

## Chapter 7 Liquidation Analysis

Section 1129(a)(7) of the Bankruptcy Code requires that each holder of an impaired allowed claim or interest either (a) accept the plan of reorganization or (b) receive or retain under the plan property of a value, as of the effective date, that is not less than the value such holder would receive or retain if the applicable Debtor were liquidated under Chapter 7 of the Bankruptcy Code on the effective date. This requirement is referred to as the “best interests” test. To make these findings, a bankruptcy court must: (a) estimate the cash liquidation proceeds that a Chapter 7 trustee would generate if the assets of such Debtor’s estate were liquidated pursuant to Chapter 7 of the Bankruptcy Code; (b) determine the liquidation distribution that each non-accepting holder of a claim or an interest would receive from such liquidation proceeds under the priority scheme dictated in Chapter 7; and (c) compare the holder’s liquidation distribution to the distribution that the holder would receive if the plan were confirmed and consummated.

To demonstrate compliance with the “best interests” test, the Debtors estimated a range of proceeds that would be generated from a hypothetical Chapter 7 liquidation (the “*Liquidation Analysis*”). The Liquidation Analysis was prepared by the Debtors with assistance from their financial and other advisors and represents the Debtors’ estimate of the proceeds that would be realized if the Debtors were liquidated in accordance with Chapter 7 of the Bankruptcy Code. The Liquidation Analysis assumes that the Debtors’ Chapter 11 cases are converted into liquidations under Chapter 7. The Liquidation Analysis assumes that the trustee will seek to liquidate the assets promptly. During this process the Debtors’ estates will continue to need to use cash collateral and proceeds from the liquidation to operate the businesses while winding down the affairs of the estates. The Liquidation Analysis assumes the consensual use of cash collateral and proceeds from liquidation to permit the Chapter 7 trustee to liquidate the assets and claims during the approximately 90 days following conversion.

**The Liquidation Analysis is premised upon a number of estimates and assumptions that, although developed and considered reasonable by the Debtors, are inherently subject to significant business, economic and competitive uncertainties beyond the control of the Debtors, and, as discussed below, may be subject to change. Thus, there can be no assurance that the values reflected in the Liquidation Analysis would be realized if the Debtors were, in fact, to undergo a liquidation. In addition, any liquidation ultimately undertaken would take place under future circumstances that cannot be predicted with certainty. Accordingly, although the Liquidation Analysis that follows is necessarily presented with numerical specificity, if the Debtors’ estates were in fact liquidated as described herein, the actual proceeds from such liquidation could vary significantly from the amounts set forth in the Liquidation Analysis. The actual liquidation proceeds could be materially higher or lower than the amounts set forth in the Liquidation Analysis, and no representation or warranty can be or is being made with respect to the actual proceeds that would be generated from the liquidation of the Debtors’ assets under Chapter 7 of the Bankruptcy Code. The Liquidation Analysis has been prepared solely for the purposes of estimating the proceeds that would be available if the Debtors liquidated under Chapter 7 of the Bankruptcy Code for purposes of the “best interests” test and does not represent values that may be appropriate for any other purpose, including the values applicable in the context of the Plan. Nothing contained in the Liquidation Analysis is intended as or constitutes a concession or admission for any purpose other than the presentation of a hypothetical liquidation analysis, as required by the “best interests” test.**

### General Assumptions

The following is a list of key assumptions that were utilized in the Liquidation Analysis:

- The basis for the Liquidation Analysis is (a) information included in the Debtor’s Disclosure Statement and the Debtor’s Plan and (b) amounts presented in the Debtors’ Schedules of Assets and Liabilities.
- The Liquidation Analysis assumes that the liquidation of the Debtors would commence on September 1, 2013 under the direction of a court-appointed Chapter 7 trustee. The Liquidation Analysis reflects the wind-down of operations and liquidation of substantially all of the Debtors’ assets over a 90-day period (the “Liquidation Period”), during which time all of the Debtors’ major assets would be sold and the cash proceeds, net of liquidation-related costs, would be distributed to satisfy claims.

