Risk Factors Comparison 2024-02-15 to 2023-02-16 Form: 10-K

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Our business involves certain risks and uncertainties. In addition to the risks and uncertainties described below, we may face other risks and uncertainties, some of which may be unknown to us and some of which we may deem immaterial. The following review of important risk factors should not be construed as exhaustive and should be read in conjunction with other cautionary statements that are included herein or elsewhere. If one or more of these risks or uncertainties occur, our business, financial condition or results of operations may be materially and adversely affected. Summary Risk Factors Our business is subject to **several** ~~a number of~~ risks, including risks that may prevent us from achieving our business objectives or may adversely affect our business, financial condition, results of operations, **and** cash flows. These risks are discussed more fully below and include, but are not limited to, risks related to: Risks Related to Our Operations and Industry ● The loss of availability, reliability and cost- effectiveness of transportation facilities and fluctuations in transportation costs; ● **Operating risks related to our coal mining operations that are beyond our control; ●** Inflationary pressures **on** and availability **and price** of mining and other industrial supplies; ● A decline in coal prices; ● Volatile economic and market conditions; ● ~~Operating risks related to our coal mining operations that are beyond our control; ●~~ The effects of foreign and domestic trade policies; ● **The effects of major foreign conflicts; ● The loss of, or a significant reduction in, purchases by our largest customers; ● Our ability to collect payments from our customers; ● International growth in our sales adds new and unique risks to our business; ●** Competition from **other producers,** alternative fuel sources or subsidized renewables, including with respect to transportation, could put downward pressure on coal prices; ● ~~Our customers are continually evaluating~~ **Decreases in steel production from blast furnaces or advancement of** alternative steel production technologies; ● Changes in purchasing patterns in the coal industry; ● **If we** ~~The loss of, or a significant reduction in, purchases by our~~ - **or our service providers sustain cyber- attacks or** ~~largest customers; ● Disruptions in the quantities of coal purchased from~~ other **security incidents that disrupt our operations** ~~third parties; ● International growth in our~~ - **or involve unauthorized access** ~~sales adds new and unique risks~~ to **proprietary, confidential** ~~our~~ - **or** ~~business~~ **personally identifiable information** ; ● Our ~~ability~~ **inability** to ~~collect payments from~~ **acquire additional coal reserves** ~~our~~ - **or** ~~customers~~ **our inability to develop coal reserves; ● Inaccuracies in our estimates of our coal reserves; ● A defect in title or the loss of a leasehold interest in certain properties or surface rights** ; ● Failure to obtain or renew surety bonds or insurance; ● We may not have adequate insurance coverage for some business risks; ● ~~Inaccuracies~~ **Disruptions** in ~~our estimates~~ **the quantities** of ~~our~~ coal ~~reserves~~ **purchased from other third parties** ; ● ~~A defect in title or the loss of a leasehold interest in certain properties or surface rights; ● We may incur losses as a result of certain marketing and asset optimization strategies; ● Any decrease~~ **Decreases** in the coal consumption of electric power generators could result in less demand and lower prices for thermal coal ~~; ● If we or our service providers sustain cyber- attacks or other security incidents that disrupt our operations or involve unauthorized access to proprietary, confidential or personally identifiable information; ● Our inability to acquire additional coal reserves or our inability to develop coal reserves~~ ; ● We may not be able to pay dividends or repurchase shares of our common stock in accordance with our announced intent or at all; ● Our ability to operate our business effectively could be impaired if we lose key personnel or fail to attract qualified personnel; ● ~~The COVID- 19~~ **Public health emergencies, such as** ~~pandemic~~ **pandemics or epidemics, could have an adverse effect on our business** ; Risks Related to Environmental **Regulations** , Other Regulations and Legislation ● Extensive environmental regulations, including existing and potential future regulatory requirements **and costs** relating to air emissions, affect our customers and could reduce the demand for coal as a fuel source; ● Increased pressure from political and regulatory authorities, along with environmental activist groups, and lending and investment policies adopted by financial institutions and insurance companies to address concerns about the environmental impacts of coal combustion; ● Increased attention to ~~environmental, social or governance ("~~ ESG ~~")~~ matters could adversely impact our business and the value of the company. ● Our failure to obtain ~~and~~ **or** renew permits necessary for our mining operations could negatively affect our business; ● Federal or state regulatory agencies have the authority to order certain of our mines to be temporarily or permanently closed under certain circumstances; ● Extensive environmental regulations impose significant costs on our mining operations, and future regulations could materially increase those costs or limit our ability to produce and sell coal; ● If the assumptions underlying our estimates of reclamation and mine closure obligations are inaccurate; ● Our operations may impact the environment or cause exposure to hazardous substances, and our properties may have environmental contamination; ● Changes in the legal and regulatory environment could complicate or limit our business activities, increase our operating costs or result in litigation; Risks Related to Income Taxes ● Our ability to use net operating losses is subject to a current limitation and may be subject to additional limitations in the future. ● U. S. tax legislation may materially adversely affect our financial condition, results of operations and cash flows; Risks Related to Our Operations and IndustryThe loss of availability, reliability and cost- effectiveness of transportation facilities and fluctuations in transportation costs could affect the demand for our coal or impair our ability to supply coal to our customers. We depend upon third **-** party transportation systems, including rail, barge, and truck, as well as seaborne vessels and port facilities, to deliver coal to our customers. Disruptions in transportation services due to weather-related problems, mechanical difficulties, labor shortages, mismanagement by the service providers, strikes, lockouts, bottlenecks, route closures, **geopolitical disputes,** natural disasters ~~and~~ **,** health crises **and responses thereto** ~~, such as the COVID- 19 pandemic~~ , and other events beyond our control, could impair our ability to supply coal to our customers. Decreased performance levels and the lack of reliability from these third- party transportation providers, over longer periods of time could cause our customers to look to other sources for their coal needs. In addition, increases in transportation costs, including the price of fuel, could make coal a less competitive source of energy when compared to alternative fuels or could make coal produced in one region of the United States less competitive than coal produced in other regions of the United States or abroad. Poor rail service **and / or rail rates increasing** ~~, particularly from the western railroads,~~ could lead to continued demand destruction ~~as~~ **of** domestic utilities ~~have had to curtail some of their coal generation and enter a coal conservation mode~~ . This failure to provide adequate rail service **and increasing rail rates** has diminished the historic reliability **and competitiveness** of the coal- fired power plants, and continues to add uncertainty into the market. If we experience disruptions in our transportation services or if transportation costs increase significantly and we are unable to find alternative transportation providers, our coal mining operations may be disrupted, we could experience a delay or halt of production or our profitability could decrease significantly. In addition, a growing portion of our coal sales in recent years has been into export markets, and we are actively seeking additional international customers. Our ability to maintain and grow our export sales revenue and margins depends on several factors, including the existence of ~~40sufficient -~~- **sufficient** and cost- effective export terminal capacity for the shipment of coal to foreign markets and the ability of third- party transportation providers to adequately provide a cost- effective service. At present, there is limited terminal capacity ~~for~~ **41for** the export of coal into foreign markets. Our access to existing and future terminal capacity may be adversely affected by, among other factors, regulatory and permit requirements, environmental and other legal challenges, public perceptions and resulting political pressures, foreign and domestic trade policies, operational issues at terminals and competition among domestic coal producers for access to limited terminal capacity. If we are unable to maintain terminal capacity ~~,~~ or are unable to access additional future terminal capacity for the export of our coal on commercially reasonable terms, or at all, our results could be materially and adversely affected. From time to time **,** we enter into " take or pay " contracts for rail and port capacity related to our export sales. These contracts require us to pay for a minimum quantity of coal to be transported on the railway or through the port, regardless of whether we sell and ship any coal. If we fail to acquire sufficient export sales to meet our minimum obligations under these contracts, we are still obligated to make payments to the railway or port facility, which could have a negative impact on our cash flows, profitability and results of operations. Our coal mining operations are subject to operating risks that are beyond our control,which could result in materially increased operating expenses and decreased production levels and could materially and adversely affect our profitability.We conduct underground and surface mining operations.Certain factors beyond our control,including those listed below,could disrupt our coal mining operations,adversely affect production and shipments and increase our operating costs:● poor mining conditions resulting from geological, ~~hydrologic~~ **hydrological** or other conditions that may cause production challenges ~~,instability of highwalls or spoil piles or cause damage to nearby infrastructure or mine personnel~~ ;● a major incident at the mine site that causes all or part of the operations of the mine to cease for some period of time;● mining,processing and plant equipment failures and unexpected maintenance problems;● adverse weather and natural disasters,such as heavy rains or snow,flooding and other natural events affecting operations,transportation or customers, **which could become more frequent or severe as a result of climate change,** and public health crises ~~,such as the COVID- 19 pandemic~~ ;● the unavailability of raw materials,equipment (including heavy mobile equipment) or other critical supplies such as ~~motors~~ **repair parts** ,tires,explosives,fuel,lubricants and other consumables of the type,quantity and / or size needed to meet production expectations;● **planned,** unexpected or accidental ~~surface~~ subsidence from underground mining;● disputes over access and subsidence rights;● accidental mine water discharges,fires,gas inundations,explosions or similar mining accidents;● actions of state and federal authorities that regulate ~~the~~ **our** operations;● delays,closures,or labor unavailability by third parties that transport coal shipments or other products;and ● competition and / or conflicts with other natural resource extraction activities and production within our operating areas,such as coalbed methane extraction or oil and gas development. ~~42If~~ **If** any of these conditions or events occurs,our coal mining operations may be disrupted and we could experience a delay or halt of production or shipments or our operating costs could increase significantly.In addition,if our insurance coverage is limited or excludes certain of these conditions or events,then we may not be able to recover,or recover fully ~~,~~ for losses incurred as a result of such conditions or **events,some of which may be substantial.