;
- our ability to obtain new coal sales agreements on favorable terms, to resolve customer requests for reductions or deferrals of coal deliveries, and to respond to any cancellations of their committed volumes on terms that preserve the amount and timing of our forecasted economic value;
- the impact of increasingly variable and less predictable demand for thermal coal based on natural gas prices, summer cooling demand, winter heating demand, economic growth rates, and other factors that impact overall demand for electricity;
- our ability to efficiently and safely conduct our mining operations and to adjust our planned production levels to respond to market conditions and effectively manage the costs of our operations;

- competition with other producers of coal and with traders and re-sellers of coal, including the current oversupply of thermal coal, the impacts of currency exchange rate fluctuations and the strong U.S. dollar, and government environmental, energy, and tax policies and regulations that make foreign coal producers more competitive for international transactions;
- the impact of coal industry bankruptcies on our competitive position relative to other companies who have emerged from bankruptcy with reduced leverage and potentially reduced operating costs;
- competition with natural gas, wind, solar, and other non-coal energy resources, which may continue to increase as a result of low domestic natural gas prices, the declining cost of renewables, and due to environmental, energy, and tax policies, regulations, subsidies, and other government actions that encourage or mandate use of alternative energy sources;
- coal-fired power plant capacity and utilization, including the impact of climate change and other environmental regulations and initiatives, energy policies, political pressures, non-governmental



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organization activities, international treaties or agreements, and other factors that may cause domestic and international electric utilities to continue to phase out or close existing coal-fired power plants, reduce or eliminate construction of any new coal-fired power plants, or reduce consumption of coal from the Powder River Basin ( PRB );

- the failure of economic, commercially available carbon capture technology to be developed and adopted by utilities in a timely manner;
- the impact of keep coal in the ground campaigns and other well-funded, anti-coal initiatives by environmental activist groups and others targeting substantially all aspects of our industry;
- our ability to offset declining U.S. demand for coal and achieve longer term growth in our business through our logistics revenue and export sales, including the significant impact of Chinese and Indian thermal coal import demand and production levels from other countries and basins on overall seaborne coal prices, and the impact of any trade wars on our export business;
- railroad, export terminal, and other transportation performance, costs, and availability, including the availability of sufficient and reliable rail capacity to transport PRB coal, any development of future export terminal capacity and our ability to access capacity on commercially reasonable terms;
- the impact of our rail and terminal take-or-pay commitments if we do not meet our required export shipment obligations, including our commitments entered into as part of our export supply agreement with JERA Trading;
- weather conditions and weather-related damage that impact our mining operations, our customers, or transportation infrastructure, including the adverse impacts on our 2018 costs and production volumes of the heavy rain experienced during the second quarter of 2018, particularly at our Antelope Mine and our ability to reach agreements with customers to address currently committed 2018 shipments that we do not expect to be able to satisfy;
- operational, geological, equipment, permit, labor, and other risks inherent in surface coal mining;
- future development or operating costs for our development projects exceeding our expectations or other factors adversely impacting our development projects;

- our ability to successfully acquire coal and appropriate land access rights at economic prices and in a timely manner and our ability to effectively resolve issues with conflicting mineral development that may impact our mine plans;
- the impact of asset impairment charges, if required, as a result of challenging industry conditions or other factors, including any impairments associated with our development projects;
- our plans and objectives for future operations and the development of additional coal reserves, including risks associated with acquisitions;
- the impact of current and future environmental, health, safety, endangered species, and other laws, regulations, treaties, executive orders, court decisions or governmental policies, or changes in interpretations thereof and third-party regulatory challenges, including additional requirements, uncertainties, costs, liabilities, or restrictions adversely affecting the use, demand or price for coal, our mining operations or the logistics, transportation, or terminal industries;
- the impact of required regulatory processes and approvals to lease coal and obtain, maintain, and renew permits for coal mining operations or to transport coal to domestic and foreign customers, including third-party legal challenges to regulatory approvals that are required for some or all of our current or planned mining activities;

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- any increases in rates or changes in regulatory interpretations or assessment methodologies with respect to royalties or severance and production taxes and the potential impact of associated interest and penalties;
- inaccurately estimating the costs or timing of our reclamation and mine closure obligations and our assumptions underlying reclamation and mine closure obligations;
- our ability to obtain required surety bonds and provide any associated collateral on commercially reasonable terms;
- the availability of, disruptions in delivery or increases in pricing from third-party vendors of raw materials, capital equipment and consumables which are necessary for our operations, such as explosives, petroleum-based fuel, tires, steel, and rubber;
- our assumptions concerning coal reserve estimates;
- our relationships with, and other conditions affecting, our customers (including our largest customers who account for a significant portion of our total revenue) and other counterparties, including economic conditions and the credit performance and credit risks associated with our customers and other counterparties, such as traders, brokers, and lenders under our Amended Credit Agreement (as defined below) and financial institutions with whom we maintain accounts or enter hedging arrangements;
- the results of our hedging programs and changes in the fair value of derivative financial instruments that are not accounted for as hedges;
- the terms and restrictions of our indebtedness, including our ability to satisfy the quarterly financial covenants in our Amended Credit Agreement and avoid an event of default;
- liquidity constraints, access to capital and credit markets and availability and costs of credit, surety bonds, letters of credit, and insurance, including risks resulting from the cost or unavailability of financing due to debt and equity capital and credit market conditions for the coal sector or in general, changes in our credit rating, our compliance with the covenants in our debt agreements, the credit pressures on our industry due to depressed conditions, or any demands for increased collateral by our surety bond providers, or the continued significant reduction in our borrowing capacity under our Amended Credit Agreement;

- volatility in the price of our common stock, including the impact of any delisting of our stock from the New York Stock Exchange if we fail to meet the minimum average closing price listing standard;
- our liquidity, results of operations, and financial condition generally, including amounts of working capital that are available;
- volatility in our results due to required quarterly mark-to-market accounting adjustments associated with certain historical equity compensation awards;
- litigation and other contingencies;
- the authority of federal and state regulatory authorities to order any of our mines to be temporarily or permanently closed under certain circumstances; and
- other risk factors or cautionary language described from time to time in the reports and registration statements we file with the Securities and Exchange Commission, including those in Item 1A - Risk Factors in our 2017 Form 10-K and any updates thereto in our Forms 10-Q and Forms 8-K, including Item 1A of Part II of this report.

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

**Explanatory Note**

This Item 2 may contain forward-looking statements that involve substantial risks and uncertainties. When considering these forward-looking statements, you should keep in mind the cautionary statements in this report and our other Securities and Exchange Commission ( SEC ) filings, including the Risk Factors in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2017 ( 2017 Form 10-K ) and Item 1A of Part II of this report. See also Cautionary Notice Regarding Forward-Looking Statements in Item 1 above.

This Item 2 is intended to help the reader understand our results of operations and financial condition. This discussion should be read in conjunction with our Unaudited Condensed Consolidated Financial Statements in Item 1 of this report and our other SEC filings, including our Audited Consolidated Financial Statements in Item 8 of our 2017 Form 10-K.

**Overview**

We are one of the largest producers of coal in the United States of America ( U.S. ) and the Powder River Basin ( PRB ), based on our 2017 coal sales. We operate some of the safest mines in the coal industry. According to the most current Mine Safety and Health Administration ( MSHA ) data, we have one of the lowest employee all injury incident rates among the largest U.S. coal producing companies. We currently operate solely in the PRB, the lowest cost region of the major coal producing regions in the U.S., where we own and operate three surface coal mines: the Antelope Mine, the Cordero Rojo Mine, and the Spring Creek Mine.

Our Antelope Mine and Cordero Rojo Mine are located in Wyoming and our Spring Creek Mine is located in Montana. Our mines produce subbituminous thermal coal with low sulfur content, and we sell our coal primarily to domestic and foreign electric utilities. Thermal coal is primarily consumed by electric utilities and industrial consumers as fuel for electricity generation. In 2017, the coal we produced generated approximately 2% of the electricity produced in the U.S. As of December 31, 2017, we controlled approximately 1.0 billion tons of proven and probable reserves. We do not produce any metallurgical coal.

In addition, we have two development projects, both located in the Northern PRB. For purposes of this report, the term Northern PRB refers to the area within the PRB that lies within Montana and the northern part of Sheridan County, Wyoming. The Youngs Creek project is an undeveloped surface mine project located in Wyoming, seven miles south of our Spring Creek Mine and contiguous with the Wyoming-Montana state line. The Big Metal project is located near the Youngs Creek project on the Crow Indian Reservation in southeast Montana.

As previously disclosed, in January 2013, Big Metal Coal Co, LLC ( Big Metal ), our wholly-owned subsidiary, entered into an option agreement and a corresponding exploration agreement with the Crow Tribe of Indians ( Crow Tribe ). These agreements were approved by the U.S. Department of the Interior in June 2013. The option and exploration agreements provided for exploration rights and exclusive options to lease

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three separate coal deposits on the Crow Indian Reservation over an initial five-year term, which would have expired June 14, 2018, with two extension periods through 2035 if certain conditions were met. On June 7, 2018, Big Metal delivered notice to the Crow Tribe to exercise the Upper Youngs Creek coal lease option and extend the coal lease options for the Squirrel Creek and Tanner Creek project areas. In connection with the option exercise and option extensions, Big Metal paid approximately \$1.8 million to the Crow Tribe in June 2018. The coal lease will still require approval from the U.S. Department of the Interior and related regulatory actions before it is effective. Exercise of the Upper Youngs Creek option and payment of the initial option payments for the Squirrel Creek and Tanner Creek project areas trigger commencement of the first option extension periods for Squirrel Creek and Tanner Creek through December 31, 2025.

