

Exhibit A

Transcript of Auction

In re: Chieftain Sand and Proppant, LLC, et al.

AUCTION PROCEEDINGS
March 22, 2017



126 East 56th Street, Fifth Floor New York, New York 10022

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Min-U-Script® with Word Index

1 IN THE UNITED STATES BANKRUPTCY COURT
2 FOR THE DISTRICT OF DELAWARE
-----X
3 In re:
4 Chieftain Sand and Proppant, LLC, et al.
5 Case No.: 17-10064
-----X

7 One Gateway Center
8 Newark, New Jersey

9 March 22, 2017
10 9:50 a.m.

11 AUCTION PROCEEDINGS, taken before Sadie L.
12 Herbert, a Registered Professional Reporter and
13 Notary Public of the States of New York and New
14 Jersey.

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23 ELLEN GRAUER COURT REPORTING CO. LLC
24 126 East 56th Street, Fifth Floor
25 New York, New York 10022
212-750-6434
REF: 114396

1 A P P E A R A N C E S :

2

3 ON BEHALF OF CHIEFTAIN SAND AND PROPPANT, LLC:

4 VIC SERRI, CEO, Chieftain Sand and
5 Proppant, LLC

6 MAX BARRETT, Tudor, Pickering, Holt & Co.

7 CHRIS DAHAN, Tudor, Pickering, Holt & Co.

8 HOWARD COHEN, ESQ., Gibbons P.C.

9 LARRY GOLDMAN, ESQ., Gibbons P.C.

10 WAYNE WEITZ, EisnerAmper LLP

11

12 ON BEHALF OF ENERGY CAPITAL PARTNERS:

13 MATT DELANEY, Energy Capital Partners

14 JENNIFER GRAY, ESQ., Energy Capital
15 Partners

16 SAM ROMER, Energy Capital Partners

17 ROBERT BELMONTE, Energy Capital Partners

18 ANNEMARIE REILLY, ESQ., Latham & Watkins

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1 A P P E A R A N C E S (cont'd):

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3 ON BEHALF OF BADGER MINING CORPORATION:

4 LORI PHILLIPPI, Badger Mining Corporation

5 STEVE HART, Badger Mining Corporation

6 CODY WICKERSHEIM, Badger Mining

7 Corporation

8 L. KATHERINE GOOD, ESQ., Whiteford,

9 Taylor & Preston

10 COREY VANDERPOEL, Schenck M&A Solutions

11

12 ON BEHALF OF EAGLE MATERIALS, INC.:

13 MICHAEL HAACK, EVP & COO, Eagle Materials,
14 Inc.

15 MATT NEWBY, ESQ., Eagle Materials, Inc.

16 SCOTT PAREL, ESQ., Sidley & Austin

17 MATTHEW CLEMENTE, ESQ., Sidley & Austin

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1 A P P E A R A N C E S (cont'd):

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3 ON BEHALF OF MAMMOTH ENERGY SERVICES, INC.:

4 MARC MCCARTHY, Chairman, Mammoth Energy
5 Services, Inc.

6 DAVID STABER, ESQ., Akin, Gump, Strauss,
7 Hauer & Field LLP

8

9 ON BEHALF OF MIDWEST COMMODITY SERVICES, INC.:

10 JERRY EMMERT, Midwest Commodity
11 Services, LLC

12 JAMES EMMERT, Midwest Commodity
13 Services, LLC

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P R O C E E D I N G S

* * * *

MR. COHEN: We're now on the record. My name is Howard Cohen. I'm with Gibbons, P.C., and I'm counsel to the Debtors and Debtors in Possession, who I'll refer to as either Chieftain or the Debtors throughout today's auction.

Today's auction will be transcribed by a court reporter. Only discussions on the record will be transcribed. To the extent we have meetings or breaks off the record, such discussions will not be transcribed.

I'm joined today by my corporate colleague, Larry Goldman. We're here today for the auction that has been scheduled in connection with the bidding procedures order, which was entered by the Delaware Bankruptcy Court on February 3, 2017.