** Inflationary pressures ~~for~~ **on** mining and other industrial supplies, including steel- based supplies, diesel fuel and rubber tires, or the inability to obtain a sufficient quantity of those supplies, could negatively affect our operating costs or disrupt or delay our production. Inflation rates in the U. S. ~~have increased to levels not seen in several decades, which~~ could result in decreased demand for our products, increased operating costs, increased interest rates and constrained liquidity, reduced government spending and volatility in financial markets. Our coal mining operations use significant amounts of steel, diesel fuel, explosives, rubber tires and other mining and industrial supplies. The cost of roof control supplies, including roof bolts and plates, we use in our underground mining operations depends ~~on~~ **42on** the price of steel. We also use significant amounts of diesel fuel, explosives and tires for trucks and other heavy machinery, particularly at our Black Thunder mining complex. Future increases in costs for supplies that are used directly or indirectly in the normal course of our business and increases in other operating costs, such as increases in steel prices, freight rates, labor and other materials and supplies may negatively impact our profitability. Due to the decline in the mining industry, there has been a corresponding decrease in the number of providers of mining equipment and supplies. If we are unable to procure these equipment and supplies, our coal mining operations may be disrupted or we could experience a delay or halt in our production. Any of the foregoing events could materially and adversely impact our business, financial condition, results of operations and cash flows. Coal prices are subject to change based on a number of factors and can be volatile. If there is a decline in prices, it could materially and adversely affect our profitability and the value of our coal reserves. Our profitability and the value of our coal reserves depend upon the prices we receive for our coal. The contract prices we may receive in the future for coal depend upon factors beyond our control, including the following: ● the domestic and foreign demand for coal, which depends significantly on the demand for steel and electricity; ● overall global economic activity and growth and the unknown geopolitical consequences of the **wars between** ~~Russian invasion of~~ Ukraine **and Russia and between Israel and Hamas** and other macro issues; ● competition for production of steel from non- coal sources including, electric arc furnaces **or other**

processes that may use alternatives to coking as a reduction agent, which may limit demand for coking coal; ● the quantity and quality of coal available from our peers and alternative sources of fuel; ● competition for subsidized renewable energy production; ● domestic and foreign air emission standards for coal- fueled power plants and blast furnaces and the ability to meet these standards; ● adverse weather, climatic or other natural conditions, including unseasonable weather patterns **, which could become more frequent or severe in connection with climate change** ; ● domestic and foreign economic conditions, including economic slowdowns and the **relative** exchange rates of U. S. dollars for foreign currencies; ~~41~~ ● domestic and foreign legislative, regulatory and judicial developments, environmental regulatory changes or changes in energy policy and energy conservation measures that could adversely affect the coal industry, such as legislation limiting carbon emissions or providing for increased funding and incentives for alternative energy sources; ● the imposition of tariffs, quotas, trade barriers and other trade protection measures; ● the proximity to, capacity of, and cost of transportation and port facilities; and ● technological advancements, including those related to hydrogen- based steel production alternative energy sources, **and** those intended to convert coal- to- liquids or gas. Declines in the prices we receive for our future coal sales ~~contracts~~ , could materially and adversely affect us by decreasing our profitability, cash flows, liquidity and the value of our coal reserves. Volatile economic and market conditions have affected and in the future may continue to affect our revenues and profitability. Global economic downturns have negatively impacted, and in the future could negatively impact, our revenues and profitability. Our profitability depends, in large part, on conditions in the markets that we serve, which fluctuate in response to various factors beyond our control. The prices at which we sell our coal are largely dependent on prevailing market prices. We have experienced significant price volatility at times during the past several years. Economic conditions, including those caused by the continuing effects of **elevated** ~~the COVID- 19 pandemic, rising~~ inflation and interest rates, ~~the continued~~ **increased military** ~~conflict~~ **conflicts** ~~between Russia~~ and ~~Ukraine~~ **wars** , and supply chain disruptions have led to extreme volatility of prices. If there are further downturns in economic conditions, our and our customers' businesses, financial condition and results of operations could be adversely affected. There can be no assurance that our cost control actions and capital discipline, or any other ~~actions~~ **43actions** that we may take, will be sufficient to offset any adverse effect these conditions may have on our business, financial condition or results of operations. Our coal mining operations are subject to...... some of which may be substantial. The effects of foreign and domestic trade policies, actions or disputes on the level of trade among the countries and regions in which we operate could negatively impact our business, financial condition or results of operations. Trade barriers such as tariffs imposed by the United States could potentially lead to trade disputes with other foreign governments and adversely impact global economic conditions. For instance ~~, as a result of a near term ban on Australian coal exports to China, traders and buyers have diverted cargoes into other markets around the world, including India and Europe which has disrupted the traditional trading routes for metallurgical coal. Further~~ , in March 2018, the United States imposed a 25 % tariff on all imported steel into the United States citing national security interests, which resulted in certain foreign countries imposing offsetting tariffs in retaliation. In December 2021, the Biden Administration revised the 25 % tariff with the European Union to a tariff- rate quota on imports greater than a certain tonnage amount, and continued the original Section 232 tariffs, under the Trade Expansion Act of 1962, as amended, with respect to all other importers of steel into the United States. Continued or worsening United States- China trade tensions may result in additional tariffs or other protectionist measures that could materially, adversely affect foreign demand for our coal. In addition, potential changes to international trade agreements, trade policies, trade concessions or other political and economic arrangements may benefit coal producers operating in countries other than the United States. We may not be able to compete **based** on ~~the basis of~~ price or other factors with companies that, in the future, benefit from favorable foreign trade policies or other arrangements. **The effects of major foreign conflicts on the level of trade, including sanctions, among the countries and regions in which we operate could negatively impact our business, financial condition or results of operations.** We face risks related to ~~the~~ **several** ongoing **wars and regional conflicts, including the Ukraine-** Russia **war, and the Israel** - ~~Ukraine~~ **Hamas** war ~~that began~~ **and escalations thereof, as well as trade disruptions related to conflict** in ~~February 2022~~ **the Persian Gulf and Red Sea** . The extent and duration of ~~the~~ **these and similar** military **or armed** ~~conflict~~ **conflicts** ~~involving Russia and Ukraine~~ , **including terrorism, are impossible to predict, but could** ~~resulting~~ --- **result in** sanctions and future market or supply disruptions ~~in the region~~ , **which** ~~are impossible to predict, but~~ could be significant and may have a severe adverse effect on the **countries and** ~~region~~ **regions or global trade broadly in which we operate** . ~~Globally~~ **For example** , various governments, such as the European Union, have banned imports from Russia including commodities such as natural gas and coal **, and resulting sanctions and future market or supply disruptions in these and other regions are difficult to predict and could severely impact the world economy** . These events significantly impacted coal markets by disrupting previously existing trading patterns. The resulting volatility, including market expectations of potential changes in coal prices and inflationary pressures on steel products, ~~may~~ significantly ~~affect~~ **impacted** prices for our coal ~~or~~ **and** the availability and cost of supplies and equipment ~~. Our~~ **45Our** ability to collect payments from our customers could be impaired if their creditworthiness deteriorates,and our financial position could be materially and adversely affected by the bankruptcy of any of our significant customers.Our ability to receive payment for coal sold and delivered depends on the continued creditworthiness of our customers.If we determine that a customer is not creditworthy,we may be able to withhold delivery under the customer' s coal sales contract.If this occurs,we may decide to sell the customer' s coal on the spot market,which may be at prices lower than the contracted price,or we may be unable to sell the coal at all.Furthermore,the bankruptcy of any of our significant customers could materially and adversely affect our financial position. ~~44In~~ **In** addition,our customer base may change with deregulation as ~~domestic~~ utilities sell their power plants to their non-regulated affiliates or third parties that may be less creditworthy,thereby increasing the risk we bear for customer payment default.Some power plant owners may have credit ratings that are below investment grade **,** or may become below investment grade after we enter into contracts with them.Furthermore,our metallurgical customers operate in a highly competitive and cyclical industry where their creditworthiness could deteriorate rapidly.In addition,competition with other coal suppliers could force us to extend credit to customers and on terms that could increase the risk of payment default.Customers in other countries may also be subject to other pressures and uncertainties that may affect their ability to pay,including trade barriers,exchange controls and local economic and political conditions. **Failure** . Competition, including with respect to transportation, could put downward pressure on coal prices and, as a result, materially