Clean Energy Fuels Corp.
Form 10-Q
August 13, 2008
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 10-Q

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

For the quarterly period ended June 30, 2008

Commission File Number: 001-33480

CLEAN ENERGY FUELS CORP.

(Exact name of registrant as specified in its charter)

Delaware	**33-0968580**
(State or other jurisdiction of incorporation)	(IRS Employer Identification No.)

3020 Old Ranch Parkway, Suite 200, Seal Beach CA 90740

(Address of principal executive offices, including zip code)

(562) 493-2804

(Registrant s telephone number, including area code)

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

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

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

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

As of August 11, 2008, there were 44,310,720 shares of the registrant s common stock, par value $0.0001 per share, issued and outstanding.

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CLEAN ENERGY FUELS CORP. AND SUBSIDIARIES

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements (Unaudited)

Clean Energy Fuels Corp. and Subsidiaries

Condensed Consolidated Balance Sheets

December 31, 2007 and June 30, 2008 (Unaudited)

	December 31, 2007	June 30, 2008
Assets		
Current assets:		
Cash and cash equivalents	$ 67,937,602	$ 22,528,139
Short-term investments	12,479,684	8,469,119
Accounts receivable, net of allowance for doubtful accounts of $501,751 and $845,909 as of December 31, 2007 and June 30, 2008, respectively	11,026,890	12,457,566
Other receivables	23,153,904	26,770,502
Inventory, net	2,403,890	2,696,414
Deposits on LNG trucks	15,515,927	17,355,927
Prepaid expenses and other current assets	3,633,318	5,791,221
Total current assets	136,151,215	96,068,888
Land, property and equipment, net	88,676,318	119,637,259
Capital lease receivables	763,500	564,000
Notes receivable and other long-term assets	2,511,813	4,771.319
Fair market value of futures contracts		3,565,441
Goodwill and other intangible assets	20,922,098	20,904,353
Total assets	$ 249,024,944	$ 245,511,260
Liabilities and Stockholders Equity		
Current liabilities:		
Current portion of capital lease obligation	$ 63,520	$ 66,763
Accounts payable	10,547,451	10,541,662
Accrued liabilities	5,381,541	4,654,020
Deferred revenue	677,826	655,778
Total current liabilities	16,670,338	15,918,223
Capital lease obligation, less current portion	161,377	127,165
Other long-term liabilities	1,260,755	1,182,942
Total liabilities	18,092,470	17,228,330
Commitments and contingencies		
Stockholders equity:		
Preferred stock, $0.0001 par value. Authorized 1,000,000 shares; issued and outstanding no shares		

Common stock, $0.0001 par value. Authorized 99,000,000 shares; issued and outstanding 44,274,375 shares and 44,291,401 shares at December 31, 2007 and June 30, 2008, respectively		4,428		4,431
Additional paid-in capital		297,866,745		303,113,716
Accumulated deficit		(69,086,583)		(76,928,011)
Accumulated other comprehensive income		2,147,884		2,092,794
Total stockholders equity		230,932,474		228,282,930
Total liabilities and stockholders equity	$	249,024,944	$	245,511,260

See accompanying notes to condensed consolidated financial statements.

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Clean Energy Fuels Corp. and Subsidiaries

Condensed Consolidated Statements of Operations

For the Three Months and Six Months Ended

June 30, 2007 and 2008

(Unaudited)

