

SOUTHERN COPPER CORP/
Form 10-Q
October 25, 2012
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended: September 30, 2012

or

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

For the transition period from to

Commission File Number: 1-14066

SOUTHERN COPPER CORPORATION

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(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

13-3849074

(I.R.S. Employer Identification No.)

1440 East Missouri Avenue, Suite 160, Phoenix, AZ

(Address of principal executive offices)

85014

(Zip Code)

Registrant's telephone number, including area code: **(602) 264-1375**

(Former name, former address and former fiscal year, if change since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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

As of October 25, 2012 there were outstanding 845,550,550 shares of Southern Copper Corporation common stock, par value \$0.01 per share.

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Southern Copper Corporation (SCC)

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Exhibit 32.1	Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	56
Exhibit 32.2	Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	57
Exhibit 101	Financial statements for the three and nine months ended September 30, 2012 Formatted in XBRL: (i) the Condensed Consolidated Statement of Earnings, (ii) the Condensed Consolidated Statement of Comprehensive Income, (iii) the Condensed Consolidated Balance Sheet, (iv) the Condensed Consolidated Statement of Cash Flows, and (v) the Notes to Condensed Consolidated Financial Statements, tagged in detail.	Submitted electronically with this report

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PART I FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

Southern Copper Corporation

CONDENSED CONSOLIDATED STATEMENT OF EARNINGS

(Unaudited)

	3 Months Ended September 30,		9 Months Ended September 30,	
	2012	2011	2012	2011
	(in thousands, except per share amounts)			
Net sales (including sales to related parties, see note 9)	\$ 1,552,379	\$ 1,745,906	\$ 5,018,191	\$ 5,149,423
Operating costs and expenses:				
Cost of sales (exclusive of depreciation, amortization and depletion shown separately below)	670,861	677,258	2,060,664	2,110,095
Selling, general and administrative	23,758	24,376	74,551	74,692
Legal fees related to damage award (Note 2)	316,233		316,233	
Depreciation, amortization and depletion	81,283	72,506	236,655	216,048
Exploration	12,470	9,675	33,795	25,040
Total operating costs and expenses	1,104,605	783,815	2,721,898	2,425,875
Operating income	447,774	962,091	2,296,293	2,723,548
Interest expense	(48,458)	(48,506)	(143,042)	(144,367)
Capitalized interest	18,827	1,742	24,889	4,035
Gain on short-term investment	4,435		9,918	
Gain on sale of investment			18,200	
Other income (expense)	(908)	(1,374)	968	4,774
Interest income	3,828	3,614	11,238	9,859
Income before income taxes	425,498	917,567	2,218,464	2,597,849
Income taxes	219,802	252,507	848,544	792,523
Net income before equity earnings of affiliate	205,696	665,060	1,369,920	1,805,326
Equity earnings of affiliate	13,565		38,239	
Net income	219,261	665,060	1,408,159	1,805,326
Less: Net income attributable to the non-controlling interest	1,395	2,021	5,316	5,874
Net income attributable to SCC	\$ 217,866	\$ 663,039	\$ 1,402,843	\$ 1,799,452
Per common share amounts attributable to SCC:				
Net income - basic and diluted	\$ 0.26	\$ 0.78	\$ 1.65	\$ 2.10
Dividends paid	\$ 0.24	\$ 0.61	\$ 1.31	\$ 1.74
Weighted average common shares outstanding - basic and diluted	848,419	852,250	849,283	856,222

The accompanying notes are an integral part of these condensed consolidated financial statements.