and adversely affect our revenues and profitability. We have significant competition with producers of other fuels, such as natural gas and subsidized renewables. ~~Despite the recent uptick, natural~~ **Natural** gas pricing has declined ~~significantly~~ in recent years and has historically been the main basis for setting the price of our domestic thermal product. Historically, declines in the price of natural gas have caused demand for coal to decrease and have adversely affected the price of our coal. Sustained periods of low natural gas prices have, coupled with social policy decisions, ~~have~~ also contributed to utilities phasing out or closing existing coal- fired power plants, and could reduce or eliminate construction of any new coal- fired power plants. This longer- term trend has, and could continue to have, a material adverse effect on demand and prices for our **thermal** coal. Moreover, the construction of new pipelines and other natural gas distribution channels may increase competition within regional markets and thereby decrease the demand for and price of our thermal coal. In addition to other fuel sources, we compete with numerous other domestic and foreign coal producers for domestic and international sales. Overcapacity and increased production within the coal industry, both domestically and internationally, and decelerating steel demand have at times, and could in the future, materially reduce coal prices and therefore materially reduce our revenues and profitability. In addition, our ability to ship our coal to international customers depends on port capacity ~~, which is limited, and has come under heightened pressure recently, as a 43consequence of the COVID- 19 pandemic~~ . Increased competition within the coal industry for international sales could result in us not being able to obtain throughput capacity at port facilities, or the rates for such throughput capacity could increase to a point where it is not economically feasible to export our coal. ~~Our customers are continually evaluating~~ **45Decreases in steel production from blast furnaces or advancement of** alternative steel production technologies ~~, which~~ may reduce demand for our **metallurgical** product. Our ~~principle~~ - **principal** product is a premium High- Vol metallurgical coal for blast furnace steel producers. Premium High- Vol metallurgical coal generally commands a significant price premium over other forms of coal because of its value in use in blast furnaces for steel production. Premium High- Vol metallurgical coal is a scarce commodity and has specific physical and chemical properties that can impact the efficiency of blast furnace operation. Alternative technologies are continually being investigated and developed with a view to reducing production costs or for other reasons, such as minimizing environmental or social impact. If competitive technologies emerge or are increasingly utilized that use other materials in place of our product or that diminish the required amount of our product, such as electric arc furnaces or pulverized coal injection processes, demand and price for our metallurgical coal might fall. Many of these alternative technologies are designed to use lower quality coals or other sources of carbon instead of higher cost High- Vol metallurgical coal. While conventional blast furnace technology has been the most economic large- scale steel production technology for several decades, and while emergent technologies typically take many years to commercialize, there can be no assurance that, over the longer ~~-~~ term, competitive technologies not reliant on High- Vol metallurgical coal could emerge which could reduce demand and price premiums for High- Vol metallurgical coal. Our profitability depends upon the coal supply agreements we have with our customers. Changes in purchasing patterns in the coal industry could make it difficult for us to extend our existing coal supply agreements or to enter into new agreements in the future. The success of our ~~businesses~~ -- **business** depends on our ability to retain our current customers, renew our existing customer contracts **,** and solicit new customers. Our ability to do so generally depends on a variety of factors, including the quality and price of our products, our ability to market these products effectively, our ability to deliver on a timely basis and the level of competition that we face. If current customers do not honor ~~current~~ contract commitments, or if they terminate agreements or exercise force majeure provisions allowing for the temporary suspension of their performance, our revenues will be adversely affected. ~~Changes in the coal industry~~ **There are a variety of reasons that** may cause some of our customers not to renew, extend or enter into new coal supply agreements or to enter into agreements to purchase fewer tons of coal or on different terms or prices than in the past. In addition, uncertainty caused by federal and state regulations, including under the U. S. Clean Air Act, could deter our customers from entering into coal supply agreements. Also, the availability and price of competing fuels, such as natural gas, as well as the use of tax incentives and public policy for renewable energy sources to deter coal consumption could influence the volume of coal a customer is willing to purchase under contract. Our coal supply agreements typically contain force majeure provisions allowing the parties to temporarily suspend performance during specified events beyond their control. Most of our coal supply agreements also contain provisions requiring us to deliver coal that satisfies certain quality specifications, such as heat value, sulfur content, ash content, volatile matter, hardness and ash fusion temperature, among ~~others~~ - **other attributes** . These provisions in our coal supply agreements could result in negative economic consequences to us, including price adjustments, having to purchase replacement coal in a higher- priced open market, the rejection of deliveries or, in the extreme, contract termination. Our profitability may be negatively affected if we are unable to seek protection during adverse economic conditions or if we incur financial or other economic penalties as a result of these provisions of our coal supply agreements. For more information about our long- term coal supply agreements, you should see the section entitled " Long- Term Coal Supply Arrangements " under Item 1. ~~44The~~ **Serious cyber- attacks or other security incidents that disrupt our operations or compromise proprietary or confidential information could expose us to significant liability, reputational harm,** loss of **revenue** , **increased costs and material risks to** ~~or~~ **our** ~~risks to our~~ business and results.We are dependent on **computer systems,hardware,software,technology infrastructure,networks and other** information technology systems (**collectively,** " IT ~~systems~~ **Systems** ") to operate our business and to comply with regulatory,legal and tax requirements.Some of these IT ~~systems~~ **Systems** are owned and operated by us,but we also rely on many third ~~-~~ parties,such as services providers and others in the supply chain,for critical products and services,including but not limited to ~~software~~ **46software** ~~and~~ **,** hardware **and cloud computing** .In addition,in the ordinary course of our business,we and various third parties generate,collect,process,transmit and store data,such as proprietary business information and personally identifiable information ~~.As our dependence on digital technologies has increased,the risk of cyber incidents,including both deliberate attacks and unintentional events,also has increased.A cyber- attack may involve persons gaining unauthorized access to our IT systems or systems maintained on our behalf for purposes of gathering,monitoring,releasing,misappropriating or corrupting proprietary or confidential or personal information,or causing operational disruption.In addition,certain cyber incidents,such as surveillance and advanced persistent threats~~ (**collectively,** ~~referred to as~~ " ~~APTs~~ **Confidential Information** ") ~~,~~ **.We and certain of our business partners and service providers have experienced and expect to continue to experience cyberattacks and other security incidents in the future.Such future attacks and incidents** may ~~remain undetected for~~ **cause material adverse impacts on our business.There** ~~an~~ **can** ~~extended period of time~~ **be no assurance that our cybersecurity risk management program and processes,including our policies,controls or procedures,will be fully implemented,complied with or effective in protecting our IT Systems and Confidential Information** .We are in an industry and business involving energy- related assets ~~,~~ that **is at** a ~~business involving energy- related assets,that is at a~~ relatively greater risk of cyber- attacks by sophisticated adversaries,such as nation state actors,as compared to other targets in the United States. **Our** ~~We and certain of our service providers have,experienced and expect to continue to experience cyberattacks and other security incidents.To date,we have not experienced any material losses relating to such attacks or incidents.However,our~~ IT ~~systems~~ **Systems** and those of **important** third parties are vulnerable to malicious and intentional cyberattacks involving malware **(such as ransomware)** and viruses,accidental or inadvertent incidents,the exploitation of security vulnerabilities or " bugs " in software or hardware, **social engineering / phishing attacks,and malfeasance by insiders,** among other scenarios.Both the frequency and magnitude of cyberattacks is expected to increase **,** and attackers are **increasingly** ~~becoming more~~ sophisticated.As a result,we may be unable to anticipate,detect or prevent future attacks,particularly as the methodologies utilized by attackers change frequently or are not recognized until launched,and we may be unable to investigate or remediate incidents because attackers are increasingly using techniques and tools **(such as artificial intelligence)** designed to circumvent controls, ~~to~~ avoid detection,and ~~to~~ remove or obfuscate forensic evidence. ~~The COVID- 19~~ **A serious compromise to the confidentiality,integrity or availability of our IT Systems,or the IT Systems of our business partners or service providers,whether caused maliciously or inadvertently,may cause** significant ~~reduction in~~ **operational disruptions** , ~~purchases~~ **unauthorized physical access to one or more of our facilities or locations, or electronic access to, or corruption or destruction or loss of Confidential Information. Such attacks or incidents could result in, among other things, unfavorable publicity and reputational damage, litigation (including class actions), disruptions to our operations, loss of customers, financial obligations that may not be covered** by our ~~largest customers~~ **insurance for damages, regulatory investigations and enforcement, and fines or penalties related to the theft, release or misuse of information, any or all of which** could ~~adversely affect our profitability. For the year ended December 31, 2022, we derived approximately 17 % of our total coal revenues from sales to our three largest customers and approximately 42 % of our total coal revenues from sales to our ten largest customers. If any of those customers, particularly any of our three largest customers, were to significantly reduce the quantities of coal it purchases from us, or if we are unable to sell coal to those customers on terms as favorable to us, it may~~ have ~~an~~ **a material** adverse impact on ~~the~~ **our** results of operations,financial condition or cash flow.In addition,as cyber threats continue to evolve,we may be required to expend significant additional resources to modify or enhance our