- The book value of the assets presented is based on the latest balance sheet, which is unaudited, dated July 31, 2013 unless otherwise noted. Management estimates the book value of these assets will be substantially unchanged as of September 1, 2013.
- The Liquidation Analysis assumes that the Liquidation Period may not provide sufficient time to maximize value during the sale of assets of the Debtors and the Debtors' negotiation position will be weak; the assets would likely be valued and transacted upon at "distressed" levels.
- Liquidation values were derived by estimating proceeds from a "distressed" sale of assets that a Chapter 7 trustee might achieve. Proceeds are net of all costs assumed to be incurred.
- The Liquidation Analysis assumes that proceeds realized from a Chapter 7 liquidation would further be reduced by administrative costs incurred during the wind-down of operations, the stabilization and protection of the assets, the disposition of assets and the reconciliation of claims. These costs include professional fees, trustee fees, corporate wind down costs and post-relief date trade claims.
- The Liquidation Analysis assumes that net proceeds from the sale of the assets will be distributed in accordance with the Bankruptcy Code and that no distributions will be made to junior creditors or equity holders until all senior creditors are paid in full.
- Upon conversion of the Chapter 11 Cases to Chapter 7 liquidation, it is assumed that the Chapter 7 trustee will be permitted the use of cash collateral and sale proceeds for the purposes of managing a wind down and liquidation of assets.

While the Liquidation Analysis assumes liquidation over a 90-day period commencing September 1, 2013, it is possible that the disposition and recovery from certain assets could take longer to realize. The potential impact of litigation and actions by other creditors could increase the amount of time required to realize recoveries assumed in this analysis. Such events, including if the Chapter 7 trustee were not granted consensual use of cash collateral, could also add costs to the liquidation in the form of higher legal and professional fees to resolve these potential events.

The table below summarizes the estimated proceeds that would be available for distribution to the Debtors' creditors in a hypothetical liquidation of the Debtors' estates under Chapter 7 of the Bankruptcy Code. Additional assumptions with respect to the Liquidation Analysis are provided below.

**Liquidation Analysis of the Debtors' Assets**

(\$ in 000s, unless otherwise specified)

	Notes	Book Value	Estimated Recovery		Estimated Liquidation	
			Low Case (%)	High Case (%)	Low Value (\$)	High Value (\$)
<b>1. Assets:</b>						
<b>Current Assets</b>						
Cash & Cash Equivalents	A	\$1,500	100%	100%	\$1,500	\$1,500
Accounts Receivable	B	4,362	80%	100%	3,490	4,362
Coal Inventory	C	1,304	50%	100%	652	1,304
Prepaid Expenses	D	1,651	15%	30%	248	495
Other Current Assets	E	1,169	2%	4%	23	42
<b>Total Current Assets</b>		<b>\$9,986</b>			<b>\$5,912</b>	<b>\$7,703</b>
<b>Property, Plant &amp; Equipment</b>						
Mineral Rights	F	\$463,733	5%	11%	\$25,000	\$50,000
Plants, Loadouts & Conveyors	G	61,018	1%	2%	375	1,376
Other PP&E	H	20,962	29%	45%	6,011	9,352
<b>Total Property, Plant &amp; Equipment</b>		<b>\$545,714</b>			<b>\$31,386</b>	<b>\$60,728</b>
Other Assets	I	\$11,724	0%	0%	\$0	\$0
<b>Total Other Assets</b>		<b>\$11,724</b>			<b>\$0</b>	<b>\$0</b>
<b>Total Assets</b>		<b>\$567,424</b>				
<b>Est. Proceeds from Liquidation of the Debtors' Assets</b>					<b>\$37,298</b>	<b>\$68,431</b>
<b>2. Secured Tax Claims and Cure Cost Claims</b>						
Real & Secured Personal Property Taxes	J	\$2,330			\$1,552	\$1,552
Cure Costs	K	9,140			2,014	2,014
<b>Net Est. Proceeds from Liquidation of the Debtors' Assets</b>					<b>\$33,732</b>	<b>\$64,865</b>
<b>3. Costs Associated with Liquidation</b>						
	Notes	Claim			Low Value (\$)	High Value (\$)
Corporate Wind Down	L				\$750	\$1,000
Chapter 7 Trustee	M				1,012	1,946
Professionals and Post-Relief Date Trade Claims	N				5,015	5,015
<b>Total Costs Associated with Liquidation</b>					<b>\$6,777</b>	<b>\$7,961</b>
<b>4. Secured Claims</b>						
Super-Priority Debtor-In-Possession Financing (including Letters of Credit)	O	\$65,913				
Recovery (\$)					\$26,955	\$56,904
Recovery (%)					40.9%	86.3%
Bank Debt		\$122,761				
Recovery (\$)					\$0	\$0
Recovery (%)					0.0%	0.0%
<b>Total Secured Claims</b>		<b>\$188,673</b>				
Total Secured Recovery (\$)					<b>\$26,955</b>	<b>\$56,904</b>
Total Secured Recovery (%)					14.3%	30.2%
<b>5. Administrative Priority Claims</b>						
Administrative Priority Tax Claims	P	\$1,886			\$0	\$0
<b>6. Priority Tax Claims</b>						
Priority Tax Claims	Q	\$4,252			\$0	\$0
Other Tax Claims	R	494			0	0
<b>7. Unsecured Claims</b>						
<b>Total Unsecured Claims</b>	S	<b>\$40,000</b>				
Recovery (\$)					<b>\$0</b>	<b>\$0</b>
Recovery (%)					0%	0%
<b>Residual Value after Distributions</b>					<b>\$0</b>	<b>\$0</b>

