ADA-ES INC
Form 10-K/A
October 19, 2012

# United States

# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

# FORM 10-K/A

**(Amendment No. 2)**

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

**For the fiscal year ended December 31, 2011**

**or**

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

**Commission File Number: 000-50216**

# ADA-ES, Inc.

**(Name of registrant as specified in its charter)**

| | |
|---|---|
| **Colorado** | **84-1457385** |
| **(State of incorporation)** | **(IRS Employer Identification No.)** |

**9135 South Ridgeline Boulevard, Suite 200, Highlands Ranch, Colorado 80129**

**(Address of principal executive offices) (Zip Code)**

**(Registrant s telephone number, including area code): (303) 734-1727**

**Securities registered under Section 12(b) of the Act:**

| Title of each class | Name of each exchange on which registered |
|---|---|
| Common Stock, no par value | NASDAQ Capital Market |

**Securities registered under Section 12(g) of the Act: None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. ¨ Yes x No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. ¨ Yes x No

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. x Yes ¨ No

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

Indicate by check mark if disclosure of delinquent filers in response to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ¨

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.

| | | | |
|---|---|---|---|
| Large accelerated filer | ¨ | Accelerated filer | x |
| Non-accelerated filer | ¨ | Smaller Reporting Company | ¨ |

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

The aggregate market value of the voting common stock held by non-affiliates as of June 30, 2011 was $106,666,000.

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

| Class | Outstanding at March 9, 2012 |
|---|---|
| Common Stock, no par value | 10,001,809 |

**DOCUMENTS INCORPORATED BY REFERENCE:**

Portions of the Definitive Proxy Statement to be filed pursuant to Regulation 14A for ADA-ES, Inc. s annual shareholder meeting for 2012 are incorporated by reference into Part III of this Form 10-K.

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**EXPLANATORY NOTE**

ADA-ES, Inc. (the Company ) is filing this Amendment No. 2 on Form 10-K/A (this Amendment ) to amend its Annual Report on Form 10-K for the fiscal year ended December 31, 2011 originally filed with the Securities and Exchange Commission (the SEC ) on March 15, 2012 (the Original Filing ) and subsequently amended on April 30, 2012. This Amendment reflects the restatement of the Company s consolidated financial statements and amendment of related disclosures as of and for the fiscal years ended December 31, 2011 and 2010 as discussed below and in Note 16 to the accompanying restated consolidated financial statements.

**1. Background of the Restatement**

As discussed in the Company s Current Reports on Form 8-K dated June 20, 2012 and August 14, 2012, the Company s management determined, after consultation with the Company s Board of Directors, Audit Committee, independent registered public accounting firm and outside tax experts, that the Company s previously issued audited consolidated financial statements included in its Annual Reports on Form10-K for the fiscal years ended December 31, 2010 and 2011 and the interim unaudited consolidated financial statements included in our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2011, June 30, 2011, September 30, 2011, March 31, 2012 and June 30, 2012 needed to be restated as a result of certain corrections to the figures and disclosures contained therein and therefore could no longer be relied upon.

*Reclassification of Equity Interest*

The Company had previously classified the equity interest of an affiliate of the Goldman Sachs Group ( GS ) in our joint venture, Clean Coal Solutions, LLC ( Clean Coal ), as a non-controlling interest in stockholders equity (deficit) on the Company s Consolidated Balance Sheet as of June 30, 2011, September 30, 2011, December 31, 2011 and March 31, 2012. In June 2012, after completion of a review and evaluation of the operating agreement of Clean Coal and the members rights and obligations thereof and applicable accounting authoritative literature, management determined that the GS interest would be more appropriately classified as temporary equity as of June 30, 2011 and for each subsequent quarter thereafter because of a provision in the Clean Coal operating agreement that permits GS to require redemption of its interest under certain limited circumstances. As a result, the Company is restating its consolidated financial statements for the fiscal year ended December 31, 2011 to reflect the GS interest as temporary equity on the Company s consolidated balance sheet.

*Deferred Tax Assets Valuation Allowance*

In August 2012, after extensive discussions with the SEC s Division of Corporation Finance and Office of the Chief Accountant and the Company s outside tax experts, independent registered public accounting firm, Audit Committee and Board of Directors, management determined that the Company should have recognized a full valuation allowance against its net deferred tax assets as of December 31, 2010 and for each subsequent quarter thereafter. Management determined that it was necessary to record the valuation allowance against the Company s net deferred tax assets after reconsidering the weight given in the original assessment to the relevant information used to measure the positive and negative evidence regarding the potential for ultimate realization of the deferred tax assets.

Realization of the deferred tax assets is dependent upon the Company s ability to generate future taxable income. In its reassessment, management concluded that the objective and verifiable negative evidence represented by historical losses outweighed more subjective positive evidence of anticipated future income. As a result, management determined that it was necessary to record a full valuation allowance against the Company s deferred tax assets and is restating the consolidated financial statements for the fiscal years ended December 31, 2011 and 2010.

**2. Impact on the Consolidated Financial Statements**

The financial statement effect of these changes on the Company s Consolidated Balance Sheets as of December 31, 2011 and 2010 and the Consolidated Statement of Operations, Consolidated Statement of Changes in Stockholders Equity (Deficit) and Consolidated Statement of Cash Flows for the fiscal years ended December 31, 2011 and 2010 is discussed in Note 16 in the accompanying consolidated financial statements. The restatement reflects non-cash adjustments and has no effect on previously reported operating income results. The Company also amended its Annual Report on Form 10-K for the fiscal year ended December 31, 2010 on October 19, 2012.

**3. Internal Control over Financial Reporting and Disclosure Controls and Procedures Considerations**

Management has concluded that material weaknesses in the Company s internal control over financial reporting existed related to the accounting for the equity investment in Clean Coal that has been held by an affiliate of GS since May 2011 and the establishment and maintenance of a valuation allowance against the Company s deferred tax assets. Accordingly, this Amendment amends the Company s disclosures regarding the effectiveness of the Company s internal control over financial reporting and disclosure controls and procedures as of December 31, 2011.

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**4. Amended Items**

No attempt has been made in this Amendment to modify or update the disclosures in the Original Filing except as required to reflect the effect of the restatement discussed herein. Except as otherwise noted herein, this Amendment continues to describe conditions as of the date of the Original Filing and the disclosures contained herein have not been updated to reflect events, results or developments that occurred after the date of the Original Filing, or to modify or update those disclosures affected by subsequent events. Among other things, forward-looking statements made in the Original Filing have not been revised to reflect events, results or developments that occurred or facts that became known to us after the date of the Original Filing, other than the restatement, and such forward-looking statements should be read in conjunction with our filings with the SEC subsequent to the filing of the Original Filing. Accordingly, this Amendment should be read in conjunction with the Original Filing and the Company s other filings with the SEC.

Part II Item 6 (Selected Financial Data), Part II Item 7 (Management s Discussion and Analysis of Financial Condition and Results of Operations), Part II Item 8 (Consolidated Financial Statements and Supplementary Data) and Part II Item 9A (Controls and Procedures) have been amended from the Original Filing as a result of the restatement. Part II Item 5 (Market for Registrant s Common Equity, Related Stockholder Matters and Issuer Purchase of Equity Securities) has been amended to reflect the issuance of unregistered shares of our common stock pursuant to our Amended and Restated 2007 Equity Incentive Plan and 2005 Director s Compensation Plan. Part IV Item 15 (Exhibits and Financial Statement Schedules) has also been amended to, among other things, include currently dated certifications from the Company s principal executive officer and principal financial officer as required by Sections 302 and 906 of the Sarbanes-Oxley Act of 2002. The certifications of the Company s principal executive officer and principal financial officer are attached to this Amendment as Exhibits 31.1, 31.2, 32.1 and 32.2.

**Part II**

**Item 5. Market for Registrant s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities (restated).**

**Market Information**

Our common stock currently trades on the NASDAQ Capital Market under the symbol ADES. The table below sets forth the price range of our common stock for each quarter of 2011 and 2010:

| | 2011 | | 2010 | |
|---|---|---|---|---|
| | High | Low | High | Low |
| 1st Quarter | $ 24.92 | $ 10.53 | $ 9.50 | $ 4.72 |
| 2nd Quarter | $ 24.75 | $ 7.58 | $ 8.31 | $ 5.00 |
| 3rd Quarter | $ 19.37 | $ 13.26 | $ 7.17 | $ 4.72 |
| 4th Quarter | $ 23.41 | $ 13.52 | $ 11.70 | $ 4.54 |

**Holders**

The number of record holders of our common stock as of March 9, 2012 was approximately 1,500. The approximate number of beneficial shareholders is estimated at 3,300.

**Dividends**

We have not paid dividends since inception. We currently have no plans to pay dividends in the foreseeable future.

**Securities Authorized for Issuance under Equity Compensation Plans**

The disclosure required by this Item is included under Item 12 of this Report.

**Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities**

In 2011, we issued 74,291 unregistered shares of our common stock under our Amended and Restated 2007 Equity Incentive Plan (the 2007 Plan ), which was originally adopted by our Board of Directors on April 27, 2007 and approved by our shareholders on June 19, 2007. The 2007 Plan was amended and restated by our Board of Directors to make non-material changes on August 31, 2010 and amended pursuant to Amendment No. 1 and approved by our Board of Directors on January 25, 2011. The 2007 Plan was re-approved by our Board of Directors on

February 24, 2012 and approved by our shareholders on July 19, 2012. The details of such issuances are set forth as follows:

We issued 2,516 unregistered shares of our common stock under the 2007 Plan to Christine Amrhein, our Vice President and Corporate Counsel at the time (now our General Counsel) on July 18, 2011 in connection with her employment agreement.

For their service as executive officers of the Company, we issued the following unregistered shares of our common stock under the 2007 Plan:

| **Executive Officer:** | February 4 2011(a) | February 7, 2011(b) | Total |
|---|---|---|---|
| Michael D. Durham | 14,015 | | |
| C. Jean Bustard | | 2,000 | |
| Cameron Martin | | 2,000 | |
| Mark H. McKinnies | | 2,000 | |
| Sharon Sjostrom | | 1,480 | |
| Total | 14,015 | 7,480 | 21,495 |

(a) Of the shares issued to Dr. Durham on February 4, 2011, 11,845 shares were issued in connection with salary recoupment for 2009 and 2,170 shares were issued in connection with a discretionary executive bonus for 2009.

(b) The shares issued to Ms. Bustard, Mr. Martin, Mr. McKinnies and Ms. Sjostrom on February 7, 2011 were issued in connection with a discretionary executive bonus for 2010.

As fees for their service on the Board of Directors of the Company, we issued the following unregistered shares of our common stock under the 2007 Plan:

| **Director:** | February 4, 2011 | July 1, 2011 | July 12, 2011 | Total |
|---|---|---|---|---|
| John Eaves (shares issued to Arch Coal, Inc.) | 4,394 | 3,239 | | 7,633 |
| Robert Caruso (shares issued to B/3 Management Resources) | 3,689 | 3,789 | | 7,478 |
| Derek Johnson | 3,898 | | 3,239 | 7,137 |
| Ronald Johnson (shares issued to Twin-Kem International) | 3,509 | 3,239 | | 6,748 |
| W. Phillip Marcum | 3,841 | | 3,390 | 7,231 |
| Jeffrey C. Smith | 4,330 | | 3,277 | 7,607 |
| Richard Swanson | 3,094 | | 3,352 | 6,446 |
| Total | 26,755 | 10,267 | 13,258 | 50,280 |

Under our 2005 Directors Compensation Plan, adopted by our Board of Directors on March 17, 2005 and approved by our shareholders on May 12, 2005 (the 2005 Plan ), as fees for their service on the Board of Directors of the Company, we issued the following unregistered shares of our common stock:

| **Director:** | February 4, 2011 |
|---|---|
| John Eaves (shares issued to Arch Coal, Inc.) | 1,000 |
| Robert Caruso (shares issued to B/3 Management Resources) | 1,000 |
| Ronald Johnson (shares issued to Twin-Kem International) | 1,000 |
| Total | 3,000 |

The issuances of all of these shares were exempt from registration under Section 4(a)(2) of the Securities Act of 1933, as amended, as sales of securities that do not involve a public offering or distribution. No underwriters were involved, no sales commission or other remuneration was paid, and we did not receive any cash proceeds in connection with these issuances.

**Purchases of Equity Securities by the Company and Affiliated Purchasers**

Neither we nor any affiliated purchaser, as defined in SEC Rule 10b-18(a)(3), purchased any of our equity securities during the quarter ended December 31, 2011.

**Item 6. Selected Financial Data.**

**FIVE-YEAR SUMMARY OF SELECTED FINANCIAL DATA**

| *(Amounts in thousands, except per share data)* | Years Ended December 31, | | | | |
|---|---|---|---|---|---|
| **Income Statement Data** | 2011 (restated) | 2010 (restated) | 2009 | 2008 | 2007 |
| Revenues | $ 53,316 | $ 22,281 | $ 20,061 | $ 16,193 | $ 19,248 |
| Net income (loss) | $ (22,819) | $ (31,127) | $ (8,771) | $ (4,106) | $ 247 |
| Net income (loss), per common share, basic and diluted | $ (2.85) | $ (4.21) | $ (1.26) | $ (0.67) | $ 0.05 |
| Dividends declared per common share | $ | $ | $ | $ | $ |

| | As of December 31, | | | | |
|---|---|---|---|---|---|
| **Balance Sheet Data** | 2011 (restated) | 2010 (restated) | 2009 | 2008 | 2007 |
| Total assets | $ 87,474 | $ 41,011 | $ 40,967 | $ 75,142 | $ 34,906 |
| Long-term debt | $ 3,624 | $ | $ | $ | $ |
| Stockholders equity (deficit) | $ (29,446) | $ (2,213) | $ 24,351 | $ 56,987 | $ 28,552 |

See the audited financial statements attached hereto under Item 8 for additional information.

**QUARTERLY FINANCIAL DATA UNAUDITED**

| | 2011 | | | | 2010 | | | |
|---|---|---|---|---|---|---|---|---|
| | 1st Quarter (restated) | 2nd Quarter (restated) | 3rd Quarter (restated) | 4th Quarter (restated) | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter (restated) |
| | *(Amounts in thousands, except per share data)* | | | | | | | |
| Revenues | $ 8,467 | $ 7,026 | $ 13,232 | $ 24,591 | $ 3,867 | $ 1,937 | $ 7,509 | $ 8,968 |
| Gross margin | $ 7,173 | $ 5,175 | $ 7,154 | $ 4,850 | $ 1,355 | $ 8 | $ 5,826 | $ 6,479 |
| Net income (loss ) | $ (41,798) | $ 6,416 | $ (4,603) | $ 17,166 | $ (2,820) | $ (3,710) | $ (5,823) | $ (18,774) |
| <u>Common Stock Data</u> | | | | | | | | |
| Basic net income (loss) per share | $ (5.51) | $ 0.84 | $ (0.60) | $ 1.94 | $ (0.39) | $ (0.50) | $ (0.78) | $ (2.51) |
| Diluted net income (loss) per share | $ (5.51) | $ 0.82 | $ (0.60) | $ 1.90 | $ (0.39) | $ (0.50) | $ (0.78) | $ (2.51) |
| Average common shares outstanding: | | | | | | | | |
| Basic | 7,579 | 7,601 | 7,661 | 8,832 | 7,194 | 7,412 | 7,455 | 7,494 |
| Diluted | 7,579 | 7,803 | 7,661 | 9,015 | 7,194 | 7,412 | 7,455 | 7,494 |

**Item 7. Management s Discussion and Analysis of Financial Condition and Results of Operation (restated).**

**Restatement**

With this Amendment we have restated the following previously filed consolidated financial statements, data and related disclosures: Consolidated Balance Sheet as of December 31, 2011 and 2010, and the Consolidated Statement of Operations, Consolidated Statement of Changes in Stockholders Equity (Deficit) and Consolidated Statement of Cash Flows for the fiscal years ended December 31, 2011 and 2010. The restatement reflects non-cash adjustments and has no effect on previously reported operating income results or cash flows from operations. The following Management Discussion and Analysis of Financial Condition and Results of Operations ( MD&A ) should be read in conjunction with the audited consolidated financial statements and notes thereto and the MD&A included in the Company s Amendment No. 2 to its Annual Report on Form 10-K/A for the fiscal year ended December 31, 2010 filed on October 19, 2012, as well as the Company s other filings with the SEC.

The restatement results from management s determination that the Company had not properly accounted for the interest held by an affiliate of the Goldman Sachs Group ( GS ) in our joint venture, Clean Coal Solutions, LLC ( Clean Coal ) since May 2011 and that a full valuation allowance against the Company s deferred tax assets should have been recognized as of December 31, 2010 and all subsequent quarters thereafter.

The following MD&A incorporates the restated figures reflecting these changes. For this reason the data set forth in this section may differ from that presented in discussions and data in our previously filed Annual Report on Form 10-K for the fiscal year ended December 31, 2011.

**Overview**

We develop, offer and implement proprietary environmental technology and market equipment and specialty chemicals to the coal-burning electric power generating industry, to the Portland cement industry and to industrial boiler operators. We have three operating segments: RC (refined coal), EC (emission control) and CC ($CO_2$ capture). The RC segment includes revenues from the leasing of two RC facilities and coal sales which approximates the cost of coal acquired to demonstrate new RC facilities placed in service. The EC segment includes revenue from the supply of emissions control systems including powdered activated carbon injection systems ( ACI ), dry sorbent injection systems ( DSI ) to control $SO_2$ and other acid gases and the sale of specialty chemicals, equipment and services for flue gas conditioning projects, the licensing of certain technology, consulting services related to such matters and other applications. The CC segment includes revenue from projects relating to the $CO_2$ capture and control market, including projects co-funded by government agencies, such as the Department of Energy ( DOE ) and industry supported contracts.

We conduct research and development efforts in $CO_2$ capture and control from coal-fired boilers. In September 2010, we signed our second significant contract related to $CO_2$ capture with the DOE, which is scheduled to continue through the end of 2014. We are marketing our RC facilities through our interest in our Clean Coal joint venture with NexGen, an affiliate of NexGen Resources Corporation.

**Refined Coal**

*Environmental Legislation and Regulations*

Clean Coal s primary opportunity is based on certain tax credits that are available under Section 45 of the Internal Revenue Code ( Section 45 tax credits ), as it was amended by the American Jobs Creation Act of 2004, the Emergency Economic Stabilization Act of 2008, the American Recovery and Reinvestment Act of 2009 for qualifying RC and the Tax Relief and Job Creation Act of 2010. In December 2009, the IRS issued the anticipated guidance as to the specifics concerning how the emissions reductions are to be measured and certified to demonstrate compliance necessary to qualify for the Section 45 tax credits. Clean Coal placed two RC facilities in service prior to January 1, 2010 and demonstrated the required emission reductions for their RC product to qualify for the Section 45 tax credits. In December 2010, the Tax Relief and Job Creation Act of 2010 extended the placed in service deadline for the Section 45 tax credits to January 1, 2012. The tax credits amount to an annually escalating $6.33 per ton (in 2011) of RC for a period of ten years.

