

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
Quicksilver Resources Inc., <u>et al.</u> , ¹)	Case No. 15-10585 (LSS)
)	
Debtors.)	Jointly Administered
)	
)	Hearing Date: August 10, 2021 at 2:00 p.m. (ET)
)	Obj. Deadline: August 3, 2021 at 4:00 p.m. (ET)

**LIQUIDATION TRUSTEE’S MOTION TO EXTEND
THE TERMINATION DATE OF THE KWK LIQUIDATION TRUST**

Eugene I. Davis, in his capacity as the liquidation trustee (the “Liquidation Trustee”) for the KWK Liquidation Trust (the “Liquidation Trust”) established pursuant to the *First Amended Joint Chapter 11 Plan of Liquidation for Quicksilver Resources Inc. and its Affiliated Debtors* (the “Plan”),² seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), extending the termination date (the “Termination Date”) for the Liquidation Trust for one year from August 31, 2021 through and including August 31, 2022. In support of the motion, the Liquidation Trustee respectfully states as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Quicksilver Resources Inc. [6163]; Barnett Shale Operating LLC [0257]; Cowtown Drilling, Inc. [8899]; Cowtown Gas Processing L.P. [1404]; Cowtown Pipeline Funding, Inc. [9774]; Cowtown Pipeline L.P. [9769]; Cowtown Pipeline Management, Inc. [9771]; Makarios Resources International Holdings LLC [1765]; Makarios Resources International Inc. [7612]; QPP Holdings LLC [0057]; QPP Parent LLC [8748]; Quicksilver Production Partners GP LLC [2701]; Quicksilver Production Partners LP [9129]; and Silver Stream Pipeline Company LLC [9384].

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan.

3. The predicates for the relief requested herein are section 105 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Section 9.12 of the Plan, and Section 9.1 of the KWK Trust Agreement (as defined below).

BACKGROUND

4. On March 17, 2015 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in this Court. Throughout their chapter 11 cases, the Debtors operated their business and managed their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. These chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015 and Local Rule 1015-1. No request for the appointment of a trustee has been made in these chapter 11 cases. On March 25, 2015, the Acting United States Trustee, Region 3 (the “U.S. Trustee”) appointed the statutory committee of unsecured creditors [D.I. 119].

5. On January 27, 2016, the Court entered an order [D.I. 1095] approving the sale of substantially all of the Debtors’ U.S. assets to BlueStone Natural Resources II, LLC (“Bluestone”) for \$254 million in cash (the “Sale”). The Sale to BlueStone closed on April 6, 2016, effective as of April 1, 2016.

6. On August 16, 2016, the Court entered an order [D.I. 1633] confirming the Plan. The effective date of the Plan occurred on August 31, 2016 (the “Effective Date”). On the Effective Date, the Liquidation Trust was established pursuant to the Plan and the KWK Liquidation Trust Agreement, dated as of August 31, 2016, by and among the Debtors and the Liquidation Trustee (the “KWK Trust Agreement”). Pursuant to the Plan and the KWK Trust Agreement, the primary purpose of the Liquidation Trust is to liquidate and administer the Liquidation Trust Assets. The

duties of the Liquidation Trustee include, among other things, (a) receive, protect, and liquidate the Liquidation Trust Assets, (b) prosecute objections to, compromise and settle Disputed Claims, and (c) calculate and implement distributions of the Liquidation Trust Assets as contemplated by the Plan. See Plan Arts. 6 and 9; Trust Agreement Art. 3.

7. Since the Effective Date of the Plan, the Liquidation Trustee has worked to liquidate the assets of the Liquidation Trust and to review and reconcile proofs of claim filed against the Debtors' estates. The Liquidation Trustee has fulfilled substantially all of his duties, but the primary outstanding matter in these chapter 11 cases relates to the collection of a significant federal tax refund in the amount of approximately \$21.4 million. Although the Liquidating Trustee has timely requested the federal tax refund pursuant to prompt refund procedures under Bankruptcy Code section 505(a) and Rev. Proc. 2010-27, the IRS has not yet remitted the tax refund to the Liquidation Trust. Upon information and belief, significant delays in processing tax returns as a result of the COVID-19 pandemic has resulted in the failure of the IRS to timely issue the tax refund. As a result, the Liquidation Trustee intends to file imminently a motion with this Court pursuant to Bankruptcy Code section 505(a) seeking an order of the Court determining that the Liquidation Trust is entitled to the tax refund and directing the IRS to promptly remit the refund to the Liquidation Trust.

