Vulcan Materials CO
Form 10-Q
November 03, 2010

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2010

OR

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

For the transition period from __________ to __________

Commission File Number 001-33841

VULCAN MATERIALS COMPANY

(Exact name of registrant as specified in its charter)

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

(205) 298-3000

(Registrant s telephone number including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes þ No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes þ No o

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

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

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

Yes o No þ

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

Class	Shares outstanding at September 30, 2010
Common Stock, $1 Par Value	128,390,617

VULCAN MATERIALS COMPANY
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PART I FINANCIAL INFORMATION

Item 1 Financial Statements
Vulcan Materials Company
and Subsidiary Companies
Condensed Consolidated Balance Sheets
Unaudited, except for December 31

	Amounts in thousands, except per share data		
	September 30 2010	**December 31 2009**	**September 30 2009**
Assets			
Cash and cash equivalents	**$ 82,496**	$ 22,265	$ 46,547
Restricted cash	**531**	0	0
Medium-term investments	**3,910**	4,111	6,803
Accounts and notes receivable			
Accounts and notes receivable, gross	**414,316**	276,746	408,407
Less: Allowance for doubtful accounts	**(9,382)**	(8,722)	(9,394)
Accounts and notes receivable, net	**404,934**	268,024	399,013
Inventories			
Finished products	**251,457**	261,752	265,422
Raw materials	**22,924**	21,807	24,565
Products in process	**5,905**	3,907	5,085
Operating supplies and other	**35,958**	37,567	36,623
Inventories	**316,244**	325,033	331,695
Deferred income taxes	**66,718**	57,967	67,967
Prepaid expenses	**42,729**	50,817	33,466
Assets held for sale	**14,582**	15,072	0
Total current assets	**932,144**	743,289	885,491
Investments and long-term receivables	**33,808**	33,283	31,424
Property, plant & equipment			
Property, plant & equipment, cost	**6,656,252**	6,653,261	6,678,317
Reserve for depr., depl. & amort.	**(2,987,287)**	(2,778,590)	(2,713,057)
Property, plant & equipment, net	**3,668,965**	3,874,671	3,965,260
Goodwill	**3,093,979**	3,093,979	3,093,979
Other intangible assets, net	**693,779**	682,643	681,087
Other assets	**106,922**	105,085	105,927
Total assets	**$ 8,529,597**	$ 8,532,950	$ 8,763,168
Liabilities			
Current maturities of long-term debt	**$ 325,249**	$ 385,381	$ 60,421
Short-term borrowings	**0**	236,512	286,357
Trade payables and accruals	**138,462**	121,324	141,884
Other current liabilities	**207,085**	113,109	187,171

Liabilities of assets held for sale	**460**	369	0
Total current liabilities	**671,256**	856,695	675,833
Long-term debt	**2,432,521**	2,116,120	2,506,170
Deferred income taxes	**849,925**	887,268	896,598
Other noncurrent liabilities	**537,041**	620,845	599,039
Total liabilities	**4,490,743**	4,480,928	4,677,640
Other commitments and contingencies (Notes 13 & 19)			
Shareholders equity			
Common stock, $1 par value	**128,391**	125,912	125,401
Capital in excess of par value	**2,487,538**	2,368,228	2,342,765
Retained earnings	**1,606,754**	1,752,240	1,797,036
Accumulated other comprehensive loss	**(183,829)**	(194,358)	(179,674)
Shareholders equity	**4,038,854**	4,052,022	4,085,528
Total liabilities and shareholders equity	**$ 8,529,597**	$ 8,532,950	$ 8,763,168

See accompanying Notes to Condensed Consolidated Financial Statements

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Vulcan Materials Company
and Subsidiary Companies
Amounts and shares in thousands, except per share data
Condensed Consolidated Statements of Earnings
Unaudited

