Risk Factors Comparison 2024-03-29 to 2023-03-30 Form: 10-K

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If the United States were to withdraw from or materially modify certain international trade agreements, our business, financial condition and results of operations could be materially adversely affected. Ethanol and other products that we produce are sold into various other countries with trade agreements with the United States. If tariffs were raised on the foreign- sourced goods that lead to retaliatory actions, it could have material adverse effect on our business, financial condition and results of operations. The United States exported ~~approximately~~ **an estimated** 1. 4 billion gallons of ethanol in ~~2022~~ **2023** , up from approximately 1. ~~2~~ **3** and approximately 1. ~~3~~ **2** billion gallons in **2022 and** 2021 ~~and 2020~~ , respectively. In **2023 and** 2022 **,** ~~and~~ - **an** ~~2021, approximately~~ **estimated 10. 8 and** 11. 4 ~~and 11. 6~~ million metric tons, respectively, of distillers grains were exported, which represented approximately 34 % ~~and 36 %, respectively,~~ of U. S production **each year** . If producers and exporters of ethanol and distillers grains are subject to trade restrictions, or additional duties are imposed on exports, it may make it uneconomical to export these products. The industry has experienced various trade policy disputes, tariffs and investigations in foreign countries that have adversely impacted the international demand for our products. Reduced international demand could lead to further oversupply and reduce pricing. Future demand for ethanol is uncertain and changes in overall consumer demand for transportation fuel could affect demand. There are limited markets for ethanol other than what is federally mandated. Increased consumer acceptance of E15 and E85 fuel is likely necessary in order for ethanol to achieve significant market share growth beyond federal mandate levels. Consumer demand for gasoline may be impacted by emerging transportation trends, such as **hybrid and** electric vehicles. ~~Most~~ **Numerous** automobile manufacturers have **announced plans** ~~made varying levels of commitments~~ to phase out internal combustion engine production **by** ~~, such as General Motors with a target date of 2035 to phase out~~ the **mid** ~~production of gasoline and diesel - powered vehicles and Nissan targeting the early~~ 2030s ~~to convert their entire fleet to electric vehicles~~ . There also have been pledges to ban the sale of internal combustion engines in countries such as Japan and the United Kingdom by 2035, as well as a statewide ban in California, which several states are imitating. If realized, these bans would accelerate the decline of liquid fuel demand and by extension demand for ethanol, biodiesel and renewable diesel. Recent federal legislation seeks to address the ever- increasing demand for electric vehicle infrastructure. Reduced demand for ethanol could cause our results of operations to be materially impacted. We depend on our partners to operate certain of our ethanol investments. Our investments currently represent both majority and minority equity positions. Day- to- day operating control of minority owned plants generally remains with the local investor group. We do not have the ability to directly modify the operations of these plants in response to changes in the business environment or in response to any deficiencies in local operations of the plants. In addition, local plant operators, who also represent the primary suppliers of corn and other crops to the plants, may have interests, such as the price and sourcing of corn and other crops, that may differ from our interest, which is based solely on the operating profit of the plant. The **12** limitations on our ability to control day- to- day plant operations could adversely affect plant results of operations. We may not successfully acquire or develop additional ethanol investments. The growth of our ethanol business depends on our ability to identify and develop new ~~ethanol investments. Our ethanol development strategy depends on referrals, and introductions, to new investment opportunities from industry participants, such as ethanol plant builders and owners, financial institutions, marketing agents and others. We must continue to maintain favorable relationships with these industry participants, and a material disruption in these sources of referrals would adversely affect our ability to expand our~~ ethanol investments. Any expansion strategy will depend on prevailing market conditions for the price of ethanol and the cost of corn and natural gas and the expectations of future market conditions. Additional financing may also be necessary to implement any expansion strategy, which may not be accessible or available on acceptable terms. In addition, failure to adequately manage the risks associated with additional ethanol investments could have a material adverse effect on our business. We may not successfully develop our planned carbon sequestration facility near the One Earth Energy ethanol plant. The Company has committed significant time and resources towards a carbon sequestration project near the One Earth Energy ethanol plant. The completion **and start- up** of this project requires numerous government and landowner approvals. If we are not successful in obtaining all these approvals, we may not be able to complete this project and could result in a **significant** write off of our commitments and investments. If we are not successful on this project, our ethanol plant could be at a disadvantage