

EXHIBIT 1

Stipulation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Case No. 17-10064 (KG)
Chieftain Sand and Proppant, LLC, <i>et al.</i> ,)	Chapter 11
Debtors. ¹)	(Jointly Administered)
)	

STIPULATION AMONG DEBTORS,
CALDWELL-BAKER COMPANY AND IOWA NORTHERN RAILWAY COMPANY
RESOLVING CALDWELL-BAKER COMPANY'S AMENDED MOTION FOR
ALLOWANCE AND IMMEDIATE PAYMENT
OF ADMINISTRATIVE CLAIMS

THIS STIPULATION (this "Stipulation") is made by and among the above-captioned debtors (collectively, "Debtors"), Caldwell-Baker Company ("CBC") and Iowa Northern Railway Company ("IANR," and together with the Debtors and CBC, the "Parties"). The Parties hereby stipulate and agree as follows:

RECITALS

A. On January 9, 2017, each of the Debtors, commenced voluntary cases under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

B. On April 24, 2017, CBC filed its *Motion for Allowance and Immediate Payment of Administrative Expense Claims* (Docket No. 209).

C. On May 16, 2017, Debtors filed their *Objection to Caldwell Baker Co.'s Motion for Allowance and Immediate Payment of Administrative Expense Claims* (Docket No. 223).

¹ The Debtors in these chapter 11 cases, and the last four digits of their respective federal tax identification numbers, are Chieftain Sand and Proppant, LLC (1729) and Chieftain Sand and Proppant Barron, LLC (0418). The Debtors' service address is: 331 27th Street, New Auburn, WI 54757.

D. On June 6, 2017, CBC filed their *Amended Motion for Allowance and Immediate Payment of Administrative Expense Claims* (the “**Amended Motion**”) (Docket No. 238), which pleading supersedes the original motion located at Docket No. 209. Pursuant to the Amended Motion, CBC asserts an administrative expense claim against the Debtors pursuant to sections 503(b) and 365(d)(5) of the Bankruptcy Code in the aggregate amount of at least \$636,559.36 (the “**Asserted Administrative Expense Claim**”).

E. On July 19, 2017, the Debtors filed their *Objection to Caldwell Baker Co.’s Amended Motion for Allowance and Immediate Payment of Administrative Expense Claims* (Docket No. 274).

F. Prior to the execution of this Stipulation, the Parties have worked together to resolve the Amended Motion and the Asserted Administrative Expense Claim.

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

1. The above recitals are incorporated by reference.
2. This Stipulation is conditioned upon the Bankruptcy Court’s entry of an order (the “**Approval Order**”) approving this Stipulation in a form reasonably acceptable to the Parties and on such notice and after such hearing as the Bankruptcy Court may require, and the Parties shall use their commercially reasonable efforts to obtain entry of the Approval Order.
3. This Stipulation shall become effective on the date on which the Approval Order becomes a Final Order (the “**Stipulation Effective Date**”); provided, however, that to the extent the Stipulation Effective Date fails to occur, this Stipulation shall be void and of no force or effect and the Approval Order shall be deemed vacated. For purposes of this Stipulation, “Final Order” shall mean an order or judgment of the Bankruptcy Court (or any other court of

competent jurisdiction) entered by the Clerk of the Bankruptcy Court (or any other court of competent jurisdiction) on the docket in the Chapter 11 Cases (or the docket of any other court of competent jurisdiction), which has not been modified, amended, reversed, vacated or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, stay, reargument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, stay, reargument or rehearing shall then be pending or (ii) if an appeal, writ of certiorari, new trial, stay, reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or any other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, stay, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, stay, reargument or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous Bankruptcy Rule, may be filed relating to such order, shall not cause an order not to be a Final Order. In the event that the Bankruptcy Court enters an order denying the Debtors authorization to enter into and perform under this Stipulation with prejudice, or if the Approval Order is reversed or vacated, this Stipulation shall be void and of no force or effect.

4. The Asserted Administrative Expense Claim shall be an Allowed Administrative Claim against the Debtors in the aggregate amount of \$50,000, and within ten (10) business days of the entry of the Approval Order, the Debtors shall pay CBC the amount of such Allowed Administrative Claim, by wire transfer of immediately available federal funds to an account designated in writing (via electronic mail or otherwise) by CBC or check, in full and final satisfaction and resolution of the Amended Motion, the Asserted Administrative Expense

Claim, and any administrative claims of CBC against the Debtors and their estates. Upon such payment clearing the account of CBC, the Amended Motion shall be deemed withdrawn with prejudice without the need for any further action on the part of the Bankruptcy Court or the Parties and CBC shall not be permitted to file any further or new administrative expense claims against the Debtors.

5. CBC's filed Proof of Claim, docketed at number 25 by Donlin Recano shall be deemed an allowed general unsecured claim and any secured portion shall be deemed reclassified as a general unsecured claim. CBC shall not be permitted to assert any further or new priority or secured claims against the Debtors. Further, Proof of Claim number 25 supersedes any prior scheduled or filed claims asserted by CBC.