protective measures or to investigate and remediate any system vulnerabilities or for compliance purposes.This is particularly the case given fast evolving legislative and regulatory changes to data privacy,data security and data protection laws globally.Any losses,costs or liabilities directly or indirectly related to cyberattacks or ~~similar~~ **other** incidents may not be covered by,or may exceed the coverage limits of,any or all of our applicable insurance policies. ~~49Our~~ -- **Our** inability to acquire additional coal reserves or our inability to develop coal reserves in an economically feasible manner may adversely affect our business. ~~Disruptions~~ **Our profitability depends substantially on our ability to mine and process,** in **a cost- effective manner, coal reserves that possess the quality characteristics desired by our customers. As we mine, our coal reserves deplete. As a result, our future success depends upon our ability to obtain, through acquisition or development of owned reserves, coal that is economically recoverable. If we fail to acquire or develop additional coal reserves, our existing reserves will eventually be depleted. We may not be able to obtain replacement reserves when we require** ~~the~~ **them** ~~quantities~~ **. Even if available, replacement reserves may not be available at favorable prices, or we may not be capable** of **mining those reserves at costs that are comparable with our existing** coal ~~purchased~~ **reserves. In certain locations, leases for oil, natural gas and coalbed methane reserves are located on, or adjacent to, some of our reserves, potentially creating conflicting interests between us and lessees of those interests. Other lessees' rights relating to these mineral interests could prevent, delay or increase the cost of developing our coal reserves. These lessees may also seek damages** from **us based on claims that our coal mining operations impair their interests. Our ability to obtain coal reserves in the future could also be limited by the availability of cash we generate from our operations or available financing, restrictions under our existing or future financing arrangements, competition from other coal producers, limited opportunities or the inability to acquire coal properties on commercially reasonable terms. Increased opposition from non- governmental organizations and** other third parties ~~could temporarily impair~~ **may also lengthen, delay** ~~our~~ - **or adversely 47impact** ~~ability to fill customer orders or increase our operating costs. From time to time, we purchase coal from third parties that we sell to our customers. Operational difficulties at mines operated by third parties from whom we purchase coal, changes in demand from other~~ -- **the** ~~coal~~ **acquisition** ~~producers~~ --- **process** ~~and other factors beyond our control could affect the availability, pricing, and quality of coal purchased by us. Disruptions in the quantities of coal purchased by us could impair our ability to fill our customer orders or require us to purchase coal from other sources in order to satisfy those orders~~ . If we are unable to ~~fill a customer order~~ **acquire replacement reserves,** ~~or~~ **our** ~~if~~ **future production may decrease significantly and our operating results may be negatively affected. In addition,** we **may not be able to mine future reserves as profitably as we do at our current operations.Inaccuracies in our estimates of our coal reserves could result in decreased profitability from** lower than expected revenues or higher than expected costs.Our future performance depends on,among other things,the accuracy of our estimates of our proven and probable coal reserves.We base our estimates of reserves on engineering,economic and geological data assembled,analyzed and reviewed by internal and third- party engineers and consultants.We update our estimates of the quantity and quality of proven and probable coal reserves annually to reflect the production of coal from the reserves,updated geological models and mining recovery data,the tonnage contained in new lease areas acquired and estimated costs of production and sales prices.There ~~are numerous factors and assumptions inherent in estimating the quantities and qualities of,and costs to mine,coal reserves,including many factors beyond our control,including the following~~ are ~~required~~ **numerous factors and assumptions inherent in estimating the quantities and qualities of, and costs** to ~~purchase~~ **mine,** coal **reserves, including many factors beyond our control, including the following: ● quality of the coal; ● geological and mining conditions, which may not be fully identified by available exploration data and / or may differ from our experiences in areas where we currently mine; ● historical production from the area compared with production** from other ~~sources at higher~~ **similar producing areas; ● the percentage of coal ultimately recoverable; ● the assumed effects of regulation, including the issuance of required permits, taxes, including severance and excise taxes, and royalties, and other payments to governmental agencies; ● assumptions concerning the timing for the development of the reserves; ● assumptions concerning physical access to the reserves; and ● assumptions concerning equipment and productivity, future coal** prices ~~and / or lower quality~~ , ~~in order to satisfy a customer order, we could lose existing customers and our~~ operating costs ,including for critical supplies such as fuel,tires and explosives,capital expenditures and development and reclamation costs.As a result,estimates of the quantities and qualities of economically recoverable coal attributable to any particular group of properties,classifications of reserves based on risk of recovery,estimated cost of production and estimates of future net cash flows expected from these properties,as prepared by different engineers,or by the same engineers at different times,may vary materially due to changes in the above factors and assumptions.Actual production recovered from identified reserve areas and properties,and revenues and expenditures associated with our mining operations,may vary materially from estimates.Any inaccuracy in our estimates related to our reserves could **result** ~~increase. International growth~~ in **decreased profitability from lower- than- expected revenues and /** ~~our~~ - **or** ~~sales adds new and unique risks to~~ **higher than expected costs. A defect in title** ~~our~~ - **or** ~~business~~ **the loss of a leasehold interest in certain properties or surface rights could limit our ability to mine our coal reserves or result in significant unanticipated costs** . We **conduct a significant part of our coal mining operations on properties that we own as well as on properties we lease from third parties. A title defect, the loss of a lease or surface rights or a dispute over subsidence could adversely affect our ability to mine the associated coal reserves. We may not verify title to our leased properties or associated coal reserves until we** have **committed to developing** ~~sales offices in Singapore and the~~ **those** ~~United Kingdom~~ **properties or coal reserves. We may not commit to develop properties or coal reserves until we have obtained necessary permits and completed exploration. As such, the title to properties that we intend to lease or coal reserves that we intend to mine may contain defects prohibiting our ability to conduct mining operations. Similarly, our leasehold interests may be subject to superior property rights of other third parties. In order to conduct our mining operations on properties where these defects exist, we may incur unanticipated costs** . In addition, **some leases require us** ~~our international offices sell our coal~~ to ~~new customers~~ **produce a minimum quantity of coal** and ~~customers in new countries, which~~ **require us to pay minimum production royalties. Our inability to satisfy those requirements** may **cause** ~~present uncertainties and new risks. A majority of our metallurgical coal sales consist of sales to international customers, and we expect that international sales will continue to account for a larger portion of our revenue. A number of foreign countries in which we sell our metallurgical coal implicate additional risks and uncertainties due to~~ the **leasehold** ~~different economic, cultural and political environments. Such risks and uncertainties include, but are not limited to: ● longer sales- cycles and time to collection ; ● tariffs and international trade barriers and export license requirements, including any that might result from the current global trade uncertainties ; ● different and changing legal and regulatory requirements ; ● potential liability under the U. S. Foreign Corrupt Practices Act of 1977, as amended, or comparable foreign regulations ; ● government currency controls ; ● fluctuations in foreign currency exchange and~~ interest **to terminate** ~~rates ; ● political and economic instability~~ , ~~changes, hostilities and other disruptions (including as a result of the COVID- 19 pandemic and the Russia- Ukraine conflict); and ● unexpected changes in diplomatic and trade relationships. Negative developments in any of these factors in the foreign markets into which we sell our metallurgical coal could result in a reduction in demand for metallurgical coal, the cancellation or delay of orders already placed, difficulty in collecting receivables, higher costs of doing business and / or non- compliance with legal and regulatory requirements, each or any of~~ which could **negatively** ~~materially adversely~~ impact our **business, financial condition, results of operations and** cash flows ~~, results of operations and profitability~~ . 45Our ability to collect payments from our...... local economic and political conditions. Failure **48Failure** to obtain or renew surety bonds on acceptable terms could affect our ability to secure reclamation and coal lease obligations and, therefore, our ability to mine or lease coal. Federal and state laws require us to obtain surety bonds or post other financial security to secure performance or payment of certain long- term obligations, such as mine closure or reclamation costs, federal and state workers' compensation and black lung benefits costs, coal leases and other obligations. The amount of security required to be obtained can change as the result of new federal or state laws, as well as changes to the factors used to calculate the bonding or security amounts. We may have difficulty procuring or maintaining our surety bonds. Our bond issuers may demand higher fees or additional collateral, including letters of credit or other terms less favorable to us upon those renewals. Because we are required by state and federal law to have these surety bonds or other acceptable security in place before mining can commence or continue, our failure to maintain surety bonds, letters of credit or other guarantees or security arrangements would materially and adversely affect our ability to mine or lease metallurgical coal. That failure could result from a variety of factors, including lack of availability, higher expense or unfavorable market terms, the exercise by third- party surety bond issuers of their right to refuse to renew the sureties and restrictions on availability of collateral for current and future third- party surety bond issuers under the terms of our financing arrangements. As of December 31, ~~2022~~ **2023** , we had approximately $ ~~545~~ **552** . ~~9~~ **5** million in surety bonds backed by $ ~~68~~ **70** . ~~0~~ **5** million of letters of credit outstanding. Any further issuances of letters of credit to satisfy the increased collateral demands or any replacement surety bonds would immediately reduce the borrowing capacity under our credit facilities. At December 31, ~~2022~~ **2023** , the Company established a fund for asset retirement obligations and thus far has contributed $ ~~136~~ **142. 