in the industry as our inability to sequester our carbon could result in a higher ~~carbon intensity (~~ CI ~~)~~ score than our competitors if they are able to sequester their carbon. If we are unable to reduce our CI score, we may not be able to participate in the state and federal clean fuel programs, including federal tax credits outlined in the Inflation Reduction Act **. Carbon capture and sequestration projects are subject to federal, state, and local regulations. In addition to our planned carbon sequestration facility near our One Earth Energy ethanol plant, we have signed an agreement to deliver our carbon from the NuGen Energy facility to an outside party. These projects may not result in any realized benefit due to delays or suspended operations. Investments being made in these projects are based on regulatory guidelines, such as modeling for CI reductions, that may be adjusted outside of our control and could deviate from our current strategy. Federal guidelines within the IRA could be changed to no longer include corn- based ethanol from being eligible for certain tax incentives. Delays in the issuance or regulations or the elimination of clean fuel and other incentives at the federal, state or local level could adversely affect our business. New legislation limiting our ability to sequester carbon could be adopted at the federal, state or local levels** . Our ethanol plants may be adversely affected by technological advances and efforts to anticipate and employ such technological advances may prove unsuccessful. The development and implementation of new technologies may result in a significant reduction in the costs of ethanol production. For instance, any technological advances in the efficiency or cost to produce ethanol from inexpensive cellulosic sources such as corn stalk, wheat, oat or barley straw could have an adverse effect on our ethanol plants, because our plants are designed to produce ethanol from corn, which is, by comparison, a raw material with other high value uses. We cannot predict when, or if, new technologies may become available, the rate of acceptance of new technologies by competitors or the costs associated with new technologies. In addition, advances in the development of alternatives to ethanol could significantly reduce demand for or eliminate the need for ethanol. **13** Any advances in technology which require significant unanticipated capital expenditures to remain competitive or which reduce demand or prices for ethanol would have a material adverse effect on the results of our ethanol operations. In addition, alternative fuels, additives and oxygenates are continually under development. Alternative fuel additives that can replace ethanol may be developed, which may decrease the demand for ethanol. It is also possible that technological advances in engine and exhaust system design and performance could reduce the use of oxygenates, which would lower the demand for ethanol. Reduced demand for ethanol could cause our results of operations to be materially adversely affected. The U. S. ethanol industry is highly dependent upon a myriad of federal and state legislation and regulation and any changes in legislation or regulation could materially and adversely affect our results of operations and financial position. The renewable fuel standard program was authorized under the Energy Policy Act of 2005 and was expanded under the Energy Independence and Security Act of 2007 (EISA). EISA increased the amount of renewable fuel required to be blended into gasoline with RFS II and required a minimum usage of corn- derived renewable fuels of 12. 0 billion gallons in 2010, increasing annually by 600 million gallons to 15. 0 billion gallons in 2015 through 2022, with no specified volume subsequent to 2022. After 2022, RFS volumes are to be determined by the EPA in coordination with the Secretaries of Energy and Agriculture. The EPA has the authority to assign the mandated amounts of renewable fuels to be blended into transportation fuel to individual fuel blenders. RFS II has been a primary factor in the growth of ethanol usage. Over the past several years various pieces of legislation have been introduced to the U. S. Congress that were intended to reduce or eliminate ethanol blending requirements. To date, none of the bills have been successful but they are an indication of the continued effort to undermine the EISA. The EPA has ~~proposed~~ **set** conventional renewable fuel volumes of 15. 0 billion gallons for 2023 **through** ~~and 15. 25 billion gallons for both 2024 and~~ 2025 ~~.~~ Additionally, ~~the proposal~~ for 2023 ~~also~~ **, the EPA** ~~restores~~ **restored** ~~the remaining~~ 250 million gallons previously waived ~~in 2016~~ . Obligated parties use RINs to show compliance with RFS- mandated volumes. RINs are attached to renewable fuels by producers and detached when the renewable fuel is blended with transportation fuel or traded in the open market. The market price of detached RINs affects the price of ethanol in certain markets and influences the purchasing decisions by obligated parties. As a result of fluctuations in RINs pricing, certain obligated parties have petitioned the EPA and filed court actions to change the point of obligation or to seek relief from their obligation. The EPA granted 88 total Small Refinery Exemptions (" SREs ") for 2016 through 2018 totaling approximately 4. 