*Clean Coal*

On June 29, 2010, Clean Coal executed contracts in which the two RC facilities were leased by Clean Coal s wholly owned subsidiaries AEC-TH, LLC and AEC-NM, LLC (the Lessors ) to GS RC Investment, LLC (the Lessee ), with initial two and one half year terms and annual renewals that were set to expire in 2019. The two facilities are installed at two different power plants in the Midwest each of which operates two cyclone boilers burning PRB coal from Wyoming.

On November 21 and December 15, 2011, Clean Coal, the Lessors and the Lessee entered into two Exchange Agreements (each agreement related to the facility owned by each Lessor) pursuant to which the parties agreed to exchange the leased RC facilities at each power plant with newly constructed, redesigned RC facilities which resulted in termination of the original leases and issuance of new lease agreements (the Exchange Transactions ). The new leases carry over many of the substantive terms and conditions of the initial leases, have initial terms that run through December 31, 2012 (the Initial Term ) and automatically renew for annual terms through 2021.

Each lease may be terminated by the Lessee for various reasons, the most significant of which are:

- For any reason as of the end of the Initial Term by giving notice by no later than July 1, 2012.

- If the Total Operating Expenses (as defined in each lease) paid by the Lessee for two consecutive quarters exceed 140% of the projected operating costs for the RC facility.

If any of Lessors representations or warranties were breached as of the date made and such breach is not cured within 30 days after notice.

If a change of law, or certain other specified events affecting the availability of the Section 45 tax credits, occurs.

Upon the occurrence of a governmental regulatory event that would make the contemplated transaction impermissible.

In June 2010, the Lessee entered into supply agreements for each RC facility pursuant to which it continues to supply RC to the applicable power plant owner. Clean Coal Solution Services ( CCSS ), a Colorado limited liability company owned 50% by us and 50% by NexGen, will (subject to oversight by the Lessee) continue to operate and maintain the RC facilities under two Operating and Maintenance Agreements entered into with the Lessee in June 2010. CCSS also arranges for the purchase and delivery of certain chemical additives necessary for Lessee s production of RC under two supply agreements entered into with the Lessee as part of the original transaction. The term of each supply agreement runs coincident with the leases.

Since its inception, we have been considered the primary economic beneficiary of Clean Coal and have consolidated its accounts in our financial statements, but we do not consolidate the results of CCSS because NexGen controls the entity pursuant to the operating agreement of the entity. Historically, the utilities at which the facilities operate have used over six million tons of coal per year, which amount can vary based on several factors. The total annual contribution to our operating income will ultimately depend on the utilities use of coal in the generation of electricity, which use will likely fluctuate over the term of the Section 45 tax credits. In order to maintain our interest in Clean Coal, we are obligated to fund half of its operating costs and capital expenditures.

We, Clean Coal and the Lessee also entered into a technology sublicense, as amended pursuant to two amendments entered into as part of the Exchange Transactions (the Technology Sublicense ). Pursuant to the Technology Sublicense, we licensed and Clean Coal sublicensed to the Lessee certain technology required to operate each RC facility and to produce RC. The Technology Sublicense parallels the license previously granted by us to Clean Coal and requires that we stand behind Clean Coal if it fails to perform its obligations under the sublicense, other than as a result of a default by Lessee. The Technology Sublicense contains representations and warranties customary for such agreements regarding intellectual property, and, subject to certain liability limits, requires us to indemnify the Lessee in the event of certain infringement claims by a third party. We are also obligated to actively prosecute infringement of the technology by third parties, or to cooperate with the Lessee if it does so, in which case any award would go to the Lessee and any other sublicensee who prosecutes the infringement. The annual license fee payable to Clean Coal for the sublicense is $10,000 per year, but this amount is deductible from the amount the Lessee pays in rent under the leases.

In addition, pursuant to the Exchange Transactions, we, NexGen and two entities affiliated with NexGen have provided the Lessee with new joint and several guaranties (the CCS Guaranties ) guaranteeing all payments and performance due under the agreements described above. We also entered into a contribution agreement (the Contribution Agreement ) with NexGen under which any party called upon to pay on a CCS Guaranty is entitled to receive contribution from the other party equal to 50% of the amount paid. The parent of Lessee provided Clean Coal with a guaranty as to the payment only of all fixed rent payments under the leases, which, although terminable at any time, cannot be terminated without the substitution of such guaranty with another guaranty on similar terms from a creditworthy guarantor

In December 2010, the Tax Relief and Job Creation Act of 2010 extended the placed in service deadline for the Section 45 tax credits to January 1, 2012. In consideration of the extension, Clean Coal built and qualified an additional 26 RC facilities using a combination of the CyClean™ and M-45™ technologies, which met the extended placed in service date. ADA expects several of these RC facilities to begin routine operations in 2012. Once the final utility site and financing partner have been determined, it takes an average of approximately six months to obtain environmental permits for full-time operation, secure necessary approvals from state Public Utility Commissions, negotiate and complete all necessary contracts and obtain private letter rulings ( PLRs ) from the IRS in some instances where plants blend different types of coal. Since the IRS did not provide explicit guidance on blending of coal to qualify for Section 45 tax credits, some of these facilities will likely require PLRs, which may take two to three months to obtain after formal contracts are completed. Clean Coal has received $14.9 million from our first monetizer as initial deposits on 15 million tons of RC, which reserves its right to negotiate for specific RC facilities. We are currently in discussions with a number of other major financial institutions and corporate investors to reserve the right to negotiate on a number of the remaining facilities.

We expect that the transactions for the new leases of the new RC facilities over the next year will be structured similarly to the lease transactions previously entered into for the two initial RC facilities placed in service in June of 2010. As was the case in those transactions, generally the lease of the RC facilities and the monetization of the Section 45 tax credits involve a relationship between the utility, a financial institution and Clean Coal. By leasing the RC facility and producing RC, the financial institution receives the benefit of the annually escalating per ton Section 45 tax credit ($6.33 per ton in 2011) and is able to deduct depreciation. In return it pays, and may also deduct, a fee to the utility for land use to site the RC facility and operational costs. In addition, the financial institution pays a combination of fixed and contingent rents to Clean Coal for the lease of the RC facility. In addition to the site payment, the utility receives the benefit of the resulting mercury reductions which have an estimated value of between $1.00- $4.00 per ton. In some transactions, Clean Coal may choose to operate the facility in order to directly receive the benefit of the Section 45 tax credit.

Based on the current Section 45 tax credits, we expect Clean Coal to generate revenues from leasing or selling RC facilities to financial parties or generate tax credits by retaining and operating the 26 RC facilities that met the placed in service deadline through December 31, 2021. Upon expiration of the tax credits on December 31, 2021, the leases of our RC facilities to financial parties will terminate. We may then lease the RC facilities directly to the utilities or operate them on behalf of utility customers given the significant benefit of the resulting mercury reductions such facilities provide. The tax credits would no longer be available absent further extension by Congress.

In May 2011, ADA and NexGen entered into a transaction in which Clean Coal sold an effective 15% interest of the equity in Clean Coal, equal to approximately 15.8 units of non-voting Class B membership interests, to an affiliate of GS for $60 million in cash (the Purchase Price ) pursuant to a Class B Unit Purchase Agreement (the Purchase Agreement ). In conjunction with the closing of the Purchase Agreement, we, NexGen and GS entered into a Second Amended and Restated Operating Agreement for Clean Coal (as amended, the Restated Operating Agreement ) and an Exclusive Right to Lease Agreement (the Lease Agreement ). Pursuant to the Restated Operating Agreement, we and NexGen each exchanged 50 units of membership interests in Clean Coal for approximately 42.1 voting Class A Units in Clean Coal, representing a total of approximately 84.2% of the equity interests in Clean Coal following the transaction. ADA and NexGen each received $30 million as a result of the sale, and subsequent to the transaction with GS, NexGen paid the Company the remaining balance due of $1.8 million as payment in full of the amount owing by NexGen to maintain its interest in Clean Coal, including payment in full of all other amounts owing to us totaling $480,000 under certain previously issued tonnage notes.

Pursuant to the transaction with GS, we and NexGen provided GS with joint and several guarantees (the Limited Guarantees ) guaranteeing the performance by Clean Coal of its obligation to indemnify GS against certain losses it may suffer as a result of inaccuracies or breaches of the representations and warranties made by Clean Coal in the Purchase Agreement or the Lease Agreement, or if Clean Coal breaches its covenants in the Purchase Agreement or the Lease Agreement. Clean Coal s indemnification obligations for breaches of representations, warranties and covenants, other than for breaches of the representations involving organization, subsidiaries, capitalization and voting rights, authority and non-contravention and valid issuance, are subject to a non-recoverable deductible of $500,000 and a cap of the Purchase Price. We also entered into a contribution agreement with NexGen under which any party called upon to pay on a Limited Guaranty is entitled to receive contribution from the other party equal to 50% of the amount paid.

The rights and obligations of the parties are set forth in detail in the Restated Operating Agreement, which provides, among other related terms and conditions, that prior to April 1, 2012, Distributable Cash (as defined in the Restated Operating Agreement) will be distributable 85% to us and NexGen as holders of the Class A Units and 15% to GS as the holder of the Class B Units. Beginning with distributions made after December 31, 2012, Clean Coal must distribute no less than 70% of Distributable Cash, at least annually. Within 10 days of April 1, 2012, and prior to making any distribution thereafter, Clean Coal must calculate a Projected Distributable Value, which is defined in the Restated Operating Agreement as an estimated amount equal to the net present value, using a 15% discount rate, that Clean Coal projects it will receive through the end of the term of all effective (i.e., contractually committed) RC facilities. For distributions occurring after April 1, 2012, if 15% of the Projected Distributable Value is equal to or greater than GS Unrecovered Investment Balance (which is the dollar amount necessary, at any given time, to return GS at least its $60 million investment, plus a 15% return thereon, taking into account all prior distributions to GS), GS is entitled to receive 15% of each distribution. If the Projected Investment Value (which is 15% of the Projected Distributable Value) is less than the Unrecovered Investment Balance as of the time for any given distribution, then an adjustment will be made to the distribution ratios to compensate GS for this deficiency. This adjustment is to be updated from time to time over the life of the investment, and at any time when Projected Investment Value becomes equal to or greater than GS Unrecovered Investment Balance, the amount payable to GS again becomes 15% of the distribution (or a lesser amount if amounts previously distributed have resulted in overpayments to GS). Clean Coal may make greater distributions to GS than required at any given time in order to shorten the time in which the Unrecovered Investment Balance will be reduced to $0.

In addition, the Restated Operating Agreement provides that upon the occurrence of a Liquidation Event (as defined in the Restated Operating Agreement), GS will be entitled to receive the greater of (A) a liquidation preference in an amount equal to the Unrecovered Investment Balance as of the date of such Liquidation Event (the Liquidation Preference ) or (B) GS pro rata share of the proceeds from such Liquidation Event.

Furthermore, the Restated Operating Agreement states that on or after the earlier of (i) a breach of any material provision of the Purchase Agreement or Clean Coal s organizational documents that is not cured in accordance with the Restated Operating Agreement and that results in damages to GS of at least $10 million or (ii) the ten year anniversary of the date the last refined coal facility owned by Clean Coal or one of its subsidiaries is placed in service (but in no event later than December 31, 2021), and if the Unrecovered Investment Balance has not been reduced to zero, GS may require its Class B Units to be redeemed by Clean Coal for an amount equal to its Unrecovered Investment Balance, payable within 180 days of the notice of redemption. In addition, the Restated Operating Agreement contains provisions in regard to GS right to a board observer, each parties rights and obligations with respect to capital calls, preemptive rights, approval of certain transactions, drag-along and tag-along rights, a covenant not to compete, an obligation for us to present certain related business opportunities to Clean Coal for its consideration and related matters.

Pursuant to the Lease Agreement, Clean Coal granted GS the exclusive right (but not the obligation) to lease facilities that will produce up to approximately 12 million tons (+/- 10%) (the Target Tons ) of refined coal per year on pre-established lease terms similar to those currently in effect for Clean Coal s two existing facilities, but which are more economically favorable to Clean Coal than the rates in the present leases for the existing refined coal facilities that Clean Coal leased to another GS affiliate in June 2010. Clean Coal is required to submit a package to GS with respect to each RC facility it proposes that GS consider for leasing (being all RC facilities developed by Clean Coal until the Target Tons are met), and upon certification and acceptance of the certification for a given RC facility by GS, GS is required to pay Clean Coal, as a deposit, an agreed amount for each 1 million tons of projected annual refined coal production. Upon closing of a lease of a RC facility from Clean Coal, GS is required to pay Clean Coal an additional

amount per 1 million tons of projected annual refined coal production. These payments are paid as advance rent, and actual amounts due under the leases (with true-ups) will be paid in accordance with the operative lease and related agreements, which will be based on the forms of documents that were used in the transactions for the existing RC facilities leased to the Lessee and will include guaranties by us and NexGen. The initial lease terms will be five years, with annual renewals for five successive one-year periods. If GS determines that it wishes not to lease a RC facility after it has paid the deposit, it can demand the return of the deposit paid for that RC facility, and the deposit must be paid within 30 days of the end of the quarter in which the demand is made. The amount of any deposit will earn interest from the date of demand until the deposit is paid.

In connection with the transaction, including the entry into the Lease Agreement, Clean Coal and the Lessee agreed to cancel the existing first right of refusal that was previously granted to the Lessee under the existing agreement to lease in connection with the leasing by the Lessee of two existing RC facilities. Under the cancelled first right of refusal the Lessee had the first right to lease RC facilities with up to 14 million tons of refined coal production per year.

In September 2011, ADA, NexGen, and GS entered into a First Amendment to the Restated Operating Agreement pursuant to which we and NexGen each transferred our 2.5% member interests in each of Clean Coal s subsidiaries back to Clean Coal in return for an increase in our interest in Clean Coal to 42.5% from 42.1%. This restructuring of ownership interests did not change the financial relationships of the parties.

In September 2011, we successfully demonstrated a new patent-pending technology for producing RC for use at coal-fired power plants. ADA s new technology, called M-45 , complements and expands ADA s market for RC beyond its patented CyClean technology licensed to Clean Coal, which is limited to cyclone boilers. During full-scale tests the M-45 technology achieved greater than 20% reduction in emissions of NOx and greater than 40% reduction in mercury emissions, thus demonstrating that this new technology also meets the standards necessary to qualify for IRS Section 45 tax credits.

In November 2011, we signed a non-binding term sheet for an exclusive license of the new M-45 RC technology to Clean Coal in order to leverage Clean Coal s operating expertise, to place as many facilities in service before the year-end placed in service deadline and to take advantage of the other synergies that can be obtained by Clean Coal having the ability to provide and use either the CyClean or M-45 technology. With this license, Clean Coal could provide customers with both the patent-pending M-45 technology and ADA s patented CyClean technology to produce RC that qualifies for Section 45 tax credits. This allows Clean Coal to potentially use some facilities placed in service using CyClean technology to treat larger annual volumes of coal if applied at a different plant using the M-45 technology.

We expect the license, which is subject to due diligence and negotiation and closing of definitive agreements, will provide ADA with a royalty based on a percent of operating income from future production of RC produced with the M-45 technology and prepaid royalties that included an initial refundable payment of $2 million, which was eliminated in the consolidation, paid to ADA upon signing of the term sheet with additional refundable payments of up to $8 million upon meeting certain milestones. The prepaid royalty payments are refundable via a withholding from 50% of future distributions or payments to ADA from Clean Coal if certain conditions are not satisfied.

To date, Clean Coal has installed and operated a total of 26 additional RC systems using a combination of the CyClean and M-45 technologies. We expect that each of these RC facilities satisfies the placed in service requirements from initial operations. If all planned RC systems become fully operational, after obtaining environmental permits for full-time operation and completing all necessary contracts, they could produce a total of more than 60 million tons of RC per year.

Our RC business opportunities do not depend upon any new environmental or tax regulations. The current ten year tax credits do not require any additional approval by Congress, which provides us with a high degree of confidence that Clean Coal and the M-45 technologies will generate long-term cash flows.

ADA expects to generate pre-tax income of greater than $1.00 per ton of RC produced per year for facilities leased to others after payments to its joint venture partners of Clean Coal for the ten year life of the tax credits. From RC facilities leased to others, ADA expects revenue and earnings before interest and taxes ( EBIT ) of approximately $100 million and $50 million per year, respectively, by the end of 2012, with the potential to double the revenue and EBIT figures by the end of 2013. During 2012, new facilities are also expected to generate greater than $70 million in cash receipts from prepaid rent for Clean Coal. Clean Coal is also evaluating plans to keep as much as 20% of the RC volume to offset federal tax obligations. For the RC production that Clean Coal retains, in addition to operating costs, Clean Coal will record coal sales and costs of coal that may be significant, which will result in increased revenues (over and above the revenue increases from the monetized RC facilities) and expenses, and will likely keep margin dollars similar to levels as if the RC was not retained. As a result, we expect that ADA s corporate tax rate will decrease to approximately 10%.

**Emission Control**

Many power companies recognize the urgency of the issued and pending environmental regulations, and as a result are contracting with us to evaluate mercury and acid gas control options at a number of their plants. Utilities need to know as soon as possible whether their existing EC components are sufficient to meet the new emissions standards with the installation of low capital systems such as ACI and DSI systems. If utilities need to upgrade their equipment with new large capital equipment such as fabric filters or $SO_2$ scrubbers, they need to quickly begin procurement of these systems due to long required lead times. As a result we expect additional near-term ACI and DSI demonstration revenue and further bidding on related ACI and DSI equipment.

*Activated Carbon Injection and Dry Sorbent Injection Systems*

To date, we have obtained contracts for or are in the process of installing 50 ACI systems intended to control mercury emissions from 55 coal-fired EGU boilers. Some market demand continues in 19 states and six Canadian provinces that either have passed their own mercury control regulations or have entered agreements with power plants to reduce mercury emissions for new power plants. We remain active in the bid and proposal process and bid activity picked up in the second half of 2011 on individual and fleet wide projects due to the anticipated release of the final MATS that occurred in December. We anticipate the need for 400 to 600 ACI systems to be supplied between 2012 and 2015, which would require rapid scale-up of our production capabilities to maintain our target and present 35% market share. For an average size EGU, the ACI equipment costs are between $600,000 and $ 1 million.

