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ALTERNATIVE ENERGY
LAW
A CASE STUDY



QUESTIONS? CONTACT:

Pat Brown, a Member (partner) in Nexsen Pruet's Charlotte office, has an extensive background in renewable energy project financing. He was not only instrumental in completing the Range Fuels bond financing, but he is also a key architect of the Rural America Bond program. He has more than 20 years of experience representing corporate lenders, investment banks, borrowers, and farm credit banks and associations in structuring and negotiating complex financial transactions.

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FINDING AND SECURING FUNDING FOR ALTERNATIVE ENERGY PROJECTS: A CASE STUDY



As U.S. policy-makers continue to steer the nation away from fossil fuels and toward renewable or “green” sources, the demand for cleaner energy has never been greater. This represents significant opportunities for businesses seeking to take advantage of opportunities in a market that is expected to grow significantly. But to effectively compete in that space, companies need financing. And Nexsen Pruet has a proven track record helping clients secure the necessary funding to develop innovative, environmentally responsible alternative energy projects.

THE ISSUE: GETTING THE RIGHT FINANCING FOR ALTERNATIVE FUEL PRODUCTION

Range Fuels, LLC is a privately held company whose specialty is converting biomass that cannot be used for food into low-carbon biofuels and clean renewable energy.

It has developed a unique process for the production of ethanol and methanol from woody biomass materials, such as raw wood, wood waste products (wood chips), and switch grass. The process does not use food-based biomass; as such, it does not “trade” food for fuel, unlike traditional ethanol facilities that rely on corn, other grains, or sugar cane for feedstock.

Range was seeking to build a \$450 million plant in Soperton, Georgia, that would apply this process to eventually produce up to 100 million gallons of methanol and ethanol annually. Financing of about \$80 million was required to partially fund the first two phases of construction.

Representing the “lender of record,” AgSouth Farm Credit, ACA, Nexsen Pruet was able to help Range Fuels receive a loan note guarantee from the U.S. Department of Agriculture for the entire \$80 million. With our deep experience identifying and optimizing innovative credit options for rural development programs, we worked closely with USDA officials and legal counsel to structure the financing and develop the legal documents to meet USDA’s regulatory requirements.

THE OUTCOME: A “FIRST-OF-ITS-KIND” SUCCESS

The bond financing, which closed on Feb. 10, 2010, and consisted of USDA guaranteed and non-guaranteed bonds, was a “first-of-its-kind” issuance in a number of respects:

- It financed the first commercial cellulosic biofuels production plant in the United States.
- It was the first guaranty issued by the USDA for a commercial biofuels facility under the new Section 9003 Biorefinery Assistance Loan Guaranty Program, which was authorized by the 2008 Farm Bill.
- It represented the first bond issue for a biofuels project using the Farm Credit Administration’s Rural America Bond program, which allows farm credit associations and banks to invest in businesses and community facilities throughout rural America.

To underscore Nexsen Pruet’s capabilities in representing clients in financing projects like this – and to demonstrate the depth of our experience – it is important to note that our attorneys developed the Rural America Bond program for farm credit associations and banks. Thanks to this effort, a new product is available to help meet the ever-growing and ever-changing financial needs of agricultural businesses and rural communities throughout the country.

CONCLUSION

There is no doubt that the national shift to alternative energy sources presents great advantages for those enterprises with the financial resources to develop cleaner, greener products, fuels, and technologies. But determining and securing the ideal funding option can be a complex process, and the increasing competitive marketplace leaves no time for learning curves.

The bottom line is that companies need knowledge. They need experience. They need depth. And they need it now. That’s why anyone looking to fund a green energy project should look to Nexsen Pruet. Because in this fast-growing segment of the energy market, we have what it takes to keep you one step ahead.

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