

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:  CHESAPEAKE ENERGY CORPORATION, <i>et al.</i> , <sup>1</sup>  Reorganized Debtors.	§ § § § § § §	Chapter 11  Case No. 20-33233 (DRJ)  (Jointly Administered)
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**REORGANIZED DEBTORS’ OBJECTION TO  
PROOFS OF CLAIM AND ADMINISTRATIVE EXPENSE CLAIM  
FILED BY GATES**

**This is an objection to your claim. The objecting party is asking the Court to disallow the claim that you filed in this bankruptcy case. You should immediately contact the objecting party to resolve the dispute. If you do not reach an agreement, you must file a response to this objection and send a copy of your response to the objecting party within 30 days after the objection was served on you. Your response must state why the objection is not valid. If you do not file a response within 30 days after the objection was served on you, your claim may be disallowed without a hearing.**

**Represented parties should act through their attorney.**

The above-captioned reorganized debtors (before the Effective Date of the Plan, the “Debtors,” and after the Effective Date of the Plan, the “Reorganized Debtors”) file this objection to the Gates Claims (as defined herein). In support of this objection, the Reorganized Debtors respectfully state as follows:

**Relief Requested**

1. The Reorganized Debtors seek entry of an order, substantially in the form attached hereto (the “Order”), disallowing the proofs of claim filed by Gates Mineral Company, Ltd. and

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<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://dm.epiq11.com/chesapeake>. The location of Debtor Chesapeake Energy Corporation’s principal place of business and the Debtors’ service address in these chapter 11 cases is 6100 North Western Avenue, Oklahoma City, Oklahoma 73118.

certain related parties<sup>2</sup> (collectively, “Gates”) identified on Schedule 1 to the Order, and disallowing Gates’ administrative expense claim, as discussed below, (Gates’ administrative expense claim and the proofs of claim set forth on Schedule 1 to the Order are the “Gates Claims”).

### **Jurisdiction and Venue**

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). The Reorganized Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this objection to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a) and 502(b) of the Bankruptcy Code, Bankruptcy Rule 3007, and rules 3007-1 and 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Bankruptcy Local Rules”).

### **Background**

#### **I. The Royalty Litigation.**

5. Gates and Chesapeake Exploration, L.L.C. (“Chesapeake Exploration”) are parties to two oil and gas leases covering approximately 13,000 acres in South Texas (the “Gates Leases”),

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<sup>2</sup> The Gates entities include: Gates Mineral Company, Ltd., Gates Production Company EF, LLC, Donald G. Elliott, Jannifer M. Elliott; David B. Elliott; Richard J. Gates; Linda A. Pederson, Louise G. Davis; Thomas A. Gates; Terri Gates; and Kevin Kennedy, Guardian of the Person and of the Estate of Laura I. Gates.

of which Chesapeake Exploration holds slightly less than two-thirds of the working interest.<sup>3</sup> The Gates Leases provide Chesapeake Exploration the right to, *inter alia*, explore for and produce hydrocarbons from Gates' property, and provide Gates the right to receive royalty payments based on hydrocarbon production arising from its land, as specified in the Gates Leases.

6. On October 29, 2020, Gates filed an adversary case concerning alleged underpaid royalties styled *Gates Mineral Company, Ltd. et al. v. Chesapeake Energy Corporation et al.*, Adv. Proc. No. 20-03451 (DRJ).

## II. The Claims Reconciliation Process.

7. On August 21, 2020, the Debtors filed their Statements of Financial Affairs and Schedules of Assets and Liabilities as required by section 521 of the Bankruptcy Code (collectively, the "Schedules") pursuant to Bankruptcy Rule 1007 and the *Order Extending Time to File Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, and Statements of Financial Affairs* [Docket No. 136]. The Debtors amended the Schedules for certain Debtor entities on November 27, 2020.