In addition to the mercury control applications for ACI systems, we have also developed and are offering commercial DSI systems to inject dry alkali sorbents for control of acid gases such as $SO_3$ and HCl as well as for control of the criteria pollutant $SO_2$. DSI systems, which cost approximately $2 million to $3 million for an average size EGU, provide a low CAPEX alternative to scrubbers for meeting certain provisions of the MATS and CSAPR. We conducted full-scale tests of the DSI equipment in 2010 and 2011 for the control of HCl, $SO_2$ and $SO_3$ on plants burning bituminous, PRB, and lignite coals. We believe several contracts for ACI and DSI systems will be awarded this year and that MATS will generate up to $300 million in sales of both ACI and DSI systems for the Company.

*Enhanced Coal*

Since 2004, we have been working with Arch Coal to explore certain unique characteristics of some types of coals mined by Arch Coal that allow them to be burned with lower emissions. We believe a technical breakthrough that involves the application of proprietary chemicals to coal mined by Arch Coal in the PRB likely reduces emissions of mercury and other metals when this enhanced PRB coal ( Enhanced Coal ) is eventually burned at power plants. As a result, on June 25, 2010, we entered into a Development and License Agreement (the License Agreement ) with Arch Coal. Pursuant to the License Agreement, we provided Arch Coal with an exclusive, non-transferable license to use certain technology to produce Enhanced Coal by the application of ADA s proprietary coal treatment technology to Arch Coal s PRB mined coal. We expect that use of this Enhanced Coal will help utilities meet the mercury emissions requirements in the MATS. Pursuant to the License Agreement, we are providing development services to Arch Coal aimed at applying the technology to the PRB coal. In addition, if we develop improvements to the technology that are related to the reduction of certain emissions from the burning of PRB coal, that technology will either be included in the license at no additional cost, or, under certain circumstances, we will negotiate with Arch Coal to determine if Arch Coal wants to use the additional improvements. We retain all right, title and interest, including all intellectual property rights, in and to any technology we license to Arch Coal. The initial demonstration of coal treated at the mine and shipped by rail to a power plant produced promising results.

In consideration for the development work and the license to Arch Coal, Arch Coal paid us an initial, non-refundable license and development fee in cash totaling $2 million in June 2010 and we recognized $1.3 million as revenue in 2011 and $.7 million in 2010. Under the License Agreement, we are entitled to royalties of as much as $1 per ton of a portion of the premium for Enhanced Coal sold by Arch Coal, depending upon the successful implementation of the technology and the premium Arch Coal is able to charge on future sales of the Enhanced Coal product. Any royalty ultimately payable under the License Agreement will first be subject to credit to Arch Coal of an amount equal to the initial license fee, other development and operational costs paid by Arch Coal plus a rate of return on such payments.

We believe the Enhanced Coal product may provide a $1 to $4 per ton of coal benefit to power plants. The MATS will likely create a market for reduction in mercury emissions for a significant percentage of the greater than 100 million tons per year of PRB coal mined by Arch Coal. Because of our focus on placing in service additional RC facilities prior to the end of 2011, we decided to delay additional demonstrations of our Enhanced Coal product. We expect to resume these tests in 2012, which is expected to provide sufficient time to further develop the technology and grow this business as the national mercury control market expands through 2015.

As a part of entering into the License Agreement we agreed to negotiate and enter into a Supply Agreement under which Arch Coal will purchase the additives described in the License Agreement exclusively from us, and we will supply Arch Coal with the additives it needs. We expect to finalize the terms of the Supply Agreement in 2012.

**$CO_2$ Capture**

In addition to our two key growth areas, RC and emission control, we continue to demonstrate our position as a premier developer of innovative clean energy technologies. We expect that $CO_2$ capture technologies will be required to control $CO_2$ emissions from coal-fired power plants in the future as a result of the impact of $CO_2$ emissions on climate change. A number of permits for new coal-fired plants were rejected by various state officials in response to protests by environmental groups. We see this as an opportunity and continue to develop technologies to address the long-term needs of our customers to reduce $CO_2$ from their existing and new plants.

On December 15, 2009, EPA issued an endangerment finding that triggered a Clean Air Act requirement that the agency regulate $CO_2$ emissions from stationary sources such as power plants. Industry and states have filed an extensive consolidated litigation before the U.S. Court of Appeals for the District of Columbia Circuit challenging numerous aspects of EPA s Greenhouse Gas ( GHG ) rules. The U.S. Court of Appeals for the D.C. Circuit is considering arguments regarding EPA s guidance memo on the timing of GHG regulations, such as when GHGs become a regulated pollutant under the Clean Air Act and thus New Source Review ( NSR ) and Prevention of Significant Deterioration ( PSD ) regulations apply.

EPA anticipates proposing its first new source performance standards ( NSPS ) for $CO_2$ emissions from new power plants within the next few months as a result of a separate settlement with states and environmental groups in 2010.

DOE is funding $CO_2$ control projects and in September 2010, we signed a contract with DOE to continue development of clean coal technology to capture $CO_2$ from coal-fired power plants and other industrial sources of $CO_2$ emissions. The agreements with the DOE provide that any inventions we create as a result of the work become our property and we retain the rights to commercialize any products we develop under the contracts. We participated in two such agreements in 2011 pursuant to which we are researching and developing a novel process to capture $CO_2$ from coal-fired power plants.

In 2010 we began the first field tests of our $CO_2$ control technology on a $3.8 million program co-funded by DOE, as well as several major forward-thinking utility companies. The initial results at a plant confirmed the promising performance we had demonstrated in our laboratory. The pilot plant was moved to another plant for additional testing. Once captured, the $CO_2$ could be either stored underground (sequestration) or beneficially used in processes such as enhanced oil recovery. This technology appears to offer potential cost and energy advantages over competing liquid-solvent-based technologies.

In October 2010, we began work on a second major $CO_2$ project, which is expected to run for a total of 51 months to scale-up the technology to the one-megawatt level, which is a key step in the technology development process. We are the prime contractor for the approximately $19 million project administered by DOE s National Energy Technology Laboratory which is providing $15 million of the funding. The project provides funding to advance our commercialization plan for regenerable solid-sorbent technology, which is designed to capture $CO_2$ generated by coal-fired power plants.

We have completed the first budget period of the 51-month DOE project. Continued project funding is dependent on approval of the DOE and our industry partners. We anticipate the DOE will make a positive decision about continuation within the next few months.

We anticipate that DOE funded $CO_2$ programs will continue to represent an important component of the revenue stream of the Company over the next several years as we position ourselves for the market growth for ACI systems, enhanced coal additives and related technology with Arch Coal and other technologies for emissions control.

**Results of Operations 2011 versus 2010**

Revenues totaled $53.3 million for 2011 versus $22.3 million in 2010, representing an increase of 139%. The change is due primarily to revenues from operations at the RC facilities we leased to a third party and coal sales for new RC placed in service facilities plus a 49% increase in our CC segment revenues. We expect overall revenues for 2012 to be significantly higher than those reported for 2011.

Cost of revenues increased by $20.3 million or 236% in 2011 from 2010 primarily as a result of costs of coal incurred related to demonstration and testing by Clean Coal of new RC facilities. In addition, costs increased in the CC segment due to the increased activity in this segment and in the EC segment due to the hiring of additional staff required to meet expected growth in this segment. Gross margins were 46% for the year compared to 61% in 2010. The decrease primarily reflects such increased costs. For the near term, we expect the RC segment to represent an increasing source of revenues, for which the anticipated gross margins are higher than our EC and CC segments. As a result, we expect the gross margin for fiscal year 2012 to be higher than the overall margin realized in 2011.

*Refined Coal*

Revenues in our RC segment totaled $40.3 million in 2011 compared to $10.4 million in 2010, representing an increase of 288%. The two operating RC facilities were placed into routine operations during the second quarter of 2010 and were in operation throughout 2011. In addition to recognition of rental income totaling $20.1 million from the two operating facilities, the current year includes sales of RC totaling $20 million as a result of demonstrating and placing additional RC facilities into service. We expect our quarterly revenues to continue to fluctuate based on seasonal variations in electricity demand as well as planned and unplanned outages required by the power plants for equipment repair and maintenance. On an ongoing basis, we expect the two RC facilities to process approximately 6 million tons of RC annually, qualifying for the present $6.33 per ton Section 45 tax credit through 2021.

Cost of revenues for the RC segment increased by $18.8 million or 1303% for 2011 from 2010. Costs increased in 2011 due primarily to the cost of coal acquired to test new RC facilities which costs approximate the revenues realized on its sale noted above, due to the RC facilities being in operation for a full year, and an increase in activities undertaken to place additional facilities into service. We expect future RC margins irrespective of coal purchases and sales to be at a level near 90%.

RC segment profits increased by $10.1 million or 129% for 2011 compared to 2010 as the two facilities were leased for the full year in 2011 and placed in routine operation in the middle of 2010. These amounts are prior to the allocation of such profits to the non-controlling interest of Clean Coal.

*Emission Control*

Revenues in our EC segment totaled $10 million in 2011 compared to $9.8 million in 2010, representing an increase of 1%. The amounts reported for 2011 and 2010 excludes the work ADA has conducted for Clean Coal, as further described below, which was eliminated in our consolidation. Revenues from the EC segment for the year ended December 31, 2011 were comprised of sales of ACI systems and services (42%), flue gas chemicals and services (9%) and other services (49%), compared to 56%, 6%, and 38%, respectively, in 2010. For the near term, we expect the consulting services in our EC segment to increase as a percentage of EC revenues as the industry seeks to analyze and evaluate the MATS. We expect our EC segment revenues related to ACI systems to start growing in 2012 when we expect utilities, cement plants and industrial boilers to start reacting to the MATS and other MACT regulations. We expect overall gross margin dollars for the EC segment for 2012 to be higher than amounts achieved in 2011 due to increased equipment sales and consulting activity.

Our consulting revenues increased $1.3 million during 2011 compared to 2010 as a result of continued demonstrations and other work related to recent changes with the MATS and included revenues totaling $1.3 million from our Arch Coal non-refundable license. Our consulting revenues contributed $4.9 million during 2011 and we expect our consulting revenue to increase for the next year as several customers are seeking advice on how best to comply with the MATS.

As of December 31, 2011, we had contracts in progress for work related to our EC segment totaling $736,000 which we expect to recognize as revenue in 2012. Our ACI systems revenues totaled $4.1 million for 2011, representing a decrease of 25% compared to 2010. In the EC segment, we performed work related to RC systems provided to Clean Coal valued at $8.3 million and $3.7 million for the years ended December 31, 2011 and 2010, respectively, which would otherwise be recognized as revenue but was eliminated in the consolidation of Clean Coal. The amounts for 2010 include our participation in the construction and installation of the initial RC facilities. In 2011, Clean Coal utilized a number of third-party resources to construct and install the new RC facilities. However, we provided services toward the construction and installation of 26 facilities in 2011 compared to 2 facilities in 2010.

Cost of revenues for the EC segment increased by $732,000 or 12% in 2011 from 2010, primarily as a result of increased costs related to our ACI systems activities including hiring additional staff required for expected growth. Gross margin for the EC segment was 31% for 2011 compared to 38% for 2010. The decrease in gross margin from the prior year is primarily a result of the increase in costs related to our ACI systems.

EC segment profits decreased by $764,000 or 36% for 2011 compared to 2010. The decrease was primarily a result of costs associated with hiring additional staff required for expected growth in future ACI systems sales.

*$CO_2$ Capture*

Revenues in our CC segment totaled $3.1 million in 2011 compared to $2.1 million in 2010 representing an increase of 49%. We had outstanding DOE contracts, including anticipated industry cost share in progress totaling $15.7 million as of December 31, 2011. We expect to recognize approximately $5.6 million from these contracts in 2012 including participation by other industry partners. As discussed above, back on September 30, 2010 we signed a contract on a DOE project totaling approximately $19 million (including expected contributions by other industry partners).

Cost of revenues for the CC segment increased by $858,000 or 80% for 2011 from 2010, primarily from increased activities related to our development of $CO_2$ capture technology. Gross margin for this segment was 38% in 2011 compared to 49% in 2010. The decrease in gross margin from 2011 to 2010 is due primarily to greater use of subcontractors for which our margins are lower under these projects. Lower cost share participation from third parties also contributed to higher costs and lower margins. We expect overall gross margins for the CC segment for 2012 to be lower than the levels achieved in 2011, due to our likely share of costs and the mixture of direct costs (labor versus equipment) associated with this segment.

CC segment profits decreased by $654,000 or 73% for 2011 compared to 2010. As discussed above, the decrease was primarily the result of greater use of subcontractors and lower cost share participation by others.

Our contracts with the government are subject to audit by the federal government, which could result in adjustments to previously recognized revenue. Our historical experience with these audits has not resulted in significant adverse adjustments to amounts previously received; however the audits for the years 2004 and later have not been finalized. Revenues recognized from 2005 through 2011 that are subject to government audit totaled approximately $32 million. In addition, we had $15.7 million of remaining unearned amounts under contracts subject to audit as of

December 31, 2011. We believe, however, that we have complied with all requirements of the contracts and future adjustments, if any, will likely not be material. In addition, the federal government must appropriate funds on an annual basis to support DOE contracts, and funding is always subject to unknown and uncontrollable contingencies.

*Other Items*

General and administrative expenses decreased by $15.3 million or 47% to $17.5 million in 2011. Legal costs decreased $20.4 million or 83% in 2011 primarily due to a decrease in non-routine expenses associated with litigation and settlements which totaled $24.5 million in 2010. We believe our legal expenses have now returned to more routine levels. This decrease was offset by increases in compensation costs and other general and administrative costs totaling $1.5 million and $3.6 million, respectively, from 2010 which are primarily due to a 46% increase in staff in anticipation of increased business. We expect general and administrative expenses to increase as we continue to add additional resources to prepare for increased business opportunities over that time. We expect general and administrative expenses to be approximately $4 million per quarter for ADA and as much as $1 million per quarter for CCS in 2012.

We incur research and development ( R&D ) expenses not only on direct activities that we conduct but also by sharing a portion of the costs in the government and industry programs in which we participate. Total R&D expense increased by $1.4 million or 151% in 2011 compared to 2010 as a result of increases in RC and CC activities. We incurred $343,000 for direct cost share for R&D under DOE related contracts in 2011. We had no significant direct cost share for R&D under DOE related contracts in 2010. The increase in total R&D is related to preparing for growth in the delivery of our ACI systems, as well as our RC activities. Future consolidated research and development expenses, except for those anticipated to be funded by the DOE contracts and others that may be awarded, are expected to be higher in 2012 compared to 2011. We continue to anticipate that our future R&D expenses will grow in direct proportion to DOE funded $CO_2$ work we perform for the next several years and other technology development we choose to pursue.

We had net other income including interest of $2.2 million in 2011 compared to $2.5 million in 2010 related primarily to interest on notes receivable and other amounts received from NexGen. We had interest expense of $1.6 million in 2011 related to the line of credit and deferred gain for income tax purposes on the Clean Coal lease transactions. There was $16,000 in interest expense in 2010. We recognized $42 million in expenses in 2011 related to the Norit matter, and a $20 million gain from the settlement with Carbon Solutions/ECP as discussed below. We recognized a net $6.1 million gain in 2010 related to the settlement with our damage claim against Calgon Carbon Corporation ( Calgon ) also as discussed below.

In November 2011, an Indemnity Settlement Agreement was entered into whereby ADA agreed to settle certain indemnity obligations asserted against ADA and relinquished all of its interest in the Carbon Solutions joint venture with ECP. The interest in Carbon Solutions was accounted for under the equity method of accounting and considerable losses had been recorded since its inception in 2008. We recorded the transactions resulting from the Indemnity Settlement Agreement for the satisfaction of the indemnity obligations and the relinquishment of ADA s interest which resulted in a gain of $20 million which is included other income (loss) in the consolidated statements of operations.

ADA s equity in the net loss of Carbon Solutions for 2011 and 2010 totaled $7.2 million and $8.2 million, respectively and is included in other income (expense) in the consolidated statement of operations. The amount is reported net of our equity in the net income of CCSS which amounted to $189,000 and $118,000 for 2011 and 2010, respectively.

The income tax provisions for 2011 and 2010 represent an effective tax benefit (expense) rate of approximately 41% (restated) and (35%) (restated) for the years ended December 31, 2011 and 2010, respectively. The deferred income tax benefit of $10.4 million (restated) for the fiscal year ended December 31, 2011 represents the income tax effect of the sale of the equity interest in Clean Coal to GS in May 2011. The consolidated financial statements have been restated to include a full valuation allowance against the net deferred tax assets discussed in Notes 13 and 16 of the notes to the restated consolidated financial statements. The primary jurisdictions in which we file income tax returns are the U.S. federal government and State of Colorado. We are no longer subject to U.S. federal examinations by tax authorities for years before 2008 and Colorado state examinations for years before 2007. Our income tax rate does not include any material amount of Section 45 tax credits from Clean Coal as those tax benefits will primarily be realized by the Lessee under the RC facilities leases.

The net operating loss from continuing operations before income tax benefit (expense) and non-controlling interest was $25.2 million in 2011 compared to a loss of $20.4 million in 2010. The net operating loss is due in large part to the costs associated with our settlement of litigation involving Norit and our equity in the losses incurred by Carbon Solutions.

**Results of Operations 2010 versus 2009**

Revenues totaled $22.3 million for 2010 versus $20.1 million in 2009, representing an increase of 11%. The change is due primarily to initiation of revenues from operations at the RC facilities we leased to a third party offset by the decrease in our EC segment revenues.

Cost of revenues decreased by $5.3 million or 38% in 2010 from 2009 primarily as a result of decreased revenues in our EC segment and lower RC segment costs described below. Gross margin was 61% for the year compared to 31% in 2009. The increase primarily reflects the increased RC margins and revenues as described below.

*Refined Coal*

Revenues in our RC segment totaled $10.4 million in 2010 versus $2.6 million in 2009, representing an increase of 301%, as the leased RC facilities initiated routine operations. As discussed above, in June 2010 we leased the two RC facilities and earn related rent revenues, which began in July 2010.

Cost of revenues for the RC segment decreased by $1.9 million or 57% for 2010 from 2009, primarily due to the two RC facilities ramping up production levels in the fourth quarter of 2010. In 2009, we recorded the sales of RC which were made essentially on a cost basis with no margin.

RC segment profits increased by $9.2 million or 697% for 2010 compared to 2009 as the two facilities were leased and placed in routine operation in the middle of 2010.

