

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:	:	Chapter 11
	:	
FM COAL, LLC, <i>et al.</i> , ¹	:	Case No. 20-02783 (TOM)
	:	
Debtors.	:	Jointly Administered
	:	

**NOTICE OF (A) ENTRY OF THE CONFIRMATION ORDER;
(B) EFFECTIVE DATE OF THE PLAN; (C) SUBSTANTIAL CONSUMMATION
OF THE PLAN; AND (D) BAR DATES FOR CERTAIN ADMINISTRATIVE,
PROFESSIONAL AND REJECTION CLAIMS**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. Confirmation of the Plan. The debtors and debtors-in-possession in the above-captioned cases (collectively, the “Debtors”) hereby give notice that, on March 10, 2021, the Honorable Tamara O. Mitchell, United States Bankruptcy Judge for the Northern District of Alabama, entered an order [Dkt. No. 458] (the “Confirmation Order”) confirming the Debtors’ *Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code* (the “Plan”).² The Plan is attached as Exhibit A to the Confirmation Order.

2. Effective Date. Pursuant to the Confirmation Order, the Debtors hereby certify and give notice that the Plan became effective in accordance with its terms, as set forth in Article VIII.E of the Plan, on March 15, 2021 (the “Effective Date”).

3. Substantial Consummation. The Debtors hereby give notice that, as defined by section 1101(2) of the Bankruptcy Code, the Plan has been substantially consummated.

4. Discharges, Releases, Exculpation and Injunctions. The Plan provides for discharges, releases, exculpation and injunctions of certain conduct. The injunctions in the Plan include, among other things, a permanent injunction of the commencement or prosecution by any entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released, exculpated or satisfied pursuant to the Plan.

5. Bar Date for Allowed Accrued Professional Compensation Claims. All final requests for payment of Accrued Professional Compensation Claims (the “Final Fee Applications”) must be filed no later than May 14, 2021 (*i.e.*, sixty (60) days after the Effective

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: FM Coal, LLC (1768); Cane Creek, LLC (3207); M. S. & R. Equipment Co., Inc. (3487); Cedar Lake Mining, Inc. (6132); Best Coal, Inc. (2487); and Xinerdy of Alabama, Inc. (3009).

² Unless otherwise defined in this Notice, capitalized terms used herein have the meanings set forth in the Plan.

Date). The procedures for processing Final Fee Applications are set forth in the Plan. If a Professional or other Entity does not timely submit a Final Fee Application, such Entity shall be forever barred from seeking payment of such Professional Fee Claim from the Debtors, their Estates or the Reorganized Debtors.

6. Bar Date for Administrative Claims. Requests for payment of Administrative Claims, other than Claims for Accrued Professional Compensation, must be filed with the Court and served on counsel for the Reorganized Debtors by 5:00 p.m., prevailing Central time, no later than the Final Administrative Claims Bar Date on April 14, 2021 (*i.e.*, the thirtieth (30th) day following the Effective Date).

7. Bar Date for Rejection Damages Claims. Except as set forth in Article VII of the Plan, all executory contracts and unexpired leases of the Debtors have been rejected as of the Effective Date. Claims created by the rejection of executory contracts and unexpired leases under the Plan must be filed with the Court and served on the Reorganized Debtors no later than April 14, 2021 (*i.e.*, the thirtieth (30th) day following the Effective Date). Any Claims arising from the rejection of an executory contract or unexpired lease under the Plan for which proofs of Claim are not timely filed within that time period will be forever barred from assertion against the Debtors, the Estates, the Reorganized Debtors, their successors and assigns, and their assets and properties. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Article IX.E of the Plan. Unless otherwise ordered by the Court, all such Claims that are timely filed as provided herein shall be treated as General Unsecured Claims under the Plan and shall be subject to the provisions of Article III therein

8. Post-Effective Date Notice List. Because certain Persons and Entities may not desire to continue to receive notices after the Effective Date, the Plan provides for the establishment of a Post-Effective Date Notice List. Persons and Entities on such Post-Effective Date Notice List will be given certain notices and in some cases an opportunity to object to certain matters under the Plan (as described in the Plan). Any Person or Entity desiring to be included in the Post-Effective Date Notice List must (i) file a request to be included on the Post-Effective Date Notice List in the chapter 11 case of Xinergy of Alabama, Inc. (Case No. 20-02791)³ and include thereon its name, contact person, address, telephone number and facsimile number, on or before April 14, 2021 (*i.e.*, thirty (30) days after the Effective Date), and (ii) concurrently serve a copy of its request to be included on the Post-Effective Date Notice List on the Reorganized Debtors and their counsel. On or before May 14, 2021 (*i.e.*, sixty (60) days after the Effective Date), the Reorganized Debtors shall compile a list of all Persons on the Post-Effective Date Notice List and file such list with the Court. Those parties set forth in Article XII.L of the Plan shall be included in the Post-Effective Date Notice List without the necessity of filing a request. Notwithstanding

³ Upon the filing of this Notice of Effective Date, the chapter 11 cases of FM Coal, LLC (Case No. 20-02783), Cane Creek, LLC (Case No. 20-02785), M. S. & R. Equipment Co., Inc. (Case No. 20-02788), Cedar Lake Mining, Inc. (Case No. 20-02790), and Best Coal, Inc. (Case No. 20-70987) (collectively, the “Closed Chapter 11 Cases”) will be closed in accordance with the Debtors’ *Second Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code*, confirmed by the Court on March 10, 2021 pursuant to the *Findings of Fact, Conclusions of Law and Order Confirming the Debtors’ Second Amended Joint Plan of Reorganization* [Dkt. No. 458]. All matters related to the Closed Chapter 11 Cases should be filed in the chapter 11 case of Xinergy of Alabama, Inc.

the foregoing, Post-Effective Date notices and pleadings shall be served on all parties whose rights are directly affected by such notices or pleadings, even if such parties did not submit a request to be included on the Post- Effective Date Notice List.

9. Copies of Plan and Confirmation Order. Any party in interest who wishes to obtain a copy of the Plan, any exhibits to the Plan or the Confirmation Order may view and download such documents at (i) the Debtors' case website (<https://www.donlinrecano.com/Clients/fm/Index>); or (ii) the Court's website (<https://www.alnb.uscourts.gov/>) (PACER account required).

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Dated: March 15, 2021
Birmingham, Alabama

WALLER LANSDEN DORTCH & DAVIS, LLP

/s/ Jesse S. Vogtle, Jr.

Jesse S. Vogtle, Jr.

Eric T. Ray

Paul Greenwood

1901 Sixth Avenue North, Suite 1400

Birmingham, Alabama 35203

Telephone: (205) 214-6380

Facsimile: (205) 214-8787

Email: Jesse.Vogtle@wallerlaw.com

Eric.Ray@wallerlaw.com

Paul.Greenwood@wallerlaw.com

-and-

John Tishler

Tyler N. Layne

511 Union Street, Suite 2700

Nashville, TN 37219

Telephone: (615) 244-6380

Facsimile: (615) 244-6804

Email: John.Tishler@wallerlaw.com

Tyler.Layne@wallerlaw.com

Attorneys for the Debtors and Debtors in Possession