

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

In re)	Chapter 11
CLOUD PEAK ENERGY INC., <i>et al.</i> ,)	Case No. 19 – 11047 (KG)
Debtors. ¹)	(Jointly Administered)

**NOTICE OF AGENDA OF MATTERS SCHEDULED
FOR HEARING ON JULY 18, 2019 AT 10:00 A.M. (ET)**²

I. RESOLVED MATTERS:

1. Application for Entry of an Order Authorizing the Retention and Employment of Morrison & Foerster LLP as Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* to May 22, 2019 [Docket No. 248 – filed June 11, 2019]

Objection/Response Deadline: June 25, 2019 at 4:00 p.m. (ET)

Objections/Responses Received: None

Related Documents:

- i. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]

¹ The Debtors in these chapter 11 cases and the last four digits of their respective federal tax identification numbers are: Antelope Coal LLC (8952); Arrowhead I LLC (3024); Arrowhead II LLC (2098); Arrowhead III LLC (9696); Big Metal Coal Co. LLC (0200); Caballo Rojo LLC (9409); Caballo Rojo Holdings LLC (4824); Cloud Peak Energy Finance Corp. (4674); Cloud Peak Energy Inc. (8162); Cloud Peak Energy Logistics LLC (7973); Cloud Peak Energy Logistics I LLC (3370); Cloud Peak Energy Resources LLC (3917); Cloud Peak Energy Services Company (9797); Cordero Mining LLC (6991); Cordero Mining Holdings LLC (4837); Cordero Oil and Gas LLC (5726); Kennecott Coal Sales LLC (0466); NERCO LLC (3907); NERCO Coal LLC (7859); NERCO Coal Sales LLC (7134); Prospect Land and Development LLC (6404); Resource Development LLC (7027); Sequatchie Valley Coal Corporation (9113); Spring Creek Coal LLC (8948); Western Minerals LLC (3201); Youngs Creek Holdings I LLC (3481); Youngs Creek Holdings II LLC (9722); Youngs Creek Mining Company, LLC (5734). The location of the Debtors’ service address is: 385 Interlocken Crescent, Suite 400, Broomfield, Colorado 80021.

² The hearing will be held before The Honorable Kevin Gross at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Courtroom 3, Wilmington, Delaware 19801. Any person who wishes to appear telephonically at the July 18, 2019 hearing must contact COURTCALL, LLC at 866-582-6878 to register his/her telephonic appearance in accordance with the *Instructions for Telephonic Appearances Effective January 5, 2005, Revised May 11, 2018*. All motions and other pleadings referenced herein are available online at the following address: <http://cases.primeclerk.com/cloudpeakenergy>.

- ii. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]
- iii. Certificate of No Objection Regarding Application for Entry of an Order Authorizing the Retention and Employment of Morrison & Foerster LLP as Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* to May 22, 2019 [Docket No. 357 – filed June 26, 2019]
- iv. Order Authorizing the Retention and Employment of Morrison & Foerster LLP as Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* to May 22, 2019 [Docket No. 362 – entered June 28, 2019]

Status: On June 28, 2019, the Court entered an order granting the relief requested. Accordingly, a hearing regarding this matter is not required.

2. Application for Entry of an Order Authorizing and Approving the Employment of Morris James LLP as Co-Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* to May 22, 2019 [Docket No. 249 – filed June 11, 2019]

Objection/Response Deadline: June 25, 2019 at 4:00 p.m. (ET)

Objections/Responses Received: None

Related Documents:

- i. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- ii. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]
- iii. Certificate of No Objection Regarding Application for Entry of an Order Authorizing and Approving the Employment of Morris James LLP as Co-Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* to May 22, 2019 [Docket No. 358 – filed June 26, 2019]
- iv. Order Granting Application Authorizing and Approving the Employment of Morris James LLP as Co-Counsel to the Official Committee of Unsecured Creditors *Nunc Pro Tunc* to May 22, 2019 [Docket No. 361 – entered June 28, 2019]

Status: On June 28, 2019, the Court entered an order granting the relief requested. Accordingly, a hearing regarding this matter is not required.