*Emission Control*

Revenues in our EC segment totaled $9.8 million in 2010 versus $15.9 million in 2009, representing a decrease of 38%. The amounts reported for 2010 and 2009 excludes the work ADA conducted for Clean Coal, as further described below, which was eliminated in our consolidation. Revenues from the EC segment for the year ended December 31, 2010 were comprised of sales of ACI systems and services (56%), flue gas chemicals and services (6%) and other services (38%), compared to 66%, 2%, and 32%, respectively, in 2009.

Our consulting revenues decreased $1.3 million during 2010 compared to 2009 as we completed nearly all of our mercury control demonstrations and analysis. Such decline is offset by our Arch Coal non-refundable license revenue. Our consulting revenues contributed $3.6 million during 2010.

As of December 31, 2010, we had contracts in progress for work related to our EC segment totaling approximately $2.9 million. Our ACI systems revenues totaled $5.5 million for 2010, representing a decrease of 48% compared to 2009. In the EC segment, we performed work related to RC systems provided to Clean Coal valued at $3.7 million and $1.3 million for the years ended December 31, 2010 and 2009, respectively, which would otherwise be recognized as revenue but was eliminated in the consolidation of Clean Coal.

Cost of revenues for the EC segment decreased by $3.4 million or 36% in 2010 from 2009, primarily as a result of the decreased revenue-generating activities from our ACI system sales. Gross margins for this segment were 38% in 2010 compared to 40% for 2009. The decrease in gross margins from the prior year is primarily a result of the impact of our consulting and ACI system margins.

EC segment profits decreased by $3.2 million or 60% for 2010 compared to 2009. The decrease was primarily a result of decreased ACI systems sales.

*$CO_2$ Capture*

Revenues in our CC segment totaled $2.1 million versus $1.5 million for 2009 representing an increase of 36%. As discussed above, on September 30, 2010 we signed a contract on a DOE project totaling approximately $19 million (including expected contributions by other industry partners) with work ramping up in the fourth quarter of 2010.

Cost of revenues for the CC segment increased by $97,000 or 10% for 2010 from 2009, primarily from increased activities related to our development of $CO_2$ capture technology. Gross margins for this segment were 49% for 2010 compared to 37% for 2009. The increase in gross margins from 2010 to 2009 is due primarily to the increased work being performed under these projects.

CC segment profits increased by $546,000 or 156% for 2010 compared to 2009. The increase was primarily the result of increased activities related to our development of $CO_2$ capture technology, which ramped up significantly in 2010.

*Other Items*

General and administrative expenses increased by $16 million or 96% to $32.8 million in 2010. The dollar increase for 2010 resulted primarily from legal costs related to our legal proceedings with Norit and Calgon, which comprised approximately 75% of the overall general and administrative expense for 2010.

We incur R&D expenses not only on direct activities we conduct but also by sharing a portion of the costs in the government and industry programs in which we participate. Total R&D expense increased by $202,000 or 28% in 2010 compared to 2009 as a result of increases in RC and CC activities. We had no significant direct cost share for R&D under DOE related contracts in either 2010 or 2009. The increase in total R&D is related to preparing for growth in the delivery of our ACI systems, as well as our RC activities.

We had net interest and other income of $8.6 million in 2010 compared to $34,000 for 2009. In December 2010, we accepted a $7.2 million payment (recognized a net of $6.1 million after payment of certain contingent legal fees) and recognized income related to the settlement of our damage claim against Calgon. In addition, during the second quarter of 2010, we recognized approximately $1.8 million related to the notes payable delivered by NexGen, by which NexGen paid us as a portion of the amounts required to maintain its interest in Clean Coal. Such payments were recorded as other income. During the second half of 2010, we recognized approximately $200,000 in interest and other income related to the notes receivable and other amounts due from NexGen.

The income tax provisions for 2010 and 2009 represent an effective tax benefit (expense) rate of approximately (35%) (restated) and 37% for the years ended December 31, 2010 and 2009, respectively. The consolidated financial statements have been restated to include a full valuation allowance in 2010 against the deferred tax assets as discussed in Notes 13 and 16 of the notes to the restated consolidated financial statements. Our income tax rate does not include any material amount of Section 45 tax credits from Clean Coal as those tax benefits will primarily be realized by the Lessee under the RC facilities leases.

In June 2009, our partner in the Carbon Solutions joint venture, ECP, converted a portion of its preferred equity contributions in Carbon Solutions to ordinary capital contributions thereby reducing our ownership interest below 50%. Accordingly, we deconsolidated Carbon Solutions in June 2009 as we no longer held a controlling interest and began to account for our investment in Carbon Solutions under the equity method of accounting. Additional preferred equity contributions were converted and common equity contributions were made by ECP since that time and our interest in Carbon Solutions decreased to 25.9% as of December 31, 2010. Our net investment of $13.6 million as of December 31, 2010 in Carbon Solutions was accounted for under the equity method of accounting. Accordingly, our equity in the net loss of Carbon Solutions for the year ended December 31, 2010 is recognized in other income (expense) in the consolidated statement of operations and our investment in Carbon Solutions was reduced by our respective share of such loss. For 2010, we recorded a loss of $8.0 million, which represents our share of Carbon Solution s net loss for the year. The amount is reported net of our equity in the net income of CCSS which amounted to $118,000 for the year.

The net operating loss from continuing operations was $20.4 million in 2010 compared to a net operating loss of $15 million in 2009. The net operating loss is due in large part to the costs associated with our litigation matters involving Norit and Calgon and the losses incurred by Carbon Solutions. We would have a net income after tax of approximately $5.1 million or $0.69 per share for the year excluding the non-routine legal expenses related to the Calgon and Norit matters and disregarding the non-cash loss from Carbon Solutions.

**Liquidity and Capital Resources**

Our principal sources of liquidity are our anticipated cash flows from RC activities and other operations and net proceeds of $32.7 million from the sale of 2.3 million shares of our common stock that occurred in October and November of 2011. We had consolidated cash and cash equivalents totaling $40.9 million at December 31, 2011 compared to consolidated cash and cash equivalents of $9.7 million at December 31, 2010.

At December 31, 2011, we had working capital of $1.4 million (restated) compared to $9.9 million (restated) at December 31, 2010, which includes a reduction of $2.4 million and $188,000 attributable to the recognition of a valuation allowance against the Company s net deferred tax assets for 2011 and 2010, respectively. We have recorded long-term liabilities of $5 million related to the final settlement obligations related to the Norit matter, and $200,000 related to the Carbon Solutions/ECP settlement as of December 31, 2011. We have additional long-term liabilities of $3.6 million for the long-term portion of the CCS line of credit, and $632,000 for accrued warranty and other liabilities as of December 31, 2011.

Decreases in working capital during 2011 resulted primarily from:

- $33 million payment and $2.5 million accrual related to the Norit matter,
- $2.2 million in payments and $1.4 million accrual related to the Carbon Solutions/ECP settlement, and
- $33.7 million in capital expenditures including amounts to construct, install and place in service 26 additional RC facilities.

The above were offset by increases in cash and cash equivalents which included:

- $32.7 million from the public sale of 2.3 million shares of our common stock,
- $30 million from the sale of an effective 15% interest in the equity of Clean Coal to GS,
- $3 million from NexGen on notes receivable and other payments to maintain its interest in Clean Coal,
- $14.5 million for net borrowings under the Clean Coal line of credit, and

Prepaid deposits for new systems placed in service and rents received related to the lease of Clean Coal s RC facilities, net of current deferred revenues.

Our stockholders deficit was $29.4 million (restated) as of December 31, 2011 compared to $2.2 million (restated) as of December 31, 2010. The increase in the deficit is primarily due to the settlement payment and expenses related to the Norit matter, the recording of a valuation allowance against the Company s net deferred tax assets and the distribution to the non-controlling interest of Clean Coal offset by the sale of temporary equity in Clean Coal to GS, net of taxes, the sale of common stock in November and December of 2011 and the gain from the Carbon Solutions/ECP settlement (see Note 16 for the effect of the restatement on stockholders deficit).

Our ability to maintain the financial liquidity required to meet ongoing operational needs will likely depend upon several factors, including our ability to maintain a significant share of the market for emissions control equipment, Clean Coal s continued operation of the two RC facilities placed in service and success in monetizing Section 45 tax credits through the sale or lease of a portion of the additional 26 facilities placed in service in 2011 to third party investors.

*Clean Coal Related Items*

Clean Coal, our joint venture with NexGen, placed two RC production facilities into service in 2010 (which were exchanged for two newly constructed, redesigned RC facilities in November and December 2011), which are leased to a third party. Based on the amount of RC that we expect will be produced from these RC facilities, we expect to recognize pre-tax tax cash flows between $7 million to $10 million per year through 2021, the expected period for which Section 45 tax credits are available for these facilities.

NexGen elected to retain its interest in Clean Coal by paying us $4 million plus interest. In addition, we, NexGen and two entities affiliated with NexGen have provided Clean Coal s sublessee with joint and several guaranties guaranteeing any payments and performance due the lessee under the various agreements Clean Coal executed in the lease of the RC facilities.

*Other Liquidity and Capital Resource Items*

Our trade receivables balance is comprised of both amounts billed to customers as well as unbilled revenues that have been recognized. As of December 31, 2011 our trade receivables balance was $5.9 million, which was offset by billings in excess of recognized income of $173,000 or a net of $5.7 million compared to $8.6 million at December 31, 2010. Our trade receivables balance was lower at December 31, 2011 compared to 2010 primarily due to the nature and timing of our billing milestones for our ACI systems contracts and the significant level of work performed for Clean Coal in the fourth quarter of 2011, the receivables for which are eliminated in consolidation.

Under our defined contribution and 401(k) retirement plan, in 2011 and 2010 we matched up to 7% of limited salary amounts deferred by employees in the Plan. During 2011 and 2010, we recognized $349,000 and $282,000, respectively, of matching expense which payment was made with our stock. In 2011, we made a discretionary contribution in the form of our stock and recorded $220,000 of expense related thereto. We did not make any such discretionary contributions in 2010. Our matching expense is expected to amount to $460,000 for 2012 depending on employee participation in the plan.

We had recorded net current deferred tax assets of $2.4 million and long-term deferred tax assets of $16.2 million as of December 31, 2011 compared to net current deferred tax asset of $188,000 and net long-term deferred tax assets of $15.4 million as of December 31, 2010. The current and long-term amounts for both periods have subsequently been reduced to zero by recording a valuation allowance. As discussed above and in Notes 13 and 16 to the restated consolidated financial statements, in August 2012, after extensive discussions with the SEC s Division of Corporation Finance and Office of the Chief Accountant and the Company s outside tax experts, independent registered public accounting firm, Audit Committee and Board of Directors, management determined that a full valuation allowance against the Company s net deferred tax assets should have been recognized as of December 31, 2010 and for each subsequent quarter thereafter. Management determined that it was necessary to record the valuation allowance against the Company s deferred tax assets after reconsidering the weight given in the original assessment to the relevant information used to measure the positive and negative evidence regarding the potential for ultimate realization of the net deferred tax assets.

Cash flows used in operations totaled $8.0 million for 2011 compared to cash provided by operations of $11.7 million in 2010. The decrease in operating cash flows primarily resulted from increases in prepaid and other assets of $1.3 million, accounts payable and other liabilities of $7.1 million, deposits of $14.9 million and obligations related to Norit and the Carbon Solutions/ECP settlement of $8.3 million. These increases were offset by decreases in our accounts receivable of $3.2 million and deferred revenue and other liabilities of $4.6 million. These changes in our operating assets and liabilities correspond to the nature and timing of our procurement and billing cycle and development activities. In addition, adjustments related to our net loss of $22.8 million (restated) for non-cash operating activities, which included expenses paid with stock and restricted stock of $1.1 million, depreciation and amortization of $1.6 million, non-controlling interest in Clean Coal of $8 million and our net equity in the net income/loss of unconsolidated entities of $7 million, offset by the gain on relinquishment of our interest in Carbon Solutions of $20 million, all of which increased our cash flow during 2011, and were partially offset by an increase in recorded deferred tax benefits of $10.4 million (restated) related to the sale of equity in Clean Coal to GS.

Net cash used in investing activities was $32.2 million (restated) for 2011 compared to $3.1 million for 2010. The cash used consisted primarily of purchases of equipment and costs to build the 26 additional RC facilities of $33.8 million. Offsetting cash provided by investing activities were payments received from NexGen related to their note receivable of $1.6 million.

Cash provided by financing activities was $71.4 million (restated) in 2011 compared to cash used in financing activities of $356,000 in 2010. Cash provided during 2011 included the $60 million equity contribution from the sale of the interest in Clean Coal, advances on the line of credit of $14.5 million, $250,000 in capital contributions by the non-controlling interest in Clean Coal and the sale of stock for proceeds totaling $35.1 million and the exercise of stock options totaling $106,000. Uses of cash consisted of the distribution to the non-controlling interest of $36.2 million (restated) and stock issuance and registration costs of $2.4 million.

We had the following contractual commitments as of December 31, 2011:

| | Payment Due by Period | | | | |
|---|---|---|---|---|---|
| | Total | 2012 | 2013 and 2014 | 2015 and 2016 | 2017 and Beyond |
| | | | *(in thousands)* | | |
| Purchase obligations | $ 410 | $ 410 | $ | $ | $ |
| Operating lease obligations | 3,044 | 214 | 690 | 999 | 1,141 |
| Total | $ 3,454 | $ 624 | $ 690 | $ 999 | $ 1,141 |

**Off-Balance Sheet Arrangements**

We do not have any significant off-balance sheet arrangements except for the operating leases disclosed above and the commitments and contingencies disclosed in Note 9 of our consolidated financial statements contained in Item 8 of this Annual Report.

**Critical Accounting Policies and Estimates (restated)**

Revenue Recognition We follow the percentage of completion method of accounting for all significant contracts excluding RC leases, government contracts, coal and chemical sales and technology license royalties. The percentage of completion method of reporting income takes into account the estimated costs to complete and estimated gross margin for contracts in progress. RC base rents, which are fixed, are recognized over the life of the lease. RC contingent rents are recognized as they are earned. We recognize revenue on government contracts generally based on the time and expenses incurred to date. Royalties from technology licenses are recognized when earned.

Significant estimates are used in preparation of our financial statements and include:

- our allowance for doubtful accounts, which is based on historical experience;
- our warranty costs;
- our percentage of completion method of accounting for significant long-term contracts, which is based on estimates of gross margins and of the costs to complete such contracts; and
- the period over which we estimate we will earn up-front license payments.

In addition, amounts invoiced for government contracts are subject to change based on the results of future audits by the federal government. We have not experienced significant adjustments in the past, and we do not expect significant adjustments will be required in the future. We also use our judgment to support the current net book value of goodwill and other intangible assets of $789,000 on the consolidated balance sheets. Management believes the value of other recorded intangibles is not impaired, although market demand for our products and services could change in the future, which would require a write-down in recorded values. As with all estimates, the amounts described above are subject to change as additional information becomes available, although we are not aware of anything that would cause us to believe that any material changes will be required in the near term.

Under certain contracts we may grant performance guaranties or equipment warranties for a specified period and the achievement of certain plant operating conditions. In the event the equipment fails to perform as specified, we are obligated to correct or replace the equipment. Estimated warranty costs are recorded at the time of sale based on current industry factors. The amount of the warranty liability accrued reflects our best estimate of expected future costs of honoring our obligations under the warranty section of each contract. We believe the accounting estimate related to warranty costs is a critical accounting estimate because changes in it can materially affect net income, it requires us to forecast the amount of equipment that might fail to perform in the future, and it requires a large degree of judgment.

Income taxes are accounted for under the asset and liability approach. Under this method, deferred tax assets and liabilities are recognized for the expected future tax consequences of differences between the carrying amounts of assets and liabilities and their respective tax bases using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period when the change is enacted. At each reporting date, management reviews deferred tax assets and liabilities and any related valuation allowance and, if necessary, revises them to reflect changed circumstances. In a situation where recent losses have been incurred, the accounting standards require convincing evidence that there will be sufficient future taxable income to realize deferred tax assets. Deferred tax assets have been reduced to zero by a valuation allowance because, in the opinion of management, it is more likely than not that all of the deferred tax assets will not be realized. A change in laws can have a material effect on the amount of income tax we are subject to. We are not aware of anything that would cause us to believe that any material changes will be required in the near term.

We recognize all share-based payments, including grants of stock options, restricted stock units and employee stock purchase rights in our financial statements based upon their respective grant date fair values. Under this standard, the fair value of each employee stock option and employee stock purchase right is estimated on the date of grant using an option pricing model that meets certain requirements. We currently use the Black-Scholes option pricing model to estimate the fair value of our stock options and stock purchase rights. The Black-Scholes model meets the requirements of FASB Topic 718 but the fair values generated by the model may not be indicative of the actual fair values of our equity awards, as it does not consider certain factors important to those awards to employees, such as continued employment and periodic vesting requirements. The determination of the fair value of share-based payment awards utilizing the Black-Scholes model is affected by our stock price and a number of assumptions, including expected volatility, expected life and risk-free interest rate. We use a historical volatility rate on our stock options. The fair value of our restricted stock is based on the closing market price of our Common Stock on the date of grant. If there are any modifications or cancellations of the underlying securities, we may be required to accelerate, increase or cancel any remaining unearned stock-based compensation expense. To the extent that we grant additional equity securities to employees or we assume unvested securities in connection with any acquisitions, our stock-based compensation expense will be increased by the additional unearned compensation resulting from those additional grants or acquisitions.

Consolidation of Subsidiaries   Our equity partner in Clean Coal, NexGen, paid us $4 million to maintain its interest in Clean Coal. Since inception, ADA has been considered the primary economic beneficiary of the joint venture with Clean Coal and, therefore, we have consolidated its accounts with ours.

We hold a 50% interest in CCSS. However, we control only two of the five seats on the board of managers and our equity partner controls the other three seats. Therefore, we believe our 50% interest does not constitute control of CCSS and we have recorded our interest under the equity method.

**Recently Issued Accounting Policies**

In September 2011, the Financial Accounting Standards Board issued updated guidance allowing the use of a qualitative approach to test goodwill for impairment. The updated guidance would permit the Company to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of one of its reporting units is less than its carrying value. If the Company concluded that this is the case, it is then necessary for the Company to perform the currently prescribed two-step goodwill impairment test. Otherwise, the two-step goodwill impairment test is not required. The updated guidance is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011 with early adoption permitted. The Company is currently evaluating the impact of our pending adoption of this update.

