

ENVIRONMENTAL POWER CORP

Form 10-Q

May 08, 2009

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 10-Q

(Mark one)

QUARTERLY REPORT UNDER SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2009

OR

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

For the transition period from _____ to _____

Commission file number 001-32393

Environmental Power Corporation

(Exact name of registrant as specified in its charter)

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Delaware **75-3117389**
(State or other jurisdiction of **(IRS Employer**
incorporation or organization) **Identification No.)**
120 White Plains Road, 6th Floor, Tarrytown NY 10591
(address of principal executive offices) (zip code)
(914) 631-1435
(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

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

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

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

Large accelerated filer Accelerated filer

Non-accelerated filer Smaller reporting company

(Do not check if a smaller reporting company)

Number of shares of Common Stock outstanding at March 31, 2009: 15,614,604 shares

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

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PART I. FINANCIAL INFORMATION

Cautionary Statement Regarding Forward-Looking Statements

The Private Securities Litigation Reform Act of 1995, referred to as the PSLRA, provides a safe harbor for forward-looking statements. Certain statements contained or incorporated by reference in this Quarterly Report, such as statements concerning planned manure-to-energy systems, our sales pipeline, our backlog, our projected sales and financial performance, statements containing the words may, assumes, forecasts, positions, predicts, strategy, will, expects, estimates, anticipates, believes, projects, intends, plans, budgets, potential, variations thereof, and other statements contained in this Quarterly Report regarding matters that are not historical facts are forward-looking statements as such term is defined in the PSLRA. Because such statements involve risks and uncertainties, actual results may differ materially from those expressed or implied by such forward-looking statements. Factors that could cause actual results to differ materially include, but are not limited to:

uncertainties involving early-stage companies, including our need for additional financing to continue as a going concern,

uncertainties regarding the ability to obtain additional financing, and the timing, amount and terms of such financing,

the lack of binding commitments and the need to negotiate and execute definitive agreements for the construction and financing of facilities,

the lack of binding commitments for the purchase of gas produced by certain facilities,

the lack of binding commitments for, and other uncertainties with respect to, supplies of substrate,

uncertainties regarding the costs associated with substrate and other project inputs,

risks and uncertainties relating to the development of markets for carbon sequestration credits and other marketable renewable attributes, and the level of revenues we may achieve from such sources,

uncertainties regarding the amount and rate of growth in operating expenses,

unpredictable developments, including plant outages and repair requirements as well as risks related to weather and the unpredictability of extreme weather events,

risks related to performance on the part of suppliers of components, goods and services to our facilities,

financing and cash flow requirements and uncertainties,

inexperience with the design, construction, startup and operation of multi-digester facilities,

difficulties involved in developing and executing a business plan,

technological uncertainties, including those relating to competing products and technologies,

unpredictable developments, including plant outages and repair requirements,

commodity price volatility, particularly with respect to the price of natural gas,

the difficulty of estimating construction, development, repair, maintenance and operating costs and timeframes,

the uncertainties involved in estimating insurance and warranty recoveries, if any,

the inability to predict the course or outcome of any negotiations with parties involved with our projects,

uncertainties relating to general economic and industry conditions,

uncertainties relating to government and regulatory policies, the legal environment, intellectual property issues and the competitive environment in which Environmental Power Corporation and its subsidiaries operate, and other factors, including those described in Part II, Item 1A of this Quarterly Report on Form 10-Q under the heading "Risk Factors," as well as factors set forth in other filings we make with the Securities and Exchange Commission. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date that they are made. We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

Table of Contents**Item 1. Financial Statements****ENVIRONMENTAL POWER CORPORATION AND SUBSIDIARIES**

Condensed Consolidated Balance Sheets (unaudited) as of March 31, 2009 and December 31, 2008

	March 31, 2009	December 31, 2008
ASSETS		
Current Assets		
Cash and cash equivalents	\$ 4,759,819	\$ 3,157,938
Restricted cash	103,611,854	104,577,246
Receivables net of allowance of \$34,042 at March 31, 2009 and December 31, 2008	447,351	373,039
Other current assets	100,822	60,210
Total Current Assets	108,919,846	108,168,433
Restricted cash, non current	553,958	553,014
Property, plant, and equipment, net	25,983,225	23,932,073
Construction in progress	20,863,824	20,101,314
Licensed technology rights, net	2,282,921	2,329,296
Notes receivable, net	1,588,745	1,608,500
Deferred financing costs, net	5,624,106	5,122,995
Other assets	320,981	197,569
TOTAL ASSETS	\$ 166,137,606	\$ 162,013,194
LIABILITIES, PREFERRED STOCK AND SHAREHOLDERS EQUITY		
Current Liabilities		
Accounts payable and accrued expenses	\$ 6,720,626	\$ 4,322,896
Total Current Liabilities	6,720,626	4,322,896
Other Liabilities	366,770	340,706
Long term debt	134,467,259	129,475,023
Total Liabilities	141,554,655	134,138,625
Minority Interests	100	100
Preferred Stock (1)	10,156,021	10,156,021
Shareholders' Equity		
Preferred stock (2)	100	100
Common stock (3)	157,030	157,030
Additional paid-in capital	86,236,772	89,986,923
Accumulated deficit	(70,943,451)	(71,401,984)
Treasury stock (4)	(385,402)	(385,402)
Notes receivable from officers and board members	(638,219)	(638,219)
Total Common Shareholders' Equity	14,426,730	17,718,348
TOTAL LIABILITIES, PREFERRED STOCK AND SHAREHOLDERS' EQUITY	\$ 166,137,606	\$ 162,013,194

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- (1) Preferred stock, \$.01 par value, 2,000,000 shares authorized; 281,241 shares issued as of March 31, 2009 and December 31, 2008. Stated value at March 31, 2009 and December 31, 2008 of \$52.71 per share or \$14,824,213.
- (2) Preferred stock of subsidiary, no par value, 10 shares authorized; 10 shares issued as of March 31, 2009 and December 31, 2008, respectively.
- (3) \$.01 par value; 50,000,000 shares authorized; 15,703,034 issued and 15,614,604 outstanding as of March 31, 2009 and as of December 31, 2008.
- (4) 88,430 shares at cost, as of March 31, 2009 and December 31, 2008.