3. Application of the Official Committee of Unsecured Creditors of Cloud Peak Energy Inc., *et al.*, for Entry of an Order Authorizing the Committee to Retain and Employ Jeffries LLC as Investment Banker Pursuant to 11 U.S.C. §§ 328(a) and 1103(a), *Nunc Pro Tunc* to May 23, 2019 [Docket No. 250 – filed June 11, 2019]

Objection/Response Deadline: June 25, 2019 at 4:00 p.m. (ET)

Objections/Responses Received: None

Related Documents:

- i. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- ii. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]
- iii. Certification of Counsel Regarding Application of the Official Committee of Unsecured Creditors of Cloud Peak Energy Inc., *et al.*, for Entry of an Order Authorizing the Committee to Retain and Employ Jeffries LLC as Investment Banker Pursuant to 11 U.S.C. §§ 328(a) and 1103(a), *Nunc Pro Tunc* to May 23, 2019 [Docket No. 364 – filed June 28, 2019]
- iv. Order Authorizing the Official Committee of Unsecured Creditors to Retain and Employ Jeffries LLC as Investment Banker *Nunc Pro Tunc* to May 23, 2019 [Docket No. 370 – entered July 1, 2019]

Status: On July 1, 2019, the Court entered an order granting the relief requested. Accordingly, a hearing regarding this matter is not required.

4. Motion of Debtors for Entry of an Order (I) Approving the Debtors’ Key Employee Retention Plan and (II) Granting Related Relief [Docket No. 253 – filed June 11, 2019]

Objection/Response Deadline: June 25, 2019 at 4:00 p.m. (ET); extended to June 26, 2019 at 12:00 p.m. (ET) for the Official Committee of Unsecured Creditors (the “*Committee*”)

Objections/Responses Received:

- A. Informal comments from the Committee

Related Documents:

- i. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- ii. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]
- iii. Certification of Counsel Regarding Order (I) Approving the Debtors’ Key Employee Retention Plan and (II) Granting Related Relief [Docket No. 360 – filed June 27, 2019]

- iv. Order (I) Approving the Debtors' Key Employee Retention Plan and (II) Granting Related Relief [Docket No. 371 – entered July 1, 2019]

Status: On July 1, 2019, the Court entered an order granting the relief requested. Accordingly, a hearing regarding this matter is not required.

- 5. Motion of Debtors for Entry of an Order (I) Approving the Debtors' Key Employee Incentive Plan and (II) Granting Related Relief [Docket No. 254 – filed June 11, 2019]

Objection/Response Deadline: June 25, 2019 at 4:00 p.m. (ET); extended to July 8, 2019 at 12:00 p.m. (ET) for the Committee; extended to July 11, 2019 at 4:00 p.m. (ET) for the Office of the United States Trustee for the District of Delaware (the "*U.S. Trustee*")

Objections/Responses Received: None

Related Documents:

- i. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- ii. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]
- iii. Certificate of No Objection Regarding Motion of Debtors for Entry of an Order (I) Approving the Debtors' Key Employee Incentive Plan and (II) Granting Related Relief [Docket No. 449 – filed July 12, 2019]
- iv. Order (I) Approving the Debtors' Key Employee Incentive Plan and (II) Granting Related Relief [Docket No. 453 – entered July 15, 2019]

Status: On July 15, 2019, the Court entered an order granting the relief requested. Accordingly, a hearing regarding this matter is not required.

- 6. Motion of Debtors for Entry of an Order (I) Establishing Bar Dates and Procedures and (II) Approving the Form and Manner of Notice Thereof [Docket No. 257 – filed June 11, 2019]

Objection/Response Deadline: June 25, 2019 at 4:00 p.m. (ET)

Objections/Responses Received:

- A. Informal comments from the Secured Notes Trustee
- B. Informal comments from the Unsecured Notes Trustee

Related Documents:

- i. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- ii. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]
- iii. Certification of Counsel Regarding Order (I) Establishing Bar Dates and Procedures and (II) Approving the Form and Manner of Notice Thereof [Docket No. 359 – filed June 27, 2019]
- iv. Order (I) Establishing Bar Dates and Procedures and (II) Approving the Form and Manner of Notice Thereof [Docket No. 372 – entered July 1, 2019]

Status: On July 1, 2019, the Court entered an order granting the relief requested. Accordingly, a hearing regarding this matter is not required.

II. CONTINUED MATTER:

7. Motion of Debtors for Entry of Orders (A)(I) Approving Bidding Procedures, (II) Scheduling the Bid Deadlines and the Auction, (III) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (IV) Approving the Form and Manner of Notice Thereof, (V) Approving Contract Assumption and Assignment Procedures, and (VI) Granting Related Relief and (B)(I) Approving the Sale of the Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Granting Related Relief [Docket No. 52 – filed May 13, 2019]

Assigned Contract Objection Deadline: July 26, 2019 at 11:00 a.m. (ET)

Assigned Contract Objections Received to Date:

- A. Reservation of Rights of the Zurich Companies with Respect to the Debtors' Proposed Sale of Assets [Docket No. 296 – filed June 24, 2019]

Sale Objection/Response Deadline: August 5, 2019 at 11:00 a.m. (ET)

Sale Objections/Responses Received to Date:

- A. Paul David Pollard's Response to Debtors Omnibus Response to Objections to Debtors' Bidding Procedures and Sale Motion (Docket No. 196) and Paul David Pollard's Protective Objection and Statement of Reservation of Rights [Docket No. 291 – filed June 19, 2019]
- B. Response to the Debtors' Motion for Entry of Orders (A)(I) Approving Bidding Procedures, (II) Scheduling the Bid Deadlines and the Auction, (III) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (IV) Approving the Form and Manner of Notice Thereof, (V) Approving Contract Assumption and Assignment Procedures, and (VI) Granting Related Relief

and (B)(I) Approving the Sale of the Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (II) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Granting Related Relief [Docket No. 295 – filed June 24, 2019]

Related Documents:

- i. Declaration of Marc D. Puntus in Support of the Debtors’ Bidding Procedures and Sale Motion [Docket No. 197 – filed June 7, 2019]
- ii. Order (I) Approving Bidding Procedures, (II) Scheduling the Bid Deadlines and the Auction, (III) Scheduling Hearings and Objection Deadlines with Respect to the Sale, (IV) Approving the Form and Manner of Notice Thereof, (V) Approving Contract Assumption and Assignment Procedures, and (VI) Granting Related Relief [Docket No. 272 – entered June 13, 2019]
- iii. Notice of the Auction and Sale Hearing [Docket No. 369 – filed June 28, 2019]
- iv. Notice of (I) Potential Assumption and Assignment of Contracts and Unexpired Leases and (II) Cure Amounts in Connection Therewith [Docket No. 376 – filed July 1, 2019]

Status: On June 28, 2019, the Debtors filed the Notice of the Auction and Sale Hearing scheduling the sale hearing for August 7, 2019 at 2:00 p.m. (prevailing Eastern Time).

III. UNCONTESTED MATTER WITH CERTIFICATION OF COUNSEL:

8. Motion of Debtors of Entry of Interim and Final Orders (I) Authorizing Certain Debtors to Continue Selling Receivables and Related Rights Pursuant to a Securitization Facility, (II) Modifying the Automatic Stay, and (III) Granting Related Relief [Docket No. 20 – filed May 10, 2019]

Objection/Response Deadline: June 5, 2019 at 5:00 p.m. (ET); extended to July 11, 2019 for the Committee

Objections/Responses Received:

- A. Informal comments from the Committee
- B. Informal comments from PNC Bank, N.A.

Related Documents:

- i. Declaration of Heath Hill in Support of Chapter 11 Petitions and First Day Pleadings [Docket No. 21 – filed May 10, 2019]
- ii. Declaration of Marc D. Puntus in Support of the Debtors’ (A) Motion to Obtain Postpetition Debtor-in-Possession Financing and (B) Motion to

Continue Selling Receivables Pursuant to Securitization Facility [Docket No. 32 – filed May 12, 2019]

- iii. Interim Order (I) Authorizing Certain Debtors to Continue Selling Receivables and Related Rights Pursuant to a Securitization Facility, (II) Modifying the Automatic Stay, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief [Docket No. 96 – entered May 14, 2019]
- iv. Notice of (1) Entry of Interim Order (I) Authorizing Certain Debtors to Continue Selling Receivables and Related Rights Pursuant to a Securitization Facility, (II) Modifying the Automatic Stay, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief and (2) Final Hearing Thereon [Docket No. 116 – filed May 16, 2019]
- v. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- vi. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]
- vii. Certification of Counsel Regarding Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Certain Debtors to Continuing Selling Receivables and Related Rights Pursuant to a Securitization Facility, (II) Modifying the Automatic Stay, and (III) Granting Related Relief [Docket No. 458 – filed July 16, 2019]

Status: On July 16, 2019, the Debtors filed a revised form of order resolving this matter under certification of counsel. Accordingly, a hearing regarding this matter is required only to the extent the Court has any questions or concerns.

IV. MATTERS GOING FORWARD:

9. Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing Secured by Senior Priming Liens and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief [Docket No. 31 – filed May 12, 2019]

Objection/Response Deadline: June 5, 2019 at 5:00 p.m. (ET); extended to June 10, 2019 at 12:00 p.m. (ET) for the Department of Justice (the “**DOJ**”) and Zurich American Insurance Company (“**Zurich**”); extended to June 24, 2019 at 12:00 p.m. (ET) for the U.S. Trustee; extended to July 11, 2019 at 12:00 p.m. (ET) for the Committee

Objections/Responses Received:

- A. Informal comments from Zurich
- B. Informal comments from the Ad Hoc Group
- C. Informal comments from the DOJ
- D. Informal comments from the Committee
- E. Informal comments from Comerica Leasing Corp.
- F. Informal comments from Big Horn County³
- G. Campbell County's Limited Objection to Debtors' DIP Financing Motion, as Supplemented [Docket No. 399 – filed July 8, 2019]
- H. Protective Objection and Reservation of Rights of BOKF, N.A., in its Capacity as Indenture Trustee, to the Debtors' (I) Settlement Motion and (II) DIP Motion [Docket No. 442 – filed July 11, 2019]