The bidding procedures order established bidding procedures relating to the sale of substantially all the

1 OPENING REMARKS

2 Debtors' assets and authorized this
3 auction.

4 To the extent any party needs a
5 copy of the bidding procedures order or
6 the related bidding procedures, we have
7 copies on the credenza here in the
8 auction room.

9 At the conclusion, of today's
10 auction, we will select a successful
11 bidder, as well as a backup bid. After
12 the auction has concluded and prior to
13 the sale hearing, the Debtors will work
14 with the successful bidder to finalize
15 and execute its Asset Purchase
16 Agreement and will also work with the
17 backup bidder to finalize its Asset
18 Purchase Agreement, in case the
19 successful bidder fails to close.

20 Thereafter, in accordance with the
21 bidding procedures approved by the
22 court, we will proceed to closing and
23 consummating the sale. A hearing to
24 approve the sale has been scheduled by
25 Judge Gross of the United States

1 OPENING REMARKS

2 Bankruptcy Court for the District of
3 Delaware for March 27 at 11:00 a.m.

4 Now, if I can take a few moments
5 and make a couple of introductions. In
6 addition to my corporate partner, with
7 me today is the Debtors' Chief
8 Executive Officer, Mr. Victor Serri.
9 Also here today is Max Barrett and
10 Chris Dahan from our investment banking
11 firm, Tudor, Pickering, Holt & Co.
12 Mr. Wayne Weitz, our financial advisor,
13 from EisnerAmper is here. On behalf of
14 our lender and stalking horse bidder,
15 Energy Capital Partners, we have
16 Jennifer Gray, Sam Romer, Matt Delaney
17 and Robert Belmonte, as well as
18 Annemarie Reilly, who is their outside
19 counsel from Latham & Watkins.

20 As the bidders know, once our
21 lender either reaches its credit bid
22 cap or informs the Debtors that it's no
23 longer bidding at today's auction, the
24 Debtors will at that point consult with
25 the lender concerning subsequent bids.

1 OPENING REMARKS

2 To date, the Debtors have not had
3 any discussions with the lender
4 concerning any of the bids that were
5 submitted prior to the auction, since
6 the lender is currently a participant
7 in this process.

8 Before we get started, let me lay
9 some of the ground rules for today's
10 auction. This auction, the bidding
11 procedures and all competing bids are
12 subject to the terms and conditions as
13 are announced by the Debtors on the
14 record during the auction. As set
15 forth in my email to each of you dated
16 March 21, 2017, the Debtors initially
17 received six qualified bids, subject to
18 the terms and conditions of the bidding
19 procedures and the Bankruptcy Court
20 order approving such bidding
21 procedures.

22 By way of update, the Debtors were
23 informed last night that Northern
24 Industrial does not intend to go
25 forward at today's auction, but instead

1 OPENING REMARKS

2 will partner with Midwest Commodity AG,
3 should Midwest be the successful bidder
4 today.

5 Each bid submitted to date and any
6 bid submitted during the auction is
7 subject to the bidding procedures
8 including that each bid, which includes
9 making any changes at today's auction,
10 is irrevocable in accordance with the
11 bidding procedures.

12 Pursuant to the procedures, the
13 Debtors have determined that bidding
14 increments will be 250,000 minimum,
15 unless otherwise changed by the Debtors
16 at today's auction, as announced on the
17 record.

18 The auction will be conducted as
19 follows: Bidding will be done in
20 rounds. We will go around the room
21 during each round with each bidder
22 during a particular round required to
23 up the prior bid by at least the
24 minimum overbid of 250,000. All
25 bidders will be given one opportunity

1 OPENING REMARKS

2 to take a pass during the entirety of
3 the auction. In the event that a
4 bidder takes a pass in a given round,
5 such bidder will not be permitted to
6 take a further pass in any subsequent
7 rounds of bidding.

8 We will ask each bidder to promptly
9 respond as to whether it is bidding or
10 not, what the bid amount is, and we
11 will try to accommodate short recesses
12 between bids to allow the next bidder
13 to decide whether it wants to continue
14 or drop out of the auction. I would
15 ask that bidders try to limit such
16 recesses to 15 minutes or less so that
17 we can try to conclude the auction
18 today.