Since inception of the option agreement, Big Metal has made option and lease bonus payments totaling approximately \$12 million to the Crow Tribe, including the option exercise payments in June 2018. The coal located at the Big Metal project is similar quality to that of our Spring Creek Mine and offers lower sodium levels.

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Any future development and coal production from the Big Metal project remains subject to regulatory approvals, completion of access agreements, and significant risk and uncertainty, including coal demand and pricing in the U.S. and internationally. In addition, portions of the potential project remain subject to exercise of additional options.

Our logistics business provides a variety of services designed to facilitate the sale and delivery of coal. These services include the purchase of coal from third parties or from our owned and operated mines, coordination of the transportation and delivery of purchased coal, negotiation of take-or-pay rail agreements and take-or-pay port agreements, and demurrage settlement with vessel operators. For a discussion of our rail and port agreements, see Note 5 of Notes to Unaudited Condensed Consolidated Financial Statements in Item 1.

**Segment Information**

Our reportable segments include Owned and Operated Mines and Logistics and Related Activities. For a discussion of these segments, see Note 4 of our Unaudited Condensed Consolidated Financial Statements in Item 1.

**Core Business Operations**

Our key business drivers include the following:

- the volume of coal sold by our Owned and Operated Mines segment;
- the price for which we sell our coal;
- the costs of mining, including labor, repairs and maintenance, fuel, explosives, depreciation of capital equipment, and depletion of coal leases;
- the amount of royalties, severance taxes, and other governmental levies that we pay;
- capital expenditures to acquire property, plant and equipment;

- the volume of deliveries coordinated by our Logistics and Related Activities segment to customer contracted destinations;
- the revenue we receive for our logistics services; and
- the costs for logistics services, rail and port charges for coal sales made on a delivered basis, including demurrage, and any take-or-pay charges.

The volume of coal that we sell in any given year is driven by global and domestic demand for coal-generated electric power. Demand for coal-generated electric power may be affected by many factors including weather patterns, natural gas prices, railroad performance, the availability of coal-fired and alternative generating capacity and utilization, the closure of coal-fired power plants, environmental and legal challenges, political and regulatory factors, energy policies, international and domestic economic conditions, currency exchange rate fluctuations, and other factors discussed in this Item 2 and in our 2017 Form 10-K.

The price at which we sell our coal is a function of the demand for coal relative to the supply. We typically seek to enter into multi-year contracts with our customers, which helps mitigate the risks associated with any short-term imbalance in supply and demand. We have historically entered each year with expected production related to domestic sales effectively fully sold. This strategy helped us run our mines at predictable production rates, which improved control of operating costs. In recent years, our business has become more variable and less predictable because utilities are adjusting their purchasing pattern based on natural gas prices, weather, and other factors and have also been increasingly purchasing coal for shorter terms. As of October 17, 2018, we have current commitments to sell 52 million tons for 2018. Due to operational issues at the Antelope Mine, we currently expect to ship between 49 and 51 million tons in 2018. We are working with our customers to move Antelope tons to our other mines or into 2019 where possible.



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As is common in the PRB, coal seams at our existing mines naturally deepen, resulting in additional overburden to be removed at additional cost. We have experienced increased operating costs for longer haul distances, maintenance and supplies, and employee wages and salaries. We use derivative financial instruments to help manage our exposure to diesel fuel prices. In July 2018, we entered into West Texas Intermediate ( WTI ) derivative financial instruments to hedge our diesel fuel costs for the remainder of 2018 and all of 2019.

We incur significant capital expenditures to maintain, update, and expand our mining equipment, surface land holdings, and coal reserves. As the costs of acquiring federal coal leases and associated surface rights increase, our depletion costs also increase.

The volume of coal sold on a delivered basis is influenced by international and domestic market conditions. Coal sold on a delivered basis to customer contracted destinations, including sales to Asian customers, involves us arranging and paying for logistics services, which can include rail, rail car hire, vessel chartering, and port charges, including any demurrage incurred and other costs. These logistics costs are affected by volume, various scheduling considerations, and negotiated rates for rail and port services. We have exposure to take-or-pay commitments for our rail and port committed capacities. For a discussion of our rail and port agreements, see Note 5 of Notes to Unaudited Condensed Consolidated Financial Statements in Item 1.

**Current Considerations**

***Owned and Operated Mines Segment***

Mine shipments to domestic customers during the three months ended September 30, 2018 were 11.6 million tons, compared to 14.2 million tons shipped to domestic customers in the same period in 2017. Shipments during the third quarter of 2018 were negatively impacted by lower shipments at the Antelope Mine, as well as low demand at the Cordero Rojo Mine. Antelope production continued to be impacted by the heavy rain experienced during the second quarter. While the immediate impact of the rain was mitigated by early August, the increased moisture caused significant spoil failures in both dragline pits in mid-August. This occurred as coal was removed from the base of the wet spoil piles and is still occurring as coal is removed in mid-October. The resulting rehandle of spoil out of the pits reduced coal shipments and diverted resources from pre-stripping, which significantly increased per ton costs. We continue to work with our customers to agree on deferrals, or other resolutions, for a portion of contracted volumes that we do not expect to be able to ship from the Antelope Mine in the fourth quarter due to the ongoing impact of the spoil failures.

Natural gas prices during the third quarter remained in the range of \$2.75 to \$3.00 per MMBtu and have recently increased to over \$3.20 per MMBtu. While storage volumes remain well below average, natural gas prices have been steady due to increasing production. As of October 12, 2018, U.S. Energy Information Administration data showed that natural gas inventories have declined by 17% compared to year ago levels.

Energy Ventures Analysis estimates there were 51 million tons of PRB coal inventories on utility stockpiles at the end of September 2018, a decline of 21 million tons from December 2017 levels. We believe declining customer inventories will increase contracting approaching winter, although our capacity to contract for additional 2018 shipments is limited due to the operational issues at our Antelope Mine discussed above.

Historically, our core cash mining costs (excluding royalties, production taxes, and fuel) have increased as a result of increasing strip ratios and haul distances. PRB strip ratios typically increase as coal seams decline requiring additional overburden removal. Haul distances also increase as mining pits progress further from the load-out. We have seen strip ratios increase in 2018 more than in recent years resulting in higher cost per ton. Lower volumes are expected from the Cordero Rojo Mine in 2018 due to continued low demand for 8400 Btu coal, partially offset by increased volumes at the Spring Creek Mine due to higher export demand. These higher costs and lower volumes are reducing the contribution from the Owned and Operated Mines segment in 2018.

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***Logistics and Related Activities Segment***

The international thermal Newcastle coal price index during the three months ended September 30, 2018 remained over \$100 per tonne, currently settling around \$114 per tonne due to strong demand. During the same period, the Kalimantan 5000 GAR index price, which the Spring Creek Mine coal typically prices against, has declined to under \$55 per tonne. The recent collapse of the Indonesian rupiah has lowered producers' U.S. Dollar cost and the Indonesian Government has removed export restrictions to increase U.S. Dollar exports. The result has been an increase in Indonesian exports and a drop in the Kalimantan 5000 index. The current wide gap between Newcastle and Kalimantan 5000 index pricing is not common compared to historical spreads between those indices.

Based on estimates through August 2018, year-to-date thermal imports into China have increased 33 million tonnes, or almost 27%, compared to August 2017. China's electricity generation has increased by 7.8% through August after increasing by 6.5% last year, with most of this increase from thermal coal generation.

Thermal coal imports to India have increased by nearly 18% this year as domestic coal production has struggled to keep pace with rising demand. South Korean thermal coal imports continue to grow as recently commissioned plants increase their generation. Since we announced the JERA Trading contract to supply a new integrated gasification combined cycle (IGCC) power plant in Japan from late 2019, we have been discussing test burns with five Japanese utilities. Two test burns have been successfully completed and discussions for five more test cargos are underway. There is no assurance that these test burns will lead to future sales.

We exported 1.5 million tons during the three months ended September 30, 2018. We expect lower prices during the fourth quarter of 2018 as subbituminous prices have declined. Demand for our coal has remained strong, and the rail and port system operated as expected. We expect export shipments of approximately 5.5 million tons in 2018.

***Potential for Asset Impairments***

The carrying value of our mineral properties, equipment, and other long-lived assets are sensitive to declines in domestic and international coal prices. Lower coal prices and lower production volumes, such as those experienced recently, may not only decrease our revenues and cash flows but also may reduce the amount of coal we can produce economically. Lower coal prices may result in asset impairment charges on our long-lived assets, including development projects, due to reductions in the future cash flows associated with our Owned and Operated Mines. The cash flow model that we use to assess impairment includes numerous assumptions, such as our current estimates of forecast coal production, market outlook on forward commodity prices, operating and development costs, and discount rates. All inputs to the cash flow model must be evaluated at each date of estimate. Additional triggering events could include, but are not limited to, an impairment of coal reserves caused by continued declines in coal prices, increasing costs of production, or regulatory changes that adversely impact coal-fired electricity generation. If prices and demand decline, remain at current levels for an extended period of time, or do not improve as expected, we may incur impairment charges with respect to certain of our long-lived assets, primarily associated with our Cordero Rojo Mine. The actual amount of impairment incurred, if any, for our properties will depend on a variety of factors including, but not limited to, subsequent forward price curve changes, the additional risk-adjusted value of proven and probable reserves, weighted-average cost of capital, operating cost estimates and future capital expenditure estimates. Additionally, a further decrease in forward coal prices could result in additional long-lived assets being at risk for impairment. See Item 1A in our 2017 Form 10-K - Risk Factors - Risks Related to Our Business and Industry *We may not recover our investments in our mining, exploration, port access rights, development projects, and other assets, which may require us to recognize impairment charges related to those assets.*

**Environmental and Other Regulatory Matters**

Federal, state, and local authorities regulate the U.S. coal mining industry with respect to various matters, including air quality standards, water pollution, plant and wildlife protection, the discharge of materials into the environment, and the effects of mining on surface and groundwater quality and availability. These laws and regulations have had, and will continue to have, a significant adverse effect on our production costs and our

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competitive position relative to certain other sources of electricity generation. Future laws, regulations, or orders, including those relating to global climate change, may cause coal to become a less attractive fuel source, thereby reducing coal's share of the market for fuels and other energy sources used to generate electricity. See "Climate Change Regulatory Environment" below and Part I, Item I, Business "Environmental and Other Regulatory Matters" in our 2017 Form 10-K for additional climate disclosures.

