

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

In re:)	Chapter 11
)	
Hopedale Mining, LLC, <i>et al.</i> , ¹)	Case No. 1:20-bk-12043 (GRH)
)	(Jointly Administered)
)	
Debtors.)	Hon. Guy R. Humphrey
_____)	

**STIPULATION AND AGREED ORDER REGARDING CERTAIN
LIEN MATTERS AND EXTENSION OF INITIAL CHALLENGE PERIOD**

The Official Committee of Unsecured Creditors (the “Committee”), the Debtors, the DIP Lenders and the Prepetition Lenders (collectively, the “Parties”), by and through their respective undersigned counsel, enter into this stipulation (this “Stipulation”) and hereby agree as follows:

¹ The Debtors in these Chapter 11 cases are (with the last four digits of their federal tax identification numbers in parentheses): Rhino GP LLC (8619), Rhino Resource Partners LP (7517), Rhino Energy LLC (6320), Rhino Trucking LLC (8773), Rhino Exploration LLC (8863), Triad Roof Support Systems LLC (1183), Springdale Land LLC (9816), McClane Canyon Mining LLC (3783), Rhino Northern Holdings LLC (1858), CAM-Ohio Real Estate LLC (1859), CAM-Colorado LLC (4269), Taylorville Mining LLC (5106), CAM Coal Trading LLC (4143), Castle Valley Mining LLC (9495), Jewell Valley Mining LLC (0270), Rhino Services LLC (3356), Rhino Oilfield Services LLC (8938), Rhino Technologies LLC (0994), CAM Mining LLC (2498), Rhino Coalfield Services LLC (3924), Hopedale Mining LLC (9060), CAM-Kentucky Real Estate LLC (9089), CAM-BB LLC (9097), Leesville Land LLC (7794), CAM Aircraft LLC (5467), Pennyrile Energy LLC (6095), Rhino Eastern LLC (1457), Rockhouse Land LLC (7702).

RECITALS

WHEREAS, on July 22, 2020, the Debtors filed voluntary petitions under chapter 11 of the Bankruptcy Code in this Court.

WHEREAS, on July 30, 2020, the United States Trustee appointed the Committee.

WHEREAS, on August 12, 2020, this Court entered the *Final Order (I) Authorizing the Debtors to (A) Obtain Post-Petition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 238] (the “Final DIP Order”) and the *Order (A) Approving Bidding and Sale Procedures With Respect to the Sale of Substantially All Assets, (B) Authorizing the Entry into a Stalking Horse Agreement and the Provision of Stalking Horse Protections, (C) Scheduling an Auction and Sale hearing and Approving the Form and Manner of Notice Thereof, (D) Approving the Procedures for the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (E) Granting Related Relief* [Docket No. 232] (the “Sale Procedures Order”).²

WHEREAS, under Paragraph 27 of the Final DIP Order, the Committee had until August 25, 2020 to notify the Prepetition Secured Parties’ counsel of its intent to file any Initial Challenges and identify such specific Initial Challenges, which are required to be brought by August 27, 2020 at 4:00 p.m. (Eastern) (the “Initial Challenge Deadline”).

WHEREAS, pursuant to the Final DIP Order, on August 25, 2020 at 12:58 p.m. (Eastern) and 3:20 p.m. (Eastern) (“Notice 1” and “Notice 2” respectively), the Committee sent written notice to the Prepetition Secured Parties’ counsel of its intent to file certain Initial Challenges

² Capitalized terms that are not defined herein shall have the meanings ascribed to them in the Final DIP Order or the Sale Procedures Order, as applicable.

and specified those Initial Challenges (the challenges specified in part I of Notice 1, the “Committee Part 1 Initial Challenges”, the challenges specified in Notice 2 and part II of Notice 1, the “Committee Part 2 Initial Challenges”, and collectively, the “Committee Initial Challenges”).³

WHEREAS, Paragraph 27 of the Final DIP Order allows for an extension of the Initial Challenge Deadline upon the written agreement by the DIP Lenders and the Debtors without further order of the Court.