6. The effective date of the rejection of the lease agreement entered into on or about January 31, 2013, between Caldwell-Baker and the Debtors that was subsequently amended on February 11, 2013, shall be July 24, 2017.

7. CBC shall have the right to file a pre-petition general unsecured claim for rejection damages for up to thirty (30) days after the Stipulation Effective Date and all parties' rights are preserved as to this claim.

8. Except for claims and obligations arising or preserved under this Stipulation, including the Allowed Administrative Claim, upon approval of this Stipulation by the Bankruptcy Court and the expiration of any applicable appeal period without any appeal having been filed, the Debtors, on their own behalf and on behalf of any agents, representatives, successors and assigns (collectively, the "**Debtors Releasing Parties**"), shall be deemed to withdraw, release, remise, forgive, acquit, settle, compromise, and forever discharge CBC and IANR and all other persons or entities, including their respective parent, affiliates, subsidiaries,

predecessors, and assigns, from any and all claims, demands, debts, liabilities, contracts, obligations, accounts, torts, causes of action, or claims for relief of whatever kind or nature, whether known or unknown or suspected or unsuspected by the releasing party, which this same releasing party may have, claim to have, or have at any time had or claimed to have, by whomever asserted, whether at this time known or suspected, unknown or unsuspected, anticipated or unanticipated, direct or indirect, fixed or contingent, pre-petition or post-petition in the chapter 11 cases, that may presently exist, in law, or in equity (the “**Debtors Released Claims**”).

9. Except for claims and obligations arising or preserved under this Stipulation, including the Allowed Administrative Claim and any claim or cause of action arising from any agreement entered into between IANR and CBC, upon approval of this Stipulation by the Bankruptcy Court and the expiration of any applicable appeal period without any appeal having been filed, CBC, on their own behalf and on behalf of any agents, representatives, successors and assigns (collectively, the “**CBC Releasing Parties**”), shall be deemed to withdraw, release, remise, forgive, acquit, settle, compromise, and forever discharge the Debtors and IANR and all other persons or entities, including their respective parent, affiliates, subsidiaries, predecessors, and assigns, from any and all claims, demands, debts, liabilities, contracts, obligations, accounts, torts, causes of action, losses, damages, taxes, expenses or claims for relief of whatever kind or nature, whether known or unknown or suspected or unsuspected by the CBC Releasing Parties, which CBC Releasing Parties may have, claim to have, or have at any time had or claimed to have, or that may later accrue by reason of any transaction, occurrence, act or omission, by whomever asserted, whether at this time known or suspected, unknown or unsuspected, anticipated or unanticipated, direct or indirect, fixed or

contingent, pre-petition or post-petition in the chapter 11 cases or by reason of or arising from any IANR possession, storage or use of rail cars owned by CBC Releasing Parties, that may presently exist, in law or in equity or in any alternative dispute resolution proceeding (the “**CBC Released Claims**”).

10. Except for claims and obligations arising or preserved under this Stipulation, including the Allowed Administrative Claim, Proof of Claim 24 filed with the Bankruptcy Court by IANR on or about March 7, 2017, and any claim or cause of action arising from any agreement entered into between IANR and CBC, upon approval of this Stipulation by the Bankruptcy Court and the expiration of any applicable appeal period without any appeal having been filed, IANR, on their own behalf and on behalf of any agents, representatives, successors and assigns (collectively, the “**IANR Releasing Parties**”), shall be deemed to withdraw, release, remise, forgive, acquit, settle, compromise, and forever discharge the Debtors and CBC and all other persons or entities, including their respective parent, affiliates, subsidiaries, predecessors, and assigns, from any and all claims, demands, debts, liabilities, contracts, obligations, accounts, torts, causes of action, or claims for relief of whatever kind or nature, whether known or unknown or suspected or unsuspected by the releasing party, which this same releasing party may have, claim to have, or have at any time had or claimed to have, or that may later accrue by reason of any transaction, occurrence, act or omission, by whomever asserted, whether at this time known or suspected, unknown or unsuspected, anticipated or unanticipated, direct or indirect, fixed or contingent, pre-petition or post-petition in the chapter 11 cases, that may presently exist, in law, or in equity (the “**IANR Released Claims**”).

11. IANR will waive all storage fees through the date of this Stipulation and shall agree to store CBC’s railcars for up to one year at the rate of \$2.50 per railcar. IANR will

agree to switch CBC's presently stored railcars at no charge to points at the IANR in which it will allow CBC access to its railcars in order to inspect and work the railcars using their mobile units if necessary. IANR agrees to charge no more than \$250.00 per railcar to switch CBC's railcars to an interchange point connecting with a Class 1 Railroad.

12. CBC represents and warrants that it has not sold, assigned, pledged or otherwise transferred the Asserted Administrative Expense Claim or any part thereof.