19 The Debtors reserve the right to
20 recess at any point in time for
21 whatever reason and for whatever amount
22 of time they deem necessary. If during
23 a round a bidder does not submit an
24 incremental bid within the time
25 allotted or declines to bid, that

1 OPENING REMARKS

2 bidder, after exercising its one free
3 pass, will be prohibited from
4 participating in any further rounds at
5 the auction.

6 At the conclusion of the auction,
7 the Debtors, likely in consultation
8 with its lender, will review each final
9 competing bid on the basis of financial
10 and contractual terms and the factors
11 relevant to the sales process, the best
12 interest of the Debtors' estates,
13 including those factors affecting the
14 speed, conditionality and certainty of
15 consummation of the sale and will
16 identify the successful bidder and
17 backup bidder.

18 At the conclusion of the auction,
19 the Debtors will retain the deposits
20 submitted by the successful bidder and
21 backup bidder until the earlier of
22 closing on the sale with the successful
23 bidder or 90 days. Further, the
24 Debtors will ask that both the
25 successful bidder and backup bidder

1 OPENING REMARKS

2 increase their deposits in accordance
3 with final bids. All other bidders
4 will receive a return of their deposits
5 within five business days after the
6 conclusion of the sale hearing, which
7 is currently scheduled for March 27th
8 at 11:00 a.m.

9 If a transaction with the
10 successful bidder does not close due to
11 a breach, the Debtors will retain the
12 deposit and may pursue all available
13 legal and equitable remedies, including
14 consummation of the sale with the
15 backup bidder. Further, in the event
16 the sale doesn't close with the
17 successful bidder, the Debtors will
18 proceed to execute the APA with the
19 backup bidder and may obtain a second
20 sale order from the Bankruptcy Court,
21 to the extent required.

22 By participating in this auction,
23 all bidders agree to serve as backup
24 bidder on their terms and conditions,
25 and their bid and related Asset

1 OPENING REMARKS

2 Purchase Agreement is irrevocable until
3 such time as the conditions for serving
4 as backup bidder have concluded.

5 Before we continue, I'd ask each
6 party here today to appoint one
7 individual who will speak for that
8 party during the auction process. For
9 purposes of the record, I am going to
10 ask that each bidder's representative
11 state his or her first name, last name
12 and spell it for the court reporter.

13 So let's go around the room and
14 start with Eagle.

15 MR. HAACK: Michael Haack,
16 M-I-C-H-A-E-L, H-A-A-C-K.

17 MR. COHEN: Do you want to go? Who
18 is next?

19 MR. EMMERT: Jerry Emmert for
20 Midwest Commodity.

21 MR. MCCARTHY: Marc McCarthy,
22 M-C-C-A-R-T-H-Y, from Mammoth Energy.

23 MS. PHILLIPPI: Lori Phillippi,
24 P-H-I-L-L-I-P-P-I, Badger Mining
25 Corporation.

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2 MS. REILLY: Annemarie Reilly,
3 Energy Capital Partners Mezzanine
4 Opportunity Fund A, R-E-I-L-L-Y.

5 MR. COHEN: Okay. The Debtors
6 believe that each of the bidders has at
7 all times acted in good faith and dealt
8 at arm's length with the Debtors. I
9 will now ask each representative to
10 confirm on the record that it has not
11 taken any action that would prevent the
12 Bankruptcy Court from finding that such
13 bidder has acted inconsistently with
14 its good faith and arm's length
15 requirements.

16 I'll start with Annemarie,
17 actually.

18 MS. REILLY: It's confirmed.

19 MR. HAACK: Yes.

20 MR. MCCARTHY: Confirmed.

21 MS. PHILLIPPI: Yes.

22 MR. EMMERT: Yes, confirmed.

23 MR. COHEN: I will also ask that
24 each bidder confirm that it has not had
25 communications or colluded with other

1 OPENING REMARKS

2 bidders with the goal of either
3 controlling the price or discouraging
4 other bidders from participating at
5 auction.