**Item 8. Financial Statements and Supplementary Data (restated).**

**Our Financial Statements can be found at pages F-1 through F-26 of this report.**

Index to Financial Statements



**Item 9A. Controls and Procedures (restated).**

We conducted an evaluation under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. The term   disclosure controls and procedures,   as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by the company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission   s rules and forms. Disclosure controls and procedures also include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company   s management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Management necessarily applied its judgment in assessing the costs and benefits of such controls and procedures, which, by their nature, can provide only reasonable assurance regarding management   s control objectives.

**Evaluation of Disclosure Controls and Procedures**

When our Annual Report on Form 10-K for the fiscal year ended December 31, 2011 was filed on March 15, 2012, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2011. Subsequent to that evaluation, our management identified errors related to the accounting for the equity investment in Clean Coal that has been held by an affiliate of GS since May 2011 and the establishment and maintenance of a valuation allowance against deferred tax assets, as discussed below. These errors had a material effect on our previously issued consolidated financial statements. As a result of these errors, we determined that our consolidated financial statements for the fiscal years ended December 31, 2010 and

2011 and the quarters ended March 31, 2011, June 30, 2011, September 30, 2011, March 31, 2012 and June 30, 2012 should not be relied upon and needed to be restated (see Note 16 in the accompanying restated consolidated financial statements for further discussion) and identified the material weaknesses described below.

**Management s Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining effective internal control over financial reporting. Internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15(d)-15(f)) is defined as a process designed by, or under the supervision of, a company s principal executive and financial officers, or persons performing similar functions, and effected by a company s board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external reporting purposes in accordance with generally acceptable accounting principles and includes those policies and procedures that: (a) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company s assets that could have a material effect on the financial statements.

A material weakness is a control deficiency, or combination of control deficiencies, that result in more than a remote likelihood that a material misstatement of annual or interim financial statements will not be prevented or detected. Our management assessed our internal control over financial reporting as of December 31, 2011. Management based its assessment on criteria set forth in the framework in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

Ehrhardt Keefe Steiner & Hottman PC, an independent registered public accounting firm, has audited our Consolidated Financial Statements included in this Form 10-K, and as part of the audit, has issued a report, included herein, on the effectiveness of our internal control over financial reporting as of December 31, 2011.

**Changes in Internal Control Over Financial Reporting**

In connection with the identification of the errors related to our financial statements described above and in Note 16 to our restated consolidated financial statements, management has identified the following deficiencies that constituted material weaknesses in our internal control over financial reporting for the periods described above:

- We did not maintain an effective control environment, as evidenced by not utilizing appropriate personnel or consultants qualified to review complex, non-routine business transactions that require additional review and impact decisions requiring accounting treatment, financial statement presentation and disclosure.

- We did not establish adequate criteria to assess positive and negative evidence over the establishment and maintenance of a valuation allowance against deferred tax assets and an appropriate review process over the inputs and conclusions from this assessment was not in place.

Accounting errors resulting from the material weaknesses described above resulted in the need to restate our annual and interim consolidated financial statements.

**Remediation of Material Weakness**

To address these material weaknesses, we have undertaken the following remedial steps. First, in July 2012, in order to remedy the material weakness related to the accounting for the equity investment in Clean Coal that has been held by an affiliate of GS since May 2011 described above, we engaged an accounting and tax expert for the purpose of performing detailed accounting analysis of complex, non-routine business transactions. This enables management to make timely decisions regarding required disclosure relating to such items. Management has re-evaluated the operational effectiveness of our internal controls over financial reporting and with the addition of the reviews now being provided by our external resources believes that the material weakness which had previously existed has been fully remediated.

Second, by establishing a valuation allowance against the Company s deferred tax assets, management believes that the material weakness which had previously existed with respect to the deferred tax assets has been fully remediated. As disclosed in previous amended filings, to ensure that such an issue does not arise again in the future the Company is in the process of creating a formal process related to the design and implementation of controls and establishment of adequate criteria to assess the positive and negative evidence over the establishment and maintenance of a valuation allowance against deferred tax assets. Management anticipates that this process will include periodic oversight by the Audit Committee and anticipates completing this remediation effort before the Annual Report on Form 10-K for the fiscal year ending December 31, 2012 is filed.

We will continue to monitor the effectiveness of our internal control over financial reporting in the areas affected by the material weaknesses described above and employ any additional tools and resources as appropriate to provide reasonable assurance that our financial statements are fairly stated in all material respects.

As previously disclosed, there were no changes in our internal control over financial reporting during the quarter ended December 31, 2011 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. As described above, we have taken steps subsequent to the period covered by this Amendment to remedy the material weaknesses in our internal control over financial reporting.

## PART IV

**Item 15. Exhibits and Financial Statement Schedules (restated).**

**(a)** The following documents are filed as part of this Annual Report on Form 10-K:

(1) Financial Statements see Part II, Item 8, which is incorporated herein by this reference;

(2) Financial Statement Schedules None required or applicable; and

(3) Exhibits as described in the following index.

**Index to Exhibits**

| No. | Description |
|---|---|
| 3.1 | Amended and Restated Articles of Incorporation of ADA-ES (1) |
| 3.2 | Second Amended and Restated Bylaws of ADA-ES (2) |
| 4.1 | Form of Specimen Common Stock Certificate (3) |
| 4.2 | Registration Rights Agreement dated October 21, 2005 (4) |
| 4.3 | Standstill and Registration Rights Agreement between ADA-ES, Inc. and Arch Coal, Inc. dated September 19, 2003 (5) |
| 4.4 | Standstill and Registration Rights Agreements dated August 3-6, 2004 (6) |
| 4.5 | Registration Rights Agreement among ADA-ES, Inc., Perella Weinberg Partners Oasis Master Fund L.P., Black River Commodity Select Fund and Black River Small Capitalization Fund Ltd. dated August 26, 2008 (7) |
| 4.6 | ADA-ES, Inc. Profit Sharing Retirement Plan Adoption Agreement (8) |
| 4.7 | American Funds Distributors, Inc. Nonstandarized 401(K) Plan (9) |
| 4.8 | American Funds Distributors, Inc. Defined Contribution Prototype Plan and Trust (10) |
| 4.9 | Amended ADA-ES, Inc. Plan Policy Document (11) |
| 4.10 | Employer Stock Addendum to Trust Agreement (12) |
| 4.11 | Registration Rights Agreement between ADA-ES, Inc. and Arch Coal, Inc. dated March 23, 2010 (13) |
| 4.12 | Stockholder Agreement dated July 7, 2003, between ADA-ES, Inc. and Arch Coal, Inc. (14) |
| 4.13 | Credit Agreement by and between Clean Coal Solutions, LLC and CoBiz Bank (Colorado Business Bank in the State of Colorado) dated March 30, 2011 (15) |
| 10.1 | 2003 ADA-ES, Inc. Stock Option Plan** (16) |
| 10.2 | 2003 Stock Compensation Plan #1** (17) |
| 10.3 | 2003 Stock Compensation Plan #2** (18) |
| 10.4 | ADA-ES, Inc. 2004 Executive Stock Option Plan** (19) |

| | |
|---|---|
| 10.5 | Employment Agreement dated May 1, 1997 between C. Jean Bustard and ADA Environmental Solutions, LLC (assigned to ADA-ES, Inc.) ** (20) |
| 10.6 | Employment Agreement dated May 1, 1997 between Michael D. Durham and ADA Environmental Solutions, LLC (assigned to ADA-ES, Inc.) ** (21) |
| 10.7 | Employment Agreement dated January 2, 2000 between Mark H. McKinnies and ADA Environmental Solutions, LLC (assigned to ADA-ES, Inc.) ** (22) |
| 10.8 | Employment Agreement dated January 1, 2000 between Richard J. Schlager and ADA Environmental Solutions, LLC (assigned to ADA-ES, Inc.) ** (23) |
| 10.9 | 2004 Stock Compensation Plan #2 and model stock option agreements** (19) |

| No. | Description |
|---|---|
| 10.10 | 2004 Directors Stock Compensation Plan #1** (24) |
| 10.11 | 2005 Directors Compensation Plan** (25) |
| 10.12 | Chemicals, Equipment, and Technical Engineering Services Supply Agreement dated as of November 3, 2006 by and between ADA-ES, Inc. and Clean Coal Solutions, LLC (f/k/a ADA-NexCoal, LLC). (26) |
| 10.13 | Purchase and Sale Agreement dated as of November 3, 2006 by and among ADA-ES, Inc., NexGen Refined Coal, LLC and Clean Coal Solutions, LLC (f/k/a ADA-NexCoal, LLC). (27) |
| 10.14 | Second Amended and Restated Operating Agreement of Clean Coal Solutions, LLC dated May 27, 2011, by and among Clean Coal Solutions, LLC, ADA-ES, Inc., GSFS Investments I Corp. and NexGen Refined Coal, LLC*** (28) |
| 10.15 | Employment Agreement dated March 1, 2003 between Sharon M. Sjostrom and ADA Environmental Solutions, LLC (assigned to ADA-ES, Inc.)** (29) |
| 10.16 | Executive Compensation Plan dated November 4, 2004** (30) |
| 10.17 | Amended and Restated 2007 Equity Incentive Plan, dated August 31, 2010** (31) |
| 10.18 | Employment Agreement dated November 28, 2005 between Richard Miller and ADA-ES, Inc.** (32) |
| 10.19 | Employment Agreement dated January 1, 2008 between Cameron E. Martin and ADA-ES, Inc.** (33) |
| 10.20 | Intellectual Property License Agreement between ADA-ES, Inc. and Crowfoot Development, LLC dated October 1, 2008*** (34) |
| 10.21 | First Amendment to Purchase and Sale Agreement dated as of October 26, 2009 by and among ADA-ES, Inc., NexGen Refined Coal, LLC and Clean Coal Solutions, LLC (f/k/a ADA-NexCoal, LLC) (35) |
| 10.22 | First Amendment to Chemicals, Equipment, and Technical Engineering Services Supply Agreement dated as of October 26, 2009 by and among ADA-ES, Inc., and Clean Coal Solutions, LLC (36) |
| 10.23 | Development and License Agreement with Arch Coal, Inc. dated June 25, 2010*** (37) |
| 10.24 | Technology Sublicense Agreement between ADA-ES, Inc., Clean Coal Solutions, LLC and GS RC Investments LLC dated June 29, 2010 (38) |
| 10.25 | Agreement to Lease between Clean Coal Solutions, LLC, AEC-NM, LLC, AEC-TH, LLC, and GS RC Investments LLC dated June 29, 2010*** (39) |
| 10.26 | Amended and Restated License Agreement between ADA-ES, Inc. and Clean Coal Solutions, LLC dated October 30, 2009 (40) |
| 10.27 | Refined Coal Activities Supplemental Compensation Plan for Employees, Contractors and Consultants of ADA-ES, Inc.** (41) |
| 10.28 | Intentionally left blank |
| 10.29 | US Department of Energy Cooperative Agreement No. DE-FE0004343 Evaluation of Solid Sorbents as an Industrial Retrofit Technology for Carbon Dioxide Capture , dated September 30, 2010 (42) |
| 10.30 | First Amendment to the Amended and Restated License Agreement between ADA-ES, Inc. and Clean Coal Solutions, LLC dated as of August 4, 2010 (43) |
| 10.31 | Amended and Restated 2010 Non-Management Compensation and Incentive Plan**(53) |
| 10.32 | Credit Agreement by and between Clean Coal Solutions, LLC and Cobiz Bank (Colorado Business Bank in the State of Colorado) dated as of March 31, 2011 (44) |
| 10.33 | Exclusive Right to Lease Agreement dated May 27, 2011 between Clean Coal Solutions, LLC and GSFS Investments I Corp ***(45) |
| 10.34 | Class B Unit Purchase Agreement dated May 27, 2011 between Clean Coal Solutions, LLC and GSFS Investments I Corp (46) |
| 10.35 | ADA-ES, Inc. Guaranty for the benefit of GSFS Investments I Corp. dated May 27, 2011 (47) |
| 10.36 | Contribution Agreement dated May 27, 2011 between ADA-ES, Inc. and NexGen Refined Coal, LLC (48) |

| | |
|---|---|
| 10.37 | Settlement Agreement by and among ADA-ES, Inc., ADA Environmental Solutions, LLC, Norit Americas, Inc. and Norit International N.V. f/k/a Norit N.V. dated August 29, 2011 (49) |
| 10.38 | The First Amendment to the Second Amended and Restated Operating Agreement of Clean Coal Solutions, LLC, by and among Clean Coal Solutions, LLC, ADA-ES, Inc., GSFS Investments I Corp. and NexGen Refined Coal, LLC dated September 9, 2011 (50) |
| 10.39 | The Omnibus Amendment and Reaffirmation Agreement between Clean Coal Solutions, LLC and Cobiz Bank (Colorado Business Bank in the State of Colorado) dated September 9, 2011 (51) |
| 10.40 | Omnibus Amendment by and among ADA-ES, Inc., Clean Coal Solutions, LLC, AEC-NM, LLC, AEC-TH, LLC and GS RC INVESTMENTS LLC dated August 10, 2010 (52) |
| 10.41 | Exchange Agreement between Clean Coal Solutions, LLC, AEC-NM, LLC and GS RC Investments, LLC dated November 21, 2011 ***(53) |
| 10.42 | New Equipment Lease between AEC-NM, LLC, and GS RC Investments, LLC dated November 21, 2011 ***(53) |
| 10.43 | Amendment to Technology Sublicense Agreement between ADA-ES, Inc., GS RC Investments, LLC and Clean Coal Solutions, LLC dated November 21, 2011***(53) |
| 10.44 | ADA-ES, Inc. Guaranty for the benefit of GS RC Investments LLC dated November 21, 2011(53) |
| 10.45 | Indemnity Settlement Agreement between ADA-ES, Inc., ADA Environmental Solutions, LLC and Energy Capital Partners, LLC, Energy Capital Partners I, LP, Energy Capital Partners I-A, LP, Energy Capital Partners I-B IP, LP and Energy Capital Partners I (Crowfoot IP), LP and ADA Carbon Solutions, LLC (f/k/a Crowfoot Development, LLC ), ADA Carbon Solutions (Red River), LLC (f/k/a Red River Environmental Products, LLC), Morton Environmental Products, LLC, Underwood Environmental Products, LLC, Crowfoot Supply Company, LLC, and Five Forks Mining, LLC dated November 28, 2011(53) |
| 10.46 | Office Building Lease between ADA-ES, Inc. and Ridgeline Technology Center, LLC, dated November 9, 2011(53) |
| 10.47 | Exchange Agreement between Clean Coal Solutions, LLC, AEC-TH, LLC and GS RC Investments, LLC dated December 15, 2011 ***(53) |
| 10.48 | Equipment Lease between AEC-TH, LLC and GS RC Investments, LLC dated December 15, 2011 ***(53) |
| 10.49 | Amendment #2 to Technology Sublicense Agreement between ADE-ES, Inc, GS RC Investments, LLC and Clean Coal Solutions, LLC dated December 15, 2011(53) |
| 10.50 | ADA-ES, Inc. Guaranty for the benefit of GS RC Investments LLC dated December 15, 2011(53) |
| 10.51 | Amended and Restated Refined Coal Activities Supplemental Compensation Plan dated November 9, 2011 **(53) |
| 10.52 | Amendment No.1 to Intellectual Property License Agreement by and between ADA-ES, Inc. and ADA Carbon Solutions, LLC (f/k/a Crowfoot Development Company, LLC) dated November 28, 2011(53) |
| 10.53 | Amendment No. 1 to the ADA-ES 2007 Equity and Incentive Plan **(53) |
| 21.1 | Subsidiaries of ADA-ES, Inc. (53) |
| 23.1 | Consent of Ehrhardt Keefe Steiner & Hottman PC* |
| 31.1 | Certification of Chief Executive Officer of ADA-ES, Inc. Pursuant to 17 CFR 240.13a-14(a) or 17 CFR 240.15d-14(a)* |
| 31.2 | Certification of Chief Financial Officer of ADA-ES, Inc. Pursuant to 17 CFR 240.13a-14(a) or 17 CFR 240.15d-14(a)* |
| 32.1 | Certification of Chief Executive Officer of ADA-ES, Inc. Pursuant to 18 U.S.C Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002* |
| 32.2 | Certification of Chief Financial Officer of ADA-ES, Inc. Pursuant to 18 U.S.C Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002* |
| 101 | The following financial statements, formatted in XBRL: (i) Consolidated Balance Sheets as of December 31, 2011 and 2010, (ii) Consolidated Statements of Operations for the years ended December 31, 2011, 2010 and 2009, (iii) Consolidated Statements of Changes in Stockholders Equity (Deficit) for the years ended December 31, 2011, 2010 and 2009, (iv) Consolidated Statements of Cash Flows for the years ended December 31, 2011, 2010 and 2009; and (v) Notes to the Consolidated Financial Statements, tagged as blocks of text. The information in Exhibit 101 is furnished and not filed as provided in Rule 401 of Regulation S-T. |

Notes:

* Filed herewith.
** Management contract or compensatory plan or arrangement.
*** Portions of this exhibit have been omitted pursuant to a request for confidential treatment. The non-public information has been separately filed with the Securities and Exchange Commission.