3 billion gallons. ~~This action~~ **In recent years, the EPA had largely denied small refiner waivers. However, on November 22, 2023, the Fifth U. S. Circuit Court of Appeals (the " Court ")** ~~led~~ **ruled against the EPA on six SREs the EPA had previously denied. The Court remanded those six petitions back** to ~~reduced values for RINs,~~ **the EPA and each refinery will continue to operate under temporary SREs granted to them by the Court. These** and further ~~action~~ **SREs** could **lead to** ~~decrease~~ **decreased** RIN values and ethanol pricing ~~. In January 2020, the U. S Court of Appeals for the 10th Circuit overturned the EPA' s granting of refinery exemptions to three refineries on two separate grounds. The Court ruled refineries are eligible for SREs only if such waivers are extensions of waivers granted in previous years. The refineries did not qualify for waivers in the year prior to the year the EPA granted them. The Court also stated the disproportionate economic hardship of SREs should be based solely on whether compliance with RFS II creates such hardship, not whether compliance and other issues create the hardship. Two of the refiners appealed the decision to the U. S. Supreme Court, and on January 25, 2021, the Supreme Court partially ruled in favor of the small refiners, but only as to the interpretation of " extension " of a waiver~~ . Flexible fuel vehicles (" FFVs ") receive preferential treatment in meeting federally mandated corporate average fuel economy (" CAFE ") standards for automobiles manufactured by car makers. High blend ethanol fuels such as E- 85 result in lower fuel efficiencies. Absent the CAFE preferences, car makers would not likely build flexible- fuel vehicles. In recent years, automobile manufactures have **lowered** ~~backtracked in~~ the production of FFVs for the U. S. Any change in CAFE preferences could reduce the growth of E- 85 markets and result in lower ethanol prices. Unfavorable changes in legislation or regulations could materially and adversely affect our results of operations and financial position. **14** The inability to generate or obtain RINs could adversely affect our operating results. Virtually all our ethanol is sold with RINs that are used by customers to comply with RFS II. If our production does not meet EPA requirements for RIN generation, as an efficient producer, in the future, we would have to purchase RINs in the open market or sell our ethanol at substantially lower prices **, such as on the export market,** to adjust for the absence of RINs. The price of RINs varies based on many factors and cannot be predicted. Failure to obtain sufficient RINs or reliance on invalid RINs could subject us to fines and penalties imposed by the EPA. Various studies have criticized the efficiency of ethanol, in general, and corn- based ethanol in particular, which could lead to the reduction or repeal of incentives and tariffs that promote the use and domestic production of ethanol or otherwise negatively impact public perception and acceptance of ethanol as an alternative fuel. Although many trade groups, academics and governmental agencies have supported ethanol as a fuel additive that promotes a cleaner environment, others have criticized ethanol production as consuming considerably more energy and emitting more greenhouse gases than other biofuels and as potentially depleting water resources. Other studies have suggested that corn- based ethanol negatively impacts consumers by causing prices to increase for dairy, meat and other foodstuffs. If these views gain acceptance, support for existing measures promoting use and domestic production of corn- based ethanol could decline, leading to reduction or repeal of these measures. These views could also negatively impact public perception of the ethanol industry and acceptance of ethanol as an alternative fuel. Federal support of cellulosic ethanol may result in reduced incentives to corn- derived ethanol producers. The American Recovery and Reinvestment Act of 2009 and EISA provide funding opportunities in support of cellulosic ethanol obtained from biomass sources such as switchgrass and poplar trees. These federal policies may suggest a long- term political preference for cellulosic processes using alternative feedstocks such as switchgrass, silage or wood chips. Cellulosic ethanol has a smaller carbon footprint than corn- derived ethanol and is unlikely to divert foodstuff from the market. Our plants are designed as single- feedstock facilities, located in corn production areas with limited alternative feedstock nearby, and would require significant additional investment to convert to the production of cellulosic ethanol. The adoption of cellulosic ethanol as the preferred form of ethanol could have a significant adverse effect on our ethanol business. Our ethanol business is affected by environmental and other regulations which could impede or prohibit our ability to successfully operate our plants. Our ethanol production facilities are subject to extensive air, water **discharge,** and other environmental regulations. We have had to obtain numerous permits to construct and operate our plants. Regulatory agencies could impose conditions or other restrictions in the permits that are detrimental, or which increase our costs. More stringent federal or state environmental regulations could be adopted which could significantly increase our operating costs or require us to expend considerable resources. Our ethanol plants emit various airborne pollutants as by- products of the ethanol production process, including carbon dioxide (a greenhouse gas). In 2007, the U. S. Supreme Court classified carbon dioxide as an air pollutant under the Clean Air Act in a case seeking to require the EPA to regulate carbon dioxide in vehicle emissions. In February 2010, the EPA released its final regulations