6 MS. REILLY: Confirmed.

7 MR. HAACK: Confirmed.

8 MR. EMMERT: Confirmed.

9 MR. MCCARTHY: Confirmed.

10 MS. PHILLIPPI: Confirmed.

11 MR. COHEN: I would ask that each
12 bidder confirm that it understands and
13 has reviewed the bidding procedures and
14 understands the terms of auction, as I
15 have outlined this morning, including
16 the terms and conditions applying to
17 the backup bidder, which means keeping
18 your bid open for 90 days.

19 MS. REILLY: Confirmed.

20 MR. HAACK: Confirmed.

21 MR. EMMERT: Confirmed.

22 MS. PHILLIPPI: Confirmed.

23 MR. MCCARTHY: Confirmed.

24 MR. COHEN: Finally, I want to
25 discuss certain matters relating to the

1 OPENING REMARKS

2 bids today so that all bidders have a
3 clear understanding and are on the same
4 page when bidding. As everyone knows
5 the bidding will start at \$5,250,001,
6 but there are certain additional cash
7 amounts that the buyer will need to pay
8 in addition to this amount, including
9 what we have defined as the DIP
10 repayment amount, the undisputed cure
11 costs and the wind down amount.

12 With respect to the DIP repayment
13 amount, at the present time and based
14 upon the anticipated timing of closing,
15 the Debtors do not currently anticipate
16 that bidders will have to make any
17 payment with respect to the DIP
18 repayment amount. This is due to the
19 fact that the only item outstanding
20 under the Debtors' facility is a
21 standby letter of credit that was
22 issued in favor Barron County to secure
23 their reclamation permit. At closing,
24 it's anticipated that the standby
25 letter of credit will be canceled, and

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2 the buyer will post substitute
3 collateral acceptable to Barron County
4 to secure the reclamation permit.

5 The Debtors have not drawn on the
6 term piece of the DIP facility, and if
7 we can get to a closing in the next 30
8 to 60 days, the Debtors believe they
9 are unlikely to draw on the term piece
10 of the debt facility.

11 With respect to undisputed cure
12 costs, the only cure costs the buyer
13 will be responsible for are those cure
14 costs related to the contracts that
15 it's taking. To the extent contracts
16 are not taken by the buyer, the buyer
17 will not be responsible for making cure
18 payments on nonassigned contracts.

19 With that, the Debtors have
20 determined that the lead bid by Eagle
21 materials of \$5,250,001 is the highest
22 and otherwise best bid going into
23 auction, all other factors and price
24 considered. And with that, unless
25 there are any questions by the bidders,

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2 we intend to commence bidding.

3 Does anyone have any questions?

4 MR. CLEMENTE: I have a question.

5 MR. COHEN: Can you identify
6 yourself?7 MR. CLEMENTE: Yeah, Matt Clemente
8 on behalf of Eagle.9 So can you confirm, when we bid,
10 we're bidding off our APA, subject
11 obviously to the negotiation
12 afterwards?13 MR. COHEN: That is correct. Each
14 bidder is bidding off of the APA that
15 they submitted.16 MR. CLEMENTE: Okay. And second
17 question, regarding the other bidders,
18 can you state for the record what you
19 perceive the value of their bids to be
20 as well or -- I guess what I'm trying
21 to say is, what's the baseline that
22 people are starting from? You stated
23 the value of our bid.24 MR. COHEN: At this point, I
25 believe the APAs are apples to apples

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2 and that your bid by \$1 is the highest
3 and otherwise best going into auction.

4 MR. CLEMENTE: Okay. Thank you.

5 MR. COHEN: With that, any other
6 questions?

7 MR. EMMERT: Yes.

8 MR. COHEN: Identify yourself for
9 the record.

10 MR. EMMERT: Jerry Emmert, Midwest
11 Commodity. Are the terms of the APAs
12 between the different bidding parties
13 going to be disclosed to us, so we can
14 understand the differentials between
15 the floor we're bidding on?

16 MR. COHEN: We're not disclosing
17 the terms. I think it's fair to say,
18 as I mentioned, that, aside from some
19 minor differences and one closing
20 condition in one of the APAs, they are
21 essentially the same Asset Purchase
22 Agreements, at this point.