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Southern Copper Corporation

CONDENSED CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME

(Unaudited)

	3 Months Ended September 30,		9 Months Ended September 30,	
	2012	2011	2012	2011
	(in thousands)			
Net income	\$ 219,261	\$ 665,060	\$ 1,408,159	\$ 1,805,326
Other comprehensive income (loss) net of tax:				
Derivative instruments classified as cash flow hedge:				
Decrease in accumulated unrealized loss (gain) in prior period		49,172	(5,447)	111,000
Unrealized gain in the period		41,375		41,375
Add:				
Realized (gain) loss included in net income		(12,684)		14,528
Unrealized net gain (loss) on derivative instruments classified as cash flow hedges		77,863	(5,447)	166,903
Total comprehensive income	\$ 219,261	\$ 742,923	\$ 1,402,712	\$ 1,972,229
Comprehensive income attributable to the non-controlling interest	\$ 1,395	\$ 2,346	\$ 5,338	\$ 6,451
Comprehensive income attributable to SCC	\$ 217,866	\$ 740,577	\$ 1,397,374	\$ 1,965,778

The accompanying notes are an integral part of these condensed consolidated financial statements.

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Southern Copper Corporation

CONDENSED CONSOLIDATED BALANCE SHEET

(Unaudited)

	September 30, 2012	December 31, 2011
	(in thousands)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 1,157,805	\$ 848,118
Short-term investments	379,702	521,955
Accounts receivable trade	529,786	695,104
Accounts receivable other	50,739	30,176
Accounts receivable related parties	179,988	158,301
Damage award receivable (Note 2)	2,108,221	
Inventories	646,419	651,896
Deferred income tax	83,796	88,797
Other current assets	153,079	107,156
Total current assets	5,289,535	3,101,503
Property, net	4,856,167	4,419,885
Leachable material, net	217,943	122,985
Intangible assets, net	109,444	110,436
Deferred income tax	168,874	145,251
Other assets	199,808	162,641
Total assets	\$ 10,841,771	\$ 8,062,701
LIABILITIES		
Current liabilities:		
Current portion of long-term debt	\$ 10,000	\$ 10,000
Accounts payable (including related parties 2012 -\$10,047 and 2011 - \$4,392)	427,479	443,132
Accrued legal fees related to damage award (Note 2)	316,233	
Accrued income taxes		182,491
Deferred income tax	39,860	39,860
Accrued workers participation	213,910	245,139
Accrued interest	63,009	59,906
Other accrued liabilities	33,392	12,349
Total current liabilities	1,103,883	992,877
Long-term debt	2,731,195	2,735,732
Deferred income taxes	219,097	125,191
Non-current taxes payable	67,524	66,982
Other liabilities and reserves	54,436	43,665
Asset retirement obligation	64,554	61,971
Total non-current liabilities	3,136,806	3,033,541
Commitments and contingencies (Note 11)		
STOCKHOLDERS EQUITY		

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Common stock	8,846	8,846
Additional paid-in capital	3,319,058	1,039,382
Retained earnings	4,144,424	3,852,054
Accumulated other comprehensive income	7,427	12,874
Treasury stock, at cost, common shares	(902,612)	(897,852)
Total Southern Copper Corporation stockholders' equity	6,577,143	4,015,304
Non-controlling interest	23,939	20,979
Total equity	6,601,082	4,036,283
Total liabilities and equity	\$ 10,841,771	\$ 8,062,701

The accompanying notes are an integral part of these condensed consolidated financial statements.

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CONDENSED CONSOLIDATED STATEMENT OF CASH FLOWS

(Unaudited)