(1) Incorporated by reference to Exhibit 3.1 to the Form 10-QSB for the quarter ended September 30, 2005 filed on November 10, 2005 (File No. 000-50216).
(2) Incorporated by reference to Exhibit 3.2 to the Form 10-Q for the quarter ended September 30, 2010 filed on November 12, 2010 (File No. 000-50216).
(3) Incorporated by reference to Exhibit 4.1 to the Form 8-K dated October 21, 2005 filed on October 26, 2005 (File No. 000-50216).
(4) Incorporated by reference to Exhibit 10.1 to the Form 8-K dated October 21, 2005 filed on October 26, 2005 (File No. 000-50216).
(5) Incorporated by reference to the same numbered Exhibit to the Form 10-KSB for the year ended December 31, 2005 filed on March 30, 2006 (File No. 000-50216).
(6) Incorporated by reference to Exhibit A to Exhibit 10.1 to the Form S-3 filed on October 18, 2004 (File No. 333-119795).
(7) Incorporated by reference to the same numbered Exhibit to the Form 10-Q for the quarter ended September 30, 2008 filed on November 07, 2008 (File No. 000-50216).
(8) Incorporated by reference to Exhibit 4.1 to the form S-8 filed on June 3, 2009 (File No. 333-159715).
(9) Incorporated by reference to Exhibit 4.1 to the form S-8 filed on June 3, 2009 (File No. 333-159715).
(10) Incorporated by reference to Exhibit 4.2 to the form S-8 filed on June 3, 2009 (File No. 333-159715).
(11) Incorporated by reference to Exhibit 4.9 to the Form 10-K for the year ended December 31, 2010 filed on March 28, 2011 (File No. 000-50216).
(12) Incorporated by reference to Exhibit 4.4 to the form S-8 filed on June 3, 2009 (File No. 333-159715).
(13) Incorporated by reference to Exhibit 4.1 to the Form 10-Q for the quarter ended March 31, 2010 filed on May 13, 2010 (File No. 000-50216).
(14) Incorporated by reference to Exhibit 4.12 to the Form 8-K dated September 9, 2011 filed on September 14, 2011 (File No. 000-50216).
(15) Incorporated by reference to Exhibit 4.13 to the Form 8-K dated September 9, 2011 filed on September 14, 2011 (File No. 000-50216).
(16) Incorporated by reference to Exhibit 10.2 to the Form 10-KSB for the year ended December 31, 2005 filed on March 30, 2006 (File No. 000-50216).
(17) Incorporated by reference to Exhibit 99.2 to the Form S-8 filed on November 14, 2003 (File No. 333-110479).
(18) Incorporated by reference to Exhibit 99.1 to the Form S-8 filed on February 6, 2004 (File No. 333-112587).
(19) Incorporated by reference to Exhibit 99.3 to the Form S-8 filed on December 14, 2004 (File No. 333-121234).
(20) Incorporated by reference to Exhibit 10.23 to the Form 10-KSB for the year ended December 31, 2004 filed on March 30, 2005 (File No. 000-50216).
(21) Incorporated by reference to Exhibit 10.24 to the Form 10-KSB for the year ended December 31, 2004 filed on March 30, 2005 (File No. 000-50216).
(22) Incorporated by reference to Exhibit 10.25 to the Form 10-KSB for the year ended December 31, 2004 filed on March 30, 2005 (File No. 000-50216).
(23) Incorporated by reference to Exhibit 10.26 to the Form 10-KSB for the year ended December 31, 2004 filed on March 30, 2005 (File No. 000-50216).
(24) Incorporated by reference to Exhibit 99.1 to the Form S-8 filed on April 16, 2004 (File No. 333-114546).
(25) Incorporated by reference to Exhibit 10.29 to the Form 10-KSB for the year ended December 31, 2005 filed on March 30, 2006 (File No. 000-50216).
(26) Incorporated by reference to Exhibit 10.2 to the Form 10-Q for the quarter ended September 30, 2006 filed on November 8, 2006 (File No. 000-50216).
(27) Incorporated by reference to Exhibit 10.3 to the Form 10-Q for the quarter ended September 30, 2006 filed on November 8, 2006 (File No. 000-50216).
(28) Incorporated by reference to Exhibit 10.33 to the Form 10-Q/A for the quarter ended June 30, 2010 filed on September 28, 2011 (File No. 000-50216).
(29) Incorporated by reference to Exhibit 10.34 to the Form 10-K for the year ended December 31, 2006 filed on March 27, 2007 (File No. 000-50216).
(30) Incorporated by reference to Exhibit 10.35 to the Form 10-K for the year ended December 31, 2006 filed on March 27, 2007 (File No. 000-50216).
(31) Incorporated by reference to Exhibit 10.79 to the Form 10-Q for the quarter ended September 30, 2010 filed on November 12, 2010 (File No. 000-50216).
(32) Incorporated by reference to Exhibit 10.39 to the Form 10-K for the year ended December 31, 2007 filed on March 14, 2008 (File No. 000-50216).

`(33) Incorporated by reference to Exhibit 10.43 to the Form 10-K for the year ended December 31, 2007 filed on March 14, 2008 (File No. 000-50216).
(34) Incorporated by reference to Exhibit 10.56 to the Form 10-Q for the quarter ended September 30, 2008 filed on November 07, 2008 (File No. 000-50216).
(35) Incorporated by reference to Exhibit 10.64 to Form 10-K for the year ended December 31, 2009 filed on March 29, 2010 (File No. 000-50216).
(36) Incorporated by reference to Exhibit 10.66 to Form 10-K for the year ended December 31, 2009 filed on March 29, 2010 (File No. 000-50216).
(37) Incorporated by reference to Exhibit 10.71 to the Form 10-Q for the quarter ended June 30, 2010 filed on August 16, 2010 (File No. 000-50216).
(38) Incorporated by reference to Exhibit 10.74 to the Form 10-Q for the quarter ended June 30, 2010 filed on August 16, 2010 (File No. 000-50216).
(39) Incorporated by reference to Exhibit 10.76 to the Form 10-Q for the quarter ended June 30, 2010 filed on August 16, 2010 (File No. 000-50216).
(40) Incorporated by reference to Exhibit 10.77 to the Form 10-Q for the quarter ended June 30, 2010 filed on August 16, 2010 (File No. 000-50216).
(41) Incorporated by reference to Exhibit 10.78 to the Form 10-Q for the quarter ended June 30, 2010 filed on August 16, 2010 (File No. 000-50216).
(42) Incorporated by reference to Exhibit 10.80 to the Form 10-Q for the quarter ended September 30, 2010 filed on November 12, 2010 (File No. 000-50216).
(43) Incorporated by reference to Exhibit 10.81 to the Form 10-K for the year ended December 31, 2010 filed on March 28, 2011 (File No. 000-50216).
(44) Incorporated by reference to Exhibit 10.83 to the Form 10-Q for the quarter ended March 31, 2011 filed on May 13, 2011 (File No. 000-50216).
(45) Incorporated by reference to Exhibit 10.84 to the Form 10-Q/A for the quarter ended June 30, 2011 filed on September 28, 2011 (File No. 000-50216).
(46) Incorporated by reference to Exhibit 10.85 to the Form 10-Q/A for the quarter ended June 30, 2011 filed on September 28, 2011 (File No. 000-50216).
(47) Incorporated by reference to Exhibit 10.86 to the Form 10-Q for the quarter ended June 30, 2011 filed on August 12, 2011 (File No. 000-50216).
(48) Incorporated by reference to Exhibit 10.87 to the Form 10-Q for the quarter ended June 30, 2011 filed on August 12, 2011 (File No. 000-50216).
(49) Incorporated by reference to Exhibit 10.88 to the Form 10-Q for the quarter ended September 30, 2011 filed on November 14, 2011 (File No. 000-50216).
(50) Incorporated by reference to Exhibit 10.89 to the Form 10-Q for the quarter ended September 30, 2011 filed on November 14, 2011 (File No. 000-50216).
(51) Incorporated by reference to Exhibit 10.90 to the Form 10-Q for the quarter ended September 30, 2011 filed on November 14, 2011 (File No. 000-50216).
(52) Incorporated by reference to Exhibit 10.91 to the Form 8-K dated November 21, 2011 filed November 22, 2011 (File No. 000-50216).
(53) Incorporated by reference to the same numbered Exhibit to the Form 10-K for the year ended December 31, 2011 filed on March 15, 2012 (File No. 000-50216).

**(b) See (a)(3) above.**

**(c) See (a)(2) above.**

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Exchange Act, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**ADA-ES, Inc.**
**(Registrant)**

| | |
|---|---|
| By /s/ Mark H. McKinnies<br>Mark H. McKinnies, Senior Vice<br>President and Chief Financial Officer<br>(Principal Financial and Accounting Officer) | /s/ Michael D. Durham<br>Michael D. Durham<br>President (Chief Executive Officer) |
| Date: October 19, 2012 | Date: October 19, 2012 |

**INDEX TO FINANCIAL STATEMENTS**

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Stockholders of

ADA-ES, Inc. and Subsidiaries

Littleton, Colorado

We have audited the accompanying consolidated balance sheets of ADA-ES, Inc. and Subsidiaries (collectively, the Company ) as of December 31, 2011 and 2010 and the related consolidated statements of operations, changes in stockholders equity, and cash flows for each of the three years in the period ended December 31, 2011. We also have audited the Company s internal control over financial reporting as of December 31, 2011, based upon the criteria established in *Internal Control Integrated Framework*, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company was not required to have, nor were we engaged to perform, an audit of the Company s internal control over financial reporting as of December 31, 2010. Accordingly, we express no such opinion as of December 31, 2010. The Company s management is responsible for these financial statements and for maintaining effective internal control over financial reporting, included in the accompanying Management Report on Internal Control over Financial Reporting included in Item 9A. Our responsibility is to express an opinion on these consolidated financial statements and an opinion on the Company s internal control over financial reporting based on our audits.

We conducted our audits in accordance with standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform our audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the consolidated financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control, based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinion.

Board of Directors and Stockholders of

ADA-ES, Inc. and Subsidiaries

Page Two

A company s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company s internal control over financial reporting includes those policies and procedures that: 1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company; 2) provide reasonable assurance that transactions are recorded as necessary to permit accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and 3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the Company s annual or interim consolidated financial statements will not be prevented or detected on a timely basis. The following material weaknesses have been identified and included in management s assessment. The Company did not maintain an effective control environment, as evidenced by not utilizing appropriate personnel or consultants qualified to review complex, non-routine business transactions that require additional review and impact decisions requiring accounting treatment, financial statement presentation and disclosure. In addition, the Company did not establish criteria to assess positive and negative evidence over the establishment and maintenance of a valuation allowance against deferred tax assets and an appropriate review process over the inputs and conclusions from this assessment was not in place.

In our opinion, because of the effect of the material weaknesses described above on the achievement of the objectives of the control criteria, the Company has not maintained effective internal control over financial reporting as of December 31, 2011, based on criteria established in *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

As discussed in Note 7, Note 8, Note 9, Note 13, Note 15 and Note 16 to the consolidated financial statements, the Company amended its consolidated financial statements to reflect the restatement of the Company s consolidated financial statements and related disclosures as of December 31, 2011. The Company s consolidated financial statements have been restated to reflect the non-controlling interest in the Company s joint venture, Clean Coal Solutions, LLC as temporary equity and to record a full valuation allowance against the Company s net deferred tax assets as of December 31, 2011 and 2010.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the accompanying consolidated balance sheets and the related consolidated statements of operations, changes in stockholders equity, and cash flows for each of the three years in the period ended December 31, 2011, and our report dated March 15, 2012 expressed an unqualified opinion.

/s/ Ehrhardt Keefe Steiner & Hottman PC

March 15, 2012, except for Notes 7, 8, 9, 13, 15 and 16 as to which the date is October 19, 2012

Denver, Colorado

**ADA-ES, Inc. and Subsidiaries**

**Consolidated Balance Sheets**

**December 31, 2011 and 2010**

(*Amounts in thousands, except share data*)

| | 2011 (Restated, see Note 16) | 2010 (Restated, see Note 16) |
|---|---|---|
| **ASSETS** | | |
| **Current Assets** | | |
| Cash and cash equivalents | $ 40,879 | $ 9,696 |
| Receivables, net of allowance for doubtful accounts | 5,914 | 9,066 |
| Investment in securities | 508 | 505 |
| Notes receivable | | 1,580 |
| Prepaid expenses and other assets | 1,532 | 415 |
| Total current assets | 48,833 | 21,262 |
| **Property and Equipment**, at cost | 41,771 | 8,041 |
| Less accumulated depreciation and amortization | (4,651) | (3,235) |
| Net property and equipment | 37,120 | 4,806 |
| Intangible assets, net of amortization | 354 | 260 |
| Goodwill, net of amortization | 435 | 435 |
| Investment in unconsolidated entities | 590 | 14,021 |
| Other assets | 142 | 227 |
| Total other assets | 1,521 | 14,943 |
| **Total Assets** | **$ 87,474** | **$ 41,011** |
| **LIABILITIES, TEMPORARY EQUITY AND STOCKHOLDERS DEFICIT** | | |
| **Current Liabilities** | | |
| Accounts payable | $ 8,849 | $ 3,441 |
| Accounts payable - related parties | 1,209 | 205 |
| Accrued payroll and related liabilities | 2,545 | 1,852 |
| Line of credit | 10,873 | |
| Deposits | 14,900 | |
| Deferred revenues and other liabilities | 5,105 | 5,883 |
| Settlement awards and related accrued liabilities | 3,983 | |
| Total current liabilities | 47,464 | 11,381 |
| **Long-term Liabilities** | | |
| Line of credit | 3,624 | |
| Settlement awards and indemnity liability | 5,200 | 27,411 |
| Accrued warranty and other liabilities | 632 | 4,432 |
| Total long-term liabilities | 9,456 | 31,843 |

| | | | | |
|---|---|---|---|---|
| **Total Liabilities** | | 56,920 | | 43,224 |
| | | | | |
| **Commitments and Contingencies** (Note 10) | | | | |
| **Temporary Equity - Non-controlling Interest Subject to Possible Redemption** | | 60,000 | | |
| | | | | |
| **Stockholders Deficit** | | | | |
| ADA-ES, Inc. stockholders deficit | | | | |
| Preferred stock: 50,000,000 shares authorized, none outstanding | | | | |
| Common stock: no par value, 50,000,000 shares authorized, 9,996,144 and 7,538,861 shares issued and outstanding at December 31, 2011 and 2010, respectively | | 63,184 | | 39,627 |
| Accumulated deficit | | (66,694) | | (43,875) |
| | | | | |
| Total ADA-ES, Inc. stockholders deficit | | (3,510) | | (4,248) |
| Non-controlling interest | | (25,936) | | 2,035 |
| | | | | |
| **Total Stockholders Deficit** | | (29,446) | | (2,213) |
| | | | | |
| **Total Liabilities, Temporary Equity and Stockholders Deficit** | **$** | **87,474** | **$** | **41,011** |

See accompanying notes.

**ADA-ES, Inc. and Subsidiaries**

**Consolidated Statements of Operations**

**For the Years Ended December 31, 2011, 2010 and 2009**

(*Amounts in thousands, except per share data*)

| | 2011 (Restated, see Note 16) | 2010 (Restated, see Note 16) | 2009 |
|---|---|---|---|
| **Revenues** | | | |
| Refined coal | $ 40,253 | $ 10,383 | $ 2,588 |
| Emission control | 9,967 | 9,825 | 15,947 |
| $CO_2$ capture | 3,096 | 2,073 | 1,526 |
| Total revenues | 53,316 | 22,281 | 20,061 |
| **Cost of Revenues** | | | |
| Refined coal | 20,201 | 1,440 | 3,357 |
| Emission control | 6,839 | 6,107 | 9,544 |
| $CO_2$ capture | 1,924 | 1,066 | 969 |
| Total cost of revenues | 28,964 | 8,613 | 13,870 |
| **Gross Margin before Depreciation and Amortization** | 24,352 | 13,668 | 6,191 |
| **Other Costs and Expenses** | | | |
| General and administrative | 17,468 | 32,790 | 16,745 |
| Research and development | 2,289 | 911 | 709 |
| Depreciation and amortization | 1,568 | 917 | 577 |
| Total expenses | 21,325 | 34,618 | 18,031 |
| **Operating Income (Loss)** | 3,027 | (20,950) | (11,840) |
| **Other Income (Expense)** | | | |
| Net equity in net income (loss) from unconsolidated entities | (6,967) | (8,037) | (3,243) |
| Other income including interest | 2,218 | 2,510 | 34 |
| Interest expense | (1,584) | (16) | |
| Settlement of litigation and arbitration award, net | (21,932) | 6,072 | |
| Total other income (expense) | (28,265) | 529 | (3,209) |
| **Loss from Continuing Operations Before Income Tax Benefit and Non-controlling Interest** | (25,238) | (20,421) | (15,049) |
| **Income Tax Benefit (Expense)** | 10,400 | (7,093) | 5,546 |
| **Net Loss Before Non-controlling Interest** | (14,838) | (27,514) | (9,503) |
| **Non-controlling Interest** | (7,981) | (3,613) | 732 |
| **Net Loss Attributable to ADA-ES, Inc.** | **$ (22,819)** | **$ (31,127)** | **$ (8,771)** |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Net Loss Per Common Share Basic and Diluted Attributable to ADA-ES, Inc.** | $ | (2.85) | $ | (4.21) | $ | (1.26) |
| **Weighted Average Common Shares Outstanding** | | 8,020 | | 7,393 | | 6,973 |
| **Weighted Average Diluted Common Shares Outstanding** | | 8,020 | | 7,393 | | 6,973 |

See accompanying notes.

**ADA-ES, Inc. and Subsidiaries**

**Consolidated Statements of Changes in Stockholders Equity (Deficit)**

**For the Years Ended December 31, 2011, 2010 and 2009**

*(Amounts in thousands, except share data)*

| | Common Stock Shares | Common Stock Amount | (Accumulated Deficit) | Total ADA-ES Stockholders Equity (Deficit) | Non-controlling Interest | Total Equity (Deficit) |
|---|---|---|---|---|---|---|
| **Balances**, December 31, 2008 | 6,755,932 | $ 35,812 | $ (3,977) | $ 31,835 | $ 25,152 | $ 56,987 |
| Stock-based compensation | 265,649 | 997 | | 997 | | 997 |
| Issuance of stock to 401(k) plan | 71,100 | 204 | | 204 | | 204 |
| Issuance of stock on exercise of options | 1,250 | 4 | | 4 | | 4 |
| Equity contributions | | | | | 738 | 738 |
| Deconsolidation of ADA Carbon Solutions, LLC | | | | | (25,059) | (25,059) |
| Expense of stock issuance and registration | | (17) | | (17) | | (17) |
| Net loss | | | (8,771) | (8,771) | (732) | (9,503) |
| **Balances**, December 31, 2009 | **7,093,931** | **$ 37,000** | **$ (12,748)** | **$ 24,252** | **$ 99** | **$ 24,351** |
| Stock-based compensation | 214,089 | 1,024 | | 1,024 | | 1,024 |
| Issuance of stock to 401(k) plan | 45,106 | 282 | | 282 | | 282 |
| Issuance of stock for cash | 143,885 | 1,000 | | 1,000 | | 1,000 |
| Issuance of stock on exercise of options | 41,850 | 347 | | 347 | | 347 |
| Equity contributions by non-controlling interest | | | | | 2,090 | 2,090 |
| Distributions to non-controlling interest | | | | | (3,767) | (3,767) |
| Expense of stock issuance and registration | | (26) | | (26) | | (26) |
| Net income (loss) (restated) | | | (31,127) | (31,127) | 3,613 | (27,514) |
| **Balances**, December 31, 2010 as restated, see Note 16 | **7,538,861** | **$ 39,627** | **$ (43,875)** | **$ (4,248)** | **$ 2,035** | **$ (2,213)** |
| Stock-based compensation | 114,582 | 786 | | 786 | | 786 |
| Issuance of stock to 401(k) plan | 27,769 | 349 | | 349 | | 349 |
| Issuance of stock for cash | 2,300,000 | 35,075 | | 35,075 | | 35,075 |
| Issuance of stock on exercise of options | 14,932 | 106 | | 106 | | 106 |
| Income tax impact of sale of temporary equity in joint venture (restated) | | (10,400) | | (10,400) | | (10,400) |
| Equity contributions by non-controlling interest | | | | | 250 | 250 |
| Distributions to non-controlling interest (restated) | | | | | (36,202) | (36,202) |
| Expense of stock issuance and registration | | (2,359) | | (2,359) | | (2,359) |
| Net income (loss) (restated) | | | (22,819) | (22,819) | 7,981 | (14,838) |
| **Balances**, December 31, 2011, as restated, see Note 16 | **9,996,144** | **$ 63,184** | **$ (66,694)** | **$ (3,510)** | **$ (25,936)** | **$ (29,446)** |

See accompanying notes.