23 MR. EMMERT: Okay.

24 MR. COHEN: Any other questions?

25 (No affirmative response.)

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MR. COHEN: Okay. With that, I will turn the bidding toward Energy Capital Partners to commence bidding in Round 1.

MS. REILLY: Annemarie Reilly with Latham & Watkins, on behalf of Energy Capital Partners, we increase the credit bid portion of the purchase price to \$7 million.

MR. COHEN: Eagle will be -- actually, I'm sorry, Eagle has already bid. That means we're at, is that, Mammoth?

MR. MCCARTHY: So Mammoth will increase the bid to \$7.25 million.

MR. COHEN: At this point, I would just like to confirm that Energy Capital Partners has concluded its bidding and will no longer be participating at the auction?

MS. REILLY: That's correct.

MR. COHEN: Let's continue bidding with Round 1 before we take a recess. Are we up to Badger?

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AUCTION PROCEEDINGS

MS. PHILLIPPI: Badger will bid
7.5 million.

MR. COHEN: And finally, to
conclude Round 1, we are at Midwest
Commodity.

MR. EMMERT: We'll bid 7,750,000.

MR. COHEN: All right. That
concludes Round 1 of bidding. I think,
at this point, we would like to take a
recess to discuss the state of bids
with Energy Capital Partners.

(Whereupon, a short recess was
taken at 10:04 a.m.)

MR. COHEN: We're back on the
record. Again, Howard Cohen for
Chieftain.

Before we begin Round 2 of bidding,
we just consulted with Energy Capital
Partners, our lender, after Round 1
concerning the bids that were submitted
and the current state of play. A
couple of disclosures before we begin
Round 2.

The first disclosure is one of the

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bidders requested that I announce on the record what the closing condition is concerning -- that I mentioned before we bid in Round 1. Mammoth has requested an audit as a closing condition, an SEC compliant audit. The Debtors have not attributed any value yet to that closing condition, so that is the one closing condition difference between the Asset Purchase Agreements.

Also, in consultation with the lenders, they mentioned to me that there is some de minimis fee associated with the letter of credit that would have to get paid, we're going to get that number for you shortly, it's de minimis. The letter of credit was \$1.2 million. There was some de minimis fee attributed to it that will get paid back. We will get that number to you today.

So with that, we concluded Round 1 of the auction at 7.75 million, that was the bid submitted by Midwest

1 AUCTION PROCEEDINGS

2 Commodity. We'll begin Round 2 with
3 Eagle bidding.

4 MR. HAACK: We'll bid 8 million.

5 MR. COHEN: Eagle is at 8 million.
6 We now turn to Mammoth.

7 MR. MCCARTHY: We'll bid
8 8.25 million.

9 MR. COHEN: Mammoth bid
10 \$8.25 million.

11 MR. COHEN: Badger?

12 MS. PHILLIPPI: 8.5.

13 MR. COHEN: Badger bid 8.5 million.
14 Midwest?

15 MR. EMMERT: 8.75.

16 MR. COHEN: Is that 8,750,000?

17 MR. EMMERT: Yes.

18 MR. COHEN: 8.75 million from
19 Midwest. Round 2 is concluded.

20 Let's move to Round 3. Back to --
21 we'll go in the same order, so Eagle.

22 MR. HAACK: We'll bid 9 million.

23 MR. MCCARTHY: Mammoth,
24 9.25 million.

25 MS. PHILLIPPI: Badger, 9.5.

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MR. EMMERT: Just one question, wondering if you would mind clarifying the cure cost for us?

MR. COHEN: Sure. We disclosed the cure costs and no objections were filed with respect to cure costs. So with respect to the contracts that the buyer is taking, it's responsible for making the cure payments associated with those contracts, but only those contracts that the buyer is taking. So to the extent you're not taking a particular contract, you're not responsible for making that cure payment.

MR. EMMERT: Okay.

MR. COHEN: Does that clarify it?

MR. EMMERT: Yes, it does. Thank you.

MR. COHEN: All right. So we're at Midwest.

MR. EMMERT: And what's the number?

MR. COHEN: The last bid was 9 and a half million dollars submitted by Badger.