	Three Months Ended June 30, 2007	Three Months Ended June 30, 2008	Six Months Ended June 30, 2007	Six Months Ended June 30, 2008
Revenue	$ 30,663,597	$ 34,601,981	$ 58,830,640	$ 64,549,338
Operating expenses:				
Cost of sales	22,526,562	28,614,030	43,847,722	51,027,706
Derivative (gains) losses		(5,706,981)		(5,706,981)
Selling, general and administrative	10,440,718	12,139,133	16,740,596	23,726,851
Depreciation and amortization	1,700,164	2,184,019	3,276,220	4,247,440
Total operating expenses	34,667,444	37,230,201	63,864,538	73,295,016
Operating loss	(4,003,847)	(2,628,220)	(5,033,898)	(8,745,678)
Interest income, net	546,750	265,347	838,963	1,104,563
Other income (expense), net	(55,805)	1,622	(179,177)	39,978
Equity in gains (losses) of equity method investee		4,724		(140,322)
Loss before income taxes	(3,512,902)	(2,356,527)	(4,374,112)	(7,741,459)
Income tax expense	50,000	56,203	58,969	99,970
Net loss	$ (3,562,902)	$ (2,412,730)	$ (4,433,081)	$ (7,841,429)
Loss per share				
Basic	$ (0.09)	$ (0.05)	$ (0.12)	$ (0.18)
Diluted	$ (0.09)	$ (0.05)	$ (0.12)	$ (0.18)
Weighted average common shares outstanding				
Basic	38,149,455	44,300,309	36,071,554	44,291,401
Diluted	38,149,455	44,300,309	36,071,554	44,291,401

See accompanying notes to condensed consolidated financial statements.

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Clean Energy Fuels Corp.

Condensed Consolidated Statements of Cash Flows

For the Six Months Ended June 30, 2007 and 2008

(Unaudited)

	Six Months Ended June 30, 2007	Six Months Ended June 30, 2008
Cash flows from operating activities:		
Net loss	$ (4,433,081)	$ (7,841,429)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	3,276,220	4,247,440
Provision for doubtful accounts	892,910	336,018
Unrealized (gain) on futures contracts		(5,706,981)
Loss (gain) on disposal of assets	179,177	(38,356)
Stock option expense	3,832,654	5,098,331
Common stock issued in exchange for services		15,000
Changes in operating assets and liabilities:		
Accounts and other receivables	12,412,862	(5,413,292)
Inventory	128,748	(292,524)
Deposits on LNG trucks		(1,840,000)
Margin deposits on futures contracts		(1,236,000)
Capital lease receivables	449,500	199,500
Prepaid expenses and other assets	(3,314,238)	(1,039,868)
Accounts payable	2,054,456	1,397,084
Income taxes payable	(58,969)	
Accrued expenses and other	1,357,588	(827,382)
Net cash provided by (used in) operating activities	16,777,827	(12,912,459)
Cash flows from investing activities:		
Purchases of property and equipment	(17,030,839)	(36,719,601)
Proceeds from sale of property and equipment		48,432
Purchase of short-term investments		(43,430,041)
Maturity or sale of short-term investments		47,501,532
Net cash used in investing activities	(17,030,839)	(32,599,678)
Cash flows from financing activities:		
Repayment of capital lease obligations	(28,033)	(30,969)
Proceeds from issuance of common stock and exercise of stock options	110,315,677	133,643
Net cash provided by (used in) financing activities	110,287,644	102,674
Net increase (decrease) in cash	110,034,632	(45,409,463)
Cash, beginning of period	937,445	67,937,602
Cash, end of period	$ 110,972,077	$ 22,528,139
Supplemental disclosure of cash flow information		
Income taxes paid	$ 200	$ 116,567
Interest paid	50,873	10,606

See accompanying notes to condensed consolidated financial statements.

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CLEAN ENERGY FUELS CORP. AND SUBSIDIARIES

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

Note 1 General

Nature of Business: Clean Energy Fuels Corp. (the Company) is engaged in the business of selling natural gas fueling solutions to its customers primarily in the United States and Canada. The Company has a broad customer base in a variety of markets including public transit, refuse, airports and regional trucking. Clean Energy operates or supplies approximately 170 natural gas fueling locations in California, Texas, Colorado, Maryland, New York, New Mexico, Nevada, Washington, Massachusetts, Georgia, Wyoming and Arizona within the United States, and in British Columbia and Ontario within Canada. The Company also generates revenue through operation and maintenance agreements with certain customers, through building and selling or leasing natural gas fueling stations to its customers, and through financing its customers vehicle purchases. In April 2008, the Company opened its first CNG station in Lima, Peru through the Company s joint venture, Clean Energy del Peru.