1) **Assets**

The following are assumptions with respect to specific categories of assets.

- a. **Cash & Cash Equivalents.** Management anticipates that the Debtors' projected cash balance at the end of August 31, 2013 in a liquidation scenario would be approximately \$1.5 million at the commencement of the liquidation and not subject to any discount factors. Cash and cash equivalents consists of all cash and liquid investments, if applicable, with maturities of three months or less in bank accounts.
- b. **Accounts Receivable.** Management anticipates that the Debtors' projected accounts receivable balance will be approximately \$4.4 million at the commencement of the Liquidation Period. Estimated proceeds realized from accounts receivable under a liquidation are based on management's estimate of collectability and the assumption that every reasonable effort will be made by the Chapter 7 trustee to collect receivables from customers. The projected accounts receivable balance contemplates no pre-petition balances. All accounts receivable are projected to be less than 30 days outstanding. It should be noted that the projected accounts receivable balance is substantially related to one customer, Essar Steel Algoma, and the ability of the Chapter 7 trustee to collect the associated receivables may adversely impact the recovery.
- c. **Coal Inventory.** Management anticipates that the Debtors' projected coal inventory balance will be approximately \$1.3 million at the commencement of the Liquidation Period. For the purposes of the Liquidation Analysis, the projected book value of the coal inventory is based on the estimated market value for met and thermal coal. Estimated proceeds realized from coal inventory under liquidation are based on management's estimates of salability of the coal and the ability to find a willing buyer with the belief that the Chapter 7 trustee can, at a minimum, recover the estimated cost of the mined tons.
- d. **Prepaid Expenses.** Prepaid expenses include prepaid royalties, prepaid insurance, prepaid rent, prepaid performance bond fees and prepaid contract services. The book value of prepaid expenses is based on the Debtors' most recent balance sheet dated July 31, 2013 and assumed to remain constant through August 31, 2013. Prepaid royalties are only recoupable against production royalties incurred based on active mining and management estimates; they hold no value for the estate in a Chapter 7 liquidation. Proceeds from the recovery of prepaid insurance is based on management's estimate on likelihood of recovering paid premiums from the respective counterparty. In many instances, insurance premiums are fully earned and fully paid up front and with no recoverable value for the estate. Proceeds from the recovery of prepaid rent, performance bond fees and prepaid contract services are based on the management's estimate with respect to achieving recoupment of those expenses from the respective counterparty in the context of a Chapter 7 liquidation and there is no estimated recovery from these assets.
- e. **Other Current Assets.** Other current assets include deferred property taxes, insurance receivables and severance tax receivables, among other current assets including certain deposits. The book value of other current assets is based on the Debtors' most recent balance sheet dated July 31, 2013 and assumed to remain constant through August 31, 2013. Deferred property taxes are accounting accruals and represent no recoupable value to the estate. The estimated recovery on severance tax receivables, insurance receivables and other assets is based on management's estimate of the expected recovery of receivables and deposits from the respective counterparty in the context of a Chapter 7 liquidation.
- f. **Mineral Rights.** The estimated recovery on mineral rights is based on management's most recent analysis of the quantity of economically mineable coal for sale under current market and regulatory conditions, to which a multiplier is applied based on the median of public company valuations per reserve ton and the range of indications of interest and binding bids received during the recent marketing process conducted by the Debtor. This figure is then discounted to reflect the rapid pace at which the Chapter 7 trustee would be selling these assets. In the event the estimated proceeds from a sale of mineral rights are not sufficient to repay the cure cost and real tax claims associated with the