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MR. EMMERT: We'll bid 9,750,000.

MR. COHEN: Next round of bidding.
Eagle?

MR. HAACK: Eagle will bid
10 million.

MR. COHEN: Mammoth?

MR. MCCARTHY: 10.25 million.

MS. PHILLIPPI: 10.5.

MR. COHEN: Midwest?

MR. EMMERT: 10.75.

MR. COHEN: 10.75.

Begins the next round of bidding.
Eagle?

MR. HAACK: Eagle will bid
11 million.

MR. MCCARTHY: Mammoth,
11.25 million.

MS. PHILLIPPI: Badger,
11.5 million.

MR. COHEN: Midwest?

MR. EMMERT: 11.75.

MR. COHEN: That concludes that
round of bidding.

Next round of bidding. Eagle?

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AUCTION PROCEEDINGS

MR. HAACK: Eagle will bid 12.

MR. MCCARTHY: 12.25.

MS. PHILLIPPI: Badger, 12.5.

MR. EMMERT: 12,750,000.

MR. COHEN: That concludes the
round.

Back to Eagle.

MR. HAACK: Eagle will bid 13.

MR. MCCARTHY: 13.25.

MS. PHILLIPPI: 13.5.

MR. EMMERT: We'll pass.

We have one pass; correct?

MR. COHEN: Correct, there is one
pass. So Midwest will take a pass.

Back to Eagle.

MR. HAACK: Eagle will bid
13,750,000.

MR. MCCARTHY: Mammoth will bid 14.

MS. PHILLIPPI: Badger will bid
14.25 million.

MR. COHEN: Midwest?

MR. EMMERT: 14.5.

MR. COHEN: Back to Eagle.

MR. HAACK: Eagle will bid 14.75.

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MR. MCCARTHY: Mammoth will bid 15.

MS. PHILLIPPI: Badger at 15.25.

MR. EMMERT: We're going to pass.

MR. COHEN: At this point, Midwest is dropping out of the auction?

MR. EMMERT: Yes.

MR. COHEN: I'd like to take a break now that Midwest has dropped out of the auction.

(Whereupon, a short recess was taken at 10:49 a.m.)

MR. COHEN: Okay. We are now back on the record. At the conclusion of the last round, Midwest dropped out of the auction.

The highest bid for purposes of going into this round was 15,250,000 submitted by Badger. For purposes of this round and going forward, the minimum overbid is being raised from 250,000 to 1 million.

Did Mammoth have a question?

(No affirmative response.)

MR. COHEN: No, okay.

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AUCTION PROCEEDINGS

We will commence with Eagle.

MR. HAACK: Eagle will bid 16.25.

MR. MCCARTHY: Mammoth will bid
17.25.

MS. PHILLIPPI: Badger, 18.25.

MR. COHEN: Okay. Eagle?

MR. HAACK: Eagle will bid 19.25.

MR. MCCARTHY: Mammoth will bid
20.25.

MS. PHILLIPPI: Badger, 21.25.

MR. COHEN: Thank you.

Back to Eagle.

MR. HAACK: Eagle will bid 22.25.

MR. MCCARTHY: Mammoth will bid
23.25.

MS. PHILLIPPI: Badger, 24.25.

MR. COHEN: Thank you.

Eagle?

MR. HAACK: Eagle will pass.

MR. MCCARTHY: Mammoth will bid
25.25.

MS. PHILLIPPI: Badger, 26.25.

MR. COHEN: I'd like to take a
break for one minute.

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AUCTION PROCEEDINGS

(Whereupon, a short recess was taken at 11:07 a.m.)

MR. COHEN: All right. We're going to go back on the record. At the conclusion of the last round, the highest bid was Badger at 26,250,000.

We turn to Eagle.

MR. HAACK: Eagle is out.

MR. COHEN: All right. I'd like to take a break.

(Whereupon, a short recess was taken at 11:15 a.m.)

MR. COHEN: We're back on the record. A couple comments before bidding, the lenders have informed us that the DIP repayment amount stands at \$3,500, that's the letter of credit fee.

Also, given that we are down to two bidders, there will not be passes going forward.