	3 Months Ended September 30,		9 Months Ended September 30,	
	2012	2011	2012	2011
	(in thousands)			
OPERATING ACTIVITIES				
Net income	\$ 219,261	\$ 665,060	\$ 1,408,159	\$ 1,805,326
Adjustments to reconcile net earnings to net cash provided from operating activities:				
Depreciation, amortization and depletion	81,283	72,506	236,655	216,048
Equity earnings of affiliate, net of dividends received	2,654		(14,285)	
Loss (income) on currency translation effect	3,358	(8,931)	(3,302)	(3,278)
Provision (benefit) for deferred income taxes	56,808	(81,687)	76,116	(98,189)
Gain on sale of investment			(18,200)	
Gain on sale of property	5,108	(305)	4,050	(6,715)
Cash provided from (used for) operating assets and liabilities:				
Accounts receivable	60,008	72,194	123,068	(59,767)
Inventories	(56,581)	(4,718)	(89,481)	(73,166)
Accounts payable and accrued liabilities	345,506	189,075	111,006	(252,137)
Other operating assets and liabilities	(55,285)	(25,213)	(74,192)	67,645
Net cash provided from operating activities	662,120	877,981	1,759,594	1,595,767
INVESTING ACTIVITIES				
Capital expenditures	(258,224)	(153,394)	(665,944)	(337,038)
Proceeds from (purchase of) short-term investments, net	(5,946)	(310,280)	142,253	(459,643)
Payments to development stage properties accounted for as equity method investments		(8,504)		(24,415)
Sale of investment			18,200	
Sale of property	93	1,424	5,373	10,279
Other		(9,741)		(9,741)
Net cash used for investing activities	(264,077)	(480,495)	(500,118)	(820,558)
FINANCING ACTIVITIES				
Debt repaid			(5,000)	(10,250)
Dividends paid to common stockholders	(203,723)	(522,649)	(813,883)	(1,491,653)
Distributions to non-controlling interest	(533)	(1,350)	(2,253)	(4,955)
Repurchase of common shares	(99,185)	(110,290)	(132,369)	(258,358)
Other	154	1,505	758	1,001
Net cash used for financing activities	(303,287)	(632,784)	(952,747)	(1,764,215)
Effect of exchange rate changes on cash and cash equivalents	(16,322)	24,592	2,958	39,464
Increase (decrease) in cash and cash equivalents	78,434	(210,706)	309,687	(949,542)
Cash and cash equivalents, at beginning of period	1,079,371	1,453,841	848,118	2,192,677
Cash and cash equivalents, at end of period	\$ 1,157,805	\$ 1,243,135	\$ 1,157,805	\$ 1,243,135

The accompanying notes are an integral part of these condensed consolidated financial statements.

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Southern Copper Corporation

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

NOTE 1 DESCRIPTION OF THE BUSINESS:

In the opinion of Southern Copper Corporation, (the Company or SCC), the accompanying unaudited condensed consolidated financial statements contain all adjustments (consisting only of normal recurring adjustments) necessary to state fairly the Company's financial position as of September 30, 2012 and the results of operations, comprehensive income and cash flows for the three and nine months ended September 30, 2012 and 2011. The results of operations for the three and nine months ended September 30, 2012 and 2011 are not necessarily indicative of the results to be expected for the full year. The December 31, 2011 balance sheet data was derived from audited financial statements, but does not include all disclosures required by generally accepted accounting principles in the United States of America (U.S. GAAP). The accompanying condensed consolidated financial statements should be read in conjunction with the consolidated financial statements at December 31, 2011 and notes included in the Company's 2011 annual report on Form 10-K.

NOTE 2 SCC SHAREHOLDER DERIVATIVE LAWSUIT:

Three purported class action derivative lawsuits were filed in the Delaware Court of Chancery (New Castle County) late in December 2004 and early January 2005 relating to the proposed merger transaction between the Company and Minera Mexico, S.A. de C.V. (the Transaction), which was completed effective April 1, 2005. On January 31, 2005, the three actions were consolidated into one action and the complaint filed by Lemon Bay was designated as the operative complaint in the consolidated lawsuit. The consolidated action purports to be brought on behalf of the Company and its common stockholders. The defendants in the consolidated action were Americas Mining Corporation (AMC) and SCC's directors. The Company was a nominal defendant. The consolidated complaint alleges, among other things, that the Transaction was the result of breaches of fiduciary duties by the Company's directors and was entirely unfair to the Company and its minority stockholders.