on the Renewable Fuel Standard program. We believe our plants are grandfathered up to certain operating capacity, but plant expansion requires us to **15** meet a 20 % threshold reduction in greenhouse gas (GHG) emissions from a 2005 baseline measurement to produce ethanol eligible for the RFS II mandate. To further expand our plant capacity, we may be required to obtain additional permits, install advanced technology equipment, or reduce drying of certain amounts of distillers grains. We may also be required to install carbon dioxide mitigation equipment or take other steps in order to comply with future laws or regulations. Compliance with future laws or regulations with respect to emissions of carbon dioxide, or if we choose to expand capacity at certain of our plants, compliance with then- current regulations of carbon dioxide, could be costly and may prevent us from operating our plants **at full capacity or** as profitably, which may have a negative impact on our financial performance. We also face the risk of ethanol production above our grandfathered capacity not qualifying for RINs if the plants do not meet certain emission requirements. The California Air Resources Board (" CARB ") adopted a ~~Low Carbon Fuel Standard ("~~ LCFS ~~")~~ requiring a 10 % reduction in GHG emissions from transportation fuels. An Indirect Land Use Charge is included in this lifecycle GHG emission calculation. This standard could have an adverse impact on the market for corn- based ethanol in California if corn- based ethanol fails to achieve lifecycle GHG emission reductions and in other states if they adopt similar standards. This could have a negative impact on our financial performance. Our ethanol business may become subject to various environmental and health and safety and property damage claims and liabilities. Operation of our ethanol business exposes the business to the risk of environmental and health and safety claims and property damage claims, such as failure to comply with environmental regulations. These types of claims could also be made against our ethanol business based upon the acts or omissions of other persons. Serious claims could have a material negative impact on our results of operations, financial position and future cash flows. During the early months of 2020,...... to the impact of the pandemic. Our business is not diversified. Our financial results depend heavily on our ability to operate our ethanol plants profitably. Our lack of diversification could have a material negative impact on our results of operations, financial position and future cash flows should our ethanol plants operate unprofitably. We may not be able to meet commitments to produce and sell ethanol. We may, at times, sell our products with forward contracts. If we are unable to produce the products due to economic conditions, business interruption, or other factors, we may incur additional costs or have to obtain commodities at unfavorable prices to meet our contractual commitments. This could have a material adverse effect on our results of operations. We may not be able to meet commitments to purchase commodities. We may, at times, purchase certain commodities with forward contracts without a corresponding quantity of ethanol sold via forward contracts at known prices. Should ethanol and by- product prices decline to levels that would lead to significant unprofitable results of operations, we may incur additional costs and / or losses to meet our contractual commitments. This could have a material adverse effect on our results of operations. **16** Our revenue from the sale of distillers grains depends upon its continued market acceptance as an animal feed. Distillers grains is a by- product from the fermentation of corn to produce ethanol. Antibiotics may be used during the fermentation process to control bacterial contamination; therefore, antibiotics may be present in small quantities in distillers grains marketed as animal feed. The U. S. Food and Drug Administration' s Center for Veterinary Medicine has expressed concern about potential animal and human health hazards from the use of distillers grains as an animal feed due to the possibility of antibiotic residues. If the public became concerned about the impact of distillers grains in the food supply or as an acceptable animal feed, the market for distillers grains could be negatively impacted, which would have a negative impact on our results of operations. We may not be able to obtain a suitable replacement for antibiotics, should this be required, which would also negatively impact the market for distillers grains. An estimated 34 % of distillers grains produced in the United States were exported in ~~2022~~ **2023** . The price of distillers grains has benefitted from the exports of the product. In recent years, certain countries have refused to import U. S. distillers grains for a variety of reasons. If export shipments are rejected or delayed, the market price for distillers grains would be negatively impacted, which would have a negative impact on our ethanol results of operations. We extract **distillers** ~~non- food grade~~ corn oil immediately prior to the production of distillers grains. Several studies are attempting to determine whether **distillers** ~~non- food grade~~ corn oil extraction may impact the nutritional value of the resulting distillers grains. If it is determined that **distillers** ~~non- food grade~~ corn oil extraction adversely impacts the nutritional energy content of distillers grains, the value of the distillers grains we sell may be negatively impacted, which would have a negative impact on