

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

In re:) Chapter 11
)
Blackjewel, L.L.C., *et al.*,) Case No. 19-30289
)
Debtors.¹) (Jointly Administered)

**DEPARTMENT OF LABOR'S NOTICE TO THE COURT AND RESPONSE TO
DEBTORS' NOTICE OF FILING DECLARATIONS REGARDING TRAIN
IDENTIFICATION**

On September 5, 2019, the Court ordered Debtors to submit an affidavit concerning the movement (or lack of movement) of certain coal located in Harlan County on July 29, 2019, by Wednesday, September 11, 2019. Upon review of the affidavits produced at the Order of the Court, the DOL does not dispute that the L962 coal was not transported from Harlan County, Kentucky on July 29, 2019.²

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Blackjewel, L.L.C. (0823); Blackjewel Holdings L.L.C. (4745); Revelation Energy Holdings, LLC (8795); Revelation Management Corporation (8908); Revelation Energy, LLC (4605); Dominion Coal Corporation (2957); Harold Keene Coal Co. LLC (6749); Vansant Coal Corporation (2785); Lone Mountain Processing, LLC (0457); Powell Mountain Energy, LLC (1024); and Cumberland River Coal LLC (2213). The headquarters for each of the Debtors is located at 1051 Main Street, Milton, West Virginia 25541-1215.

² Debtors contend the DOL simply should have taken their word that the L962 coal was not transported from Harlan County, Kentucky on July 29, 2019. This contention is wrong for two reasons. First, a representation of counsel is not evidence, regardless of how vehemently the representation is made. And second, this Court ordered Debtors to submit the affidavits at issue. It is the DOL's position that it does not have the authority to consent to the Debtors' disregard of an order of this Court.

The Court also ordered Debtors to identify any disputes with regard to the DOL's computation of back wages owed to employees by Wednesday, September 11, 2019. Debtors submitted an email on September 11, 2019, explaining they took issue with three aspects of the DOL's back wage computations. Two of the disputes can and will be rectified. Specifically, Debtors only recently produced complete payroll records for the entire 22-day period at issue. Those payroll records will allow the DOL to calculate actual back wages – and to apply the same formula – for all employees for whom the DOL has records.

As to the third issue, Debtors expect DOL to give them credit for back wages they allege they already paid certain employees when they returned to work. The DOL's updated back wage computations will account for any back wages paid to employees, for which the DOL has received documented proof, i.e., payroll records. Absent any documents confirming Debtors' allegations certain employees received back wages, the DOL will not – and cannot – give credit for unsupported allegations of paid back wages.

Notably, actual back wages owed by Debtors to their employees still total more than \$3 million, even when making the above-referenced changes. In other words, the wages for the uncompensated work that resulted in the production of the hot goods at issue total more than \$3 million – more than double the amount Blackjewel and BJMS ask this Court to force DOL to accept and to release the coal.

Date: September 12, 2019

Respectfully submitted,

U.S. DEPARTMENT OF LABOR

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CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2019, I caused a copy of the foregoing Department of Labor's Notice to the Court be served by electronic mail upon all parties receiving notice through the Court's CM/ECF Noticing System.

s/Fred B. Westfall, Jr.

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