3** million that will serve to defease the long- term asset retirement obligation for its ~~thermal asset base~~ **Powder River Basin Mines** . We may not have adequate insurance coverage for some business risks. Our operations are generally subject to a number of hazards and risks that could result in personal injury or damage to, or destruction of, equipment, property or facilities. Depending on the nature and extent of a loss, the insurance that we maintain to address risks that are typical in our businesses may not be adequate or available to fully protect or reimburse us, or our insurance coverage may be limited, canceled or otherwise terminated. Insurance against some risks, such as liabilities for environmental pollution, or certain hazards or interruption of certain business activities, may not be available at an economically reasonable cost, or at all. Even if available, we may self- insure where we determine it is most cost effective to do so. As a result, despite the insurance coverage that we carry, accidents or other negative developments involving our production, mining, processing or transportation activities causing losses in excess of policy limits, or losses arising from events not covered under insurance policies, could have a material adverse effect on our financial condition and cash flows. The risk of increased insurance costs may have greater impact where the ~~46adverse~~ -- **adverse** event results in us asserting an insurance claim, the cost of which our insurers may seek to recoup during a future insurance renewal through increased premiums or limitations on coverage. ~~Inaccuracies~~ **Disruptions** in ~~our estimates~~ **the quantities** of ~~our~~ coal **purchased** ~~reserves could result in decreased profitability~~ from lower than expected revenues or higher than...... be subject to superior property rights of other third parties ~~. In~~ **could temporarily impair our ability to fill customer** ~~order~~ **orders** ~~to conduct our~~ - **or** ~~mining~~ **increase our** ~~operations~~ - **operating** ~~on properties where these defects exist~~ **costs. From time to time** , we ~~may incur unanticipated costs~~ **purchase coal from third parties that we sell to our customers** . ~~In addition~~ **Operational difficulties at mines operated by third parties from whom we purchase coal** , ~~some leases~~ **changes in demand from other coal producers and other factors beyond our control could affect the availability, pricing, and quality of coal purchased by us. Disruptions in the quantities of coal purchased by us could impair our ability to fill our customer orders or** require us to **purchase** ~~produce a minimum quantity of~~ coal **from other sources** ~~and require us to pay minimum production royalties. Our inability~~ to satisfy those ~~requirements may cause~~ **orders. If we are unable to fill a customer order or if we are required to purchase coal from** ~~the~~ **other** ~~leasehold interest to terminate~~ **sources at higher prices and / or lower quality** , ~~which~~ **in order to satisfy a customer order, we** could ~~negatively impact~~ **lose existing customers and** our ~~business, financial condition, results of operations~~ - **operating** ~~and cash flows~~ **costs could increase** . ~~47We may incur losses as a result of certain marketing and asset optimization strategies. We seek to optimize our coal production and leverage our knowledge of the coal industry through a variety of marketing and asset optimization strategies. We maintain a system of complementary processes and controls designed to monitor and control our exposure to market and other risks as a consequence of these strategies. These processes and controls seek to balance our ability to profit from certain marketing and asset optimization strategies against our exposure to potential losses. Our risk monitoring and mitigation techniques, and accompanying judgments cannot anticipate every potential outcome or the timing of such outcomes. In addition, the processes and controls that we use to manage our exposure to market and other risks resulting from these strategies involve assumptions about the degrees of correlation or lack thereof among prices of various assets or other market indicators. These correlations may change significantly in times of market turbulence or other unforeseen circumstances. As a result, we may experience volatility in our earnings as a result of our marketing and asset optimization strategies. Any decrease~~ **Decreases** in the coal consumption of electric power generators could result in less demand and lower prices for thermal coal, which could materially and adversely affect our revenues and results of operations. Thermal coal accounted for ~~90~~ **88** % of our coal sales by volume and 42 % of the coal sales revenue during ~~2022~~ **2023** . The majority of these sales were to electric power generators. The amount of coal consumed for electric power generation is affected primarily by the overall demand for electricity, the availability, quality and price of competing fuels (particularly ~~natural~~ **49natural** gas) for power generation and governmental regulations which may dictate an alternate source of fuel regardless of economics **such as subsidized renewables** . Overall economic activity and the associated demand for power by industrial users can have significant effects on overall electricity demand and can be impacted by a number of factors. An economic slowdown can significantly slow the growth of electricity demand and could result in reduced demand for coal. Weather patterns also greatly affect electricity demand. Extreme temperatures, both hot and cold, cause increased power usage and, therefore, increase generating requirements from all sources. Mild temperatures, on the other hand, result in lower electrical demand, which allows generators to choose the source of power generation that is most cost efficient. Other sources of generation have the potential to displace coal- fueled generation, particularly from older, less efficient coal- powered generators and this has occurred to date. We expect that the new power plants constructed in the United States, to meet increasing demand for electricity generation, will not be fueled by coal, given the relative cost and permitting difficulties now associated with coal as compared to other sources of energy. State and federal mandates for increased use of electricity from renewable energy sources also have an impact on the market for our coal. Several states have enacted legislative mandates requiring electricity suppliers to use renewable energy sources to generate a certain percentage of power. There have been numerous proposals to establish a similar uniform national standard, although none of these proposals have been enacted to date; however, the Biden Administration has set a goal of a carbon pollution- free power sector by 2035. Additionally, many utilities have established their own emissions reduction goals, which may lead to the phase- out of coal- fired plants in favor of other energy sources. The costs of certain renewable energy sources have become increasingly competitive to coal, and possible advances in technologies and incentives, such as tax credits, to enhance the economics of renewable energy sources, could make these sources even more competitive. Any reduction in the amount of coal consumed by electric power generators could reduce the price of coal that we mine and sell, thereby reducing our revenues and materially and adversely affecting our business and results of operations. We have seen coal consumption impacted by poor...... do at our current operations. We may not be able to pay dividends or repurchase shares of our common stock in accordance with our announced intent or at all. The Board of Directors' determinations regarding fixed or variable dividends and share repurchases will depend on a variety of factors, including our net income, cash flow generated from operations or other sources, liquidity position ~~and~~ **, changes in working capital,** potential alternative uses of cash, such as acquisitions and organic growth opportunities **, and a desire to increase cash on our balance sheet** , as well as economic conditions and expected future financial results. Our ability to declare future dividends and make future share repurchases will depend on our future financial performance, which in turn depends on the successful implementation of our strategy and on financial, competitive, regulatory, technical and other factors, general economic conditions, demand and selling prices for our products, working capital adjustments, decisions related to the amount and timing of contributions to the thermal reclamation fund and other factors specific to our industry, many of which are beyond our control. Therefore, our ability to generate cash depends on the performance of our operations and could be limited by decreases in our profitability or increases in costs, regulatory changes, capital expenditures, debt servicing requirements or an increase in collateral requirements. The frequency and amount of dividends, if any, may vary significantly from amounts paid in previous periods. The Company can provide no assurance that it will continue to pay fixed or variable dividends or repurchase shares. Any failure to pay dividends or repurchase shares of our common stock could negatively impact our reputation, lessen investor confidence in us, and cause the market price of our common stock to decline. Our ability to operate our business effectively could be impaired if we lose key personnel or fail to attract qualified personnel. We manage our business with **several** ~~a number of~~ key personnel, the loss of whom could have a material adverse effect on us, absent the completion of an orderly transition. Efficient mining using modern techniques and equipment requires skilled laborers with mining experience and proficiency as well as qualified managers and supervisors. The demand for skilled employees sometimes causes a significant constriction of the labor supply resulting in higher labor costs. When coal producers compete for skilled miners, recruiting challenges can occur and employee turnover rates can increase, ~~50which~~ -- **which** negatively affect operating efficiency and costs. If a shortage of skilled workers exists and we are unable to train or retain the necessary number of miners, it could adversely affect our productivity, costs and ability to expand production. ~~Our~~ **50Our** executive officers and other key personnel have significant experience in the coal business and the loss of certain of these individuals could harm our business. Moreover, there may be a limited number of persons with the requisite experience and skills to serve in our senior management positions. There can be no assurance that we will continue to be successful in attracting and retaining **enough** ~~a sufficient number of~~ qualified personnel in the future or that we will be able to do so on acceptable terms. The loss of key management personnel could harm our ability to successfully manage our business functions, prevent us from executing our business strategy and have a material adverse effect on our results of operations and cash flows. ~~The~~ **Public health emergencies, such as pandemics or epidemics, could have an adverse effect on our business, results of operations, financial condition, and cash flowsOur operations expose us to risks associated with pandemics, epidemics, or other public health emergencies. Such events could lead to restrictions and mandates, which could differ across jurisdictions, and there could be global impacts resulting directly or indirectly from such an event or events, including labor shortages, logistical challenges, and supply chain disruptions such as increased port congestion, and increases