our results of operations. We face significant competition in the ethanol industry. We face significant competition for new ethanol investment opportunities. Many of our competitors are larger and have greater financial resources and name recognition than we do. We must compete for investment opportunities based on our strategy of supporting and enhancing local development of ethanol plant opportunities. We may not be successful in competing for investment opportunities based on our strategy. The ethanol industry is primarily comprised of entities that engage exclusively in ethanol production and large integrated grain companies that produce ethanol along with their base grain business. Several large oil companies have entered the ethanol production market. If these companies increase their ethanol plant ownership or if other oil companies seek to engage in direct ethanol production, there would be less of a need to purchase ethanol from independent producers such as our ethanol plants. No assurance can be given that our ethanol plants will be able to compete successfully or that competition from larger companies with greater financial resources will not have a materially adverse impact on the results of our ethanol operations. We may face competition from foreign producers. There is a risk of foreign competition in the ethanol industry. Brazil is presently the second largest producer of ethanol in the world. Brazil' s ethanol production is **mostly** sugarcane based, and, depending on feedstock prices, may be cheaper to produce than corn- derived ethanol. Under the RFS, certain parties were obligated to meet an advanced biofuel standard. In recent years, sugarcane- based ethanol imported from Brazil has been one of the most economical means for obligated parties to comply with this standard. If significant additional foreign ethanol production capacity is created, such facilities could create excess supplies of ethanol, which may result in lower prices of ethanol. In addition, foreign ethanol producers may **17** be able to produce ethanol at costs lower than ours. These risks could have significant adverse effects on our financial performance. We are exposed to credit risk from our sales of ethanol and distillers grains to customers. The inability of a customer to make payments to us for our accounts receivable may cause us to experience losses and may adversely impact our liquidity and our ability to make our payments when due. We may not be able to hire and retain qualified personnel to operate our ethanol plants **and carbon sequestration facility** . Our ability to attract and retain competent personnel has a significant impact on operating efficiencies and plant profitability. Competition for key plant employees in the ethanol industry can be intense, and there has been an increased demand for workers in the U. S. We may not be able to attract and retain qualified employees. Failure to do so could have a negative impact on our financial results at individual plants. Our plants depend on an uninterrupted supply of energy and water to operate. Unforeseen plant shutdowns could harm our business. Our plants require a significant and uninterrupted supply of natural gas, electricity and water to operate. We generally rely on third parties to provide these resources. If there is an interruption in the supply of energy or water for any reason, such as supply, delivery or mechanical problems and we are unable to secure an adequate alternative supply to sustain plant operations, we may be required to stop production. A production halt for an extended period of time could result in material losses. We rely on information technology in our operations and financial reporting and any material failure, inadequacy, interruption or security breach of that technology could harm our ability to efficiently operate our business and report our financial results accurately and timely. We rely heavily on information technology systems across our operations, including for management of inventory, purchase orders, production, invoices, shipping, accounting and various other processes and transactions. Our ability to effectively manage our business, coordinate the production, distribution and sale of our products and ensure the timely and accurate recording and disclosure of financial information depends significantly on the reliability and capacity of these systems. While we have taken appropriate precautions to protect our systems, and to date, we have not experienced any material adverse events related to a security breach or cyber- attack, the failure of these systems to operate effectively, problems with transitioning to upgraded or replacement systems, or a breach in security of these systems through a cyber- attack or otherwise could cause delays and / or interruptions in plant operations, product sales, reduced efficiency of our operations and delays in reporting our financial results. Significant capital investments could be required to remediate any such problem. Security breaches of employee information or other confidential or proprietary data could also adversely impact our reputation and could result in litigation against us or the imposition of penalties. We are exposed to potential business disruption from factors outside our control, including natural disasters, severe weather conditions, accidents, pandemic diseases, international disputes, and unforeseen operational failures any of which could negatively affect our transportation operations and could adversely affect our cash flows and operating results. Potential business disruption in available transportation due to natural