8. The KWK Trust Agreement that governs the Liquidation Trust provides that:

The Liquidation Trust shall be dissolved, in accordance with this section and at such time as (i) all of the Liquidation Trust Assets have been distributed pursuant to the Plan and this Agreement, (ii) the KWK Trustee determines that the administration of any remaining Liquidation Trust Assets is not likely to yield sufficient additional proceeds to justify further pursuit, or (iii) all distributions required to be made by the KWK Trustee under the Plan and this Agreement have been made; provided, however, that in no event shall the Liquidation Trust be dissolved later than five (5) years from the Effective Date unless the Bankruptcy Court determines that a

fixed period extension (not to exceed two (2) years, including any prior extensions) is necessary to facilitate or complete the recovery and liquidation of the Liquidation Trust Assets.

KWK Trust Agreement, Section 9.1.

9. Pursuant to Section 9.1 of the Trust Agreement set forth above, the Liquidation Trust would be scheduled to terminate on August 31, 2021 unless the Bankruptcy Court authorizes a fixed period extension to complete the recovery and liquidation of the Liquidation Trust Assets. Accordingly, to provide the necessary additional time to collect the tax refund, make final distributions, and wind down the remaining matters of the Liquidation Trust, the Liquidation Trustee files this Motion seeking to extend the Termination Date of the Liquidation Trust for one year.

RELIEF REQUESTED

10. By this Motion, the Liquidation Trustee seek an order, pursuant to Bankruptcy Rule 9006(b) further extending the Termination Date of the Liquidation Trust for one year from August 31, 2021, through and including August 31, 2022 (without prejudice to the Liquidation Trustee's rights to request a further extension in accordance with the KWK Trust Agreement).

BASIS FOR RELIEF

11. Bankruptcy Rule 9006(b) provides that the court may extend unexpired time periods without notice:

[W]hen an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion . . . with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order

Fed. R. Bankr. P. 9006(b)(1).

12. In addition, Bankruptcy Code section 105(a) provides that: “[t]he court may issue any order or process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Section 105(a) has been interpreted to expressly empower bankruptcy courts with broad equitable powers to “craft flexible remedies that, while not expressly authorized by the Code, effect the result the Code was designed to obtain.” *Official Comm. of Unsecured Creditors of Cybergenics Corp. ex rel. Cybergenics Corp. v. Chinery*, 330 F.3d 548, 568 (3d Cir. 2003) (en banc). Although not limitless, this section has also been construed to give bankruptcy courts authority to provide equitable relief appropriate to assure the orderly conduct of bankruptcy proceedings. *See, e.g., In re Combustion Engineering, Inc.*, 391 F.3d 190, 236 (3d Cir. 2004); *see also Local Loan Co. v. Hunt*, 292 U.S. 234, 240 (1934) (“[C]ourts of bankruptcy are essentially courts of equity, and their proceedings inherently proceedings in equity.”).

13. The requested relief in this Motion will allow the Liquidation Trustee to continue carrying out his duties under the Liquidation Trust Agreement. Further, the rights of any other party or beneficiary of the Liquidation Trust will not be prejudiced by such an extension. The extension sought is not for delay, but to ensure that the Liquidation Trust is properly and timely administered.

14. Courts in this district have granted similar relief to that requested herein in other chapter 11 cases. *See, e.g., In re Physiotherapy Holdings, Inc.*, Case No. 13-12965 (KG) (Bankr. D. Del. Dec. 6, 2018) [Docket No. 566] (granting three-year extension of post-confirmation litigation trust); *In re Evergreen Solar, Inc.*, Case No. 11-12590 (MFW) (Bankr. D. Del. Jan. 4, 2016) [Docket No. 1272] (granting extension of one year for termination date of liquidating trust); *In re IMMC Liquidating Estate*, Case No. 08-11178 (KJC) (Bankr. D. Del. June 23, 2014) [Docket No. 614] (granting extension of one year for termination date of liquidating trust); *In re Advanta*

Corp., Case No. 09-13931 (KJC) (Bankr. D. Del. Feb. 20, 2014) [Docket No. 1605] (granting extension of 18 months for termination date of liquidating trust).

NO PRIOR REQUEST

15. No prior request for the relief sought herein has been made by the Liquidation Trustee to this or any other court.

NOTICE

16. The Liquidation Trustee will provide notice of this motion to (a) the U.S. Trustee, Attn.: Jane Leamy, Esq.; (b) members of the Trust Advisory Board; (c) members of the Unsecured Advisory Group; and (d) any parties entitled to notice pursuant to Local Rule 2002-1(b). In view of the nature of the relief requested in this motion, the Liquidation Trustee respectfully submits that no further notice is necessary.

CONCLUSION

WHEREFORE, the Liquidation Trustee respectfully requests that the Court enter an order, substantially in the form annexed hereto as **Exhibit A**, extending the Termination Date of the Liquidation Trust through and including August 31, 2022, and granting such other and further relief as the Court deems just and proper.

Wilmington, Delaware
Date: July 27, 2021

/s/ Amanda R. Steele
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