On October 14, 2011, the Court issued an opinion on this action finding that SCC had paid AMC too much stock consideration in the Transaction. The Court issued a revised final order and judgment on December 29, 2011. The Court decided that the Award, in the amount of \$1,347 million plus \$684.6 million of pre-judgment interest, was payable by AMC with cash, or with the return of a number of shares of SCC equal in value to award, or by SCC cancelling an equivalent number of shares owned by AMC, or by any combination thereof, so long as the total was equivalent to the amount of the judgment plus accrued post-judgment interest (post-judgment interest accrued from October 15, 2011). The Court also awarded attorneys' fees and expenses in the amount of \$304.7 million, or 15% of the judgment, plus post-judgment interest, payable by SCC out of the award and not from existing SCC's cash.

On January 20, 2012, AMC and the other defendants appealed the Court's decisions. On the same date, SCC appealed the Court's decision related to the award of attorneys' fees and expenses. On May 3, 2012, the Court accepted the security provided by AMC and granted a stay of the judgment pending final resolution of the appeal. On August 27, 2012, the Delaware Supreme Court affirmed the lower court's decision. On September 21, 2012, the Delaware Supreme Court rejected the rehearing motion filed by AMC and ordered AMC to follow the Court's decision.

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On October 9, 2012, AMC paid to the Company \$2,108.2 million and the Company paid \$316.2 million of legal fees and expenses to the plaintiff s attorneys. The effect of this award has been recorded in the Company s third quarter 2012 results. The \$2,108.2 million awarded to the Company has been included in the capital accounts with a corresponding receivable recorded on the balance sheet. Additionally, the Company has recorded an expense of \$316.2 million in its 2012 third quarter results for the legal fees related to this award and has recorded a liability on its balance sheet for this obligation.

Table of Contents**NOTE 3 SHORT-TERM INVESTMENTS:**

Short-term investments were as follows (\$ in millions):

	At September 30, 2012		At December 31, 2011	
Trading securities	\$	373.0	\$	514.6
Weighted average interest rate		1.00%		1.37%
Available for sale	\$	6.7	\$	7.3
Weighted average interest rate		0.51%		0.58%
Total	\$	379.7	\$	521.9

Trading securities: consist of bonds issued by public companies. Each financial instrument is independent of the others. The Company has the intention to sell these bonds in the short-term.

Available for sale investments consist of securities issued by public companies. Each security is independent of the others and at September 30, 2012 and December 31, 2011, included corporate bonds and asset and mortgage backed obligations. As of September 30, 2012 and December 31, 2011, gross unrealized gains and losses on available for sale securities were not material.

Related to these investments the Company earned interest, which was recorded as interest income in the condensed consolidated statement of earnings. Also the Company redeemed some of these securities and recognized gains (losses) due to changes in fair value, which were recorded as gain on short-term investment in the condensed consolidated statement of earnings.

The following table summarizes the activity of these investments by category (in millions):

	Three months ended September 30,		Nine months ended September 30,	
	2012	2011	2012	2011
Trading securities:				
Interest earned	\$	0.9	\$	1.2
Unrealized gain (loss)		3.7		(1.1)
Available for sale:				
Interest earned		(*)		(*)
Investment redeemed	\$	0.2	\$	0.9
			\$	1.4
			\$	1.7

(*) Less than \$0.1 million

NOTE 4 - INVENTORIES:

Inventories were as follows:

(in millions)	At September 30, 2012	At December 31, 2011
Inventory, current:		
Metals at lower of average cost or market:		
Finished goods	\$ 97.6	\$ 93.3
Work-in-process	276.7	296.1
Supplies at average cost	272.1	262.5
Total current inventory	\$ 646.4	\$ 651.9
Inventory, long-term		
Long-term leach stockpiles	\$ 217.9	\$ 123.0

During the nine months ended September 30, 2012 and 2011 total leaching costs capitalized as long-term inventory of leachable material amounted to \$157.3 million and \$87.1 million, respectively. Long-term leaching inventories recognized as cost of sales amounted to \$52.5 million and \$33.6 million for the nine months ended September 30, 2012 and 2011, respectively.