The last bid was Badger, 26,250,000. And we're back to Mammoth.

MR. MCCARTHY: Mammoth bids 27.25.

1 CLOSING REMARKS

2 MS. PHILLIPPI: Badger bids 28.25.

3 MR. MCCARTHY: Mammoth bids 29.25.

4 MS. PHILLIPPI: Badger bids 30.25.

5 MR. MCCARTHY: Mammoth bids 31.25.

6 MS. PHILLIPPI: Badger bids 32.25.

7 MR. MCCARTHY: Mammoth bids 33.25.

8 MS. PHILLIPPI: Badger bids 34.25.

9 MR. MCCARTHY: Mammoth bids 35.25.

10 MS. PHILLIPPI: Badger is done.

11 MR. COHEN: Let's take a break.

12 (Whereupon, a short recess was
13 taken at 11:41 a.m.)14 MR. COHEN: We're back on the
15 record. At the conclusion of the last
16 time we were on the record, we had a
17 bid from Mammoth of 35,250,000 and
18 Badger indicated that they were not
19 choosing to increase their bid.20 During the break, the Debtors in
21 consultation with their lender, Energy
22 Capital Partners, evaluated the cash
23 and qualitative aspects of the bids and
24 determined the risk adjusted value of
25 the Badger bid was superior, in light

1 CLOSING REMARKS

2 of the qualitative conditions contained
3 in the Mammoth bid. The Debtors
4 informed Mammoth during the break that
5 while their cash bid was higher, they
6 were not deemed the best bid and gave
7 them the opportunity to modify the bid
8 accordingly.

9 Mammoth has agreed to modify their
10 bid and waive the audit requirement as
11 a closing condition and to put the
12 entire purchase price at risk by
13 immediately funding the purchase price
14 into escrow once the Debtors satisfy
15 their closing conditions on a
16 nonrefundable basis. At the 60th day
17 following satisfaction of the Debtors
18 closing conditions, they can either
19 agree to walk -- sorry, after the 60th
20 day following the sale order, Mammoth
21 can either abandon the funds that are
22 in escrow or close. Regardless, all
23 funds in escrow become property of the
24 estate on the 60th day. Also, Mammoth
25 has agreed to extend the closing

1 CLOSING REMARKS

2 deadline to June 30th.

3 With that, the Debtor and its
4 lender, Energy Capital Partners --
5 before designating Mammoth as the
6 highest and best bid, we would ask
7 Mammoth to confirm that the terms and
8 conditions I just placed on the record
9 conform to their understanding of the
10 bid.

11 MR. MCCARTHY: We referenced a
12 good-faith measure on the audit.

13 MR. COHEN: The Debtors will
14 cooperate in good faith to obtain an
15 audit. It's not a closing condition,
16 but we will cooperate in good faith.

17 MR. MCCARTHY: Correct.

18 MR. STABER: But that is a material
19 term to us.

20 MR. MCCARTHY: That is a material
21 term.

22 MR. COHEN: With that, is that your
23 understanding of your bid?

24 MR. MCCARTHY: Yes.

25 MR. COHEN: So with that, the

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Debtor has determined that Mammoth is the highest and best bid, and asks Badger if they wish to continue in this auction.

MS. PHILLIPPI: No, we're good.

MR. COHEN: That concludes the auction.

MR. STABER: Before you conclude, will you declare, on that basis --

MR. COHEN: On that basis, we will declare Mammoth the successful bidder and Badger the backup bidder. That will conclude today's auction.

MR. MCCARTHY: Thank you.

MR. COHEN: Thank you.

(Time noted: 6:50 p.m.)

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C E R T I F I C A T E

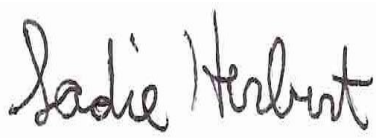
STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

I, SADIE L. HERBERT, a Registered
Professional Reporter and Notary Public, do
hereby certify:

That transcription hereinbefore set
forth is a true record of the proceedings.

I further certify that I am not
related to any of the parties to this action by
blood or marriage; and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 22nd day of March 2017.



SADIE HERBERT, RPR, CLR

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