WHEREAS, pursuant to Paragraph 27 of the Final DIP Order, the Committee, the DIP Lenders, the Prepetition Lenders, and the Debtors filed a stipulation to extend the Initial Challenge Deadline to August 30, 2020; *provided*, that the Initial Challenges are limited to those Committee Initial Challenges that were identified on August 25, 2020 and shall not include any additional challenges [Docket No. 289].

WHEREAS, pursuant to Paragraph 27 of the Final DIP Order, the Committee, the DIP Lenders, the Prepetition Lenders, and the Debtors filed an additional stipulation to extend the Initial Challenge Deadline to September 1, 2020; *provided*, that the Initial Challenges are limited to those Committee Initial Challenges that were identified on August 25, 2020 and shall not include any additional challenges [Docket No. 311].

WHEREAS, pursuant to Paragraph 27 of the Final DIP Order, the Committee, the DIP Lenders, the Prepetition Lenders, and the Debtors filed an additional stipulation to extend the Initial Challenge Deadline to September 2, 2020; *provided*, that the Initial Challenges are limited

³ In the Committee Part 1 Initial Challenges, the Committee challenges the validity of the liens of the Prepetition Secured Parties relating to Motor Vehicles, the JV Real Properties, the RE Real Properties, certain deposit accounts, and certain commercial tort claims. In the Committee Part 2 Initial Challenges, the Committee challenges the allowability of the following components of the Prepetition Secured Parties’ claims: (i) unused line fees, (ii) make-whole claims, (iii) origination fees, (iv) consent fees, and (v) exit fees. This summary is included herein for reference purposes only and is qualified in its entirety by Notice 1 and Notice 2.

to those Committee Initial Challenges that were identified on August 25, 2020 and shall not include any additional challenges [Docket No. 330].

WHEREAS, pursuant to Paragraph 27 of the Final DIP Order, the Committee, the DIP Lenders, the Prepetition Lenders, and the Debtors filed an additional stipulation to extend the Initial Challenge Deadline to September 3, 2020; *provided*, that the Initial Challenges are limited to those Committee Initial Challenges that were identified on August 25, 2020 and shall not include any additional challenges [Docket No. 355].

WHEREAS, the Committee, the DIP Lenders, the Prepetition Secured Parties and the Debtors have agreed to certain stipulations as well as to extend the Initial Challenge Deadline pursuant to Paragraph 27 of the Final DIP Order as provided herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

1. *Prepetition Liens*. The Prepetition Lenders hereby stipulate that the Prepetition Secured Parties do not have a duly perfected enforceable lien on or security interest in:

- (a) Any motor vehicles owned by any of the Debtors (the “Motor Vehicles”);
- (b) Any real property owned or leased by Debtor Jewel Valley Mining, LLC (the “JV Real Properties”);
- (c) Any real property owned or leased by Debtor Rhino Eastern, LLC (the “RE Real Properties”); *provided*, that the Schedules of Assets and Liabilities for Debtor Rhino Eastern LLC [Docket No. 177] do not list any real property assets owned or leased by Debtor Rhino Eastern LLC;
- (d) Any cash held by any Debtor in deposit accounts held by the Debtors at East West Bank and BB&T;

(e) Any commercial tort claim belonging to any of the Debtors or any proceeds of any commercial tort claim (whether by successful litigation or otherwise) (the “Unperfected Commercial Tort Claims”), except for commercial tort claims in the cases captioned (a) *Weston Energy LLC v. Rhino Resources Partners LP, C.A.*, No. 2019-0898-JRS filed in the Court of Chancery of the State of Delaware, and (b) *Rhino Resource Partners LP, Rhino GP LLC and Royal Energy, Inc. v. Yorktown Partners LLC, Yorktown Energy Partners VI, L.P., Yorktown Energy Partners VII, L.P., Yorktown Energy VIII, L.P., Yorktown Energy Partners IX, L.P., Yorktown Energy Partners XI, L.P., Rhino Resource Partners Holdings LLC, Weston Energy LLC, Ronald Phillips, Bryan H. Lawrence, and Bryan R. Lawrence, C.A.*, No. 2019-0334-JRS filed in the Court of Chancery of the State of Delaware (subsections (a)-(e) of this paragraph 1 collectively, the “Prepetition Unperfected Assets”).