**Three Months Ended September 30, 2018 Compared to Three Months Ended September 30, 2017****Summary**

The following table summarizes key results (in millions, except per share amounts and percentages):

	Three Months Ended September 30,			Change	
	2018	2017	Amount		Percent
Total tons sold	13.1	15.6	(2.5)		(16.0)
Total revenue	\$ 233.1	\$ 248.9	\$ (15.8)		(6.3)
Net income (loss)	\$ 12.7	\$ 2.6	\$ 10.1		*
Diluted EPS	\$ 0.16	\$ 0.03	\$ 0.13		*
Adjusted EBITDA (1)	\$ 40.7	\$ 36.0	\$ 4.7		13.1

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\* Not meaningful

(1) EBITDA and Adjusted EBITDA are intended to provide additional information only and do not have any standard meaning prescribed by U.S. GAAP. A quantitative reconciliation of *Net income (loss)* to Adjusted EBITDA is found in "Non-GAAP Financial Measures" below.

Table of Contents**Results of Operations***Revenue*

The following table presents *Revenue* and tons sold (in millions, except per ton amounts and percentages):

	Three Months Ended September 30,		Change	
	2018	2017	Amount	Percent
<b>Owned and Operated Mines</b>				
Realized price per ton sold	\$ 12.16	\$ 12.32	\$ (0.16)	(1.3)
Tons sold	13.1	15.5	(2.4)	(15.5)
Coal revenue	\$ 159.0	\$ 191.5	\$ (32.5)	(17.0)
Other revenue	\$ 2.9	\$ 6.5	\$ (3.6)	(55.4)
<b>Logistics and Related Activities</b>				
Total tons sold	1.5	1.4	0.1	7.1
Realized price per ton sold - Asian export	\$ 60.63	\$ 48.67	\$ 11.96	24.6
Tons sold - Asian export	1.5	1.3	0.2	15.4
Realized price per ton sold - Domestic	\$ 53.28	\$ 50.48	\$ 2.80	5.5
Tons sold - Domestic (1)				
Revenue	\$ 91.0	\$ 67.7	\$ 23.3	34.4
<b>Other</b>				
Revenue	\$	\$ 0.6	\$ (0.6)	(100.0)
<b>Eliminations of Intersegment Sales</b>				
Revenue	\$ (19.8)	\$ (17.4)	\$ (2.4)	(13.8)
<b>Total Consolidated</b>				
Revenue	\$ 233.1	\$ 248.9	\$ (15.8)	(6.3)

(1) For the three months ended September 30, 2018 and 2017, the domestic logistics volumes were 35,000 tons and 44,100 tons, respectively.

*Owned and Operated Mines Segment*

The following table shows volume and price related changes to coal revenue for the three months ended September 30, 2018 compared to the three months ended September 30, 2017 (in millions):

Three months ended September 30, 2017	\$ 191.5
Changes associated with volumes	(30.4)
Changes associated with prices	(2.1)
Three months ended September 30, 2018	\$ 159.0

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Coal revenue decreased for the three months ended September 30, 2018 compared to the same period in 2017 primarily due to fewer tons sold. Volumes decreased due to the continued impact from the heavy rain seen in the second quarter which caused spoil failures in two pits at the Antelope Mine, and has resulted in significant overburden rehandling during the third quarter of 2018. Realized prices for the three months ended September 30, 2018 decreased as compared to the same period in 2017 due to the expiration of higher priced contracts being replaced by lower priced contracts.

Table of Contents*Logistics and Related Activities Segment*

*Revenue* increased for the three months ended September 30, 2018 compared to the same period in 2017 primarily due to an improved export market. We shipped 11 vessels during the three months ended September 30, 2018 compared to nine vessels during the same period in 2017. Realized prices have increased 24.6% for the three months ended September 30, 2018 compared to the same period in 2017.

*Other*

*Revenue* decreased for the three months ended September 30, 2018 compared to the same period in 2017 primarily due to no brokered sales for the three months ended September 30, 2018 compared to \$0.5 million for the same period in 2017.

*Cost of Product Sold*

The following table presents *Cost of product sold* (in millions, except per ton amounts and percentages):

	Three Months Ended September 30,			Change	
	2018	2017	Amount		Percent
<b>Owned and Operated Mines</b>					
Average cost per ton sold	\$ 11.05	\$ 9.65	\$ 1.40		14.5
Cost of product sold (produced coal)	\$ 144.5	\$ 150.0	\$ (5.5)		(3.7)
Other cost of product sold	\$ 1.7	\$ 2.7	\$ (1.0)		(37.0)
<b>Logistics and Related Activities</b>					
Average cost per ton sold - Asian export	\$ 53.57	\$ 46.42	\$ 7.15		15.4
Average cost per ton sold - Domestic	\$ 50.89	\$ 47.83	\$ 3.06		6.4
Cost of product sold	\$ 81.8	\$ 69.6	\$ 12.2		17.5
<b>Other</b>					
Cost of product sold	\$	\$ 0.6	\$ (0.6)		(100.0)
<b>Eliminations of Intersegment Sales</b>					
Cost of product sold	\$ (19.5)	\$ (17.3)	\$ (2.2)		(12.7)
<b>Total Consolidated</b>					
Cost of product sold	\$ 208.5	\$ 205.6	\$ 2.9		1.4

*Owned and Operated Mines Segment*



*Cost of product sold* decreased in the three months ended September 30, 2018 as compared to the same period in 2017 primarily due to the decrease in tons sold, which decreased production taxes and royalties. In addition, labor costs decreased due to decreased headcount and benefit costs. Partially offsetting these decreases were increases in fuel and lubes, repairs and maintenance, and explosives. Fuel and lubes increased as a result of an increase in the price of diesel and higher consumption rates. Repairs and maintenance increased as a result of running more haul trucks, as well as work done at our rebuild center on various draglines, dippers and buckets. Explosives increased as a result of an increase in overburden removal. The average cost per ton sold increased primarily due to the lower production and higher strip ratio. *Cost of product sold* and average cost per ton sold have been revised for the three months ended September 30, 2017 from prior period presentation to reflect the adoption of Accounting Standards Update ( ASU ) 2017-07. The adoption, which required certain postretirement benefit costs to be relocated out of *Operating income (loss)*, increased *Cost of product sold* and average cost per ton sold by \$1.3 million and \$0.09, respectively, from what was previously reported for the three months ended September 30, 2017. See Note 2 for further information regarding the impact of this ASU on our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

Table of Contents*Logistics and Related Activities Segment*

*Cost of product sold* increased in the three months ended September 30, 2018 as compared to the same period in 2017 primarily due to an increase in rail fuel surcharges, higher severance taxes, and price variable rail rates on our export sales. We shipped 11 vessels during the three months ended September 30, 2018 compared to nine vessels during the same period in 2017.

*Other*

*Cost of product sold* decreased in the three months ended September 30, 2018 due to a decrease in our broker activity as compared to the same period in 2017.

*Operating Income (Loss)*

The following table presents *Operating income (loss)* (in millions, except for percentages):

	Three Months Ended September 30,		Change		
	2018	2017	Amount		Percent
<b>Owned and Operated Mines</b>					
Operating income (loss)	\$ (2.6)	\$ 25.8	\$ (28.4)		(110.1)
<b>Logistics and Related Activities</b>					
Operating income (loss)	\$ 9.2	\$ (1.9)	\$ 11.1		*
<b>Other</b>					
Operating income (loss)	\$ (5.5)	\$ (13.4)	\$ 7.9		59.0
<b>Eliminations of Intersegment Sales</b>					
Operating income (loss)	\$ (0.4)	\$ (0.2)	\$ (0.2)		(100.0)
<b>Total Consolidated</b>					
Operating income (loss)	\$ 0.7	\$ 10.3	\$ (9.6)		(93.2)

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\* Not meaningful

*Owned and Operated Mines Segment*

Operating income decreased in the three months ended September 30, 2018 as compared to the same period in 2017 primarily due to the decrease in *Revenue* as previously discussed. Partially offsetting this was the decrease in *Cost of product sold* as previously discussed. In addition, *Depreciation and depletion* decreased \$1.5 million primarily due to the decrease in production. *Operating income (loss)* has been revised for the three months ended September 30, 2017 from prior period presentation to reflect the adoption of ASU 2017-07. The adoption, which required certain postretirement benefit costs to be relocated out of *Operating income (loss)*, decreased operating income by \$1.3 million from what was previously reported for the three months ended September 30, 2017. See Note 2 for further information regarding the impact of this ASU on our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

*Logistics and Related Activities Segment*

There were no factors other than those previously discussed for *Revenue* and *Cost of product sold* that influenced the increase in operating income during the three months ended September 30, 2018 as compared to the same period in 2017.

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Operating loss decreased during the three months ended September 30, 2018 as compared to the same period in 2017. The decrease was primarily related to the \$8.0 million decrease in *Selling, general and administrative expenses* ( SG&A ). SG&A decreased due to lower stock based compensation and benefit costs.