mineral rights, the liquidation value of the mineral rights is determined to be zero. In addition, if in management's judgment the property associated with mineral rights has greater reclamation liabilities than potentially recoverable from a sale in liquidation, requiring the estate to pay a counterparty to take the mineral rights, the liquidation value of the mineral rights is determined to be zero.

- g. **Plants, Loadouts & Conveyors.** Plants, loadouts and conveyors include fixed assets associated with the mining, preparation and transport of coal either located on or associated with the properties to which the Debtors have mineral rights. In management's judgment, many of these assets only have value to the operators of the associated mineral rights and, therefore, any value of these assets is contemplated in the value of the associated mineral rights. Separately, management has identified certain, plants, loadouts and conveyors associated with mineral rights not sold in the Chapter 7 liquidation that may have value to a third-party as whole-assets, material or scrap. The estimated proceeds from the liquidation sale of these assets are based on management's estimate based on the condition of the fixed assets and indications of potential interest from third parties.

The Banner Preparation Plant and Loadout, in the judgment of management, may have value without associated mineral rights. The estimated proceeds from the liquidation sale of the Banner Preparation Plant and Loadout are based on management's estimate, as well as informed by the range of indications of interest and binding bids received from potential buyers during the recent marketing process conducted by the Debtors, discounted to reflect the rapid pace at which the Chapter 7 trustee would be selling the asset. The Banner Preparation Plant and Loadout is a lien property and any proceeds associated with the sale are first applied to satisfy the claims of the creditors associated with the lien, so values shown are net of the payment of such liens.

- h. **Other Property, Plant & Equipment.** Other Property, Plant & Equipment includes highwall miners and all other equipment associated with the mining, preparation and transport of coal, underground infrastructure, offices, technology and leasehold improvements, among other assets. The estimated recovery on other property, plant & equipment is based on management's estimate of the potential proceeds of the sale of these assets in a liquidation and, if applicable, recent third-party appraisal values related to certain of the assets discounted to reflect an expedited sale in a Chapter 7 liquidation. From management's view, a large portion of these assets are significantly depreciated and may not result in significant realizable liquidation value.

Many of the assets contemplated in the other property, plant & equipment are encumbered and were assigned liens based on the most recent information available to the Debtors. Any value received from the sale of any encumbered asset is first applied to satisfy the claims of the creditors associated with the liens and then applied to the estate (values shown are net of the payment of such liens).

Any value received from the sale of any unencumbered assets is first applied to secured personal property taxes, if applicable based on the state in which the assets reside, and then to the estate to satisfy claims.

- i. **Other Assets.** Other assets include prepaid royalties, prepaid wheelage, bond escrow and other noncurrent assets. In management's view, no value may be reasonably expected to be recoverable from these assets in a Chapter 7 liquidation scenario.

## 2) **Secured Tax Claims and Cure Cost Claims**

The tax claims and cure cost amounts used in the Liquidation Analysis are management's estimates based on claims that have been scheduled and filed to date. The actual amount of these claims could vary materially from these estimates.

- j. **Secured Real and Personal Property Tax Claims.** Secured Real and Personal Property Tax Claims are management's estimates and reflect secured tax claims for real and personal properties; plus,

unsecured claims that are required to be paid where the assets are anticipated to be sold in a Chapter 7 liquidation. These taxes are paid by the proceeds of the sale of mineral rights and personal property associated with the property. The Liquidation Analysis assumes secured real and personal property taxes are only paid when the assets are sold and the value of the associated assets exceeds the amount of the tax claims.