in costs for certain goods and services. For instance, the onset of the** COVID- 19 pandemic ~~has adversely~~ **that began in the first quarter of 2020 negatively** affected **our business** , **sales volumes, operating costs,** and ~~will~~ **financial results to varying degrees and could** continue to ~~adversely~~ **negatively** affect ~~,~~ our ~~business~~ **results of operations** , **cash flows, and** financial **position** ~~condition, liquidity and results of operations. The COVID- 19 pandemic has resulted~~ in ~~a global health crisis that has adversely affected businesses, economies and financial markets worldwide. The full impact of COVID- 19 is unknown and continues to rapidly evolve. While the outbreak appeared to be trending downward, particularly as vaccination rates increased, new variants of COVID- 19 continue emerging, including the highly transmissible Delta variant and the newly discovered Omicron variant (currently a " variant of concern "), spreading throughout the United States and globally and causing significant uncertainty. The COVID- 19 outbreak materially and adversely affected our business operations and financial condition due to the pandemic causing a deteriorating market outlook, global economic recession and weakened company liquidity. Although demand for coal and coal prices has recovered from the lows of 2020 through the second quarter of 2021, these~~ -- **the future** ~~conditions caused or exacerbated by the pandemic may lead to continued volatility of coal prices, severely limited liquidity and credit availability and declining valuations of assets, which have adversely affected, and will continue to affect, our business, financial condition, liquidity and results of operations~~. Risks Related to Environmental **Regulation** , Other Regulations and LegislationExtensive environmental regulations, including existing and potential future regulatory requirements relating to air emissions, affect our customers and could reduce the demand for coal as a fuel source and cause coal prices and sales of our coal to materially decline. Coal contains impurities, including but not limited to sulfur, mercury, chlorine and other elements or compounds, many of which are released into the air when coal is combusted **by our customers dependent on their site specific pollution control equipment** . The operations of our customers are subject to extensive environmental regulation particularly with respect to air emissions. For example, the federal Clean Air Act and similar state and local laws extensively regulate the amount of sulfur dioxide, particulate matter, nitrogen oxide, and other compounds emitted into the air from electric power plants, which are the largest end- users of our coal. A series of more stringent requirements relating to particulate matter, ozone, haze, mercury, sulfur dioxide, nitrogen oxide and other air pollutants may be developed and implemented. For instance, the Clean Power Plan promulgated under the Obama administration, would have severely limited emissions of carbon dioxide which would adversely affect our ability to sell coal. However, in April 2017, the EPA announced that it was initiating a review of the Clean Power Plan consistent with President Trump' s Executive Order 13783, and, in October 2017, the EPA published a proposed rule to formally repeal the Clean Power Plan. In June 2019, the EPA issued the final Affordable Clean Energy rule, which revised the agency' s interpretation of Clean Air Act section 111 (d). In January 2021, the D. C. Circuit Court of Appeals vacated the Affordable Clean Energy rule and its implied repeal of the Clean Power Plan, remanding to the EPA for further proceedings. The Supreme Court then heard the case and decided against the EPA and the Clean Power Plan, holding that the ~~EPA~~ **Clean Power Plan** ' s attempt to force an overall shift in power generation from higher- emitting to lower- emitting sources exceeded the EPA' s statutory authority. The **Court therefore reversed the D. C. Circuit' s vacatur of the Affordable Clean Energy rule. On October 27, 2022, the D. C. Circuit issued an order effectively reinstating the Affordable Clean Energy rule, but the court placed the case in abeyance pending the** EPA ~~has not yet initiated~~ **' s completion of** a **rulemaking to replace the rule. On March 10, 2023, the EPA published a direct final rule extending until April 15, 2024 the deadline for state plans required to be submitted under the Affordable Clean Energy rule. On May 23, 2023, the EPA proposed revised NSPS under Clean Air Act section 111 (b) for greenhouse gas emissions from** new ~~rulemaking~~ **and reconstructed fossil fuel- fired stationary combustion turbine electric generating units and from fossil fuel- fired steam generating units that undertake a large modification** . In addition, the change in presidential administration has resulted in a further shift in policy by the EPA. As explained above, in December 2015, the United States and 195 other countries ~~(~~ entered into the " Paris Agreement " ~~)~~ during the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change, a long- term, ~~51international~~ -- **international** framework convention designed to address climate change over the next several decades. The Trump administration formally withdrew the United States from the Paris Agreement, effective November 2020. However, ~~President~~ **51President** Biden has recommitted the United States to the Paris Agreement and the United States has officially submitted to the United Nations a Nationally Determined Contribution of reducing its net greenhouse gas emissions by 50- 52 % below 2005 levels by 2030. Since then, the United States and other signatories to the Paris Agreement have taken further steps toward reducing greenhouse gas emissions and addressing climate change, as further discussed above. The impacts of these orders, pledges, agreements and any legislation or regulation promulgated to fulfill the United States' commitments under the Paris Agreement, the UN Framework Convention on Climate Change, or other international conventions cannot be predicted at this time. However, any efforts to control and / or reduce greenhouse gas emissions by the United States or other countries that have also pledged " Nationally Determined Contributions, " or concerted conservation efforts that result in reduced electricity consumption, could adversely impact coal prices, our ability to sell coal and, in turn, our financial position and results of operations. In addition, a January 21, 2021 executive order from the Biden administration directed all federal agencies to review and take action to address any federal regulations, orders, guidance documents, policies and any similar agency actions promulgated during the prior administration that may be inconsistent with the administration' s policies. The executive order also established an Interagency Working Group on the Social Cost of Greenhouse Gases (" Working Group "), which is called on to, among other things, develop methodologies for calculating the " social cost of carbon, " " social cost of nitrous oxide " and " social cost of methane. " The Working Group published a Technical Support Document with interim values and initial recommendations in February 2021. Building on the Working Group' s interim values for social cost of greenhouse gases, the EPA released for public review, in November 2022, a September 2022 draft report with a social cost of carbon of $ 190 per metric ton of carbon dioxide emitted in 2020 at a 2 % discount rate. That figure is intended to be used to guide federal decisions on the costs and benefits of various policies and approvals, although such efforts have been the subject of a series of judicial challenges. **In November 2023, the EPA released a final Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances on the Social Cost of Greenhouse Gases setting estimated Social Cost of CO2 at $ 120, $ 190 or $ 340, the Social Cost of CH4 at $ 1, 300, $ 1, 600 or $ 2, 300 and the Social Cost of N2O at $ 35, 000, $ 54, 000 or $ 87, 000, each per metric ton and each depending on the discount rate used. On December 22, 2023, the Working Group published a memorandum recommending that agencies " use their professional judgment to determine which estimates of the social cost of greenhouse gasses reflect the best available evidence, are most appropriate for particular analytical contexts, and best facilitate sound decision- making. "** At this time, we cannot determine whether the administration' s efforts on social cost or other interagency climate efforts will lead to any particular actions that give rise to a material adverse effect on our business, financial condition and results of operations. The Biden administration issued another executive order on January 27, 2021, that was specifically focused on addressing climate change. Further regulation of air emissions at the federal level, as well as uncertainty regarding the future course of federal regulation, could reduce demand for coal and negatively impact our financial position and results of operations. In March 2021, the Biden Administration announced a framework for the" Build Back Better" agenda. The proposed framework included policies to address climate change across the federal government through the tax code, an energy efficiency and clean energy standard, and research and development, among other areas of focus." Build Back Better" has been on two tracks in Congress, with a bipartisan" infrastructure " bill that has passed in the Senate and House of Representatives and was signed into law on November 15, 2021, which includes climate provisions focused on transportation and resiliency and an expected multi- trillion- dollar budget social spending bill that is being advanced under the reconciliation process to address additional priorities, including the climate impacts of energy production. On August 16, 2022, President Biden signed into law the Inflation Reduction Act, which was originally introduced as an amendment to the Build Back Better Act, which will provide incentives and programs to a range of renewable energy, decarbonization, and energy efficiency projects. A Clean Electricity Standard, or similar program, remains a goal of the Biden Administration, despite an unclear political path forward, and we are closely monitoring both legislative and executive agency action. We are also subject to state and local regulations, which may be more stringent than federal rules. For example, certain United States cities and states have announced their intention to satisfy their proportionate obligations under the Paris Agreement. In addition, almost one- half of states have taken measures to track and reduce emissions of greenhouse gases, and some states have elected to participate in voluntary regional cap- and- trade programs like the Regional Greenhouse Gas Initiative in the northeastern United States. Many State and local governments have also passed legislation and / or regulations requiring electricity suppliers to use renewable energy sources to generate a certain percentage of power, or provide financial incentives to electricity suppliers for using renewable energy sources. State and local governments ~~may~~ **52may** pass additional laws mandating the use of alternative energy sources, such as wind power ~~52and~~ -- **and** solar energy, or imposing additional costs on the use of coal for electricity generation which may decrease demand for our coal products. State and local commitments and regulations could have a material adverse effect on our business, financial condition and results of operations. Considerable uncertainty is associated with these air emissions initiatives, and the content of regulatory requirements in the United States and other countries continues to evolve and develop, which could require significant emissions control expenditures for many coal- fueled power plants. As