**ADA-ES, Inc. and Subsidiaries**

**Consolidated Statements of Cash Flows**

**Years Ended December 31, 2011, 2010 and 2009**

*(Amounts in thousands)*

| | 2011 (Restated, see Note 16) | 2010 (Restated, see Note 16) | 2009 |
|---|---|---|---|
| **Cash Flows from Operating Activities** | | | |
| Net loss | $ (22,819) | $ (31,127) | $ (8,771) |
| Adjustments to reconcile net loss to net cash provided by (used in) operating activities: | | | |
| Depreciation and amortization | 1,568 | 917 | 577 |
| Deferred tax (benefit) expense | (10,400) | 7,093 | (5,555) |
| Loss on disposal of assets | 37 | | 17 |
| Provision for doubtful accounts | | (7) | |
| Expenses paid with stock, restricted stock and stock options | 1,135 | 1,306 | 1,201 |
| Net equity in net (income) loss from unconsolidated entities | 6,967 | 8,037 | 3,243 |
| Non-cash gain from joint venture partner | | (1,768) | |
| Non-cash gain from indemnity claim settlement | (20,034) | | |
| Non-controlling interest in income (loss) from subsidiaries | 7,981 | 3,613 | (732) |
| Changes in operating assets and liabilities: | | | |
| Receivables, net | 3,152 | (3,247) | 282 |
| Assets held for resale and inventory | | | (2,056) |
| Prepaid expenses and other assets | (1,258) | 289 | (155) |
| Accounts payable | 6,412 | (1,666) | 2,567 |
| Accrued payroll, expenses and other related liabilities | 693 | 1,274 | (407) |
| Deposits | 14,900 | | |
| Deferred revenue and other liabilities | (4,578) | 6,412 | 1,364 |
| Settlement awards and related accrued liabilities | 3,983 | | |
| Accrued indemnity liabilities | 4,288 | 20,589 | 6,822 |
| Net cash provided by (used in) operating activities | (7,973) | 11,715 | (1,603) |
| **Cash Flows from Investing Activities** | | | |
| Investment in securities | (3) | (105) | (400) |
| Cash balance held in deconsolidated entity | | | (25,171) |
| Principal payments received on notes receivable | 1,580 | 188 | |
| Capital expenditures for equipment, patents and development projects | (33,788) | (2,919) | (296) |
| Cash paid for equity contributions to unconsolidated entity | | (283) | |
| Net cash used in investing activities | (32,211) | (3,119) | (25,867) |
| **Cash Flows from Financing Activities** | | | |
| Net borrowings under line of credit | 14,497 | | |
| Non-controlling interest equity contributions | 250 | 2,090 | 738 |
| Distributions to non-controlling interest (restated) | (36,202) | (3,767) | |
| Exercise of stock options | 106 | 347 | 4 |
| Sale of temporary equity in joint venture (restated) | 60,000 | | |
| Issuance of common stock | 35,075 | 1,000 | |
| Stock issuance and registration costs | (2,359) | (26) | (17) |
| Net cash provided by (used in) financing activities | 71,367 | (356) | 725 |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Increase (Decrease) in Cash and Cash Equivalents** | | 31,183 | | 8,240 | | (26,745) |
| **Cash and Cash Equivalents**, beginning of period | | 9,696 | | 1,456 | | 28,201 |
| **Cash and Cash Equivalents**, end of period | **$** | **40,879** | **$** | **9,696** | **$** | **1,456** |
| **Supplemental Schedule of Non-Cash Flow Financing Activities** | | | | | | |
| Stock and stock options issued for services | $ | 1,135 | $ | 1,306 | $ | 1,201 |
| Cash paid for interest | $ | 1,311 | $ | 24 | $ | |

See accompanying notes.

1. **Summary of Nature of Operations and Significant Accounting Policies**

*Nature of Operations* ADA-ES, Inc. ( ADA ), its wholly-owned subsidiaries, Advanced Emissions Solutions, Inc., a Delaware corporation ( ADES ) and ADA Intellectual Property, LLC, a Colorado limited liability company ( ADA IP ) both of which had no activity in 2011, and ADA Environmental Solutions, LLC, a Colorado limited liability company ( ADA LLC ), and ADA s joint venture interest in Clean Coal Solutions, LLC ( Clean Coal ) are collectively referred to as the Company . The Company is principally engaged in providing environmental technologies and specialty chemicals to the coal-burning electric power generation industry. The Company generates a substantial part of its revenue from the sale of refined coal ( RC ), Activated Carbon Injection ( ACI ) systems, contracts co-funded by the government and industry, and development and lease of equipment for the RC market. The Company s sales occur principally throughout the United States.

*Principles of Consolidation* The consolidated financial statements include the accounts of ADES, ADA IP, ADA LLC and Clean Coal and its wholly owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

*Cash and Cash Equivalents* The Company considers all highly liquid debt instruments with purchased maturities of three months or less to be cash equivalents. The Company maintains the majority of its cash in certificates of deposit and money market accounts. The amount on deposit at December 31, 2011 was held in one commercial bank and deposits were in excess of the insurance limits of the Federal Deposit Insurance Corporation.

*Receivables and Credit Policies* Trade receivables are uncollateralized customer obligations due under normal trade terms requiring payment within 30 days from the invoice date. Management reviews trade receivables periodically and reduces the carrying amount by a valuation allowance that reflects management s best estimate of the amount that may not be collectible. The balance was as follows:

| | As of December 31, | |
|---|---|---|
| | 2011 | 2010 |
| | *(in thousands)* | |
| Receivables balance | $ 4,919 | $ 8,239 |
| Unbilled revenues balance | 995 | 827 |
| Total | $ 5,914 | $ 9,066 |

*Intangible Assets* Intangible assets principally consist of patents.

| | As of December 31, | |
|---|---|---|
| | 2011 | 2010 |
| | *(in thousands)* | |
| Cost of patents | $ 436 | $ 331 |
| Less accumulated amortization | (82) | (71) |
| Total | $ 354 | $ 260 |

| | Year ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| Amortization expense of intangible assets for the year | $ 11,000 | $ 10,000 | $ 12,000 |
| Amortization life in years of patents | 17 | 17 | 17 |
| Anticipated annual amortization expense over the next five years | $ 11,000 | $ 15,000 | $ 13,000 |
| Weighted average amortization period in years | 11 | 14 | 13 |

*Goodwill* The Company reviews the recoverability of goodwill at least annually as of December 31 and any time business conditions indicate a potential change in recoverability. During 2011 and 2010, we did not recognize any goodwill impairment charges.

*Investments* Investments in securities represent certificates of deposit which are recorded at fair value.

*Investment in Unconsolidated Entities* On January 20, 2010, the Company, together with NexGen Resources Corporation ( NexGen ), formed Clean Coal Solutions Services, LLC ( CCSS ) for the purpose of operating the RC facilities leased to third parties. The Company has a 50% ownership interest in CCSS (but does not control it) and accordingly has accounted for the investment under the equity method of accounting. The Company evaluates this investment annually for impairment other than temporary declines in value. At December 31, 2011 and 2010, no such declines existed on this investment.

On November 28, 2011, the Company relinquished all of its interest in ADA Carbon Solutions, LLC ( Carbon Solutions ) (See Notes 6 and 10). As of December 31, 2010, ADA owned a 25.9% interest in Carbon Solutions and our net investment in Carbon

Solutions of $13.6 million was being accounted for under the equity method of accounting. Our respective share of Carbon Solutions income and losses for the years ended December 31, 2011, 2010 and 2009 has been recognized in the consolidated statements of operations.

*Property and Equipment* Property and equipment is stated at cost. Depreciation on assets is provided using the straight-line method based on estimated useful lives ranging from 3 to 10 years. Maintenance and repairs are charged to operations as incurred and maintenance and repair of the leased RC facilities are the responsibility of CCSS under agreements with the lessee of the facilities. When assets are retired, or otherwise disposed of, the property accounts are relieved of costs and accumulated depreciation and any resulting gain or loss is credited or charged to income.

*Leasehold Improvements* Leasehold improvements are recorded at cost and included with property and equipment. Amortization expense is computed using the straight-line method over the shorter of the estimated useful lives of the assets or the period of the related lease.

*Warranty Costs* Under certain ACI and DSI systems contracts, the Company may grant performance guaranties for a specified period and the achievement of a certain system operating conditions. In the event the equipment fails to perform as specified, the Company is obligated to correct or replace the equipment. Estimated warranty costs are recorded at the time of sale based on current experience factors.

*Impairment of Long-Lived Assets (other than Goodwill)* The Company routinely performs an evaluation of the recoverability of the carrying value of its long-lived assets to determine if facts and circumstances indicate that the carrying value of assets or intangible assets may be impaired and if any adjustment is warranted. Based on the Company s evaluation as of December 31, 2011 and 2010, no impairment of value existed for long-lived assets.

*Fair Value of Financial Instruments* The carrying amounts of financial instruments, including cash, cash equivalents, accounts receivable, line of credit, accounts payable and accrued expenses approximate fair value due to the short maturity of these instruments.

*Revenue Recognition* ADA follows the percentage of completion method of accounting for all significant contracts which have a fixed contract price excluding government contracts and coal and chemical sales. The percentage of completion method of reporting income takes into account the percent of work completed and overall revenue for contracts in progress. The Company recognizes revenue on government contracts based on the time and expenses incurred to date.

| | As of December 31, | |
|---|---|---|
| | 2011 | 2010 |
| | *(in thousands)* | |
| Costs in excess of billings included in accounts receivable, net | $ 452 | $ 602 |
| Billings in excess of recognized income included in deferred revenue | $ 173 | $ 452 |

RC revenues are recognized when RC production and coal sales occur. Chemical sales are recognized when products are shipped to customers. Based upon historical trends no reserve has been established for any returns. RC is typically produced by adding proprietary chemicals to coal at the customer s site and title passes to the customer when the production process is complete. Chemicals are shipped FOB shipping point and title passes to the customer when the chemicals are shipped. The Company s sales agreements for chemicals do not contain a right of inspection or acceptance provision and products are generally received by customers within one day of shipment. The Company has had no significant history of non-acceptance, or of replacing goods damaged or lost in transit.

Consulting revenue is recognized as services are performed and collection is assured.

*Cost of Revenues* Costs of revenues include all labor, fringe benefits, subcontract labor, chemical and coal costs, materials, equipment, supplies and travel costs directly related to the Company s production of revenue.

*General and Administrative* General and administrative costs include personnel related fringe benefits, sales and administrative staff labor costs, legal expenses, facility costs and other general costs of conducting business.

*Penalties and Interest Costs* Under certain circumstances, the Company might have a penalty or interest charge that is classified as an expense and is shown in our general and administrative costs. The cost is charged in the period the Company was notified of the charge.

Years Ended December 31,

| | 2011 | 2010 | 2009 |
|---|---|---|---|
| | | *(in thousands)* | |
| Penalty and interest costs | $ 35 | $ 1 | $ 6 |

*Research and Development Costs* Research and development costs are charged to operations in the period incurred.

*Income Taxes* The Company accounts for income taxes under the liability method whereby deferred tax assets and liabilities are determined based on tax rates and laws enacted as of the date of the consolidated balance sheets. A valuation allowance is provided if and when deferred tax assets are not expected to be realized. At each reporting date, management reviews deferred tax assets and liabilities and any related valuation allowance and, if necessary, revises them to reflect changed circumstances. In a situation where recent losses have been incurred, the accounting standards require convincing evidence that there will be sufficient future taxable income to realize deferred tax assets. Clean Coal is a flow-through tax entity and therefore the owners are taxed or receive tax benefits based on their respective ownership interests.

*Net Loss Per Share* Basic EPS is calculated by dividing the income or (loss) available to common stockholders by the weighted average number of common shares outstanding for the period. Diluted EPS is calculated using the same numerator as basic EPS and further reflects the potential dilution that could occur if outstanding stock options were exercised. No stock options were included in the calculations for 2011, 2010 or 2009 as their inclusion would be anti-dilutive due to the Company s net losses per share for those periods.

*Stock-Based Compensation* The Company records equity compensation to employees at estimated fair value.

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| | | *(in thousands)* | |
| Stock based compensation before tax | $ 1,135 | $ 1,306 | $ 1,201 |
| Stock based compensation after tax | 714 | 833 | 720 |
| Basic and diluted loss per share | (0.09) | (0.11) | (0.11) |

*Use of Estimates* The preparation of the Company s consolidated financial statements in conformity with generally accepted accounting principles requires the Company s management to make estimates and assumptions that affect the amounts reported in these financial statements and accompanying notes. Actual results could differ from those estimates.

The Company makes significant assumptions concerning:

- the impairment of and the remaining realizability of its long-lived assets including equity method investments, goodwill and intangibles;
- estimates of certain overhead and other rates on research contracts with the U.S. Government, which are subject to future audits;
- fair value of stock options;
- warranty costs;
- the allowance for doubtful accounts, which is based on historical experience;
- the percentage of completion method of accounting for significant long-term fixed price contracts, which is based on estimates of gross margins and of the costs to complete such contracts;
- the deferred tax assets expected to be realized in future periods; and
- the period over which we estimate we will earn up front license payments.

*Segment Information* The Company follows established standards on the way that public companies report financial information about operating segments in annual financial statements and required reporting of selected information about operating segments in interim financial statements issued to the public. These standards provide for disclosures regarding products and services, geographic areas, and major customers. These standards also define operating segments as components of a company about which discrete financial information is available that is evaluated regularly by the chief operating decision makers in deciding how to allocate resources and in assessing performance.

In applying these standards, the Company has defined its components as three reportable segments:

Refined coal ( RC ),

Emission control ( EC ), and

$CO_2$ Capture ( CC ).

*Reclassification* Certain amounts in the 2010 and 2009 consolidated financial statements have been reclassified to conform to the 2011 presentation. Such reclassification had no effect on net income.

*Recently Issued or Newly Adopted Accounting Standards* In September 2011, the Financial Accounting Standards Board issued updated guidance allowing the use of a qualitative approach to test goodwill for impairment. The updated guidance would permit the Company to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of one of its reporting units is less than its carrying value. If concluded that this is the case, it is then necessary for the Company to perform the currently prescribed two-step goodwill impairment test. Otherwise, the two-step goodwill impairment test is not required. The updated guidance is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011 with early adoption permitted. The Company is currently evaluating the impact of our pending adoption of this update.

2. <u>**Notes Receivable**</u>

NexGen Refined Coal, LLC ( NexGen ), the Company s partner in Clean Coal, was required to pay the Company up to $4 million in order to maintain its 50% interest in Clean Coal. In June 2010, NexGen executed notes payable to the Company for approximately $1.8 million with a due date of June 2012. During the second quarter of 2011, NexGen paid the notes receivable and the entire remaining balance due to maintain its interest in Clean Coal.

The outstanding balance of the notes receivable at December 31, 2010 totaled approximately $1.6 million. During the second quarter of 2010, the Company recognized a non-operating gain of $1.8 million as a result of these notes, which is included in interest and other income including interest on the consolidated statements of operations.

3. <u>**Property and Equipment**</u>

Property and equipment consisted of the following at the dates indicated:

| | Life in Years | As of December 31, 2011 | 2010 |
|---|---|---|---|
| | | *(in thousands)* | |
| Machinery and equipment | 3-10 | $ 3,937 | $ 2,497 |
| Leasehold improvements | 2-5 | 624 | 535 |
| Furniture and fixtures | 3-7 | 281 | 284 |
| RC assets placed in service | 10 | 33,800 | |
| RC assets under lease (See Note 10) | 10 | 3,129 | 4,725 |
| | | 41,771 | 8,041 |
| Less accumulated depreciation and amortization | | (4,651) | (3,235) |
| Total property and equipment, net | | $ 37,120 | $ 4,806 |

| | Years Ended December 31, 2011 | 2010 | 2009 |
|---|---|---|---|
| | | *(in thousands)* | |
| Depreciation and amortization | $ 1,568 | $ 906 | $ 565 |

4. <u>**Deferred Revenues and Deposits**</u>

Deferred revenues consist of:

- billings in excess of costs and earnings on uncompleted contracts;
- unearned revenues on licensing of the Company s intellectual property to Arch Coal, Inc. ( Arch ) (as discussed further below); and
- deferred rent revenue related to Clean Coal s lease of its RC facilities (also as discussed further below).

<u>*Arch Coal*</u> In June 2010, the Company entered into a Development and License Agreement with Arch in which the Company licensed, on an exclusive non-transferable basis, the use of certain of its technology to enhance coal by a proprietary treatment process and received a non-refundable license fee of $2 million in cash. Revenues of $1.3 million and $700,000 related to this agreement were recognized in 2011 and 2010, respectively. As part of the agreement, Arch is required to purchase from the Company the chemicals required to enhance the coal.

*Clean Coal* In June 2010, Clean Coal executed agreements to lease two RC facilities. These agreements provided for, among other things, a prepaid rent payment of $9 million for both facilities that was received before June 30, 2010. In November and December 2011, Clean Coal entered into transactions to exchange the existing facilities (see Notes 7 and 10). There was no change to the prepaid rent payment or amortization period as a result of the exchanges.

During 2011 and 2010, the Company recognized $20.1 million and $10.4 million in total rent revenues, respectively, related to these RC facilities which includes $3.6 million and $1.8 million from amortization of the initial prepaid rent payment for the years ended December 31, 2011 and 2010, respectively. Future revenues expected to be recognized with respect to the prepaid rent paid totaling $3.6 million are included in deferred revenues and other liabilities on the consolidated balance sheets as of December 31, 2011.

During 2011, Clean Coal received deposits of $14.9 million towards RC facilities which may be leased upon attainment of certain milestones. Such amount is included in deposits on the consolidated balance sheets.