8. On August 13, 2020, the Court entered the *Order (I) Setting Bar Dates for Filing Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing Amended Schedules Bar Date and Rejection Damages Bar Date, (III) Approving the Form of and Manner for Filing Proofs of Claim, Including Section 503(b)(9) Requests, (IV) Approving Notice of Bar Dates, and (V) Granting Related Relief* [Docket No. 787] (the "Bar Date Order"), establishing certain dates and deadlines for filing proofs of claim in these chapter 11 cases.

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<sup>3</sup> The remaining working interest not held by a Gates-entity is held by CNOOC Energy U.S.A. LLC f/k/a OOGC America LLC ("CNOOC"), and Larchmont Resources, L.L.C. ("Larchmont," and together with CNOOC and Jamestown, the "Co-Interest Owners").

Among other things, the Bar Date Order established October 30, 2020, at 5:00 p.m., prevailing Central Time, as the deadline for all non-governmental entities holding or wishing to assert a “claim” (as defined in section 101(5) of the Bankruptcy Code) against any of the Debtors that arose before the Petition Date to file a proof of such claim in writing.

9. On January 13, 2021, the Court confirmed the Debtors’ plan of reorganization, memorializing that decision in an order filed on January 16, 2021. *Order Confirming Fifth Am. Joint Ch. 11 Plan of Reorganization of Chesapeake Energy Corp. & Its Debtor Affiliates* [Docket No. 2915].

10. On July 29, 2021, the Reorganized Debtors and Gates filed Stipulated Schedule and Discovery Plan [Adv. Pro. No. 20-03451, Docket No. 35] (the “Scheduling Stipulation”), setting September 17, 2021 as Gates’ deadline to file any administrative expense claims and setting the deadline for the Reorganized Debtors to file an objection to any proof of claim including any administrative expense claim filed by Gates as November 12, 2021. The Court entered the Scheduling Stipulation on July 29, 2021, [Adv. Pro. No. 20-03451, Docket No. 35].

11. On October 6, 2021, the Reorganized Debtors and Gates filed their First Amended Stipulated Schedule and Discovery Plan [Adv. Pro. No. 20-03451, Docket No. 40] (the “Amended Scheduling Stipulation”), setting October 22, 2021 as Gates’ deadline to file any administrative expense claims and setting the deadline for the Reorganized Debtors to file an objection to any proof of claim including any administrative expense claim filed by Gates as December 17, 2021. The Court has not yet entered the Amended Scheduling Stipulation.

12. The Reorganized Debtors and their advisors (collectively, the “Reviewing Parties”), have diligently reviewed the Gates Claims, including supporting documentation filed therewith, and the Reorganized Debtors’ books and records. For the reasons set forth below,

and based on their review to date, the Reviewing Parties have determined that the Gates Claims should be disallowed as set forth herein.

### **The Gates Claims**

13. Gates asserts claims in an aggregate amount in excess of \$60 million on account of alleged underpaid royalties under the Gates Leases, plus interest and reimbursement of professional fees. Essentially, the Gates Claims document the royalty dispute at issue in the Gates Adversary, except that the Gates Claims are substantially greater in amount than the alleged damages Gates has quantified in the Gates Adversary. The Gates Claims sets forth the following categories of amounts owed (collectively, the “Claim Categories”):

- Skim Oil Volumes Unpaid;
- Produced Gas Volumes Unpaid;
- Unmeasured Flash Gas Unpaid;
- Greater of Oil Price vs. Price Paid;
- Greater Gas Price vs. Price Paid;
- Greater of NGL Price vs. Price Paid;
- MMBtu or NGL Uplift Value of Unsold Produced Gas;
- Benefit from Derivatives Trading/Hedging Not Considered as Gross Proceeds;
- Proportionate Share of Severance Tax Paid vs. Tax Deducted;
- Interest on Late Original Payments;
- Interest on Exception Amounts thru 6/28/2020; and
- Cost Reimbursement.

*See Addendum to Amended Proofs of Claim.*<sup>4</sup>

14. Gates Mineral Company, Ltd. also asserts a claim in the amount of \$4,909,725.00 related to certain funds held in escrow related to Gates’ royalty disputes with Debtor Chesapeake Exploration (the “Escrow Claim”).