Related Documents:

- i. Declaration of Heath Hill in Support of Chapter 11 Petitions and First Day Pleadings [Docket No. 21 – filed May 10, 2019]
- ii. Declaration of Marc D. Puntus in Support of the Debtors' (A) Motion to Obtain Postpetition Debtor-in-Possession Financing and (B) Motion to Continue Selling Receivables Pursuant to Securitization Facility [Docket No. 32 – filed May 12, 2019]
- iii. Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing Secured by Senior Priming Liens and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief [Docket No. 106 – entered May 15, 2019]
- iv. Notice of (1) Entry of Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing Secured by Senior Priming Liens and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief and (2) Final Hearing Thereon [Docket No. 117 – filed May 16, 2019]
- v. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- vi. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]

³ The Debtors received Big Horn County's comments after June 5, 2019 at 5:00 p.m. (ET).

- vii. Supplement to Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing Secured by Senior Priming Liens and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief [Docket No. 368 – filed June 28, 2019]

Status: The hearing regarding this matter will go forward.

- 10. Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to Assume the Amended and Restated Sale and Plan Support Agreement, (II) Approving the Lien and Guaranty Settlement Contained in the Amended and Restated Sale and Plan Support Agreement, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief [Docket No. 258 – filed June 11, 2019]

Objection/Response Deadline: June 25, 2019 at 4:00 p.m. (ET); extended to July 11, 2019 at 12:00 p.m. (ET) for the Committee

Objections/Responses Received:

- A. Informal comments from the Committee
- B. Comment and Reservation of Rights of Arch Insurance Company, Argonaut Insurance Company, Aspen American Insurance Company, Aspen Specialty Insurance Company, Fidelity and Deposit Company of Maryland, Colonial American Casualty and Surety Company, American Guarantee and Liability Insurance Company, and North American Specialty Insurance Company to Motion of Debtors for Entry of Order (I) Authorizing the Debtors to Assume the Amended and Restated Plan Support Agreement, (II) Approving the Lien and Guaranty Settlement Contained in the Amended and Restated Sale and Plan Support Agreement, and (III) Modifying the Automatic Stay, and (IV) Granting Related Relief [Docket No. 354 – filed June 25, 2019]
- C. Protective Objection and Reservation of Rights of BOKF, N.A., in its Capacity as Indenture Trustee, to the Debtors’ (I) Settlement Motion and (II) DIP Motion [Docket No. 442 – filed July 11, 2019]

Related Documents:

- i. Declaration of Alan Boyko of FTI Consulting, Inc. in Support of the Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to Assume the Amended and Restated Sale and Plan Support Agreement, (II) Approving the Lien and Guaranty Settlement Contained in the Amended and Restated Sale and Plan Support Agreement, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief [Docket No. 267 – filed June 12, 2019]
- ii. Declaration of Heath Hill in Support of the Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to Assume the Amended and Restated Sale

and Plan Support Agreement, (II) Approving the Lien and Guaranty Settlement Contained in the Amended and Restated Sale and Plan Support Agreement, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief [Docket No. 268 – filed June 12, 2019]

- iii. Declaration of Colin Marshall in Support of the Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to Assume the Amended and Restated Sale and Plan Support Agreement, (II) Approving the Lien and Guaranty Settlement Contained in the Amended and Restated Sale and Plan Support Agreement, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief [Docket No. 269 – filed June 12, 2019]
- iv. Notice of Rescheduled Omnibus Hearing [Docket No. 284 – filed June 17, 2019]
- v. Notice of Further Rescheduled Omnibus Hearing [Docket No. 294 – filed June 21, 2019]

Status: The hearing regarding this matter will go forward.

- 11. Debtors’ Application for Entry of an Order Authorizing the Retention and Employment of Powers Land Brokerage, LLC as the Real Estate Broker for the Debtors and Debtors in Possession, *Nunc Pro Tunc* to July 12, 2019 [Docket No. 450 – filed July 13, 2019]

Objection/Response Deadline: At the hearing

Objections/Responses Received: None

Related Documents:

- i. Order Shortening the Notice and Objection Periods for the Debtors’ Application for Entry of an Order Authorizing the Retention and Employment of Powers Land Brokerage, LLC as Real Estate Broker for the Debtors and Debtors in Possession, *Nunc Pro Tunc* to July 12, 2019 [Docket No. 452 – entered July 15, 2019]

Status: The hearing regarding this matter will go forward.

Dated: July 16, 2019
Wilmington, Delaware

/s/ David T. Queroli

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