Basis of Presentation: The accompanying interim unaudited condensed consolidated financial statements include the accounts of the Company and its subsidiaries, and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary to state fairly the Company s financial position, results of operations and cash flows for the three and six months ended June 30, 2007 and 2008. All intercompany accounts and transactions have been eliminated in consolidation. The three and six month periods ended June 30, 2007 and 2008 are not necessarily indicative of the results to be expected for the year ending December 31, 2008 or for any other interim period or for any future year.

Certain information and disclosures normally included in the notes to consolidated financial statements have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission (SEC), but the resultant disclosures contained herein are in accordance with accounting principles generally accepted in the United States of America as they apply to interim reporting. The condensed consolidated financial statements should be read in conjunction with the consolidated financial statements as of and for the year ended December 31, 2007 that are included in the Company s Annual Report on Form 10-K filed with the SEC.

Note 2 Cash and Cash Equivalents

The Company considers all highly liquid investments with maturities of three months or less on the date of acquisition to be cash equivalents. Cash and cash equivalents generally consist of cash, time deposits, commercial paper, money market funds and government and corporate debt securities with original maturity dates of three months or less. Such investments are stated at cost, which approximates fair value.

Note 3 Short-Term Investments

Short-term investments, which are classified as available for sale, generally consist of commercial paper and government and commercial debt securities with original maturity dates between three and six months. Short-term investments are marked-to-market at each period end with any unrealized gains or losses included in the condensed consolidated balance sheets under the line item accumulated other comprehensive income.

Note 4 Derivative Financial Instruments

The Company, in an effort to manage its natural gas commodity price risk exposures, utilizes derivative financial instruments. The Company, from time to time, enters into natural gas futures contracts that are over-the-counter swap transactions that convert its index-based gas supply arrangements to fixed-price arrangements. The Company accounts for its derivative instruments in accordance with SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended (SFAS 133). SFAS 133 requires the recognition of all derivatives as either assets or liabilities in the consolidated balance sheet and the measurement of those instruments at fair value. Historically, the Company s derivative instruments have not qualified for hedge accounting under SFAS 133. The Company did not have any derivative instruments during the year ended December 31, 2007 and through March 31, 2008. At June 30, 2008, the Company had purchased certain derivative instruments related to a fixed-price bid on a LNG supply contract (see note 5).

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The Company marks to market its open futures position at the end of each period and records the net unrealized gain or loss during the period in derivative (gains) losses in the consolidated statements of operations. For the three and six month periods ended June 30, 2008, the Company recorded unrealized gains of $5.7 million related to its futures contracts.

In July 2008, the Company sold certain contracts related to the derivative instruments it purchased in April 2008 and realized a loss of $6.0 million (see note 5), which will be reflected in the financial statements for the quarter ending September 30, 2008.

The Company is required to make certain deposits on its futures contracts, should any exist. At June 30, 2008, the Company had made $1.2 million of margin deposits related to its futures contracts, of which $0.4 million was current as of June 30, 2008.

Note 5 Fixed Price and Price Cap Sales Contracts

The Company enters into contracts with various customers, primarily municipalities, to sell liquefied natural gas (LNG) or compressed natural gas (CNG) at fixed prices or at prices subject to a price cap. The contracts generally range from two to five years. The most significant cost component of LNG and CNG is the price of natural gas.

As part of determining the fixed price or price cap in the contracts, the Company works with its customers to determine their future usage over the contract term. However, the Company s customers do not agree to purchase a minimum amount of volume or guarantee their volume of purchases. There is not an explicit volume in the contract as the Company agrees to sell its customers volumes on an as needed basis, also known as a requirements contract. The volume required under these contracts varies each month, and is not subject to any minimum commitments. For U.S. generally accepted accounting purposes, there is not a notional amount, which is one of the required conditions for a transaction to be a derivative pursuant to the guidance in SFAS 133.