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<sup>4</sup> The precise language used to label the Gates Claims varies slightly among the several pages of Gates’ Addendum to Amended Proofs of Claim as well as on Gates’ Application for Allowance and Payment of Administrative Expense Claim and Royalty and Working Interest Administrative Expense Claim (the “Gates Administrative Expense Claim”). For convenience, the Reorganized Debtor’s use the language on the first page of the Addendum submitted with Gates’ Amended Proofs of Claim [*e.g.* Gates Mineral Company, Ltd.’s Claim No. 4607 at p. 4 of 65]

### **Objection**

15. Section 502 of the Bankruptcy Code provides, in pertinent part, as follows: “[a] claim or interest, proof of which is filed under section 501 of [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502(a). Further, section 502(b)(1) of the Bankruptcy Code provides that the court “shall determine the amount of such claim . . . as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—such claim is unenforceable against the debtor and the property of the debtor . . .” 11 U.S.C. § 502(b)(1).

16. As set forth in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes *prima facie* evidence of the validity and the amount of the claim under section 502(a) of the Bankruptcy Code. *See, e.g., In re Jack Kline Co., Inc.*, 440 B.R. 712, 742 (Bankr. S.D. Tex. 2010). However, a proof of claim loses the presumption of *prima facie* validity under Bankruptcy Rule 3001(f) if an objecting party refutes at least one of the allegations that is essential to the claim’s legal sufficiency. *See In re Fidelity Holding Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988). Once such an allegation is refuted, the burden reverts to the claimant to prove the validity of its claim by a preponderance of the evidence. *See id.* Despite this shifting burden during the claim objection process, “the ultimate burden of proof always lies with the claimant.” *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006) (citing *Raleigh v. Ill. Dep’t of Revenue*, 530 U.S. 15 (2000)).

#### **I. The Claim Categories.**

17. The Gates Claims allege that the Debtors underpaid royalties by over \$60 million. Gates Mineral Company makes the largest claim in the amount of \$54,052,612.00. The Reorganized Debtors refute the Gates Claims.

18. As part of the Gates Claims, the Gates Administrative Expense Claim claims that Debtors underpaid royalties in an amount of “not less than \$1,196,487.69” for “Transportation and Fractionation Fees – Plant Products,” which the Reorganized Debtors understand corresponds to the Claim Category for “Greater of NGL Price vs. Price Paid.” [Adv. Pro. No. 20-03451, Doc. No. 41 ¶ 23]. The Gates Administrative Expense Claim also asserts several categories of claims labeled as “Undetermined” in amount. *Id.* The “Undetermined” categories of administrative claims may track the Claim Categories described above, and the Reorganized Debtors assume so for purposes of their response below, without conceding that is the case given Gates’ lack of explanation. The Reorganized Debtors refute the Gates Administrative Expense Claim.

19. Although the Reorganized Debtors intend to address the allegations of royalty underpayment reflected in the Gates Claims more fully through the Gates Adversary, the Reorganized Debtors, in compliance with the Scheduling Stipulation and Amended Scheduling Stipulation briefly summarize their substantive objections to the Claim Categories as follows.

20. *Volumetric Claims.* Gates alleges that the Debtors owe amounts under the Gates Leases related to “Skim Oil Volumes Unpaid,” “Produced Gas Volumes Unpaid,” and “Unmeasured Flash Gas Unpaid.” The Reorganized Debtors deny that any such amounts are owed. Further, should this Court find that the volumetric claims have merit—the Reorganized Debtors contend they do not—the Reorganized Debtors argue that the amounts set forth in the Gates Claims are overstated and should be reduced.

21. *Oil Gas and NGL Pricing.* Gates alleges that the Debtors owe amounts under the Gates Leases related to the “Greater of Oil Price vs. Price Paid” and the “Greater of Gas Price vs. Price Paid.” The Reorganized Debtors deny that any such amounts are owed. Gates’ proof of claim, based on the Reorganized Debtors’ understanding, relies on a recalculation of “gross

proceeds” based on the combination of the highest price within the weighted average sales price and the addition of gains (but not losses) from Chesapeake’s financially settled derivatives transactions, both aspects of which are wrong.