	Three Months Ended September 30		Nine Months Ended September 30	
	2010	**2009**	**2010**	**2009**
Net sales	**$ 699,792**	$ 738,664	**$ 1,857,085**	$ 1,987,939
Delivery revenues	**43,412**	39,528	**115,534**	112,407
Total revenues	**743,204**	778,192	**1,972,619**	2,100,346
Cost of goods sold	**573,045**	584,184	**1,607,109**	1,610,018
Delivery costs	**43,412**	39,528	**115,534**	112,407
Cost of revenues	**616,457**	623,712	**1,722,643**	1,722,425
Gross profit	**126,747**	154,480	**249,976**	377,921
Selling, administrative and general expenses	**77,560**	79,558	**247,431**	238,629
Gain on sale of property, plant & equipment and businesses, net	**476**	7,496	**50,210**	10,653
Charge for legal settlement	**0**	0	**40,000**	0
Other operating income (expense), net	**769**	286	**2,117**	(2,885)
Operating earnings	**50,432**	82,704	**14,872**	147,060
Other income, net	**1,637**	2,756	**1,780**	4,578
Interest expense, net	**47,526**	43,519	**134,541**	130,029
Earnings (loss) from continuing operations before income taxes	**4,543**	41,941	**(117,889)**	21,609
Benefit from income taxes	**(6,048)**	(5,983)	**(61,491)**	(9,621)
Earnings (loss) from continuing operations	**10,591**	47,924	**(56,398)**	31,230
Earnings on discontinued operations, net of tax (Note 2)	**2,655**	6,308	**6,905**	12,433
Net earnings (loss)	**$ 13,246**	$ 54,232	**$ (49,493)**	$ 43,663
Basic earnings (loss) per share				
Continuing operations	**$ 0.08**	$ 0.38	**$ (0.44)**	$ 0.27
Discontinued operations	**0.02**	0.05	**0.05**	0.10
Net earnings (loss) per share	**$ 0.10**	$ 0.43	**$ (0.39)**	$ 0.37

Diluted earnings (loss) per share								
Continuing operations	**$**	**0.08**	$	0.38	**$**	**(0.44)**	$	0.27
Discontinued operations		**0.02**		0.05		**0.05**		0.10
Net earnings (loss) per share	**$**	**0.10**	$	0.43	**$**	**(0.39)**	$	0.37
Weighted-average common shares outstanding								
Basic		**128,602**		125,361		**127,840**		116,533
Assuming dilution		**128,910**		125,859		**127,840**		117,047
Cash dividends declared per share of common stock	**$**	**0.25**	$	0.25	**$**	**0.75**	$	1.23
Depreciation, depletion, accretion and amortization	**$**	**97,697**	$	99,243	**$**	**289,174**	$	298,158
Effective tax rate from continuing operations		**-133.1%**		-14.3%		**52.2%**		-44.5%

See accompanying Notes to Condensed Consolidated Financial Statements

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Vulcan Materials Company
and Subsidiary Companies
Condensed Consolidated Statements of Cash Flows
Unaudited

	Amounts in thousands **Nine Months Ended** **September 30** **2010**	**2009**
Operating Activities		
Net earnings (loss)	**$ (49,493)**	$ 43,663
Adjustments to reconcile net earnings (loss) to net cash provided by operating activities		
Depreciation, depletion, accretion and amortization	**289,174**	298,158
Net gain on sale of property, plant & equipment and businesses	**(59,004)**	(11,465)
Contributions to pension plans	**(23,400)**	(26,793)
Share-based compensation	**15,198**	21,870
Deferred tax provision	**(51,060)**	(26,477)
Changes in assets and liabilities before initial effects of business acquisitions and dispositions	**(6,647)**	51,845
Other, net	**13,059**	4,021
Net cash provided by operating activities	**127,827**	354,822
Investing Activities		
Purchases of property, plant & equipment	**(62,104)**	(94,165)
Proceeds from sale of property, plant & equipment	**4,008**	6,399
Proceeds from sale of businesses, net of transaction costs	**50,954**	16,075
Payment for businesses acquired, net of acquired cash	**(35,404)**	(36,980)
Redemption of medium-term investments	**22**	30,590
Other, net	**341**	676
Net cash used for investing activities	**(42,183)**	(77,405)
Financing Activities		
Net short-term payments	**(236,512)**	(798,118)
Payment of current maturities and long-term debt	**(193,994)**	(296,555)
Proceeds from issuance of long-term debt, net of discounts	**450,000**	397,660
Debt issuance costs	**(3,058)**	(3,033)
Proceeds from issuance of common stock	**41,734**	587,129
Dividends paid	**(95,696)**	(140,048)
Proceeds from exercise of stock options	**12,597**	10,958
Other, net	**(484)**	943
Net cash used for financing activities	**(25,413)**	(241,064)

Net increase in cash and cash equivalents	**60,231**	36,353
Cash and cash equivalents at beginning of year	**22,265**	10,194
Cash and cash equivalents at end of period	**$ 82,496**	$ 46,547

See accompanying Notes to Condensed Consolidated Financial Statements

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VULCAN MATERIALS COMPANY AND SUBSIDIARY COMPANIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note 1 Basis of Presentation

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

Our accompanying unaudited condensed consolidated financial statements were prepared in compliance with the instructions to Form 10-Q and Article 10 of Regulation S-X and thus do not include all of the information and footnotes required by accounting principles generally accepted in the United States of America for complete financial statements. In the opinion of our management, the statements reflect all adjustments, including those of a normal recurring nature, necessary to present fairly the results of the reported interim periods. Operating results for the three and nine month periods ended September 30, 2010 are not necessarily indicative of the results that may be expected for the year ended December 31, 2010. For further information, refer to the consolidated financial statements and footnotes included in our most recent Annual Report on Form 10-K.