13. The Parties have participated in and jointly consented to the drafting of this Stipulation, and any claimed ambiguity shall not be construed for or against either of the Parties on account of such drafting.

14. This Stipulation and all of its terms shall be binding upon and shall inure to the benefit of the Parties and each of their respective executors, heirs, permitted successors and assigns, and all persons and entities claiming by or through the Parties.

15. During the pendency of the Chapter 11 Cases, the Parties expressly consent and submit to the exclusive jurisdiction of the Bankruptcy Court over any actions or proceedings relating to the enforcement or interpretation of this Stipulation and the Approval Order and any Party bringing such action or proceeding shall bring such action or proceeding in the Bankruptcy Court. The Parties consent to the Bankruptcy Court entering a final judgment determining such matter and agree that a final judgment in any such action or proceeding, including all appeals, shall be conclusive and may be enforced in other jurisdictions (including any foreign jurisdictions) by suit on the judgment or in any other manner provided by applicable law.

16. Except as otherwise provided herein, this Stipulation constitutes the entire agreement of the Parties concerning the subject matter hereof, and supersedes any and all prior or

contemporaneous agreements among the Parties concerning such subject matter. The Parties acknowledge that this Stipulation is not being executed in reliance on any oral or written agreement, promise or representation not contained herein.

17. This Stipulation may not be altered, modified or terminated and its provisions may not be waived except by a written agreement signed by the Parties.

18. This Stipulation shall be governed by and construed in accordance with the laws of the State of Delaware, except to the extent that the Bankruptcy Code applies, without regard to principles of conflicts of law that might require the application of laws of another jurisdiction.

19. This Stipulation may be executed in one or more counterparts and delivered by facsimile or electronic mail, each of which shall be deemed an original. It shall not be necessary in making proof of this Stipulation to produce or account for more than one such counterpart. Facsimile or electronic signatures shall be deemed to be original signatures.

20. Each person who executes this Stipulation on behalf of a Party represents that he or she is duly authorized to execute this Stipulation on behalf of such Party.

IN WITNESS WHEREOF, the Parties' authorized counsel have executed this Stipulation as of the date and year first written below.

STIPULATED AND AGREED:

Dated: July 21, 2017

Law Offices of Edward J. Kosmowski, LLC

By: _____

Edward J. Kosmowski (No. 3849)
2 Mill Road, Suite 202
Wilmington, DE 19806
Telephone: (302) 351-9010
Facsimile: (302) 635-1805

Counsel to Caldwell-Baker Company

Iowa Northern Railway Company

By: _____

T. Scott Bannister, Esq.

Paramount Office Building- Suite 400
305 Second Street SE
Cedar Rapids, IA 52401
Telephone: (319) 361-3067
Email: sbannister@iowanorthern.com

General Counsel to Iowa Northern Railway Company

GIBBONS P.C.

By: Howard A. Cohen / cv

Howard A. Cohen (DE 4082)
300 Delaware Avenue, Suite 1015
Wilmington DE 19801-1761
Telephone: (302) 518-6330
Facsimile: (302) 429-6294

Counsel to the Debtors

STIPULATED AND AGREED:

Dated: July __, 2017


Law Offices of Edward J. Kosmowski, LLC

By: _____

Edward J. Kosmowski (No. 3849)
2 Mill Road, Suite 202
Wilmington, DE 19806
Telephone: (302) 351-9010
Facsimile: (302) 635-1805

Counsel to Caldwell-Baker Company

Iowa Northern Railway Company

By: 
T. Scott Bannister, Esq.

Paramount Office Building- Suite 400
305 Second Street SE
Cedar Rapids, IA 52401
Telephone: (319) 361-3067
Email: sbannister@iowanorthern.com

General Counsel to Iowa Northern Railway Company

GIBBONS P.C.

By: _____

Howard A. Cohen (DE 4082)
300 Delaware Avenue, Suite 1015
Wilmington DE 19801-1761
Telephone: (302) 518-6330
Facsimile: (302) 429-6294

Counsel to the Debtors

STIPULATED AND AGREED:

Dated: July 21, 2017

Law Offices of Edward J. Kosmowski, LLC

By: EAJ

Edward J. Kosmowski (No. 3849)

2 Mill Road, Suite 202

Wilmington, DE 19806

Telephone: (302) 351-9010

Facsimile: (302) 635-1805

Counsel to Caldwell-Baker Company

Iowa Northern Railway Company

By: _____

T. Scott Bannister, Esq.

Paramount Office Building- Suite 400

305 Second Street SE

Cedar Rapids, IA 52401

Telephone: (319) 361-3067

Email: sbannister@iowanorthern.com

General Counsel to Iowa Northern Railway Company

GIBBONS P.C.

By: _____

Howard A. Cohen (DE 4082)

300 Delaware Avenue, Suite 1015

Wilmington DE 19801-1761

Telephone: (302) 518-6330

Facsimile: (302) 429-6294

Counsel to the Debtors