

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re: )
) Chapter 11
)
ARMSTRONG ENERGY, INC., et al., ) Case No. 17-47541-659
)
) Jointly Administered
Debtors. )
) Hearing Date: February 2, 2018
) Hearing Time: 11:00 a.m. prevailing
) Central Time
) Hearing Location: Courtroom 7 North

NOTICE OF HEARING TO CONSIDER
CONFIRMATION OF THE CHAPTER 11 PLAN FILED BY THE
DEBTORS AND RELATED VOTING AND OBJECTION DEADLINES

PLEASE TAKE NOTICE THAT on December 18, 2017, the United States Bankruptcy Court for the Eastern District of Missouri (the "Court") entered an order [Docket No. 322] (the "Disclosure Statement Order"): (a) authorizing Armstrong Energy, Inc. and its affiliated debtors and debtors in possession (collectively, the "Debtors"), to solicit acceptances for the Debtors' First Amended Joint Chapter 11 Plan (as modified, amended, or supplemented from time to time, the "Plan");<sup>1</sup> (b) approving the First Amended Disclosure Statement for the Debtors' First Amended Joint Chapter 11 Plan [Docket No. 312] (as modified, amended, or supplemented from time to time, the "Disclosure Statement") as containing "adequate information" pursuant to section 1125 of the Bankruptcy Code; (c) approving the solicitation materials and documents to be included in the solicitation packages (the "Solicitation Packages"); and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan.

PLEASE TAKE FURTHER NOTICE THAT the hearing at which the Court will consider Confirmation of the Plan (the "Confirmation Hearing") will commence at on February 2, 2018, at 11:00 a.m. prevailing Central Time, before the Honorable Judge Kathy A. Surratt-States, in the United States Bankruptcy Court for the Eastern District of Missouri, located at 111 S. 10th Street, Fourth Floor, St. Louis, Missouri 63102.

1 Capitalized terms not otherwise defined herein have the same meanings as set forth in the Plan.

**PLEASE BE ADVISED:** THE CONFIRMATION HEARING MAY BE CONTINUED FROM TIME TO TIME BY THE COURT OR THE DEBTORS **WITHOUT FURTHER NOTICE** OTHER THAN BY SUCH ADJOURNMENT BEING ANNOUNCED IN OPEN COURT OR BY A NOTICE OF ADJOURNMENT FILED WITH THE COURT AND SERVED ON ALL PARTIES ENTITLED TO NOTICE.

**CRITICAL INFORMATION REGARDING THE SALE PROVISIONS OF THE PLAN**

**PLEASE TAKE NOTICE** that in connection with the Plan, the Debtors seek to transfer substantially all of their assets (the “Assets”) free and clear of liens, claims, encumbrances, and other interests, except as set forth in the Transaction Agreement and subject to higher or otherwise better offers (the “Sale Transaction”). Please note that all capitalized terms used but not defined herein shall have the meanings set forth in the Plan.

**PLEASE TAKE FURTHER NOTICE** that the Debtors will seek approval of the Sale Transaction contemporaneously with the Confirmation Hearing (as defined below).

**CRITICAL INFORMATION REGARDING VOTING ON THE PLAN**

**Voting Record Date.** The voting record date is **December 18, 2017** (the “Voting Record Date”), which is the date for determining which Holders of Claims in Classes 3 and 4 are entitled to vote on the Plan.

**Voting Deadline.** The deadline for voting on the Plan is on **Friday, January 19, 2018, at 4:00 p.m.** prevailing Central Time (the “Voting Deadline”). If you received a Solicitation Package, including a Ballot and intend to vote on the Plan you ***must***: (a) follow the instructions carefully; (b) complete ***all*** of the required information on the ballot; and (c) execute and return your completed Ballot according to and as set forth in detail in the voting instructions so that it is ***actually received*** by the Debtors’ claims and noticing agent, Donlin, Recano & Company, Inc. (the “Claims and Noticing Agent”) on or before the Voting Deadline. ***A failure to follow such instructions may disqualify your vote.***

**CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN**

**ARTICLE X** OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND **ARTICLE X.D. CONTAINS A THIRD-PARTY RELEASE**. THUS, YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.

**ALL HOLDERS OF CLAIMS AGAINST OR INTERESTS IN THE DEBTORS THAT DO NOT FILE AN OBJECTION WITH THE BANKRUPTCY COURT IN THE CHAPTER 11 CASES THAT EXPRESSLY OBJECTS TO THE INCLUSION OF SUCH HOLDER AS A RELEASING PARTY UNDER THE PROVISIONS CONTAINED IN ARTICLE X OF THE PLAN WILL BE DEEMED TO HAVE EXPRESSLY, UNCONDITIONALLY, GENERALLY, INDIVIDUALLY, AND COLLECTIVELY CONSENTED TO THE RELEASE OF ALL CLAIMS AND CAUSES OF ACTION AGAINST THE DEBTORS AND THE RELEASED PARTIES.**

Please be advised that Article X of the Plan contains the following release, exculpation, and injunction provisions:

**RELEASES BY THE DEBTORS.**

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Debtors, the Post-Effective Date Debtor, and any Person seeking to exercise the rights of the Estates, including any successor to the Debtors or any estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including those that any of the Debtors, the Post-Effective Date Debtor, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any claim or Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Post-Effective Date Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Support Agreement, the Transaction Agreement, Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date of the Plan.

Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity: (1) arising under the Plan, the Transaction Agreement, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, or (2) expressly set forth in and preserved by the Plan, the Plan Supplement, or related documents.

Entry of the Confirmation and Sale Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Debtor

**Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Debtor Release; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable and reasonable; (5) given and made after reasonable investigation by the Debtors and after notice and opportunity for hearing; and (6) a bar to any of the Debtors asserting any claim released by the Debtor Release against any of the Released Parties.**

**RELEASES BY HOLDERS OF CLAIMS AND INTERESTS.**

**Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, effective as of the Effective Date, the Releasing Parties (regardless of whether a Releasing Party is a Released Party) shall be deemed to forever release, waive, and discharge the Released Parties of any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity, or otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise, including those that any of the Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Interest, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any of the Debtors and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Support Agreement, the Transaction Agreement, Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, or occurrence relating to the foregoing taking place on or before the Effective Date.**

**Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, the Transaction Agreement, or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.**

**Entry of the Confirmation and Sale Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Third-**

**Party Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Releasing Parties; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable and reasonable; (5) given and made after notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any Claim released by the Third-Party Release against any of the Released Parties.**

### **EXCULPATION.**

**Upon and effective as of the Effective Date, the Debtors and their directors, officers, employees, attorneys, investment bankers, financial advisors, restructuring consultants, and other professional advisors and agents will be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including section 1125(e) of the Bankruptcy Code.**

**Except with respect to any acts or omissions expressly set forth in and preserved by the Plan, the Plan Supplement, the Transaction Agreement or related documents, the Exculpated Parties shall neither have nor incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or arising from or relating in any way to, the Chapter 11 Cases, including the operation of the Debtors' businesses during the pendency of these Chapter 11 Cases; formulating, negotiating, preparing, disseminating, implementing, and/or effecting the Restructuring Support Agreement, the Transaction Agreement, the Disclosure Statement, and the Plan (including the Plan Supplement and any related contract, instrument, release, or other agreement or document created or entered into in connection therewith); the solicitation of votes for the Plan and the pursuit of Confirmation and Consummation of the Plan; the administration of the Plan and/or the property to be distributed under the Plan; and/or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors. In all respects, each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its respective duties under, pursuant to, or in connection with the Plan.**

**Notwithstanding anything herein to the contrary, nothing in the foregoing "Exculpation" shall exculpate any Person or Entity from any liability resulting from any act or omission constituting fraud, willful misconduct, gross negligence, criminal conduct, malpractice, misuse of confidential information that causes damages, or ultra vires acts as determined by a Final Order.**

### **INJUNCTION.**

**Except as otherwise provided in the Plan or the Confirmation and Sale Order, all Entities who have held, hold, or may hold Claims, Interests, Causes of**

Action, or liabilities that: (1) are subject to compromise and settlement pursuant to the terms of the Plan; (2) have been released pursuant to the Plan; (3) are subject to exculpation pursuant to the Plan; or (4) are otherwise stayed or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from: (A) commencing or continuing in any manner any action or other proceeding of any kind, including on account of any Claims, Interests, Causes of Actions, or liabilities that have been compromised or settled against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of any Entity, directly or indirectly, so released or exculpated) on account of or in connection with or with respect to any released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (B) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (C) creating, perfecting, or enforcing any lien, claim, or encumbrance of any kind against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities; (D) asserting any right of setoff or subrogation of any kind against any obligation due from the Debtors or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities unless such Entity has timely asserted such setoff or subrogation right prior to confirmation in a document Filed with the Bankruptcy Court explicitly preserving such setoff or subrogation; and (e) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors, the Post-Effective Date Debtor, or any Entity so released or exculpated (or the property or estate of the Debtors or any Entity so released or exculpated) on account of or in connection with or with respect to any such released, settled, compromised, or exculpated Claims, equity Interests, Causes of Action, or liabilities released, settled, or compromised pursuant to the Plan; provided that nothing contained in the Plan shall preclude an Entity from obtaining benefits directly and expressly provided to such Entity pursuant to the terms of the Plan; provided further that nothing contained in the Plan shall be construed to prevent any Entity from defending against Claims, objections, or collection actions whether be asserting a right of setoff or otherwise to the extent permitted by law.