a result, these power plants may switch to other fuels that generate fewer of these emissions, may install more effective pollution control equipment that reduces the need for low sulfur coal, or may cease operations, possibly reducing future demand for coal and a reduced need to construct new coal- fueled power plants. Any switching of fuel sources away from coal, closure of existing coal- fired plants or reduced construction of new plants could have a material adverse effect on demand for, and prices received for, our coal. Alternatively, less stringent air emissions limitations, particularly related to sulfur, to the extent enacted, could make low sulfur coal less attractive, which could also have a material adverse effect on the demand for and prices received for our coal. You should see Item 1, “ Environmental and Other Regulatory Matters ” for more information about the various governmental regulations affecting the market for our products. Increased pressure from political and regulatory authorities, along with environmental and climate change activist groups, and lending and investment policies adopted by financial institutions and insurance companies to address concerns about the environmental impacts of coal combustion, including climate change, may potentially materially and adversely impact our future financial results, liquidity and growth prospects. Global climate issues continue to attract significant public and scientific attention. For example, the Assessment Reports of the Intergovernmental Panel on Climate Change have expressed concern about the impacts of human activity, especially from fossil fuel combustion, on the global climate. As a result of the public and scientific attention, several governmental bodies increasingly are focusing on climate issues and, more specifically, levels of emissions of carbon dioxide from coal combustion by power plants. Although the Supreme Court held that the EPA did not have the statutory authority to issue the Clean Power Plan, there remains considerable political will for laws and regulations restricting emissions, including emissions from our industry and the industries of our customers. As such, the final status of any regulatory requirements is uncertain. Future regulation of greenhouse gas emissions in the United States could occur pursuant to future treaty obligations, statutory or regulatory changes at the federal, state or local level or otherwise. The enactment of laws or the passage of regulations regarding greenhouse gas emissions from the combustion of coal by the U. S., some of its states or other countries, or other actions to limit emissions have resulted in, and may continue to result in, electricity generators switching from coal to other fuel sources or coal- fueled power plant closures. Further, policies limiting available financing for the development of new coal- fueled power plants could adversely impact the global demand for coal in the future. You should see Item 1, “ Environmental and Other Regulatory Matters- Climate Change ” for more information about governmental regulations relating to greenhouse gas emissions. There have been recent efforts by members of the general financial and investment communities, such as investment advisors, sovereign wealth funds, public pension funds, universities and other groups, to divest themselves and to promote the divestment of securities issued by companies involved in the fossil fuel extraction market, such as coal producers. In California, for example, legislation was signed into law in October 2015 requiring California’ s state pension funds to divest investments in companies that generate 50 % or more of their revenue from coal mining. Also, in December 2017, the Governor of New York announced that the New York Common Fund would immediately cease all new investments in entities with “ significant fossil fuel activities, ” and the World Bank announced that it would no longer finance upstream oil and gas after 2019, except in “ exceptional circumstances. ” Other activist campaigns have urged banks to cease financing coal- driven businesses. As a result, numerous banks, other financing sources and insurance companies have taken actions to limit available financing and insurance coverage for the development of new coal- fueled power plants and coal mines and utilities that derive a majority of their revenue from thermal coal. However, ~~53various~~ -- **various** states have enacted, or are considering enacting, laws to sanction, or require public funds to divest from, financial institutions that restrict investments in fossil fuel companies based off of extra- regulatory environmental or social factors, or to require ~~such~~ **53such** institutions to provide “ fair access ” to financial services to companies regardless of industry. While similar regulations had been developed by the federal government under the Trump Administration, the Biden Administration has either suspended or repealed such rulemakings. For example, in November 2022, the Department of Labor published a final rule clarifying that consideration of ~~environmental, social, and governance (“~~ ESG ~~”)~~ factors in investment decisions is permissible for ERISA fiduciaries. As such, the final status of efforts to divest or promote the divestment from the fossil fuel extraction market is unclear, but any such efforts may adversely affect the demand for and price of our securities and impact our access to the capital and financial markets. Additionally, in March 2022, the SEC proposed new rules relating to the disclosure of a range of climate- related risks and other information. To the extent this rule is finalized as proposed, we and / or our customers could incur increased costs related to the assessment and disclosure of climate- related information **. Certain states are also adopting or considering adopting climate change- related disclosure requirements, for example California recently adopted legislation regarding climate change- related risk and greenhouse gas emissions disclosures, and other states are looking at similar legislation or regulation** . Enhanced climate disclosure requirements could also accelerate any trend by certain stakeholders and capital providers to restrict or seek more stringent conditions with respect to their financing of certain carbon intensive sectors. Any future laws, regulations or other policies of the nature described above may adversely impact our business in material ways. The degree to which any particular law, regulation or policy impacts us will depend on several factors, including the substantive terms involved, the relevant time periods for enactment and any related transition periods. We routinely attempt to evaluate the potential impact on us of any proposed laws, regulations or policies, which requires that we make several material assumptions. From time to time, we determine that the impact of one or more such laws, regulations or policies, if adopted and ultimately implemented as proposed, may result in materially adverse impacts on our operations, financial condition or cash flow. In general, it is likely that any future laws, regulations or other policies aimed at reducing greenhouse gas emissions will negatively impact demand for our coal **and future laws, regulations and other policies expanding our reporting obligations are likely to increase costs associated with our legal compliance, which may become significantly burdensome for our business** . Increased attention to ~~environmental, social or governance (“~~ ESG ~~”)~~ matters could adversely impact our business and the value of the company. Increasing attention to climate change, societal expectations on companies to address climate change, investor and societal expectations regarding voluntary ESG disclosures, and consumer demand for alternative forms of energy **, including changes in general energy consumption patterns attributable to energy conservation trends,** may result in negative views with respect to ESG that could result in a low ESG ~~score~~ **scores or ratings** ~~or~~ **for the Company** ~~similar sustainability score~~ , **which** could harm the perception of our Company by certain investors, or could result in the exclusion of our securities from consideration by those investors. Certain financial institutions, including banks and insurance companies, have taken actions to limit available financing, insurance and other services to entities that produce or use fossil fuels. Additionally, some investors and financial institutions use ESG or sustainability scores, ratings and benchmarking studies provided by various organizations that assess corporate performance and governance related to environmental and social matters, including climate change, in making their financing and voting decisions. Companies in the energy industry, and in particular those focused on coal, natural gas or petroleum extraction and refining ~~,~~ **unsurprisingly** often have lower ESG or sustainability scores **or ratings** compared to companies in other industries. These lower scores **or ratings** may have adverse consequences including, but not limited to: • restricting our ability to access capital and financial markets in the future or increasing our cost of capital; • reducing the demand and price for our securities; • increasing the cost of borrowing; • causing a decline in our credit ratings **or a substantially lower credit rating than a company with a similar balance sheet in a different industry** ; • reducing the availability, and / or increasing the cost of, third- party insurance; • increasing our retention of risk through self- insurance; and • making it more difficult to obtain surety bonds, letters of credit, bank guarantees or other financing. ~~ESG~~ **54ESG** expectations, including both the matters in focus and the management of such matters, continue to evolve rapidly. For example, in addition to climate change, there is increasing attention on topics such as diversity and inclusion, human rights, and human and natural capital, in companies’ own operations as well as their supply chains. In addition, ~~54perspectives~~ -- **perspectives** on the efficacy of ESG considerations continue to evolve, and we cannot currently predict how regulators’, investors’ and other stakeholders’ views on ESG matters may affect the regulatory and investment landscape and affect our business, financial condition, and results of operations. While we may publish voluntary disclosures regarding ESG matters or take other actions from time to time, in an effort to improve the ESG profile of our operations or products, we cannot guarantee that these efforts will have the desired effect. For example, our voluntary disclosures may include statements based on assumptions, estimates or third- party information we currently believe to be reasonable **,** but which may subsequently be ~~considered~~ **erroneous or misinterpreted. In addition, we may commit** to **certain ESG initiatives over time, and we may not ultimately** be ~~erroneous~~ **able to achieve** ~~or~~ **our** ~~misinterpreted~~ **goals or reach our commitments, either on the timeframes or costs initially anticipated or at all, due to factors that within or outside of our control** . If we do not, or are perceived to not, adapt or comply with investor or stakeholder expectations and standards on ESG matters, we may suffer from reputational damage **and an increased risk of litigation or activism,** and our business, financial condition and results of operations could be materially and adversely affected. Any reputational damage associated with ESG factors may also adversely impact our ability to recruit and retain employees and customers. In addition, we anticipate that there may be increased levels of regulation, disclosure- related and otherwise, with respect to ESG matters, which will likely lead to increased compliance costs, as well as scrutiny that could heighten all of the risks