The Company s sales agreements that fix the price or cap the price of LNG or CNG that it sells to its customers are, for accounting purposes, firm commitments, and U.S. generally accepted accounting principles do not require or allow the Company to record a loss until the delivery of the gas and corresponding sale of the product occurs. When the Company enters into these fixed price or price cap contracts with its customers, the price is set based on the prevailing index price of natural gas at that time. However, the index price of natural gas constantly changes, and a difference between the fixed price of the natural gas included in the customer s contract price and the corresponding index price of natural gas typically develops after the Company enters into the sales contract (with the price of natural gas having historically increased). From time to time, the Company has also entered into natural gas futures contracts to offset economically the adverse impact of rising natural gas prices (see note 4) and, if the Company believed the price of natural gas would decline in the future, periodically sold such contracts.

From an accounting perspective, during periods of rising natural gas prices, the Company s futures contracts have generally been marked-to-market through the recognition of a derivative asset and a corresponding derivative gain in its statements of operations. However, because the Company s contracts to sell LNG or CNG to its customers at fixed prices or an index-based price that is subject to a fixed price cap are not derivatives for purposes of U.S. generally accepted accounting principles, a liability or a corresponding loss has not been recognized in the Company s statements of operations during this historical period of rising natural gas prices for the future commitments under these contracts. As a result, the Company s statements of operations do not reflect its firm commitments to deliver LNG or CNG at prices that are below, and in some cases, substantially below, the prevailing market price of natural gas (and therefore LNG or CNG).

The following table summarizes important information regarding the Company s fixed price and price cap supply contracts under which it is required to sell fuel to its customers as of June 30, 2008:

	Estimated volumes (a)		Average price (b)	Contracts duration
CNG fixed price contracts	1,266,027	$	1.16	through 12/13
LNG fixed price contracts	4,011,075	$	0.49	through 07/09
CNG price cap contracts	2,947,233	$	0.85	through 12/09
LNG price cap contracts	1,772,771	$	0.61	through 03/09

This table does not include two 2.1 million LNG gallon per year renewal options that one of our customers possesses related to an LNG price cap contract. The contract contains a price cap of $7.50 per MMbtu on the SoCal Border Index.

(a) Estimated volumes are in gasoline gallon equivalents for CNG contracts and are in LNG gallons for LNG contracts and represent the volumes we anticipate delivering over the remaining duration of the contracts.

(b) Average prices are in gasoline gallon equivalents for CNG contracts and are in LNG gallons for LNG contracts. The average prices represent the natural gas commodity component in the customer s contract.

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At June 30, 2008, we estimate we will incur between $5.9 million and $7.2 million to cover the increased price of natural gas above the inherent price of natural gas embedded in our customer s fixed price and price cap contracts over the duration of the contracts. These estimates were based on natural gas futures prices on June 30, 2008, and these estimates may change based on future natural gas prices and may be significantly higher or lower. Our estimated volumes under these contracts, in gasoline gallon equivalents, expire as follows:

July 1, 2008 through December 31, 2008	4,256,167
2009	2,831,296
2010	230,000
2011	230,000
2012	230,000
2013	230,000

This table does not include the two 2.1 million LNG gallon per year renewal options that one of our customer possesses related to an LNG price cap contract.

On April 18, 2008, the Company purchased certain natural gas futures contracts to attempt to economically hedge the Company s exposure to cash flow variability related to the commodity component of an LNG supply contract for which the Company had submitted a fixed-price bid. As previously disclosed in the Company s Form 8-K dated June 19, 2008, the supply contract for which the futures contracts were purchased was awarded to a competitor of the Company. The Company protested the award of the contract to its competitor and ultimately the Company was awarded a portion of the contract representing approximately one-third of the contract volumes. In July 2008, the Company then sold the futures contracts related to the portion of the contract it was not awarded. Due to the decrease in the price of natural gas between the date the futures contracts were purchased and the date they were sold, the Company ultimately realized a net loss of $0.3 million related to the sale of the futures contracts purchased with respect to the portion of the fixed-price contract that was not awarded to the Company. The Company will attempt to qualify the remaining futures contracts for hedge accounting as cash flow hedges under SFAS 133.