disasters, severe weather conditions, the outbreak of a pandemic disease, significant track damage resulting from a train derailment, strikes or other interruptions by our transportation providers could result in delays in procuring and supplying raw materials **18** to our ethanol facilities, or transporting ethanol and distillers grains to our customers. Such business disruptions may result in our inability to meet customer demand or contract delivery requirements, as well as the potential loss of customers. We ship much of our products and receive a portion of our corn via rail, which involves risks involving potential regulatory changes that could adversely affect our cash flows and operating results. A large portion of our ethanol and distillers grains sales are shipped via rail. In addition, we receive some corn via rail. Given the notoriety of recent major train derailments, it is possible that additional regulations could be enacted. Any changes to existing laws and regulations, or new laws and regulations, including voluntary measures taken by the rail industry, could result in higher shipping costs, or new requirements for the design, construction or operation of tank cars that transport hazard materials, such as ethanol. In addition, any derailments involving our products could result in legal claims being brought against us that could involve significant liabilities. We operate in a capital intensive industry. Limitations on external financing could adversely affect our financial performance. We may need to incur additional financing to fund growth of our business or in times of increasing liquidity requirements (such as increases in raw material costs). Bankruptcy filings by several ethanol companies in past years and capital market volatility has reduced available capital for the ethanol industry. Any delays in obtaining additional financing, or our inability to do so, could have a material adverse impact on our financial results **.** During the early months of 2020,a new strain of COVID- 19 spread into the United States and other countries.In an effort to contain the spread of this virus,there were various government mandated restrictions,in addition to voluntary privately implemented restrictions,including limiting public gatherings,retail store closures,restrictions on employees working and the quarantining of people who may have been exposed to the virus.The above actions led to reduced demand for ethanol. **If** ~~Although most restrictions have been lifted,if~~ in the future **,this** ~~the virus continues to mutate~~ or other viruses surface,it could lead to prolonged production stoppages at our ethanol plants and could result in an adverse material impact on the results of operations and on our financial position.We idled our NuGen and One Earth ethanol plants for portions of fiscal year 2020 **,largely due to the impact of the pandemic** . Risks Related to our Refined Coal Operations We believe our refined coal production company qualified to earn tax credits under IRC Section 45 through November 18, 2021. Our ability to ~~generate returns and~~ avoid write- offs in connection with this investment is subject to various risks and uncertainties. These include, but are not limited to, the risks and uncertainties as set forth below. Availability of the tax credits under IRC Section 45. Our ability to claim tax credits under IRC Section 45 depends upon our refined coal operation satisfying certain conditions set forth in IRC Section 45. The IRS could ultimately determine that our refined coal facility and / or its operations did not satisfy the conditions set forth in IRC Section 45. This operation is currently under audit by the IRS and if we were to lose these tax credits, it could have a material **adverse** impact on our results of operations. **19** Our refined coal operation and its by- products may result in environmental and product liability claims and environmental compliance costs. The construction and operation of refined coal operations were subject to Federal, state and local laws, regulations and potential liabilities arising under or relating to the protection or preservation of the environment, natural resources and human health and safety. Such laws and regulations generally require the operations and / or the utilities at which the operations are located to obtain and comply with various environmental registrations, licenses, permits, inspections and other approvals. Such laws and regulations also impose liability, without regard to fault or the legality of a party' s conduct, on certain entities that are considered to have contributed to, or are otherwise involved in, the release or threatened release of hazardous substances into the environment ~~. Such hazardous substances could be released as a result of burning refined coal in a number of ways, including air emissions, wastewater, and by- products such as fly ash. One party may, under certain circumstances, be required to bear more than its share or the entire share of investigation and cleanup costs at a site if payments or participation cannot be obtained from other responsible parties. We may be exposed to the risk of becoming liable for environmental damage we may have had little, if any, involvement in creating~~ . Such risk remains even after production ceases at an operation to the extent the environmental damage can be traced to the types of chemicals or compounds used or operations conducted in connection with the use of refined coal. ~~No assurances can be given that contractual arrangements and precautions taken to ensure assumption of these risks by facility owners or operators will result in that facility owner or operator accepting full responsibility for any environmental damage. It is also not uncommon for private claims by third parties alleging contamination to also include claims for personal injury, property damage, diminution of property or similar claims. Furthermore, many environmental, health and safety laws authorize citizen suits, permitting third parties to make claims for violations of laws or permits and force compliance.