For purposes of clarification, the assets referred to in the Sale Procedures Order as “Rhino Eastern Reserve” are held by debtor entity Rockhouse Land LLC. The Parties agree that the Prepetition Lenders have valid, binding, continuing, enforceable, fully-perfected first priority senior security interests in and liens on all real and personal property assets held by Rockhouse Land LLC (the “Rockhouse Assets”), except for any Prepetition Unperfected Assets in paragraphs 1(a), (d) and (e) above, and subject to the Committee’s rights with respect to the Second Period Challenges (as defined in the Final DIP Order).

2. DIP Liens. The Parties hereby stipulate and agree that, pursuant to the Final DIP Order, the DIP Secured Parties have valid, binding, continuing, enforceable, fully-perfected first priority senior security interests in and liens on the DIP Collateral on the terms set forth in the Final DIP Order, including with limitation, for the avoidance of doubt, (i) the Motor Vehicles,

(ii) the JV Real Properties, (iii) any real property owned by Debtor Rhino Eastern LLC including the RE Real Properties (if any), and (iv) the Rockhouse Assets; *provided*, that the Committee's stipulations in this Paragraph 2 are effective only upon: (a) entry of an order (the "Sale Order") approving the sale to the Stalking Horse Bidder (or its assignees or designees) of the following Debtors' assets: (i) the Purchased Assets (as defined in the Stalking Horse Agreement⁴) which for avoidance of doubt shall include the Contingent Assets (as defined in the Stalking Horse Agreement), and (ii) solely to the extent they are not otherwise acquired by their respective Successful Bidders, the Hopedale Dock (Asset Group 6) and the Springdale Reserve (Asset Group 6) (collectively, the "Stalking Horse Acquisitions"); *provided* the Sale Order governing the Stalking Horse Acquisitions shall contain such provisions necessary to implement the agreement in principle reached with the Committee as memorialized in the emails dated August 31, 2020 between counsel to the Committee and counsel to the Prepetition Lenders and DIP Lenders; and (b) the transactions constituting the Stalking Horse Acquisitions shall be consummated (the "Closing"). The DIP Lenders acknowledge that they do not possess a DIP Lien under the Final DIP Order on the Unperfected Commercial Tort Claims.

3. Committee Challenges.

(a) The Initial Challenge Deadline of September 3, 2020 at 5:00 p.m. (Eastern) under Paragraph 27 of the Final DIP Order (as extended) (i) solely as it relates to the Committee Part 2 Initial Challenges, is hereby extended to **October 9, 2020**, and (ii) solely as it relates to Committee Part 1 Initial Challenges, is hereby extended to the earlier of (x) the

⁴ The "Stalking Horse Agreement" is the Amended and Restated Asset Purchase Agreement among Rhino GP LLC, Rhino Resource Partners LP, and each other Debtor signatory thereto, and Pledge Servicing Partners, LLC, dated as of August 28, 2020 (the "A&R APA").

Closing, whereby they will be deemed resolved pursuant to the terms herein, and such resolution shall be binding on a chapter 7 trustee, or (y) **October 9, 2020**.

(b) Except as expressly set forth herein, the terms and provisions of the Final DIP Order including, without limitation, the Committee's rights to bring Second Period Challenges under Paragraph 27 of the Final DIP Order and the terms of the DIP Credit Agreement (including without limitation the terms regarding Mandatory Prepayments), shall remain in full force and effect.

4. Fiduciary Duties. Nothing herein shall impact the Committee's right to exercise its fiduciary duties with respect to any proposed sale transaction under the Sale Procedures Order.

5. Reservation of Rights. Except as expressly provided herein, all of the rights of the DIP Secured Parties and their assignees and designees under the DIP Facility and the Final DIP Order remain in full force and effect.

SO ORDERED.

Copies to: Default List

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