Note 6 Other Receivables

Other receivables at December 31, 2007 and June 30, 2008 consisted of the following:

	December 31, 2007	June 30, 2008
Loans to customers to finance vehicle purchases	$ 1,393,549	$ 1,857,184
Advances to vehicle manufacturers	4,871,373	3,657,444
Fuel tax credits	14,920,145	19,372,069
Other	1,968,837	1,883,805
	$ 23,153,904	$ 26,770,502

Note 7 Land, Property and Equipment

Land, property and equipment at December 31, 2007 and June 30, 2008 are summarized as follows:

	December 31, 2007	June 30, 2008
Land	$ 472,616	$ 472,616
LNG liquefaction plant	12,898,178	12,921,046
Station equipment	48,318,709	49,996,007
LNG tanker trailers	11,698,145	11,793,681
Other equipment	6,937,083	7,633,155
Construction in progress	32,297,191	64,943,808
	112,621,922	147,760,313
Less accumulated depreciation	(23,945,604)	(28,123,054)
	$ 88,676,318	$ 119,637,259

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Note 8 Accrued Liabilities

Accrued liabilities at December 31, 2007 and June 30, 2008 consisted of the following:

	December 31, 2007	June 30, 2008
Salaries and wages	$ 1,495,196	$ 928,300
Accrued gas purchases	1,837,005	1,164,199
Other	2,049,340	2,561,521
	$ 5,381,541	$ 4,654,020

Note 9 Earnings Per Share

Basic earnings per share is based upon the weighted average number of shares outstanding during each period. Diluted earnings per share reflects the impact of assumed exercise of dilutive stock options and warrants. The information required to compute basic and diluted earnings per share is as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2007	2008	2007	2008
Basic and diluted:				
Weighted average number of common shares outstanding	38,149,455	44,300,309	36,071,554	44,291,401

Certain securities were excluded from the diluted earnings per share calculations at June 30, 2007 and 2008, respectively, as the inclusion of the securities would be anti-dilutive to the calculation. The amounts outstanding as of June 30, 2007 and 2008 for these instruments are as follows:

	June 30,	
	2007	2008
Options	5,187,500	6,741,654
Warrants	15,000,000	15,000,000

Note 10 Comprehensive Income

The following table presents the Company s comprehensive income for the six months ended June 30, 2007 and 2008:

	Six Months Ended June 30, 2007	Six Months Ended June 30, 2008
Net loss	$ (4,433,081)	$ (7,841,429)
Unrealized gain on short-term investments		60,927
Foreign currency translation adjustments	413,582	(116,017)
Comprehensive loss	$ (4,019,499)	$ (7,896,519)

Note 11 Stock-Based Compensation

The following table summarizes the compensation expense and related income tax benefit related to stock-based compensation expense recognized during the periods:

	Three Months Ended June 30, 2007	Three Months Ended June 30, 2008	Six Months Ended June 30, 2007	Six Months Ended June 30, 2008
Stock options:				
Stock-based compensation expense	$ 3,787,654	$ 2,599,895	$ 3,787,654	$ 5,098,331
Income tax benefit				
Stock-based compensation expense, net of tax	$ 3,787,654	$ 2,599,895	$ 3,787,654	$ 5,098,331

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Stock Options

The following table summarizes all stock option activity during the six months ended June 30, 2008:

	Number of Shares	Weighted-Average Exercise Price
Outstanding at December 31, 2007	6,553,036	$ 9.37
Granted	291,000	14.87
Exercised	(33,549)	3.98