~~ Our insurance may not cover all environmental risk and costs or may not provide sufficient coverage in the event of an environmental claim. If significant uninsured losses arise from environmental damage or product liability claims, or if the costs of environmental compliance increase for any reason, our results of operations and financial condition could be adversely affected. We will have to generate taxable income to utilize the Section 45 federal production tax credits. If we do not generate sufficient taxable income to utilize the tax credits earned by our refined coal operation, we could incur write- offs of the related tax attributes which could adversely affect our results of operations and financial condition. We used patented technology. As part of the operations, we paid a license fee for patented technology. If our third- party operator is subject to patent infringement claims, we may incur legal fees to defend our position and be subject to additional costs and fees. Risks Related to REX and General Risk Factors We have concentrations of cash deposits at financial institutions that exceed federal insurance limits. We generally have cash deposits that exceed federal insurance limits. Should the financial institutions we deposit our cash in experience insolvency or other financial difficulty, our access to cash deposits could be limited. In extreme cases, we could lose our cash deposits entirely. This would negatively impact our liquidity and results of operations. **20** We may fail to realize the anticipated benefits of mergers, acquisitions, or other investments. We intend to continue seeking growth opportunities. Acquisitions and similar transactions involve many risks that could harm our business, which include: ● The anticipated benefits of these transactions may not be fully realized, or take longer to realize than expected, ● Future acquisitions could result in operating losses or loss of investment, ● Future acquisitions may involve incurring debt to complete these transactions, which could have a material adverse effect on our financial condition, ~~and~~ ● Future acquisitions may require us to invest a significant portion of our excess cash, which could have a material adverse effect on our financial condition **, and ● Our carbon sequestration investment may not be successful** . Rising focus on environmental, social and corporate governance matters from investors and regulators may increase our operating costs, bring down the value of our products and assets, and impact our ability to access capital markets. Global climate change continues to receive significant attention from the public and the scientific community concerning the impacts from human activity, particularly the impact of greenhouse gas emissions, such as those from carbon dioxide and methane. The current federal administration' s focus on environmental issues has added pressure to take action domestically where there was already a heavier focus internationally. International, national, and local regulations are likely to increase in the coming years. Added requirements to reduce greenhouse gas emissions may increase our production costs. In addition, legislation promoting alternatives to combustion engine vehicles could reduce the demand for our products. Climate change is also thought by some to be the cause for an increase in extreme weather events such as increased intensity of storms, rising sea levels, as well as heavy rains or droughts in areas historically less prone to those events. Any of these events can have a significant impact on our operations or quality of raw materials we purchase, resulting in increased costs. At this time, we are unable to determine the financial impact of any potential adverse weather events caused by climate change. Incremental to legislative and regulatory pressure, institutional investors have continued to adopt environmental, social and governance guidelines (ESG). Some investors, including certain public and private fund management firms, pension funds, university endowments and family offices, have in recent years, begun adding stated policies to reduce or eliminate fossil fuel equities and encouraging additional consideration of ESG practices in a manner that could negatively impact our stock price. This may also result in a reduction of available capital funding for potential development projects, further impacting our future financial results. Federal, state and local jurisdictions may challenge our tax return positions. We use significant judgments, estimates and interpretation and application of complex tax laws in preparing the tax returns we file, and the positions contained therein. We believe that our tax return positions are fully supportable. However, certain positions may be successfully challenged by federal, state and local jurisdictions. We are currently undergoing a federal income examination related to tax credits claimed for the years ended January 31, 2015 through ~~2020~~ **2022** . This could result in material additional income tax payments we would have to make and higher income tax expense in future periods. Item 1B. Unresolved Staff Comments