We disaggregated our asphalt mix and concrete operating segments for reporting purposes as of January 1, 2010 (see Note 17).

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

Note 2 Discontinued Operations

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

Proceeds under the second earn-out agreement are determined based on the performance of the hydrochlorocarbon product HCC-240fa (commonly referred to as 5CP) from the closing of the transaction through December 31, 2012 (5CP earn-out). Under this earn-out agreement, cash plant margin for 5CP, as defined in the Asset Purchase Agreement, in excess of an annual threshold amount is shared equally between Vulcan and Basic Chemicals. The primary determinant of the value for this earn-out is the level of growth in 5CP sales volume. At the June 7, 2005 closing date, the value assigned to the 5CP earn-out was limited to an amount that resulted in no gain on the sale of the business, as the gain was contingent in nature. A gain on disposal of the Chemicals business is recognized to the extent cumulative cash receipts under the 5CP earn-out exceed the initial value recorded.

In March 2010, we received a payment of $8,794,000 (recorded as gain on disposal of discontinued operations) under the 5CP earn-out related to performance during the year ended December 31, 2009. Any future payments received pursuant to the 5CP earn-out will be recorded as additional gain on disposal of discontinued operations. During 2009, we received $11,625,000 under the 5CP earn-out related to the year ended December 31, 2008. These 2009 receipts resulted in a gain on disposal of discontinued operations of $812,000 for 2009. Through September 30, 2010, we have received a total of $42,707,000 under the 5CP earn-out, a total of $9,606,000 in excess of the receivable recorded on the date of disposition.

We are liable for a cash transaction bonus payable to certain former key Chemicals employees. This transaction bonus is payable if cash receipts realized from the two earn-out agreements described above exceed an established minimum threshold. The bonus is payable annually based on the prior year s

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results. Payments for this transaction bonus were $882,000 during the first nine months of 2010 and $521,000 during the first nine months of 2009.

There were no net sales or revenues from discontinued operations during the nine month periods ended September 30, 2010 or 2009. Results from discontinued operations are as follows (in thousands of dollars):

	Three Months Ended September 30		Nine Months Ended September 30	
	2010	**2009**	**2010**	**2009**
Discontinued operations				
Pretax earnings from results	**$ 4,425**	$ 10,397	**$ 3,565**	$ 20,117
Gain on disposal, net of transaction bonus	**0**	88	**7,912**	584
Income tax provision	**(1,770)**	(4,177)	**(4,572)**	(8,268)
Earnings on discontinued operations, net of tax	**$ 2,655**	$ 6,308	**$ 6,905**	$ 12,433

The 2010 pretax earnings from results of discontinued operations of $4,425,000 for the third quarter and $3,565,000 for the nine months ended September 30, 2010 are due primarily to a pretax gain recognized in the third quarter on a recovery from an insurer in a lawsuit involving perchloroethylene. This gain was offset in part by general and product liability costs, including legal defense costs, and environmental remediation costs associated with our former Chemicals business. The pretax earnings from results of discontinued operations in 2009 of $10,397,000 for the third quarter and $20,117,000 for the nine months ended September 30, 2009 relate primarily to settlements during the second and third quarters with two of our insurers in a lawsuit involving perchloroethylene. These settlements resulted in pretax gains of $10,500,000 for the third quarter of 2009 and $23,500,000 for the first nine months of 2009. The insurance proceeds and associated gain represent a partial recovery of legal and settlement costs recognized in prior periods.

Note 3 **Earnings Per Share (EPS)**

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

	Three Months Ended September 30		Nine Months Ended September 30	
	2010	**2009**	**2010**	**2009**
Weighted-average common shares outstanding	**128,602**	125,361	**127,840**	116,533
Dilutive effect of				
Stock options/SOSARs	**58**	288	**0**	234
Other stock compensation plans	**250**	210	**0**	280
Weighted-average common shares outstanding, assuming dilution	**128,910**	125,859	**127,840**	117,047

All dilutive common stock equivalents are reflected in our earnings per share calculations. Antidilutive common stock equivalents are not included in our earnings per share calculations. Because we operated at a loss for the nine month period ended September 30, 2010, 406,000 shares that otherwise would have been included in our diluted weighted-average common shares outstanding computation, were excluded.