Table of Contents**NOTE 5 INCOME TAXES:**

The income tax provision and the effective income tax rate for the nine months of 2012 and 2011 were as follows (\$ in millions):

	2012	2011
Income tax provision	\$ 848.5	\$ 792.5
Effective income tax rate	38.2%	30.5%

These provisions include income taxes for Peru, Mexico and the United States. The increase in the effective tax rate in the nine months of 2012 from the tax rate in the 2011 period is principally caused by the legal fees related to the AMC damage award, which increased the effective rate for the nine month 2012 period by 4.7%, see Note 2. In addition, the rate was also increased by the new special mining tax in Peru, see below.

For United States federal income tax reporting the operating results of SCC are included in the AMC U.S. federal income tax return. In accordance with paragraph 30-27 of ASC 740-10-30, current and deferred taxes are allocated to members of the AMC group as if each were a separate taxpayer. SCC provides current and deferred income taxes as if it was a separate filer.

Special Mining Tax

In September 2011, the Peruvian government enacted a new tax for the mining industry. This tax is based on operating income and its rate ranges from 2% to 8.4%. It begins at 2% for operating income of up to 10% of sales and increases by 0.4% of operating income for each additional 5% of operating income until 85% of operating income is reached. The Company has accrued \$40.5 million for the special mining tax and is included as part of the income tax provision for the nine months of 2012.

Accounting for Uncertainty in Income Taxes:

The Company files tax returns in Peru, the United States and in Mexico. These tax returns are examined by the tax authorities of those countries. It is reasonably possible that during the next 12 months there could be an increase of approximately \$30 to \$50 million in the Company's unrecognized tax benefits due to expected activity from tax examinations and audits by the tax authorities.

NOTE 6 PROVISIONALLY PRICED SALES:

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At September 30, 2012, the Company has recorded provisionally priced sales of copper at average forward prices per pound, and molybdenum at the September 30, 2012 market price per pound. These sales are subject to final pricing based on the average monthly London Metal Exchange (LME) or New York Commodities Exchange (COMEX) copper prices and Dealer Oxide molybdenum prices in the future month of settlement.

Following are the provisionally priced copper and molybdenum sales outstanding at September 30, 2012:

Copper (million lbs.)	Priced at (per pound)	Month of Settlement
11.2 \$	3.727	October 2012
3.3	3.724	November 2012
14.5 \$	3.727	

Molybdenum (million lbs.)	Priced at (per pound)	Month of Settlement
3.3 \$	11.65	October 2012
3.1	11.65	November 2012
2.3	11.65	December 2012
8.7 \$	11.65	

Management believes that the final pricing of these sales will not have a material effect on the Company's financial position or results of operations.

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As part of its risk management policy, the Company occasionally uses derivative instruments to (i) safeguard the corporate assets, (ii) insure the value of its future revenue stream, and (iii) lessen the impact of unforeseen market swings of its sales revenues. To comply with these objectives the Company, from time to time, enters into commodity price derivatives, interest rate derivatives, exchange rate derivatives and other instruments. The Company does not enter into derivative contracts unless it anticipates a future activity that is likely to occur that will result in exposing the Company to market risk.

Copper hedges:

In 2011, the Company entered into copper swaps and zero cost collar derivative contracts to reduce price volatility and to protect its sales value as shown below. These transactions meet the requirements of hedge accounting. The realized gains and losses from these derivatives were recorded in net sales on the condensed consolidated statement of earnings and included in operating activities on the condensed consolidated statement of cash flow.

The following table summarizes the copper derivative activity related to copper sales transactions realized in the third quarter and nine months of 2012 and 2011, respectively:

	Third quarter		Nine months	
	2012	2011	2012	2011
Zero cost collar contracts:				
Pounds (in millions)		105.8	46.3	317.5
Average LME cap price	\$	4.84	\$	5.18
Average LME floor price	\$	3.02	\$	3.50
Swap contracts:				
Pounds (in millions)		99.2		331.2