*Other Income (Expense)*

The following table presents *Other income (expense)* (in millions, except for percentages):

	Three Months Ended September 30,				Change	
	2018		2017		Amount	Percent
Other income (expense)	\$	12.0	\$	(7.9)	\$ 19.9	251.9

Other income increased for the three months ended September 30, 2018 as compared to the same period in 2017 primarily due to the \$19.5 million gain on the termination of our postretirement medical plan. See Note 15 for further information. *Other income (expense)* has been revised for the three months ended September 30, 2017 from prior period presentation to reflect the adoption of ASU 2017-07. The adoption, which required certain postretirement benefit costs to be relocated out of *Operating income (loss)*, decreased Other expense by \$1.6 million from what was previously reported for the three months ended September 30, 2017. See Note 2 for further information regarding the impact of this ASU on our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

*Income Tax Provision*

As of September 30, 2018 and December 31, 2017, we had deferred tax assets principally arising from: AROs, alternative minimum tax credits, postretirement benefits, contract rights, and net operating loss carry-forwards. As management cannot determine that it is more likely than not that we will realize the benefit of the deferred tax assets, a valuation allowance equal to the net deferred tax asset has been established.

Our statutory income tax rate, including state income taxes, for the three months ended September 30, 2018 was approximately 23%, while the rate for the three months ended September 30, 2017 was approximately 37%. Our effective tax rate for the three months ended September 30, 2018 and 2017 was 0.0% and (4.9)%, respectively. The difference between the statutory rates for each period is due to the recent enactment of the Tax Cuts and Jobs Act ( TCJA ) (see Liquidity below). In addition, the difference between our statutory income tax rate and our effective income tax rate for the three months ended September 30, 2018 and 2017 is primarily the result of the impact of percentage depletion, income

tax in the states in which we do business and changes in our valuation allowance.

Table of Contents**Nine Months Ended September 30, 2018 Compared to Nine Months Ended September 30, 2017****Summary**

The following table summarizes key results (in millions, except per share amounts and percentages):

	Nine Months Ended September 30,			Change	
	2018	2017	Amount		Percent
Total tons sold	36.9	44.1		(7.2)	(16.3)
Total revenue	\$ 655.1	\$ 673.8	\$	(18.7)	(2.8)
Net income (loss)	\$ (24.9)	\$ (24.5)	\$	(0.4)	(1.6)
Diluted EPS	\$ (0.33)	\$ (0.34)	\$	0.01	2.9
Adjusted EBITDA (1)	\$ 59.6	\$ 86.0	\$	(26.4)	(30.7)

(1) EBITDA and Adjusted EBITDA are intended to provide additional information only and do not have any standard meaning prescribed by U.S. GAAP. A quantitative reconciliation of *Net income (loss)* to Adjusted EBITDA is found in Non-GAAP Financial Measures below.

**Results of Operations****Revenue**

The following table presents *Revenue* and tons sold (in millions, except per ton amounts and percentages):

	Nine Months Ended September 30,			Change	
	2018	2017	Amount		Percent
<b>Owned and Operated Mines</b>					
Realized price per ton sold	\$ 12.18	\$ 12.23	\$	(0.05)	(0.4)
Tons sold	36.9	43.9		(7.0)	(15.9)
Coal revenue	\$ 449.4	\$ 536.8	\$	(87.4)	(16.3)
Other revenue	\$ 10.2	\$ 13.4	\$	(3.2)	(23.9)
<b>Logistics and Related Activities</b>					
Total tons delivered	4.2	3.3		0.9	27.3
Realized price per ton sold - Asian export	\$ 59.21	\$ 48.97	\$	10.24	20.9
Tons sold - Asian export	4.1	3.1		1.0	32.3
Realized price per ton sold - Domestic	\$ 47.68	\$ 48.75	\$	(1.07)	(2.2)
Tons sold - Domestic	0.1	0.2		(0.1)	(50.0)

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Revenue	\$	250.0	\$	161.9	\$	88.1	54.4
<b>Other</b>							
Revenue	\$		\$	3.0	\$	(3.0)	(100.0)
<b>Eliminations of Intersegment Sales</b>							
Revenue	\$	(54.5)	\$	(41.3)	\$	(13.2)	(32.0)
<b>Total Consolidated</b>							
Revenue	\$	655.1	\$	673.8	\$	(18.7)	(2.8)

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*Owned and Operated Mines Segment*

The following table shows volume and price related changes to coal revenue for the nine months ended September 30, 2018 compared to the nine months ended September 30, 2017 (in millions):

Nine months ended September 30, 2017	\$	536.8
Changes associated with volumes		(85.6)
Changes associated with prices		(1.8)
Nine months ended September 30, 2018	\$	449.4

Coal revenue decreased for the nine months ended September 30, 2018 compared to the same period in 2017 primarily due to fewer tons sold. Volumes decreased due to excessive rain, a longer than planned dragline outage, and below plan truck productivity primarily at the Antelope Mine during the second quarter of 2018. Antelope production continued to be impacted by the heavy rain which caused spoil failures in two pits and has resulted in significant overburden rehandling in the third quarter of 2018. Realized prices for the nine months ended September 30, 2018 were slightly lower than those seen in the same period in 2017.

*Logistics and Related Activities Segment*

*Revenue* increased for the nine months ended September 30, 2018 compared to the same period in 2017 due to an improved export market. We shipped 31 vessels and a total of 4.1 million tons internationally in the first nine months of 2018 compared to 3.3 million tons on 23 vessels in the first nine months of 2017. Realized prices on our export sales have increased 20.9% for the nine months ended September 30, 2018 compared to the same period in 2017.

*Other*

*Revenue* decreased for the nine months ended September 30, 2018 compared to the same period in 2017 primarily due to no brokered sales for the nine months ended September 30, 2018 compared to \$2.8 million for the same period in 2017.



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## Cost of Product Sold

The following table presents *Cost of product sold* (in millions, except per ton amounts and percentages):

	Nine Months Ended September 30,		Change	
	2018	2017	Amount	Percent
<b>Owned and Operated Mines</b>				
Average cost per ton sold	\$ 11.28	\$ 9.77	\$ 1.51	15.5
Cost of product sold (produced coal)	\$ 416.2	\$ 429.0	\$ (12.8)	(3.0)
Other cost of product sold	5.6	6.2	(0.6)	(9.7)
<b>Logistics and Related Activities</b>				
Average cost per ton sold - Asian export	\$ 53.31	\$ 48.52	\$ 4.79	9.9
Average cost per ton sold - Domestic	\$ 43.11	\$ 46.05	\$ (2.94)	(6.4)
Cost of product sold	\$ 229.8	\$ 174.7	\$ 55.1	31.5
<b>Other</b>				
Cost of product sold	\$	\$ 2.9	\$ (2.9)	(100.0)
<b>Eliminations of Intersegment Sales</b>				
Cost of product sold	\$ (54.2)	\$ (41.2)	\$ (13.0)	(31.6)
<b>Total Consolidated</b>				
Cost of product sold	\$ 597.4	\$ 571.6	\$ 25.8	4.5

## Owned and Operated Mines Segment

*Cost of product sold* decreased in the nine months ended September 30, 2018 as compared to the same period in 2017 primarily due the decrease in tons sold, which decreased production taxes and royalties. In addition, labor costs decreased due to decreased headcount and benefit costs. Partially offsetting these decreases were increases in fuel and lubes and repairs and maintenance. Fuel and lubes increased as a result of an increase in the price of diesel and consumption rates. Repairs and maintenance increased as a result of running more haul trucks, as well as work done at our rebuild center on various draglines, dippers and buckets. The average cost per ton sold increased primarily due to the lower production and higher strip ratios. *Cost of product sold* and average cost per ton sold have been revised for the nine months ended September 30, 2017 from prior period presentation to reflect the adoption of ASU 2017-07. The adoption, which required certain postretirement benefit costs to be relocated out of *Operating income (loss)*, increased *Cost of product sold* and average cost per ton sold by \$4.0 million and \$0.09, respectively, from what was previously reported for the nine months ended September 30, 2017. See Note 2 for further information regarding the impact of this ASU on our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

## Logistics and Related Activities Segment

*Cost of product sold* increased in the nine months ended September 30, 2018 as compared to the same period in 2017 due to the increase in export sales. We shipped 4.1 million tons on 31 vessels during the nine months ended September 30, 2018 compared to 3.1 million tons on 23 vessels during the nine months ended September 30, 2017. In addition, rail fuel surcharges, severance taxes, and price variable rail rates on our export sales have increased.

*Other*

*Cost of product sold* decreased in the nine months ended September 30, 2018 due to a decrease in our broker activity as compared to the same period in 2017.

Table of Contents*Operating Income (Loss)*

The following table presents *Operating income (loss)* (in millions, except for percentages):

	Nine Months Ended September 30,			Change	
	2018	2017	Amount		Percent
<b>Owned and Operated Mines</b>					
Operating income (loss)	\$ (13.6)	\$ 50.4	\$ (64.0)		(127.0)
<b>Logistics and Related Activities</b>					
Operating income (loss)	\$ 20.2	\$ (12.8)	\$ 33.0		*
<b>Other</b>					
Operating income (loss)	\$ (26.7)	\$ (34.8)	\$ 8.1		23.3
<b>Eliminations of Intersegment Sales</b>					
Operating income (loss)	\$ (0.2)	\$ (0.2)	\$		
<b>Total Consolidated</b>					
Operating income (loss)	\$ (20.3)	\$ 2.6	\$ (22.9)		*

\* Not meaningful

*Owned and Operated Mines Segment*

Operating income decreased in the nine months ended September 30, 2018 as compared to the same period in 2017 primarily due to the decrease in *Revenue* as previously discussed. Partially offsetting this was the decrease in *Cost of product sold* as previously discussed. In addition, *Depreciation and depletion* decreased \$10.1 million primarily due to the decrease in production. Finally, we recognized mark-to-market losses on our WTI derivative financial instruments of \$3.1 million in the nine months ended September 30, 2017. We recognized a gain of \$0.7 million in the nine months ended September 30, 2018. *Operating income (loss)* has been revised for the nine months ended September 30, 2017 from prior period presentation to reflect the adoption of ASU 2017-07. The adoption, which required certain postretirement benefit costs to be relocated out of *Operating income (loss)*, decreased operating income by \$4.0 million from what was previously reported for the nine months ended September 30, 2017. See Note 2 for further information regarding the impact of this ASU on our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

*Logistics and Related Activities Segment*

There were no factors other than those previously discussed for *Revenue* and *Cost of product sold* that influenced the increase in operating income during the nine months ended September 30, 2018 as compared to the same period in 2017.