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The number of antidilutive common stock equivalents for which the exercise price exceeds the weighted-average market price, are as follows (in thousands of shares):

	Three Months Ended September 30		Nine Months Ended September 30	
	2010	**2009**	**2010**	**2009**
Antidilutive common stock equivalents	**6,225**	3,747	**4,905**	3,753

Note 4 Income Taxes

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

When application of the estimated annual effective tax rate distorts the financial results of an interim period, we calculate the income tax provision or benefit using an alternative methodology as prescribed by Accounting Standards Codification (ASC) 740-270-30-30 through 30-33. This alternative methodology results in an income tax provision or benefit based solely on the year-to-date pretax loss as adjusted for permanent differences on a pro rata basis.

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

In the first and second quarters of 2010, we applied the alternative methodology discussed above in the determination of the income tax provision from continuing operations. However, as of September 30, 2010, the conditions requiring the alternative method no longer existed. As a result, in the third quarter of 2010, we estimated the annual tax rate based on our projected taxable income for the full year and recorded a quarterly tax provision in accordance with the anticipated annual rate.

We recorded a tax benefit from continuing operations of $6,048,000 in the third quarter of 2010 compared to $5,983,000 in the third quarter of 2009. An adjustment to the current quarter s income tax provision was required so that the year-to-date provision reflects the expected annual tax rate. During the first nine months of 2010, we recognized a tax benefit from continuing operations of $61,491,000 as compared to $9,621,000 during the same period of 2009. The increase in our income tax benefit, after recording the effect of the pretax loss at the statutory rate, resulted largely from an increase in the expected state income tax benefit.

Note 5 Medium-term Investments

We held investments in money market and other money funds at The Reserve, an investment management company specializing in such funds, as follows: September 30, 2010 $5,531,000,

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December 31, 2009 $5,554,000 and September 30, 2009 $8,247,000. The substantial majority of our investment was held in the Reserve International Liquidity Fund, Ltd. On September 15, 2008, Lehman Brothers Holdings Inc. filed for bankruptcy protection. In the following days, The Reserve announced that it was closing all of its money funds, some of which owned Lehman Brothers securities, and was suspending redemptions from and purchases of its funds, including the Reserve International Liquidity Fund. As a result of the temporary suspension of redemptions and the uncertainty as to the timing of such redemptions, we changed the classification of our investments in The Reserve funds from cash and cash equivalents to medium-term investments and reduced the carrying value of our investment to its estimated fair value, as follows: September 30, 2010 $3,910,000, December 31, 2009 $4,111,000 and September 30, 2009 $6,803,000. See Note 7 for further discussion of the fair value determination.

The Reserve redeemed $22,000 of our investment during the nine months ended September 30, 2010 and $30,590,000 during the nine months ended September 30, 2009. Based on public statements issued by The Reserve and the maturity dates of the underlying investments, we believe that proceeds from the liquidation of the money funds in which we have investments will be received within twelve months of September 30, 2010, and therefore, such investments are classified as current.

Note 6 Derivative Instruments

During the normal course of operations, we are exposed to market risks including fluctuations in interest rates, fluctuations in foreign currency exchange rates and changes in commodity pricing. From time to time, and consistent with our risk management policies, we use derivative instruments to hedge against these market risks. We do not utilize derivative instruments for trading or other speculative purposes. The interest rate swap agreements described below were designated as cash flow hedges of future interest payments.

In December 2007, we issued $325,000,000 of 3-year floating (variable) rate notes that bear interest at 3-month London Interbank Offered Rate (LIBOR) plus 1.25% per annum. Concurrently, we entered into a 3-year interest rate swap agreement in the stated (notional) amount of $325,000,000. Under this agreement, we pay a fixed interest rate of 5.25% and receive 3-month LIBOR plus 1.25% per annum. Concurrent with each quarterly interest payment, the portion of this swap related to that interest payment is settled and the associated realized gain or loss is recognized. The pretax loss of $3,044,000 accumulated in Other Comprehensive Income (OCI) related to this interest rate swap will be reclassified to earnings by the end of the current year in conjunction with the retirement of the related debt.

Additionally, during 2007, we entered into fifteen forward starting interest rate swap agreements for a total notional amount of $1,500,000,000. Upon the issuance of the related fixed-rate debt, we terminated and settled these forward starting swaps for cash payments of $89,777,000. Amounts accumulated in other comprehensive loss are being amortized to interest expense over the term of the related debt. For the 12-month period ending September 30, 2011, we estimate that $8,053,000 of the pretax loss accumulated in OCI will be reclassified to earnings.

Derivative instruments are recognized at fair value in the accompanying Condensed Consolidated Balance Sheets. Fair values of derivative instruments designated as hedging instruments are as follows (in thousands of dollars):

		Fair Value [1]	
	September 30	December 31	Sep