identified in this risk factor. Such ESG matters may also affect our suppliers or customers, which could augment or cause additional impacts to our business or operations. Our failure to obtain and renew permits necessary for our mining operations could negatively affect our business. Mining companies must obtain numerous permits that impose strict regulations on various environmental and operational matters in connection with coal mining. These include permits issued by various federal, state and local agencies and regulatory bodies. The permitting rules, and the interpretations of these rules, are complex, change frequently and are often subject to discretionary interpretations by the regulators, all of which may make compliance more difficult or impractical, and may possibly preclude the continuance of ongoing operations or the development of future mining operations. The public, including non- governmental organizations, anti- mining groups and individuals, have certain statutory rights to comment upon and submit objections to requested permits and environmental impact statements prepared in connection with applicable regulatory processes, and otherwise engage in the permitting process, including bringing citizens’ lawsuits to challenge the issuance of permits, the validity of environmental impact statements or the performance of mining activities. Accordingly, required permits may not be issued or renewed in a timely fashion or at all, or permits issued or renewed may be conditioned in a manner that may restrict our ability to efficiently and economically conduct our mining activities, any of which could materially reduce our production, cash flow and profitability. Federal or state regulatory agencies have the authority to order certain of our mines to be temporarily or permanently closed under certain circumstances, which could materially and adversely affect our ability to meet our customers’ demands. Federal ~~or~~ **and** state regulatory agencies **each** have the authority, under certain circumstances following significant health and safety incidents, such as fatalities, to order a mine to be temporarily or permanently closed. If this occurred, we may be required to incur capital expenditures to re- open the mine. In the event that these agencies order the closing of our mines, our coal sales contracts generally permit us to issue force majeure notices which suspend our obligations to deliver coal under these contracts. However, our customers may challenge our issuances of force majeure notices. If these challenges are successful, we may have to purchase coal from third- party sources, if it is available, to fulfill these obligations, incur capital expenditures to re- open the mines and / or negotiate settlements with the customers, which may include price or commitment reductions, extensions of time for delivery or terminations of customers’ contracts. Any of these actions could have a material adverse effect on our business and results of operations. 55Extensive environmental regulations impose significant costs on our mining operations, and future regulations could materially increase those costs or limit our ability to produce and sell coal. The coal mining industry is subject to increasingly strict regulation by federal, state and local authorities with respect to environmental matters such as: ● limitations on land use; ● mine permitting and licensing requirements; ● reclamation and restoration of mining properties after mining is completed and required surety bonds or other instruments to secure those reclamation and restoration obligations; ● management of materials generated by mining operations; ● the storage, treatment and disposal of wastes; ● remediation of contaminated soil and groundwater; ● air quality standards; ● water pollution; ● protection of human health, plant- life and wildlife, including endangered or threatened species; ● protection of wetlands; ● the discharge of materials into the environment; ● **subsidence; ●** the effects of mining on surface water and groundwater quality and availability; and ● the management of electrical equipment containing polychlorinated biphenyls. The costs, liabilities and requirements associated with the laws and regulations related to these and other environmental matters may be costly and time-consuming and may delay commencement or continuation of exploration or production operations. Failure to comply with these laws and regulations may result in the assessment of administrative, civil and criminal penalties, the imposition of cleanup and site restoration costs and liens, the issuance of injunctions to limit or cease operations, the suspension or revocation of permits and other enforcement measures that could have the effect of limiting production from our operations. We may incur material costs and liabilities resulting from claims for damages to property or injury to persons arising from our operations. If we are pursued for sanctions, costs ~~and~~ **or** liabilities in respect of these matters ~~, our mining operations and, as a result~~ , our profitability could be materially and adversely affected. New legislation or administrative regulations or new judicial interpretations or administrative enforcement of existing laws and regulations, including proposals related to the protection of the environment that would further regulate and tax the coal industry, may also require us to change operations significantly or incur increased costs, which could have a material adverse effect on our financial condition and results of operations. Please refer to the section entitled " Environmental and Other Regulatory Matters " in Item 1 for more information about the various governmental regulations affecting us. If the assumptions underlying our estimates of reclamation and mine closure obligations are inaccurate, our costs could be greater than anticipated. SMCRA and counterpart state laws and regulations establish operational, reclamation and closure standards for all aspects of surface mining, as well as most aspects of underground mining. We base our estimates of reclamation and mine closure liabilities on permit requirements, engineering studies and our engineering expertise related to these requirements. Our management and engineers periodically review these estimates. Actual costs can vary from our original estimates if our assumptions are incorrect, major operational changes are implemented, or if governmental regulations change significantly. We are required to record new obligations as liabilities at fair value under U. S. GAAP. In estimating fair value, we consider the estimated current costs of reclamation and mine closure and applied inflation rates, together with third- party profit, as required. The third- party profit is an estimate of the approximate markup that would be charged by contractors for work performed on our behalf. The resulting estimated reclamation and mine closure obligations could change significantly if actual amounts change significantly from our assumptions, which could have a material adverse effect on our results of operations and financial condition. 56Our operations may impact the environment or cause exposure to hazardous substances, and our properties may have environmental contamination, which could result in material liabilities to us. Our operations currently use hazardous materials and generate hazardous wastes from time to time. We could become subject to claims for toxic torts, natural resource damages and other damages as well as for the investigation and cleanup of soil, surface water, groundwater, and other media. Such claims may arise, for example, out of conditions at sites that we currently own or operate, as well as at sites that we previously owned or operated, or at sites that we may acquire. Under certain federal and state environmental laws, our liability for such conditions may be joint and several with other owners / operators, so that we may be held responsible for more than our share of the contamination or other damages, or even for the entire share. Liability under these laws is generally strict. Accordingly, we may incur liability without regard to fault or to the legality of the conduct giving rise to the conditions. We maintain extensive coal refuse areas and slurry impoundments at a number of our mining complexes. Such areas and impoundments are subject to extensive regulation. Slurry impoundments can fail, which could release large volumes of coal slurry into the surrounding environment. Structural failure of an impoundment can result in extensive damage to the environment and natural resources, such as bodies of water that the coal slurry reaches, as well as liability for related personal injuries and property damages, and injuries to wildlife. Some of our impoundments overlie mined- out areas, which can pose a heightened risk of failure and of damages arising out of failure. If one of our impoundments were to fail, we could be subject to substantial claims for the resulting environmental contamination and associated liability, as well as for fines and penalties. Drainage flowing from or caused by mining activities can be acidic with elevated levels of dissolved metals, a condition referred to as " acid mine drainage, " which we refer to as AMD. The treating of AMD can be costly. Although we do not currently face material costs associated with AMD, it is possible that we could incur significant costs in the future. These and other similar unforeseen impacts that our operations may have on the environment, as well as exposures to hazardous substances or wastes associated with our operations, could result in costs and liabilities that could materially and adversely affect our business, financial condition and results of operations. Changes in the legal and regulatory environment could complicate or limit our business activities, increase our operating costs or result in litigation. The conduct of our businesses is subject to various laws and regulations administered by federal, state and local governmental agencies in the United States. These laws and regulations may change, sometimes dramatically, as a result of political, economic or social events or in response to significant events. Environmental and other non- governmental organizations and activists, many of which are well funded, continue to exert pressure on regulators and other government bodies to enact more stringent laws and regulations. For instance, increasing attention to global climate change has resulted in an increased possibility of governmental investigations and, potentially, private litigation against us and our customers. For example, claims have been made against certain energy companies alleging that greenhouse gas emissions constitute a public nuisance or that such companies have been aware of the adverse effects of greenhouse gas emissions for some time but failed to adequately disclose such impacts to consumers or investors. While our business is not a party to any such litigation, we could be named in actions making similar allegations.

Moreover, the proliferation of successful climate change litigation could adversely impact demand for coal and ultimately have a material adverse effect on our business, financial condition and results of operations. Changes in the legal and regulatory environment in which we operate may impact our results, increase our costs or liabilities, complicate or limit our business activities or result in litigation. Such legal and regulatory environment changes may include changes in such items as: the processes for obtaining or renewing permits; federal Lease By Application (" LBA ") programs; costs associated with providing healthcare benefits to employees; health and safety standards; accounting standards; disclosure requirements; taxation requirements; competition laws; and trade policies, including policies concerning tariffs, quotas, trade barriers and other trade protection measures. 57