- k. **Cure Costs.** Cure costs are management's estimates and reflect claims on a per-property basis. Cure costs are assumed to be payable for properties that are estimated by the Debtors to be sold in a Chapter 7 liquidation. There has been no assumption made by management of the ability of the Chapter 7 trustee to reject certain lease arrangements and other contracts associated with cure costs. Proceeds from the sale of mineral rights are first applied to the outstanding cure costs. The Liquidation Analysis assumes cure costs are only paid when the value of the associated assets exceeds the value of the cure costs and, therefore, the amount paid will vary with the estimated recovery from the sale of the assets.

### 3) **Costs Associated with Liquidation**

The following are assumptions with respect to liquidation costs

- l. **Corporate Wind Down.** Corporate wind down costs include general and administrative ("G&A") expenses and CRO compensation over a 90-day period. G&A costs mainly include the retention of key management. The quantum of these costs reflects management's estimates.
- m. **Chapter 7 Trustee.** Fees to the Chapter 7 trustee are estimated to be 3.0% of total liquidated proceeds.
- n. **Professionals and Post Relief Date Trade Claims.** The costs associated with legal counsel and professional advisors as set forth in the Debtor-in-Possession Credit Agreement, as well as, trade claims that have arisen after the relief date, March 4, 2013. This amount includes both the "carve-out" and the estimated accrued and unpaid professional fees and post relief date trade claims as of August 31, 2013.

### 4) **Secured Claims**

The Secured Claim amounts used in the Liquidation Analysis are the Debtors' estimates based on claims that have been scheduled and filed to date and include any post-petition accrued and unpaid interest and fees at the commencement of the Liquidation Period. The actual amount of Allowed Claims could vary materially from these estimates. No order has been entered by the Bankruptcy Court estimating or otherwise fixing the amount of Secured Claims.

- o. **Super-Priority Debtor-In-Possession Financing (including Letters of Credit).** The Liquidation Analysis assumes that all outstanding letters of credit associated with the properties are drawn and become a funded obligation upon the conversion from Chapter 11 to Chapter 7 liquidation. The amount of the letters of credit is additive to the Super-Priority Debtor-In-Possession Financing and are granted the same security and priority.

### 5) **Administrative Priority Claims**

The Administrative Priority Claim amounts used in the Liquidation Analysis are the Debtors' estimates based on claims that have been scheduled and filed to date. The actual amount of Allowed Claims could vary materially from these estimates. No order has been entered by the Bankruptcy Court estimating or otherwise fixing the amount of Administrative Priority Claims.

- p. **Administrative Priority Tax Claims.** Administrative Priority Tax Claims include unsecured personal property taxes for the state of West Virginia. The actual amount of Administrative Priority Tax Claims could vary materially from this estimate.

6) **Priority Tax Claims**

The Priority Tax Claim amounts used in the Liquidation Analysis are the Debtors' estimates based on claims that have been scheduled and filed to date. The actual amount of Allowed Claims could vary materially from these estimates. No order has been entered by the Bankruptcy Court estimating or otherwise fixing the amount of Priority Tax Claims.

- q. **Priority Property Tax Claims.** Priority Property Tax Claims include certain personal property taxes for the Commonwealth of the Kentucky. The amount provided in the Liquidation Analysis is management's estimate and the actual claim could vary materially from this estimate. In addition, the amount provided in the Liquidation Analysis does not include certain Secured Real and Personal Property tax claims that remain unpaid, as noted above.
- r. **Other Priority Tax Claims.** Other Priority Tax Claims include other taxes including, but not limited to, business franchise taxes, federal and state reclamation taxes and sales and use taxes. The amount provided in the Liquidation Analysis is management's estimate and the actual claims could vary materially from this estimate.

7) **Unsecured Claims**

The Unsecured Claim amounts used in the Liquidation Analysis are the Debtors' estimates based on claims that have been scheduled and filed to date and include any post-petition accrued and unpaid interest and fees that are anticipated to be potentially allowable as of the start of the Liquidation Period. The actual amount of Allowed General Unsecured Claims could vary materially from these estimates. No order has been entered by the Bankruptcy Court estimating or otherwise fixing the amount of Allowed General Unsecured Claims.

- s. **Unsecured Claims.** The Liquidation Analysis estimates the General Unsecured Claims have an initial claims amount of \$40 million, based on the estimates of the Debtors and the claims that have been scheduled and filed to date. In addition, the amount provided in the Liquidation Analysis does not include certain unpaid cure costs and under-secured claims arising from liens, as noted above.