*Other*

Operating loss decreased during the nine months ended September 30, 2018 as compared to the same period in 2017. The decrease was primarily related to a decrease of \$8.5 million in SG&A costs, partially offset by the factors already discussed related to *Revenue* and *Cost of product sold*. The decrease in SG&A costs were due to lower stock based compensation, benefit costs, and outside services.

Table of Contents*Other Income (Expense)*

The following table presents *Other income (expense)* (in millions, except for percentages):

	Nine Months Ended September 30,			Change	
	2018	2017	Amount	Percent	
Other income (expense)	\$ (4.6)	\$ (27.8)	\$ 23.2	83.5	

Other expense decreased for the nine months ended September 30, 2018 as compared to the same period in 2017 primarily due to the \$19.5 million gain on the termination of our postretirement medical plan. See Note 15 for further information. In addition, interest expense decreased \$1.3 million related to the early retirement of the 2019 Notes during the first quarter of 2017 and \$1.3 million related to the letters of credit we obtained. Not only has the amount of letters of credit decreased, the fees related to the letters of credit have also decreased. Other income (expense) has been revised for the nine months ended September 30, 2017 from prior period presentation to reflect the adoption of ASU 2017-07. The adoption, which required certain postretirement benefit costs to be relocated out of Operating income (loss), decreased Other expense by \$3.2 million from what was previously reported for the nine months ended September 30, 2017. See Note 2 for further information regarding the impact of this ASU on our Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

*Income Tax Provision*

Our statutory income tax rate, including state income taxes for the nine months ended September 30, 2018, was approximately 23%, while the rate for the nine months ended September 30, 2017, was approximately 37%. Our effective tax rate for the nine months ended September 30, 2018 and 2017 was (1.2)% and (0.1)%, respectively. The difference between the statutory rates for each period is due to the recent enactment of the Tax Cuts and Jobs Act ( TCJA ) (see Liquidity below). In addition, the difference between our statutory income tax rate and our effective income tax rate for the nine months ended September 30, 2018 and 2017 is primarily the result of the impact of percentage depletion, income tax in the states in which we do business, and changes in our valuation allowance.

**Liquidity and Capital Resources**

	September 30, 2018	December 31, 2017
	(in millions)	
Cash and cash equivalents	\$ 109.5	\$ 107.9

In addition to our cash and cash equivalents, our primary sources of liquidity are cash from our operations and, to the extent available under the terms of our agreements, any borrowing capacity under our Amended Credit Agreement and A/R Securitization Program (as defined below). Additionally, we may also seek to periodically access debt and equity markets depending on market conditions, although we cannot assure you that we will be able to issue debt or equity in the future on terms that we deem acceptable or at all.

Cash balances depend on a number of factors, such as the volume of coal sold by our Owned and Operated Mines segment; the price for which we sell our coal; the costs of mining, including labor, repairs and maintenance, fuel, and explosives; the amount of royalties, severance taxes, and other governmental levies that we pay; capital expenditures to acquire property, plant and equipment; the volume of deliveries coordinated by our Logistics and Related Activities segment to customer contracted destinations; the revenue we receive for our logistics services; demurrage and any take-or-pay charges; coal-fired electricity demand, regulatory changes and energy policies impacting our business; and other risks and uncertainties, including those discussed in Item 1A in our 2017 Form 10-K and in Item 1A of Part II of this report. Industry conditions have resulted in increased credit pressures on the coal industry. Any credit demands by third parties or refusals by banks, surety bond providers,

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investors or others to extend, renew, or refinance credit on commercially reasonable terms may adversely impact our business, financial condition, results of operations, cash flows, and liquidity.

Capital expenditures are necessary to keep our equipment fleets updated to maintain our mining productivity and competitive position and to add new equipment as necessary. Capital expenditures for the nine months ended September 30, 2018 and 2017 were \$7.2 million and \$11.3 million, respectively. Our anticipated capital expenditures are expected to be between \$13 million and \$15 million in 2018, which we plan to fund through cash from operations.

**Overview of Cash Transactions**

We started 2018 with cash, cash equivalents, and restricted cash of \$108.7 million and concluded the nine months ended September 30, 2018 with \$114.0 million. The primary reason for this increase was cash provided by operating activities of \$24.1 million. This was partially offset by capital expenditures of \$7.2 million, cash paid for investments in development projects of \$1.9 million, and the 2021 Senior Note payment amortized to deferred gain of \$6.3 million. The following table represents cash flows (in millions, except percentages).

	Nine Months Ended September 30,		Change	
	2018	2017	Amount	Percent
Beginning balance - cash, cash equivalents, and restricted cash	\$ 108.7	\$ 84.4	\$ 24.3	28.8
Net cash provided by (used in) operating activities	24.1	57.0	(32.9)	(57.7)
Net cash provided by (used in) investing activities	(9.0)	(13.4)	4.4	32.8
Net cash provided by (used in) financing activities	(9.8)	(6.4)	(3.4)	(53.1)
Ending balance - cash, cash equivalents, and restricted cash	\$ 114.0	\$ 121.7	\$ (7.7)	(6.3)

Net cash provided by operating activities decreased for the nine months ended September 30, 2018 as compared to the same period in 2017 primarily due to a decrease in *Net income (loss)* adjusted for non-cash items of \$55.0 million partially offset by an increase in working capital of \$22.0 million.

The decrease in cash used in investing activities for the nine months ended September 30, 2018 as compared to the same period in 2017 was primarily related to a decrease in capital expenditures of \$4.1 million.

Cash used in financing activities increased for the nine months ended September 30, 2018 as compared to the same period in 2017 primarily due to making our first payment of \$0.6 million related to the West Antelope II South lease

modification as we received approval during the year in addition to the payment of \$0.9 million for deferred financing costs related to the refinancing of the A/R Securitization Program. During 2017, we received cash proceeds of \$68.9 million from the issuance of 13.5 million shares of common stock partially offset by underwriting discounts and commissions related to the equity offering of \$4.4 million and the redemption of our outstanding 2019 Notes of \$62.1 million.

*First Quarter 2017 Equity Offering and 2019 Notes Redemption*

On February 28, 2017, we issued 13.5 million shares of common stock through a registered underwritten public offering and received proceeds, net of underwriting discounts and commissions, of \$64.7 million. We used the net proceeds from the offering to fund the full redemption of our remaining outstanding 2019 Notes. On March 31, 2017, we redeemed the 2019 Notes at a total cost of \$64.5 million, reflecting a redemption price of 101.417% of the principal amount of \$62.1 million, or \$63.0 million, plus accrued and unpaid interest of \$1.5 million. In addition, we wrote off \$0.7 million in deferred financing costs and original issue discount as of the redemption date. The primary purpose of the redemption of the 2019 Notes was to reduce outstanding long-term debt and extend our nearest term maturity date to 2021. The 2019 Notes bore interest at fixed annual rates of 8.50%.



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***Credit Agreement***

Cloud Peak Energy Resources LLC entered into a Credit Agreement with PNC Bank, National Association, as administrative agent, and a syndicate of lenders, originally dated as of February 21, 2014 (as previously amended, the Credit Agreement ). The Credit Agreement provides us with a senior secured revolving credit facility that can be used to borrow funds or obtain letters of credit.

On May 24, 2018, we entered into an Amended and Restated Credit Agreement (the Amended Credit Agreement ) that amended and restated the existing Credit Agreement. The Amended Credit Agreement extended the maturity of the Credit Agreement from February 21, 2019 to May 24, 2021 and reduced the maximum borrowing capacity to \$150 million from the previous maximum capacity of \$400 million. The borrowing capacity under the Amended Credit Agreement is reduced by the undrawn face amount of letters of credit issued and outstanding under the Amended Credit Agreement, which may be up to \$70 million at any time. The Amended Credit Agreement also requires new quarterly financial covenants of (a) a ratio of first lien gross debt under the Amended Credit Agreement, capital leases and the A/R Securitization Program (including issued but undrawn letters of credit) to EBITDA (as defined in the Amended Credit Agreement) equal to or less than 1.75 to 1; (b) a ratio of EBITDA less capital expenditures to Fixed Charges (as defined in the Amended Credit Agreement) of not less than 1.15 to 1; and (c) a ratio of funded debt (excluding issued but undrawn letters of credit) less unrestricted cash to EBITDA equal to or less than (i) 4.00 to 1 through June 30, 2019, (ii) 3.50 to 1 from September 30, 2019 to December 31, 2019, (iii) 3.00 to 1 from March 31, 2020 to June 30, 2020 and (iv) 2.50 to 1 from September 30, 2020 to maturity. The Amended Credit Agreement also revised the minimum liquidity covenant to require minimum liquidity of not less than \$100 million as of the last day of each fiscal quarter, which was reduced from the prior requirement under the Credit Agreement to maintain monthly liquidity of not less than \$125 million. Lastly, it revised various negative covenants and baskets that would apply to, among other things, the incurrence of debt, making investments, asset dispositions, and restricted payments. The borrowing capacity is limited by the financial covenants, calculated on a quarterly basis, and will fluctuate from quarter to quarter.