22. *NGL Pricing.* Gates alleges that the Debtors owe amounts under the Gates Leases related to the “Greater of NGL Price vs. Price Paid.” The Reorganized Debtors deny that any such amounts are owed. The Debtors properly calculated the gross proceeds price for NGLs without deducting any post-production costs and compared that price to the specified index price.

23. *Unsold Gas Pricing.* Gates alleges that the Debtors owe amounts under the Gates Leases related to the “MMBtu or NGL Uplift Value of Unsold Produced Gas.” The Reorganized Debtors deny that any such amounts are owed. When royalty was due on unsold gas, the Debtors properly calculated and paid royalty based on the MMBtu value of the gas.

24. *Derivatives.* Gates alleges that the Debtors owe amounts under the Gates Leases related to “Benefit from Derivatives Trading/Hedging Not Considered as Gross Proceeds.” The Reorganized Debtors deny that any such amounts are owed. Gates seeks additional royalty based on financial derivatives transactions entered into by Chesapeake. No additional royalty is due for reasons including that royalties are tied to the marketing of physical production, and the Gates leases specifically exclude the payment of royalties on derivatives transactions. Financial derivatives are risk management arrangements where no physical production changes hands and all of Chesapeake Energy Corporation’s hedging arrangements that form the basis of Gates’ claim were financial derivatives transactions.

25. *Severance Taxes.* Gates alleges that the Debtors owe amounts under the Gates Leases related to “Proportionate Share of Severance Tax Paid vs. Tax Deducted.” The Reorganized Debtors deny that any such amounts are owed. The Debtors properly remitted and



deducted from Gates' royalties Gates' share of the tax due to the State of Texas. Gates' increased severance tax burden is a direct result of their increased royalty value. The Debtors properly remitted and deducted the taxes that Gates owed the state.

26. *Interest.* Gates alleges that the Debtors owe amounts under the Gates Leases related to "Interest on Late Original Payments" and "Interest on Exception Amounts thru 6/28/2020." The Reorganized Debtors deny that any such amounts are owed. Whether any interest is due turns on the outcome of Gates' other alleged claims, which the Reorganized Debtors argue are without merit and should be disallowed

27. *Cost Reimbursement.* Gates alleges that the Debtors owe amounts under the Gates Leases related to "Cost Reimbursement." The Reorganized Debtors deny that any such amounts are owed. Like the interest claims, Gates' cost reimbursement claim turns on the outcome of Gates' other alleged claims, which the Reorganized Debtors argue are without merit and should be disallowed. To the extent this Court finds that any cost reimbursement is allowed, the amounts set forth in the Gates Claims should be reduced.

28. *Escrow Claim.* Whether Gates Mineral Company, Ltd. is entitled to any amount from escrow is tied to whether it is owed any money on its substantive claims. Those substantive claims are discussed above, and the Escrow Claim should be disallowed, because the substantive claims should not be allowed.

29. Accordingly, the Reorganized Debtors submit that the Gates Claims do not represent outstanding obligations owed by the Debtors. Failure to disallow the Gates Claims could result in an improper recovery against the Debtors, to the detriment of other creditors. Accordingly, the Reorganized Debtors seek entry of the Order disallowing the Gates Claims.

## II. Other Objections.

30. *Amended Claims.* The Reorganized Debtors object to the Gates Claims listed in the column labelled “Disallowed – Amended Claims” on Schedule 1 to the Order (collectively, the “Amended Claims”) because the Reorganized Debtors have determined that subsequently filed proofs of claim have amended and superseded such Gates Claims. The subsequently filed proofs of claim changed the claimed amounts. The Amended Claims should be disallowed and expunged from the claims register in these chapter 11 cases (the “Claims Register”) to streamline the distribution process and reduce the risk that claimants with multiple proofs of claim for the same alleged liability do not receive recoveries in excess of what such claimants are owed. Accordingly, the Reorganized Debtors request that the Court disallow and expunge the Amended Claims from the Claims Register.