**Plan Objection Deadline.** The deadline for filing objections to the Plan, including objections with respect to any objections to proposed cure amounts or the assumption and assignment of Contracts, and objections to the Sale Transaction, is **January 19, 2018, at 4:00 p.m.**, prevailing Central Time (the “Plan Objection Deadline”). All objections to the relief

sought at the Confirmation Hearing **must**: (a) be in writing; (b) conform to the Bankruptcy Rules, the Local Bankruptcy Rules, and any orders of the Court; (c) state, with particularity, the legal and factual basis for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; **and** (d) be filed with the Court (contemporaneously with a proof of service) and served upon the following parties so as to be **actually received** on or before the Plan Objection Deadline:

<b>Counsel to the Debtors</b>	<b>Co-Counsel to the Debtors</b>
Kirkland & Ellis LLP 300 North LaSalle Chicago, Illinois 60654 Attn.: Ross M. Kwastenet, William A. Guerrieri, Travis M. Bayer, and Timothy R. Bow	Armstrong Teasdale LLP 7700 Forsyth Boulevard, Suite 1800 St. Louis, Missouri 63105 Attn.: Richard W. Engel, Jr., Erin M. Edelman, and John G. Willard
<b>Counsel to the Creditors' Committee</b>	<b>Co-Counsel to the Creditors' Committee</b>
Morrison & Foerster LLP 250 West 55th Street New York, New York 10019 Attn: Lorenzo Marinuzzi, Jonathan L. Levine, Jennifer L. Marines, and Daniel J. Harris	Affinity Law Group, LLC 1610 Des Peres Road, Suite 100 St. Louis, Missouri 63131 Attn: J. Talbot Sant, Jr.
<b>Counsel To the Indenture Trustee Under the Debtors' Prepetition Secured Notes</b>	<b>The United States Trustee</b>
Loeb & Loeb LLP, 345 Park Avenue, New York, NY 10154 Attn.: Vadim J. Rubenstein	Office of the United States Trustee for the Eastern District of Missouri 111 South 10th Street, Suite 6353 St. Louis, Missouri 63102 Attn: Leonora S. Long
<b>Knight Hawk</b>	<b>Thoroughbred</b>
Jackson Kelly PLLC 221 N.W. Fifth Street Evansville, Indiana 47708 Attn.: Charles A. Compton	Willkie Farr & Gallagher LLP 787 Seventh Avenue New York, NY 10019 Attn.: Matthew A. Feldman and Debra C. McElligott
<b>Counsel to the Ad Hoc Group of Holders of the Senior Notes</b>	<b>Co-Counsel to the Ad Hoc Group of Holders of the Senior Notes</b>
Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064 Attn.: Brian S. Hermann and Elizabeth R. McColm	Carmody MacDonald P.C., 120 South Central Avenue, Suite 1800 St. Louis, Missouri 63105 Attn.: Christopher J. Lawhorn

### **ADDITIONAL INFORMATION**

**Obtaining Solicitation Materials.** The materials in the Solicitation Package are intended to be self-explanatory. If you should have any questions or if you would like to obtain additional solicitation materials (or paper copies of solicitation materials if you received a

CD-ROM), please feel free to contact the Debtors' Claims and Noticing Agent, by: (a) calling the Debtors' restructuring hotline at (866) 416-0556 (toll free) or (212) 771-1128 (international); (b) visiting the Debtors' restructuring website at: <https://www.donlinrecano.com/armstrong>; (c) writing to the Claims and Noticing Agent at Donlin, Recano & Company, Inc., Re: Armstrong Energy, Inc. Ballot Processing, 6201 15th Avenue, Brooklyn, New York 11219; and/or (d) emailing [DRCVote@DonlinRecano.com](mailto:DRCVote@DonlinRecano.com). You may also obtain copies of any pleadings filed in the chapter 11 cases for a fee via PACER at: <http://www.moeb.uscourts.gov>. Please be advised that the Claims and Noticing Agent is authorized to answer questions about, and provide additional copies of, solicitation materials, but may *not* advise you as to whether you should vote to accept or reject the Plan.

**The Plan Supplement.** The Debtors will file the Plan Supplement (as defined in the Plan) on or before **January 5, 2018**, and will serve notice on all Holders of Claims entitled to vote on the Plan, which will: (a) inform parties that the Debtors filed the Plan Supplement; (b) list the information contained in the Plan Supplement; and (c) explain how parties may obtain copies of the Plan Supplement. The Plan Supplement will be available on the Debtors' restructuring website at: <https://www.donlinrecano.com/armstrong>.

**BINDING NATURE OF THE PLAN:**

**IF CONFIRMED, THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS AND INTERESTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHETHER OR NOT SUCH HOLDER WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, HAS FILED A PROOF OF CLAIM IN THE CHAPTER 11 CASES OR FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.**

*[Signature page follows]*

St. Louis, Missouri  
Dated: December 18, 2017

*/s/ Richard W. Engel, Jr.*

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Erin M. Edelman (MO 67374)  
John G. Willard (MO 67049)  
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- and -

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