See Notes to Consolidated Financial Statements.

Table of Contents**ENVIRONMENTAL POWER CORPORATION AND SUBSIDIARIES**

Condensed Consolidated Statements of Operations (unaudited) for the Three Months Ended March 31, 2009 and March 31, 2008

	Three Months Ended	
	March 31, 2009	March 31, 2008
REVENUES	\$ 742,478	\$ 970,542
COSTS AND EXPENSES:		
Operations and maintenance	1,013,510	1,316,643
General and administrative	2,117,912	3,261,147
Depreciation and amortization	396,218	260,774
TOTAL COSTS AND EXPENSES	3,527,640	4,838,564
OPERATING LOSS	(2,785,162)	(3,868,022)
OTHER INCOME (EXPENSE):		
Interest income	17,043	246,907
Interest expense	(296,650)	(176,755)
Other income (expense)	130,255	(13,477)
TOTAL OTHER INCOME (EXPENSE)	(149,352)	56,675
NET LOSS FROM CONTINUING OPERATIONS	(2,934,514)	(3,811,347)
LOSS FROM DISCONTINUED OPERATIONS, NET OF TAXES OF \$0		(1,010,534)
GAIN ON DISPOSAL OF DISCONTINUED OPERATIONS, NET OF TAXES OF \$0		7,999,858
NET INCOME (LOSS)	(2,934,514)	3,177,977
Preferred Securities Dividend Requirements	(333,544)	(337,500)
(Loss) Income Applicable to Common Shareholders	\$ (3,268,058)	\$ 2,840,477
BASIC INCOME (LOSS) PER SHARE		
CONTINUING OPERATIONS	\$ (0.21)	\$ (0.27)
DISCONTINUED OPERATIONS		0.45
NET INCOME (LOSS) PER SHARE	\$ (0.21)	\$ 0.18
DILUTED INCOME (LOSS) PER SHARE		
CONTINUING OPERATIONS	\$ (0.21)	\$ (0.20)
DISCONTINUED OPERATIONS		0.37
NET INCOME (LOSS) PER SHARE	\$ (0.21)	\$ 0.17
SHARES USED TO CALCULATE INCOME(LOSS) PER SHARE		
BASIC	15,579,354	15,667,784
DILUTED	15,579,354	18,730,155

See Notes to Consolidated Financial Statements.

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Condensed Consolidated Statements of Cash Flows (unaudited) for the Three Months Ended March 31, 2009 and March 31, 2008

	Three Months Ended	
	March 31, 2009	March 31, 2008
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income (loss)	\$ (2,934,514)	\$ 3,177,977
<i>Non-cash adjustments</i>		
Results of discontinued operations		(6,989,324)
Depreciation and amortization	396,218	260,774
Stock based compensation expense	143,817	289,835
Non-cash income from adjustment to fair value of warrants	(130,255)	
<i>Changes in operating assets and liabilities:</i>		
Increase in receivables	(74,312)	(47,607)
(Increase) Decrease in other current assets	(40,612)	34,539
Decrease in notes receivable	19,755	170,838
Increase in accounts payable and accrued expenses	472,761	1,057,576
Net cash provided by (used in) operating activities	(2,147,142)	(2,045,392)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Disposal of discontinued operations		375,000
Decrease (increase) in restricted cash	964,448	(622,419)
Construction of projects	(743,930)	(2,084,807)
(Increase) decrease in other assets	(123,412)	29,650
Purchases of property, plant and equipment	(103,891)	(178,479)
Net cash used for investing activities	(6,785)	(2,481,055)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Dividends on preferred stock	(667,090)	(675,000)
Payment of financing costs	(558,280)	
Proceeds from long term debt	5,000,000	
Payments on long-term debt	(7,764)	(16,971)
Decrease in other liabilities	(11,058)	
Net cash provided by (used in) financing activities	3,755,808	(691,971)
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	1,601,881	(5,218,418)
CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD	3,157,938	26,069,198
CASH AND CASH EQUIVALENTS, END OF PERIOD	\$ 4,759,819	20,850,780
Supplemental disclosure of cash flow information		
Cash paid for interest (Net of amount capitalized)	\$ 1,019	\$ 1,753
Income Taxes		
Non-cash investing and financing activity		
Non-cash accrued dividend requirement of Series A Preferred Stock Holders	(333,544)	(337,500)
Capitalized interest	2,258,515	332,470
Capitalized amortization of deferred financing costs	42,680	33,356
See Notes to Consolidated Financial Statements.		

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ENVIRONMENTAL POWER CORPORATION AND SUBSIDIARIES

Condensed Consolidated Statement of Equity (unaudited) for Three Months Ended March 31, 2009