We were in compliance with the covenants contained in the Amended Credit Agreement as of September 30, 2018 and December 31, 2017. As of September 30, 2018, based upon the quarterly financial covenant calculation, we had \$16.2 million of borrowing capacity available under the Amended Credit Agreement.

As of September 30, 2018 and December 31, 2017, we had no borrowings under the Amended Credit Agreement. There were no longer any undrawn letters of credit under the Amended Credit Agreement as all issued letters of credit had been transferred to the A/R Securitization Program as of December 31, 2017. Based on current operating plans and forecasts and ongoing challenging industry conditions, there are no assurances that we will remain in compliance with the Amended Credit Agreement's financial covenants for the next 12 months.

A default under the Amended Credit Agreement would permit the lenders to terminate their commitment to make cash advances or issue letters of credit, and require cash collateralization if there were any outstanding letters of credit obligations. A default and acceleration of obligations under the Amended Credit Agreement would also trigger cross-defaults for our Senior Notes due 2021 and 2024, which would permit the Senior Notes' lenders to require immediate repayment of all principal, interest, fees and other amounts payable thereunder. A default under the Amended Credit Agreement would also trigger a cross-default for our A/R Securitization Program, which would permit the lender to terminate

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the A/R Securitization Program and trigger collateralization requirements for outstanding letter of credit obligations. In the event of a potential or actual default, we may not be granted waivers or be able to reach agreement on amendments under our Amended Credit Agreement.

We reserve the right to terminate the Amended Credit Agreement should we deem it appropriate to achieve our business objectives and priorities. A potential Amended Credit Agreement termination would not result in a default under the A/R Securitization Program or Senior Notes due 2021 and 2024. Based on our current forecast, we expect that we will not remain in compliance with our Amended Credit Agreement within the next 12 months. We are currently evaluating various scenarios, which include the potential near-term termination of the Amended Credit Agreement, which would eliminate any potential noncompliance with the Amended Credit Agreement. This would permanently reduce our sources of liquidity to our cash and our A/R Securitization Program capacity, which would have been \$115.4 million at September 30, 2018.

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Upon the execution of the Amended Credit Agreement, we recorded a charge of \$1.6 million in interest expense to write off certain deferred financing costs as certain banks of the syndicate changed and recorded \$3.6 million of new deferred financing costs. The aggregate deferred financing costs are being amortized on a straight-line basis to interest expense over the remaining term of the Amended Credit Agreement.

***A/R Securitization Program***

On May 24, 2018, the Accounts Receivable Securitization Program (the A/R Securitization Program) was amended to extend the term of the A/R Securitization Program to May 24, 2021 from January 23, 2020. All other terms of the program remained substantially the same. The A/R Securitization Program allows for a maximum borrowing capacity of \$70 million. The borrowing capacity is limited by eligible accounts receivable (as defined under the terms of the A/R Securitization Program), calculated on a monthly basis, and will fluctuate from month to month. The borrowing capacity is reduced by the undrawn face amount of letters of credit issued and outstanding under the A/R Securitization Program. As of September 30, 2018, we had \$27.9 million of borrowing capacity under the A/R Securitization Program, of which \$5.9 million was available. The undrawn face amount of letters of credit outstanding was \$22.0 million as of September 30, 2018. As of December 31, 2017, there was a \$1.1 million deficit between the borrowing capacity and the undrawn face amount of letters of credit, which was cash-collateralized into a restricted cash account in early January 2018. The restriction was lifted on the \$1.1 million in early March 2018. There were no borrowings outstanding under the A/R Securitization Program as of September 30, 2018 or December 31, 2017.

Upon the execution of the amendment we recorded \$0.9 million of new deferred financing costs. The aggregate deferred financing costs are being amortized on a straight-line basis to interest expense over the remaining term of the A/R Securitization Program.

Our A/R Securitization Program supports the current collateral requirements associated with outstanding third-party surety bonds that primarily secure the performance of our reclamation and lease obligations.

***Liquidity***

Our aggregate availability for borrowing under the Amended Credit Agreement and the A/R Securitization Program was approximately \$22.1 million as of September 30, 2018. Our total liquidity, which includes cash and cash equivalents and, to the extent available under the terms of our agreements, amounts available under both our Amended Credit Agreement and the A/R Securitization Program, was \$131.6 million as of September 30, 2018.

The TCJA legislation, enacted in December 2017, made significant changes to U.S. tax laws, including (i) the reduction in the federal corporate tax rate, (ii) the elimination of the corporate alternative minimum tax (AMT) and the ability to offset regular tax liability or claim refunds for AMT credits carried forward, and (iii) imposing limitations on the deductibility of interest expense. We have historically been subject to the AMT, under which taxes were imposed at a 20% rate on taxable income, subject to certain adjustments, and we assumed that we would be subject to the AMT in future periods. As such, the elimination of the AMT and reduction in the federal corporate tax rate to 21% does not have a material impact on our estimates for cash taxes payable in the next several years.

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The material immediate impact of the TCJA to us was the elimination of the AMT and the ability to offset our regular tax liability or claim refunds for taxable years 2018 through 2021 for AMT credits carried forward from prior periods. We currently anticipate we will realize approximately \$30 million in AMT value over the next four years with approximately half of this value realized in 2019 for taxable year 2018.

We believe our sources of liquidity will be sufficient to fund our primary ordinary course uses of cash for the next twelve months, which include our costs of coal production and logistics services, capital expenditures, and interest on our debt.

In addition, we believe our sources of liquidity will be sufficient to fund the expected cash settlement of our 2016 performance share units upon any vesting in March 2019. The balance of the liability relating to the

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2016 grants was \$5.2 million as of September 30, 2018. Using the current fair market value of this award, the total cash payout in March 2019 is currently estimated at \$6.2 million.

If we do not have sufficient resources from ongoing operations to satisfy our obligations or the timing of payments on our obligations does not coincide with cash inflows from operations, we may need to use our cash on hand or, to the extent available under the terms of our agreements, borrow under our Amended Credit Agreement or our A/R Securitization Program. Any further issuance of letters of credit through our A/R Securitization Program to support additional surety bond collateral requirements would restrict cash and directly reduce liquidity available to operations. If the obligation is in excess of these amounts or if we do not have sufficient or any borrowing capacity under these agreements, we may need to seek additional borrowing sources or take other actions. Depending upon existing circumstances at the time, we may not be able to obtain additional funding on acceptable terms or at all. In addition, our existing debt instruments contain restrictive covenants, which may prohibit us from borrowing under our Amended Credit Agreement or pursuing certain alternatives to obtain additional funding.

We regularly monitor the capital and bank credit markets for opportunities that we believe will improve our balance sheet and may engage, from time to time, in financing or refinancing transactions as market conditions permit. Future activities may include, but are not limited to, public or private debt or equity offerings, the purchase of our outstanding debt for cash in open market purchases or privately negotiated refinancing, and extension and exchange transactions or public or private exchange offers or tender offers. Any financing or refinancing transaction may occur on a stand-alone basis or in connection with, or immediately following, other transactions. Our ability to access the debt or equity capital markets on economic terms in the future will be affected by general economic conditions, the domestic and global financial markets, our operational and financial performance, the value and performance of our debt or equity securities, prevailing commodity prices, and other macroeconomic factors outside of our control.

***Off-Balance Sheet Arrangements***

In the normal course of business, we are party to guarantees and financial instruments with off-balance sheet risk such as bank letters of credit, performance or surety bonds, and indemnities, which are not reflected on the Unaudited Condensed Consolidated Balance Sheets. These instruments are used to secure certain of our obligations to reclaim lands used for mining, securing coal lease obligations, and for other operating requirements.

As of September 30, 2018, we had \$407.6 million of reclamation and lease bonds with underwriters backed by collateral of approximately 5%, or \$22.0 million, in the form of letters of credit under our A/R Securitization Program. The terms and conditions with the issuers of the surety bonds allow for collateral calls to mitigate their exposure. The amount of collateral that could be required under these collateral calls would be based on the underlying bonded assets and their risks, our credit profile, and overall market conditions. Should further collateral for these obligations be called, this could utilize a significant portion of our existing liquidity or potentially exceed our existing liquidity. If we are unable to obtain or retain required surety bonds, we may be unable to satisfy legal requirements necessary to conduct our mining operations.

**Climate Change Regulatory Environment**

Enactment of current, proposed, or future laws or regulations regarding emissions from the combustion of coal by the U.S., some of its states, or by other countries, or other actions to limit such emissions, like the creation of mandatory use requirements for renewable fuel sources, will likely result in electricity generators further switching from coal to other fuel sources. Public concern and the political environment may also continue to materially and adversely impact future coal demand and usage to generate electricity, regardless of applicable legal and regulatory requirements. Additionally, the creation and issuance of subsidies designed to encourage use of alternative energy sources could further decrease the demand for coal as an energy source. The potential financial impact on us as a result of these factors will depend upon the degree to which electricity generators diminish their reliance on coal as a fuel source as a result thereof. That, in turn, will depend on a number of factors, including the appeal and design of the subsidies being offered, the specific requirements imposed by any such laws or regulations such as mandating use by utilities of renewable fuel sources, the time periods over which

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those laws or regulations would be phased in, and the state of any commercial development and deployment of carbon capture technologies, including storage, conversion, or other commercial use for captured carbon. In view of the significant uncertainty surrounding each of these factors, it is not possible for us to reasonably predict the impact that any such laws or regulations may have on our results of operations, financial condition, or cash flows, however, such impacts may be significant. See Item 1 Business Environmental and Other Regulatory Matters Global Climate Change and Item 1A Risk Factors of our 2017 Form 10-K for additional discussion regarding how climate change and other environmental regulatory matters may materially adversely impact our business.