31. *Exact Duplicate Claims.* The Reorganized Debtors object to the Gates Claims listed in the column labelled “Disallowed – Exact Duplicate Claims” on Schedule 1 to the Order (collectively, the “Exact Duplicate Claims”). The Reviewing Parties reviewed the Exact Duplicate Claims and determined that the Exact Duplicate Claims duplicate proofs of claim filed by or on behalf of the same Gates Entity, against the same Debtor entity, and in respect of the same liabilities. Failure to disallow and expunge the Exact Duplicate Claims could potentially result in the relevant claimants receiving double recoveries against the Reorganized Debtors to the detriment of other, similarly situated creditors. Accordingly, the Reorganized Debtors request that the Court disallow and expunge the Exact Duplicate Claims from the Claims Register.

32. *Substantively Duplicate Claims.* The Reorganized Debtors object to the Gates Claims listed in the column labelled “Disallowed – Substantively Duplicate Claims” on Schedule 1 to the Order (collectively, the “Substantively Duplicate Claims”) because the Reorganized

Debtors have determined that more than one proof of claim has been filed for the same underlying liability. Substantively Duplicate Claims are not the same as the Exact Duplicate Claims and Amended Claims that are also the subject of this objection. The Substantively Duplicate Claims are distinguishable from the Exact Duplicate Claims on grounds that the other Gates Claims associated with the Substantively Duplicate Claims are not identical.<sup>5</sup> Moreover, the Substantively Duplicate Claims are different from the Amended Claims because the other Gates Claims tied to the Amended Claims indicate that such claims were meant to revise the Amended Claims. The Reviewing Parties have reviewed the information in, and the documents attached to, the other Gates Claims tied to the Substantively Duplicate Claims as well as their books and records to determine that multiple proofs of claim were filed on account of the same alleged obligation. These are the claims that are subject to the Substantively Duplicate Claims objection. Therefore, disallowance is warranted for these claims, as holders of such Substantively Duplicate Claims are not entitled to receive recoveries in amounts that exceed the actual liabilities. Accordingly, the Reorganized Debtors request that the Court disallow and expunge the Substantively Duplicate Claims from the Claims Register.

33. In light of the foregoing, the Reorganized Debtors respectfully request that the Court disallow the Gates Claims.

### **Reservation of Rights**

(i) This objection is limited to the grounds stated herein. It is without prejudice to the rights of the Reorganized Debtors to object to any claim on any grounds whatsoever. The Reorganized Debtors expressly reserve all further substantive or procedural objections. Nothing

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<sup>5</sup> Specifically, each Gates entity filed identical claims against Chesapeake Exploration, L.L.C. and Chesapeake Operating, L.L.C. The only difference between each Gates entity's four proofs of claim is the Reorganized Debtor entity.

contained herein or any actions taken pursuant to such relief is intended or should be construed as:

- (a) an admission as to the validity of any prepetition claim against a Reorganized Debtor entity;
- (b) a waiver of the Reorganized Debtors' right to dispute any prepetition claim on any grounds;
- (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Objection or any order granting the relief requested by this objection; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Reorganized Debtors' rights under the Bankruptcy Code or any other applicable law.

**Notice**

(ii) The Reorganized Debtors will provide notice of this motion to: (a) the United States Trustee for the Southern District of Texas; (b) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (c) Gates. In light of the nature of the relief requested, no other or further notice need be given.

*[Remainder of page intentionally left blank.]*

WHEREFORE, the Reorganized Debtors request that the Court enter the Order, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Houston, Texas  
December 17, 2021

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*Counsel to the Debtors  
and Reorganized Debtors*

**Certificate of Service**

I certify that on December 17, 2021, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

*/s/ Christopher D. Sileo*

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Christopher D. Sileo