5. **GOVERNMENT AND INDUSTRY FUNDED CONTRACTS**

The Company has participated in several contracts awarded by the Department of Energy (the DOE ). The Company typically invoices the DOE and industry cost-share partners monthly for labor and expenditures plus estimated overhead factors, less any cost share amounts. The contracts under which the Company has performed are subject to audit and future appropriation of funds by Congress. The Company has not experienced adverse adjustments as a result of government audits, however, the government audits for years ended 2004 through 2011 have not yet been finalized.

| | Years Ended December 31, 2011 | 2010 | 2009 |
|---|---|---|---|
| | *(in thousands)* | | |
| Revenue recognized related to CC segment | $ 3,096 | $ 2,073 | $ 1,526 |
| Unearned contract amount | $ 15,706 | $ 18,800 | $ 1,600 |
| Expected revenue in 2012 | $ 5,579 | | |

## 6. INVESTMENTS IN UNCONSOLIDATED ENTITIES

*Clean Coal Solutions Services* As discussed in Note 1 above, on January 20, 2010, the Company, together with NexGen, formed CCSS. The Company s investment includes its share of CCSS income since its formation, which has been accounted for under the equity method of accounting. Following is unaudited summarized information as to assets, liabilities and results of operations of CCSS:

| | As of December 31, 2011 | 2010 |
|---|---|---|
| | *(in thousands)* | |
| Current assets | $ 22,609 | $ 34,534 |
| Property, equipment, and other long-term assets | 3,682 | 89 |
| Total Assets | $ 26,291 | $ 34,623 |
| Total Liabilities | $ 15,988 | $ 33,896 |

| | Years Ended December 31, 2011 | 2010 |
|---|---|---|
| | *(in thousands)* | |
| Net revenue | $ 153,684 | $ 90,854 |
| Net income- attributed to CCSS | $ 189 | $ 236 |

During 2011 and 2010, the Company recorded revenues of $131,000 and $272,000, respectively, for management fees provided to CCSS. This management fee arrangement was terminated in May 2011. During 2011 and 2010, the Company recorded $3.4 million and $64,000, respectively, for development and operating costs. At December 31, 2011 and 2010, the amount due to CCSS totaled $1.2 million and $105,000, respectively, and is included in accounts payable to related parties on the consolidated balance sheets.

*Carbon Solutions* On October 1, 2008, ADA entered into a Joint Development Agreement ( JDA ), a Limited Liability Company Agreement ( LLC Agreement ), and other related agreements with Energy Capital Partners I, LP and its affiliated funds ( ECP ) and formed Carbon Solutions for the purposes of funding and constructing the activated carbon ( AC ) manufacturing facility in Red River Parish, Louisiana and similar projects. In November 2011, ADA relinquished all of its interest in Carbon Solutions. The Company had been accounting for the investment in Carbon Solutions under the equity method and recorded $7.2 million as its share of Carbon Solution s losses for 2011.

Under the terms of the JDA, ADA was required to indemnify ECP and Carbon Solutions for certain damages and expenses they had incurred with respect to ADA s litigation with Norit Americas, Inc. ( Norit ) which was settled in August 2011. On November 28, 2011, an Indemnity Settlement Agreement was entered into whereby ADA agreed to settle the indemnity obligations asserted against ADA and relinquish all of its interest in Carbon Solutions (See Note 9). As of December 31, 2010, the Company recorded a long-term liability to Carbon Solutions of approximately $27.4 million related to such damages and expenses paid by Carbon Solutions.

During the fourth quarter of 2011, we recorded the transactions resulting from the Indemnity Settlement Agreement for the satisfaction of the indemnity obligations and the relinquishment of ADA s interest which resulted in other income of $20 million.

The Company has the following related agreements with Carbon Solutions:

*Master Services Agreement* Pursuant to a Master Services Agreement ( MSA ), the Company provides certain accounting, administrative, oversight, and other services to Carbon Solutions at agreed-upon rates.

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| | *(in thousands)* | | |
| Service revenue included in EC segment | $ 63 | $ 293 | $ 1,100 |

*Intellectual Property License* Pursuant to an Intellectual Property License Agreement (as amended in November 2011 pursuant to the Indemnity Settlement Agreement discussed above), the Company has licensed to Carbon Solutions all intellectual property relating primarily to the manufacture of AC (that was not transferred to Carbon Solutions under the JDA) or any application or use of AC competitive with the control of mercury emissions from coal-fired power plants (the Field ) on an exclusive, perpetual, royalty-free basis and has provided certain rights of first refusal to Carbon Solutions with respect to intellectual property relating to the Field the Company may develop in the future.

## Joint Venture investment in clean coal

### 7. JOINT VENTURE INVESTMENT IN CLEAN COAL (restated)

In November 2006, the Company sold a 50% interest in its RC technology to a joint venture called Clean Coal Solutions, LLC, which was formed in 2006 with NexGen, to market RC technology. Clean Coal s function is to supply chemicals, additives, equipment and technical services to cyclone-fired and other boiler users, but Clean Coal s primary purpose is to put into operation facilities that produce RC that qualifies for tax credits that are available under Section 45 of the Internal Revenue Code ( Section 45 tax credits ). Clean Coal qualified two facilities in 2009 for such purposes and leased those facilities to a third party. The operating agreement of Clean Coal required NexGen and ADA to each pay 50% of the costs of operating Clean Coal and specified certain duties that both parties were obligated to perform.

In May 2011, ADA and NexGen entered into a transaction in which Clean Coal sold an effective 15% interest of the equity in Clean Coal to an affiliate of The Goldman Sachs Group, Inc. ( GS ) (see Notes 8 and 16 for discussion regarding the classification as temporary equity of GS s interest obtained through this transaction). GS s interest has certain preferences over ADA and NexGen as to liquidation and profit distribution. GS has no further capital call requirements and does not have a voting interest but does have approval rights over certain corporate transactions. In conjunction with the closing of the purchase agreement, ADA, NexGen and GS entered into a Second Amended and Restated Operating Agreement and an Exclusive Right to Lease Agreement pursuant to which Clean Coal granted GS the exclusive right (but not the obligation) to lease facilities that will produce up to approximately 12 million tons of RC per year on pre-established lease terms similar to those currently in effect for Clean Coal s first two facilities.

In September 2011, ADA, NexGen, and GS entered into a First Amendment to Second Amended and Restated Operating Agreement pursuant to which ADA and NexGen each transferred our 2.5% member interests in each of Clean Coal s subsidiaries back to Clean Coal in return for an increase in our interest in Clean Coal to 42.5% from 42.1%. This restructuring of ownership interests did not change the financial relationships of the parties. Since its inception, ADA has been considered the primary economic beneficiary of this joint venture and has consolidated the accounts of Clean Coal.

In November and December 2011, ADA entered into transactions with Clean Coal to exchange the two leased RC facilities with newly constructed, redesigned RC facilities (See Note 11).

Following is summarized information as to assets, liabilities and results of operations of Clean Coal:

| | As of December 31, | |
|---|---|---|
| | 2011 | 2010 |
| | *(in thousands)* | |
| Primary assets | | |
| Cash and cash equivalents | $ 8,804 | $ 1,335 |
| Accounts receivable, net | 3,177 | 4,835 |
| Prepaid expenses and other assets | 3,028 | 19 |
| Property, plant and equipment including assets under lease and assets placed in service | 36,751 | 5,066 |
| Development costs | | 215 |
| Primary liabilities | | |
| Accounts payable and accrued liabilities | $ 10,526 | $ 157 |
| Accounts payable, related parties | 1,209 | 205 |
| Line of credit | 14,497 | |

| | | |
|---|---|---|
| Deferred revenue, current and deposits | 18,500 | 3,600 |
| Deferred revenue, long-term | | 3,600 |

| | Years Ended December 31, 2011 | 2010 | 2009 |
|---|---|---|---|
| | | *(in thousands)* | |
| Net revenue | $ 40,253 | $ 10,378 | $ 2,588 |
| Net income (loss) | $ 13,658 | $ 6,873 | $ (1,406) |

During 2011 and 2010, the Company recorded $2.6 million and $687,000, respectively, for management fees and labor costs provided by NexGen related to capital improvements for assets under lease and placed in service. At December 31, 2011 and 2010, the amount payable to NexGen was $138,000 and $55,000, respectively, and is included in accounts payable and accrued liabilities on the consolidated balance sheets.

## Temporary Equity

8. **TEMPORARY EQUITY (RESTATED)**

As described in Note 7, in May 2011, ADA and NexGen entered into a transaction in which Clean Coal sold an effective 15% interest of the equity in Clean Coal to GS. Approximately 15.8 units of non-voting Class B membership interests were issued to GS for $60 million in cash. ADA and NexGen each received $30 million as a result of the sale. In conjunction with the closing of the purchase agreement, ADA, NexGen and GS entered into a Second Amended and Restated Operating Agreement and ADA and NexGen each exchanged 50 units of membership interests for approximately 42.1 voting Class A units in Clean Coal (each of which represents a 50% voting interest). Since the transaction did not result in a change in control of Clean Coal, the amount received from this transaction was originally recorded to stockholders equity (deficit) net of the tax effect of $10.4 million (restated).

The terms of the Operating Agreement permit GS to require redemption of the unreturned portion of its initial $60 million investment in Clean Coal plus a return of 15% under certain limited circumstances. In June 2012, after completion of a review and evaluation of the applicable agreement and accounting authoritative literature, management determined that GS s interest in Clean Coal is more appropriately classified as temporary equity as a result of the provision in the agreement for possible redemption of the unreturned portion of GS s investment plus the required return under certain limited circumstances. As a result, this transaction has been recorded as temporary equity on the restated consolidated balance sheet as of December 31, 2011. See Notes 9 and 16 for additional discussion.

## Stockholders' Equity

9. **STOCKHOLDERS EQUITY (DEFICIT) (RESTATED)**

Stockholders equity (deficit) has been restated. The restated ADA portion of stockholders equity (deficit) for the fiscal year ended December 31, 2011 includes a $30 million reduction attributable to the reclassification of temporary equity as discussed in Note 8 and an $18.6 million and $15.7 million reduction attributable to the recognition of a valuation allowance against the Company s deferred tax assets for the fiscal years ended December 31, 2011 and 2010, respectively. See Notes 13 and 16 for additional discussion.

On October 28, 2011, ADA closed on an underwritten public offering selling 2 million shares of common stock for $15.25 per share generating $28.4 million in net proceeds to ADA. In November 2011, the underwriters exercised their over-allotment option to purchase an additional 300,000 shares, generating an additional $4.3 million in net proceeds to ADA.

*Non-Controlling Interest*

For the years ended December 31, 2011 and 2010, the non-controlling interest portion of stockholders equity (deficit) includes a non-controlling interest related to Clean Coal. As discussed in Note 8, the restated non-controlling interest portion of stockholders equity (deficit) for the fiscal years ended December 31, 2011 and 2010 includes a $30 million reduction attributable to the reclassification of temporary equity. See Note 16 for additional discussion.

Pursuant to certain agreements, on March 23, 2010, ADA issued 143,885 shares of its common stock to Arch and received proceeds, net of issuance costs, totaling $974,000. ADA filed a registration statement, which was effective September 1, 2010, to register these shares in accordance with provisions of the registration rights agreement, which was executed at the time of the stock subscription agreement.

Since 2003, ADA has had several stock and option plans, including the Amended and Restated 2007 Equity Incentive Plan dated as of August 31, 2010 (the 2007 Plan ) and the ADA-ES, Inc. Profit Sharing Retirement Plan, which is a plan qualified under Section 401(k) of the Internal Revenue Code (the 401(k) Plan ) described below. These plans allow ADA to issue stock or options for shares of common stock to employees, Board of Directors and non-employees.

Following is a table summarizing the option activity for the two years ended December 31, 2011 and 2010:

| | Employee and Director Options | Non-Employee Options | Weighted Average Exercise Price |
|---|---|---|---|
| Options outstanding, December 31, 2009 | 270,265 | 9,000 | $ 10.23 |
| Options granted | | | |
| Options expired | (14,495) | (9,000) | 14.11 |
| Options exercised | (41,850) | | 8.60 |
| Options outstanding, December 31, 2010 | 213,920 | | $ 10.18 |
| Options granted | | | |
| Options expired | (15,000) | | 15.20 |
| Options exercised | (15,978) | | 8.18 |
| Options outstanding, December 31, 2011 | 182,942 | | $ 9.95 |

Following is a table of aggregate intrinsic value of options exercised and exercisable for the two years ended December 31, 2011 and 2010:

| | Value | Average Market Price |
|---|---|---|
| Exercised, December 31, 2011 | $ 140,155 | $ 15.38 |
| Exercised, December 31, 2010 | $ (86,000) | $ 6.23 |

| | Value | Market Price |
|---|---|---|
| Exercisable, December 31, 2011 | $ 2,322,000 | $ 22.64 |
| Exercisable, December 31, 2010 | $ 209,000 | $ 11.16 |

Stock options outstanding and exercisable at December 31, 2011 are summarized in the table below:

| Range of Exercise Prices | Number of Options Outstanding and Exercisable | Weighted Average Exercise Price | Weighted Average Remaining Contractual Lives |
|---|---|---|---|
| $8.60 - $10.20 | 143,743 | $ 8.66 | 3.9 |
| $13.80 - $15.20 | 39,199 | $ 14.68 | 3.5 |
| | 182,942 | $ 9.95 | 3.8 |

No stock options were granted and/or vested during the year ended December 31, 2011.

Although ADA adopted the 2007 Plan in 2007, it was further amended and restated as of August 31, 2010 to make non-material changes to assure Internal Revenue Code Section 409A compliance and to increase the non-management director annual grant limit to 15,000 shares of common stock from 10,000 shares. The 2007 Plan authorizes the issuance to employees, directors and non-employees of up to 1 million shares of common stock, either as restricted stock grants or to underlie options to purchase shares of ADA s common stock.

In 2009, ADA revised its 401(k) Plan. The revision permits ADA to issue shares of its common stock to employees to satisfy its obligation to match employee contributions under the terms of the plan in lieu of matching contributions in cash. ADA reserved 300,000 shares of its common stock for this purpose. The value of common stock issued as matching contributions under the plan is determined based on the per share market value of ADA s common stock on the authorization date.

Following is a table summarizing the activity under various stock issuance plans for the two years ended December 31, 2011 and 2010:

| Stock Issuance Plans | 2007 Plan | 401(k) Plan | Other Stock Plans |
|---|---|---|---|
| Balance available, December 31, 2009 | 267,232 | 228,900 | 19,065 |
| Evergreen addition | 33,800 | | |
| Restricted stock issued to new and anniversary employees | (34,175) | | |
| Restricted stock repurchased | 4,918 | | |
| Stock issued based on incentive and matching programs to employees | (51,345) | (45,106) | |
| Stock issued to executives, directors and non-employees | (126,487) | | (7,000) |
| Balance available, December 31, 2010 | 93,943 | 183,794 | 12,065 |
| Evergreen addition | 44,593 | | |
| Restricted stock issued to new and anniversary employees | (21,477) | | |
| Stock issued based on incentive and matching programs to employees | (35,825) | (27,769) | |
| Stock issued to executives, directors and non-employees | (50,280) | | (7,000) |
| Balance available, December 31, 2011 | 30,954 | 156,025 | 5,065 |

Expense recognized under the different plans for the three years ended:

| | | (in thousands) | |
|---|---|---|---|
| December 31, 2011 | $ 747 | $ 349 | $ 39 |
| December 31, 2010 | $ 983 | $ 282 | $ 41 |
| December 31, 2009 | $ 954 | $ 204 | $ 43 |

Unrecognized expense under the different plans for the three years ended:

| | | (in thousands) | |
|---|---|---|---|
| December 31, 2011 | $ 512 | $ | $ |
| December 31, 2010 | $ 341 | $ | $ |
| December 31, 2009 | $ 363 | $ | $ |

A summary of the status of the non-vested shares for the two years ended December 31, 2011 and 2010 is presented below:

| | Shares | Weighted Average Grant Date Fair Value |
|---|---|---|
| Non-vested at December 31, 2009 | 116,313 | $ 6.65 |
| Granted | 34,175 | 5.94 |
| Vested | (52,634) | 8.06 |
| Forfeited | (4,918) | 5.55 |
| Non-vested at December 31, 2010 | 92,936 | $ 5.46 |
| Granted | 22,849 | 14.95 |
| Vested | (6,422) | 10.38 |
| Forfeited | (1,372) | 7.48 |
| Non-vested at December 31, 2011 | 107,991 | $ 6.98 |

10. **<u>Commitments and contingencies</u>**

*<u>Line of Credit</u>* Clean Coal has available a revolving line of credit with a bank that is secured by substantially all assets of Clean Coal (including its subsidiaries). The line of credit expires in March 2013 and requires four equal quarterly installments of principal (plus all accrued interest at such time) to be paid beginning June 30, 2012. Borrowings under the line of credit bear

interest at the higher of the Prime Rate (as defined in the related credit agreement) plus one percent (1%) or 5% per annum. The original line of credit limit of $10 million was amended in September 2011 to $15 million. At December 31, 2011, the outstanding balance on the line of credit was $14.5 million and the effective interest rate was 5% per annum. Borrowings under the line of credit are subject to certain financial covenants applicable to Clean Coal.

*Retirement Plan* The Company assumed the 401(k) plan covering all eligible employees as of January 1, 2003 which was revised in 2009, and makes matching contributions to the plan in the form of cash and its common stock. Such contributions are as follows:

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| | (in thousands) | | |
| Matching contributions in stock | $ 349 | $ 282 | $ 204 |
| Matching contributions in cash | | | 63 |
| Total | $ 349 | $ 282 | $ 267 |

*Performance Guarantee on AC Injection Systems* Under certain contracts to supply ACI systems, the Company may guarantee the performance of the associated equipment for a specified period to the owner of the power plant. The Company may also guarantee the achievement of a certain level of mercury removal based upon the injection of a specified quantity of a qualified AC at a specified rate given other plant operating conditions. In the event the equipment fails to perform as specified, the Company may have an obligation to correct or replace the equipment. In the event the level of mercury removal is not achieved, the Company may have a make right obligation within the contract limits. The Company assesses the risks inherent in each applicable contract and accrues an amount that is based on estimated costs that may be incurred over the performance period of the contract. Such costs are included in the Company s accrued warranty and other liabilities in the accompanying consolidated balance sheets. Any warranty costs paid out in the future will be charged against the accrual. The adequacy of warranty accrual balance is assessed at least quarterly based on the then current facts and circumstances and adjustments are made as needed. The changes in the carrying amount of the Company s performance guaranties are as follows:

| | As of December 31, | |
|---|---|---|
| | 2011 | 2010 |
| | (in thousands) | |
| Beginning balance | $ 612 | $ 604 |
| Performance guaranties accrued | 88 | 74 |
| Expenses paid | (153) | (66 |