**Critical Accounting Policies and Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ( U.S. GAAP ) requires management to make estimates and assumptions that affect reported amounts. These estimates and assumptions are based on information available as of the date of the financial statements. Accounting measurements at interim dates inherently involve greater reliance on estimates than at year-end. The results of operations for the nine months ended September 30, 2018 are not necessarily indicative of results that can be expected for future quarters or the full year. Refer to the section entitled Critical Accounting Policies and Estimates of Management s Discussion and Analysis of Financial Condition and Results of Operations in our 2017 Form 10-K for a discussion of our critical accounting policies and estimates.

**Newly Adopted Accounting Standards and Recently Issued Accounting Pronouncements**

See Note 2 of our Unaudited Condensed Consolidated Financial Statements in Item 1 for a discussion of newly adopted accounting standards and recently issued accounting pronouncements.

**Non-GAAP Financial Measures**

EBITDA and Adjusted EBITDA are intended to provide additional information only and do not have any standard meaning prescribed by U.S. GAAP. A quantitative reconciliation of historical *Net income (loss)* to Adjusted EBITDA is found in the tables below.

EBITDA represents *Net income (loss)* before: (1) interest income (expense), net, (2) income tax provision, (3) depreciation and depletion, and (4) amortization. Adjusted EBITDA represents EBITDA as further adjusted for accretion, which represents non-cash increases in asset retirement obligation liabilities resulting from the passage of time, and specifically identified items that management believes do not directly reflect our core operations. The specifically identified items that we routinely adjust for are: (1) adjustments to exclude non-cash impairment charges, (2) adjustments for derivative financial instruments, excluding fair value mark-to-market gains or losses and including cash amounts received or paid, (3) adjustments to exclude debt restructuring costs, and (4) non-cash throughput amortization expense and contract termination payments made to amend the BNSF and Westshore agreements.

Because not all companies use identical calculations, our presentation of Adjusted EBITDA may not be comparable to other similarly titled measures of other companies. Our management recognizes that using Adjusted EBITDA as a performance measure has inherent limitations as

compared to *Net income (loss)* or other U.S. GAAP financial measures, as this non-GAAP measure excludes certain items, including items that are recurring in nature, which may be meaningful to investors. As a result of the exclusions, Adjusted EBITDA should not be considered in isolation and does not purport to be an alternative to *Net income (loss)* or other U.S. GAAP financial measures as a measure of our operating performance. See Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations Non-GAAP Financial Measures of our 2017 Form 10-K for additional information regarding Adjusted EBITDA and its limitations compared to U.S. GAAP financial measures.



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The following tables present a reconciliation of consolidated *Net income (loss)* to consolidated Adjusted EBITDA, consolidated *Net income (loss)* to consolidated *Operating income (loss)*, and segment *Operating income (loss)* to segment Adjusted EBITDA (in millions):

*Adjusted EBITDA*

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Net income (loss) (1)	\$ 12.7	\$ 2.6	\$ (24.9)	\$ (24.5)
Interest income	(0.3)	(0.1)	(0.8)	(0.3)
Interest expense	8.4	9.6	28.1	32.4
Income tax (benefit) expense		(0.1)	0.3	
Depreciation and depletion	17.4	18.8	46.8	56.7
EBITDA	38.2	30.7	49.5	64.3
Accretion	1.9	1.9	5.4	5.5
Derivative financial instruments:				
Exclusion of fair value mark-to-market losses (gains) (2)	(0.7)	(0.8)	(0.7)	3.1
Inclusion of cash amounts received (paid) (3)		(0.8)		(2.0)
Total derivative financial instruments	(0.7)	(1.6)	(0.7)	1.1
Impairments			0.8	
Non-cash throughput amortization expense and contract termination payments	1.3	5.1	4.7	15.0
Adjusted EBITDA (1)	\$ 40.7	\$ 36.0	\$ 59.6	\$ 86.0

(1) Includes a non-cash gain on the termination of our postretirement medical plan of \$19.5 million for the three and nine months ended September 30, 2018. Excluding this non-cash gain, Adjusted EBITDA would have been \$21.2 million and \$40.1 million for the three and nine months ended September 30, 2018, respectively. See Note 15 for a discussion regarding the termination of our postretirement medical plan effective January 1, 2019.

(2) Fair value mark-to-market (gains) losses reflected on the Unaudited Condensed Consolidated Statements of Operations and Comprehensive Income (Loss).

(3) Cash amounts received and paid reflected within operating cash flows in the Unaudited Condensed Consolidated Statements of Cash Flows.

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*Adjusted EBITDA by Segment*

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2018		2017		2018		2017	
Net income (loss) (1)	\$	12.7	\$	2.6	\$	(24.9)	\$	(24.5)
Interest income		(0.3)		(0.1)		(0.8)		(0.3)
Interest expense		8.4		9.6		28.1		32.4
Other, net		(0.1)		0.1		0.5		0.5
Income tax expense (benefit)				(0.1)		0.3		
Loss (income) from unconsolidated affiliates, net of tax				(0.1)		(0.3)		(0.8)
Net periodic postretirement benefit cost (income), excluding service cost		(20.0)		(1.6)		(23.3)		(4.8)
Consolidated operating income (loss) (1)	\$	0.7	\$	10.3	\$	(20.3)	\$	2.6
<b>Owned and Operated Mines</b>								
Operating income (loss) (2)	\$	(2.6)	\$	25.8	\$	(13.6)	\$	50.3
Depreciation and depletion		17.1		18.5		45.9		56.1
Accretion		1.8		1.7		5.0		5.1
Derivative financial instruments:								
Exclusion of fair value mark-to-market losses (gains)		(0.7)		(0.8)		(0.7)		3.1
Inclusion of cash amounts received (paid)				(0.8)				(2.0)
Total derivative financial instruments		(0.7)		(1.6)		(0.7)		1.1
Impairments						0.8		
Net periodic postretirement benefit income (cost), excluding service cost		16.7		1.3		19.4		4.0
Other				(0.1)		(0.6)		(0.5)
Adjusted EBITDA (2)	\$	32.3	\$	45.6	\$	56.2	\$	116.1
<b>Logistics and Related Activities</b>								
Operating income (loss)	\$	9.2	\$	(1.9)	\$	20.2	\$	(12.8)
Non-cash throughput amortization expense and contract termination payments		1.3		5.1		4.7		15.0
Adjusted EBITDA	\$	10.5	\$	3.2	\$	24.9	\$	2.2
<b>Other Unallocated Operating Income (Loss)</b>								
Other operating income (loss)	\$	(5.5)	\$	(13.4)	\$	(26.7)	\$	(34.8)
Elimination of intersegment operating income (loss)	\$	(0.3)	\$	(0.2)	\$	(0.2)	\$	(0.2)

(1) Includes a non-cash gain on the termination of our postretirement medical plan of \$19.5 million for the three and nine months ended September 30, 2018. See Note 15 for a discussion regarding the termination of our postretirement medical plan effective January 1, 2019.

(2) The Owned and Operated Mines segment includes a non-cash gain on the termination of our postretirement medical plan of \$16.2 million for the three and nine months ended September 30, 2018. Excluding this non-cash gain, Adjusted EBITDA for the Owned and Operated Mines segment would have been \$16.1 million and \$40.0 million for the three and nine months ended September 30, 2018, respectively.

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

We define market risk as the risk of economic loss as a consequence of the adverse movement of market rates and prices or credit standings. We believe our principal market risks are commodity price risk, interest rate risk, and credit risk.

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**Commodity Price Risk**

Historically, we have principally managed the commodity price risk for our coal contract portfolio with long-term coal sales agreements of varying terms and durations. In recent years, our business has become more variable and less predictable because utilities are adjusting their purchasing pattern based on natural gas prices, weather, and other factors. Market risk includes the potential for changes in the market value of our coal portfolio, which includes index sales and export pricing. As of October 17, 2018, we have contracted to sell approximately 52 million tons during 2018, all of which are under fixed-price contracts. Due to operational issues at the Antelope Mine, we currently expect to ship between 49 and 51 million tons in 2018. We are working with our customers to move a portion of Antelope tons to our other mines or into 2019 where possible.

We also face price risk involving other commodities used in our production process, primarily diesel fuel. Based on our projections of our usage of diesel fuel for the next 12 months, and assuming that the average cost of diesel fuel increases by 10%, we would incur additional fuel costs of approximately \$4.7 million over the next 12 months. In July 2018, we entered into WTI derivative financial instruments to manage certain exposures to diesel fuel prices. The terms of the program are disclosed in Note 11 of our Unaudited Condensed Consolidated Financial Statements in Item 1.

**Interest Rate Risk**

Our Amended Credit Agreement, certain of our capital leases, and our A/R Securitization Program are subject to adjustable interest rates. See Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources of our 2017 Form 10-K. We had no outstanding borrowings under our Amended Credit Agreement or A/R Securitization Program as of September 30, 2018. If we borrow funds under the Amended Credit Agreement or A/R Securitization Program, we may be subject to increased sensitivity to interest rate movements.

Some of the \$3.0 million of borrowings under the capital leasing program are also subject to adjustable interest rates although any change to the rate would not have a significant impact on cash flow. Any future debt arrangements that we enter into may also have adjustable interest rates that may increase our sensitivity to interest rate movements.

**Credit Risk**

We are exposed to credit loss in the event of non-performance by our counterparties, which may include end-use customers, trading houses, brokers, and financial institutions that hold our investments. We attempt to manage this exposure by entering into agreements with counterparties that meet our credit standards and that are expected to fully satisfy their obligations under the contracts. These steps may not always be effective in addressing counterparty credit risk.

When appropriate (as determined by our credit management function), we have taken steps to reduce our credit exposure to customers that do not meet our credit standards or whose credit has deteriorated. These steps include obtaining letters of credit and requiring prepayments for shipments. See Item 1A Risk Factors Risks Related to Our Business and Industry *We are exposed to counterparty risk with our customers,*

*trading partners, financial institutions, and other parties with whom we conduct business* in our 2017 Form 10-K.

**Item 4. Controls and Procedures.**

***Disclosure Controls and Procedures***

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the reports we file or submit under the Securities Exchange Act of 1934 (the "Exchange Act") is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. These disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that the information required to be disclosed by us in the reports we file or submit under the Exchange Act is accumulated and communicated to senior management, including our principal executive officer and principal

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financial officer, as appropriate to allow timely decisions regarding required disclosure. Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of September 30, 2018, and has concluded that such disclosure controls and procedures are effective.

***Internal Control over Financial Reporting***

During the most recent fiscal quarter, there have been no changes to our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

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**PART II**

**OTHER INFORMATION**

**Item 1. Legal Proceedings.**

See Note 17 of our Unaudited Condensed Consolidated Financial Statements in Part I, Item 1, of this report relating to certain legal proceedings, which information is incorporated by reference herein.

**Item 1A. Risk Factors.**

In addition to the other information set forth in this report, including the risk factor set forth below, you should carefully consider the risks and uncertainties described in Item 1A of our 2017 Form 10-K. The risks described herein and in our 2017 Form 10-K are not the only risks we may face. If any of those risk factors, as well as other risks and uncertainties that are not currently known to us or that we currently believe are not material, actually occur, our business, financial condition, results of operations, cash flows, and liquidity could be materially and adversely affected. In our judgment, other than as set forth below, there were no material changes in the risk factors as previously disclosed in Item 1A of our 2017 Form 10-K.

*Changes in U.S. trade policies and any resulting trade wars could materially and adversely impact our logistics business, including by negatively affecting our logistics supply chain or international demand and pricing for U.S. thermal coal.*

The current Administration has made public statements indicating possible significant changes in U.S. trade policy and has taken certain actions that have adversely impacted U.S. trade and relationships with trading partners, including imposing tariffs on certain goods imported into the United States. Any changes in U.S. trade policy could trigger, and certain actions already taken have triggered, additional retaliatory actions by affected countries, resulting in trade wars. Trade wars may lead to reduced economic activity, increased costs, reduced demand and changes in purchasing behaviors for affected goods, limits on trade with the United States or other potentially adverse economic outcomes. These or other consequences from any trade wars could adversely impact our export volumes, prices and financial results if, for example, demand or pricing for seaborne thermal coal from the U.S. decreases or there are retaliatory measures, including tariffs, that negatively affect our logistics supply chain and our ability or cost to transport our coal by rail to the Westshore export terminal in British Columbia, Canada and from there to export customers. Any negative impacts to our logistics revenues, costs or supply chain could have a material adverse impact on our logistics results and on our consolidated results.

*Covenants under our Amended Credit Agreement may limit the amount of funds available to us or potentially result in an event of default.*

Our ability to borrow is subject to the terms and conditions of our Amended Credit Agreement. The financial covenants are based on EBITDA for the preceding four fiscal quarters (which is defined in the Amended Credit Agreement and is not the same as EBITDA or Adjusted EBITDA otherwise presented). The covenants include: (a) a ratio of first lien gross debt under the Amended Credit Agreement, capital leases and the A/R Securitization Program (including issued but undrawn letters of credit) to EBITDA equal to or less than 1.75 to 1; (b) a ratio of EBITDA less capital expenditures to Fixed Charges (as defined in the Amended Credit Agreement) of not less than 1.15 to 1; and (c) a ratio of funded debt (excluding issued but undrawn letters of credit) less unrestricted cash to EBITDA equal to or less than (i) 4.00 to 1 through June 30, 2019, (ii) 3.50 to 1 from September 30, 2019 to December 31, 2019, (iii) 3.00 to 1 from March 31, 2020 to June 30, 2020 and (iv) 2.50 to 1 from September 30, 2020 to maturity. The Amended Credit Agreement also requires us to maintain liquidity of not less than \$100 million as of the last day of each fiscal quarter. Although we were in compliance with the covenants contained in the Amended Credit Agreement as of September 30, 2018, our available borrowing capacity under the Amended Credit Agreement was reduced to approximately \$16.2 million as of September 30, 2018. As of September 30, 2018, we had no borrowings under the Amended Credit Agreement. See Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources Credit Agreement.



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We cannot assure you that we will remain in compliance with the Amended Credit Agreement's financial covenants. In the event of a potential or actual default, we may not be granted waivers or be able to reach agreement on amendments to our Amended Credit Agreement. A default under the Amended Credit Agreement would permit the lenders to terminate their commitment to make cash advances or issue letters of credit, and require cash collateralization if there were any outstanding letters of credit obligations.

A default under the Amended Credit Agreement would also trigger a cross-default for our A/R Securitization Program, which would permit the lender to terminate the A/R Securitization Program and trigger collateralization requirements for outstanding letter of credit obligations.

A default and acceleration of obligations under the Amended Credit Agreement would also trigger cross-defaults on our Senior Notes due 2021 and 2024, which would permit the Senior Notes' lenders to require immediate repayment of all principal, interest, fees and other amounts payable thereunder. The Senior Notes due 2021 and 2024 require a double-trigger (two conditions): a default and an acceleration of an amount greater than \$50 million. As of September 30, 2018, our combined obligations under the Amended Credit Agreement and the A/R Securitization Program were below \$50 million.

***Our reliance on information technology, including systems managed by third parties, exposes us to risks from system failures and cybersecurity incidents that could materially and adversely affect our operations, financial results and reputation and result in significant costs and liabilities.***

Our business depends on the reliable and secure operation of computer systems, network infrastructure, digital communication technologies and other information technology. Problems may arise in both our internally managed systems and those of third parties, including:

- our service providers for technology, communications and data storage;
- our consulting and advisory firms and contractors that have access to our confidential and proprietary data;
- administrators for our employee medical claims;
- rail and export terminal companies that are part of the supply chain for the delivery of our coal;
- coal power generation facilities that purchase our coal; and
- vendors who provide mining equipment, supplies, and services necessary for our operations.

These systems could be vulnerable to problems resulting from accidents such as fire, power loss or telecommunication failure. In addition, these systems could be vulnerable to cybersecurity incidents or other deliberate activities by others. Cybersecurity risks include those involving unauthorized access, denial-of-service attacks, malicious software, data privacy breaches, cyber or phishing attacks, ransomware, malware, social engineering, physical breaches or other actions. Cybersecurity risks continue to evolve at a rapid pace.

Although we have implemented information technology controls and systems and provide employee training on phishing, malware, and other cyber risks designed to protect information and mitigate the risk of data loss and other cybersecurity risks, such measures cannot entirely eliminate cybersecurity threats, and the controls we have installed may be breached. Additionally, we have limited control and visibility over third-party systems that we rely on for our business. If any of these information technology systems cease to function properly or are breached, we could suffer disruptions to our mining operations and corporate functions and those events may materially and adversely impact our financial results and reputation and result in significant costs and liabilities.

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Although we have not suffered any material losses relating to historical cybersecurity attacks on our systems as of the date of this report, there is no assurance that we will not suffer such losses in the future. In addition, as cyber threats continue to change, we may be required to expend significant additional resources to continue to modify or enhance our protective measures or to investigate or remediate any cyber vulnerabilities.

**Item 2. *Unregistered Sales of Equity Securities and Use of Proceeds.***

None.

**Item 3. *Defaults Upon Senior Securities.***

None.

**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 95.1 to this Form 10-Q.

**Item 5. *Other Information.***

None.

**Item 6. *Exhibits.***

See Exhibit Index at page 75 of this report.

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**EXHIBIT INDEX**

The exhibits below are numbered in accordance with the Exhibit Table of Item 601 of Regulation S-K.

<b>Exhibit Number</b>	<b>Description of Documents</b>
3.1	<u>Amended and Restated Certificate of Incorporation of Cloud Peak Energy Inc. effective November 25, 2009 (incorporated by reference to Exhibit 3.1 to Cloud Peak Energy Inc. s Annual Report on Form 10-K filed on February 14, 2014 (File No. 001-34547))</u>
3.2	<u>Amended and Restated Bylaws of Cloud Peak Energy Inc., effective July 11, 2018 (incorporated by reference to Exhibit 3.2 to Cloud Peak Energy Inc. s Current Report on Form 8-K filed on July 11, 2018 (File No. 001-34547))</u>
31.1*	<u>Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u>
31.2*	<u>Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</u>
32.1*	<u>Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u>
32.2*	<u>Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</u>
95.1*	<u>Mine Safety Disclosure</u>
101.INS*	XBRL Instance Document
101.SCH*	XBRL Taxonomy Extension Schema Document
101.CAL*	XBRL Taxonomy Calculation Linkbase Document
101.LAB*	XBRL Taxonomy Label Linkbase Document
101.PRE*	XBRL Taxonomy Presentation Linkbase Document
101.DEF*	XBRL Taxonomy Definition Document

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\* Filed or furnished herewith, as applicable

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**SIGNATURE**

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.

CLOUD PEAK ENERGY INC.

Date: October 25, 2018

By:

/s/ HEATH A. HILL  
Heath A. Hill  
*Executive Vice President and Chief Financial  
Officer  
(Principal Financial Officer and Duly  
Authorized Officer)*