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Hearing Date: April 17, 2008 at 10:00a.m.
Objection Deadline: April 15, 2008

Attorneys for Creditor
Merced Irrigation District

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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QUEBECOR WORLD (USA) INC., et al., : Chapter 11

Debtor(s). : Case Nos. 08-10152 (JMP)
 : (Jointly Administered)
 :
 : Honorable James M. Peck
 :
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MERCED IRRIGATION DISTRICT'S OBJECTION TO THE DEBTORS' MOTION FOR ENTRY OF AN ORDER ESTABLISHING AND IMPLEMENTING EXCLUSIVE, GLOBAL PROCEDURES FOR THE RESOLUTION AND PAYMENT OF SECTION 503(b)(9) CLAIMS RELATING TO GOODS RECEIVED WITHIN TWENTY DAYS PRIOR TO THE PETITION DATE

Merced Irrigation District ("MID"), by and through its counsel, Downey Brand LLP, hereby objects (the "Objection"), pursuant to the applicable provisions of Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") and the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") object to the *Debtors' Motion For Entry of an Order Establishing and Implementing Exclusive, Global Procedures for the Resolution and Payment of Section 503(b)(9) Claims Relating to Goods received within Twenty Days Prior to the Petition Date* ("Motion"). In further support of this Objection, MID respectfully represents as follows:

Procedural Background

1. On January 21, 2008 (the "Petition Date"), the 53 Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code.
2. On April 7, 2008 the Debtors filed the Motion seeking:
 - a. A bar date for filing Bankruptcy Code § 503(b)(9) claims;
 - b. Requiring the use of a particular form for § 503(b)(9) claims;
 - c. Prohibiting § 503(b)(9) Claimants from filing motions for allowance of their § 503(b)(9) Claims; and,
 - d. To delay payment of allowed § 503(b)(9) Claims until paid pursuant to a confirmed Plan of Reorganization.

Merced's § 503(b)(9) Claim

3. MID is a public entity and is the electricity provider to Quebecor's plant located in Merced, California ("Merced Facility") which is described in Paragraph 38.b. of Mr. Jeremy Roberts' Declaration filed on January 22, 2008 [Docket No. 26] as Quebecor's second largest facility in the United States and the largest printing facility on the West Coast. Quebecor owes MID \$663,494.66 for prepetition electric service of which \$245,436.80 is owed electricity provided between January 1 through January 20, 2008, the 20 days immediately preceding the Petition filing. Another \$418,057.86 is owed for December 2007 electricity. See the accompanying Declaration of Cindy Ardison. On April 14, 2008, Merced filed its Motion for Allowance of Administrative Expense Claim Pursuant to 11 U.S.C. § 503(b)(9) for Goods Delivered to Debtors Within Twenty (20) Days of the Bankruptcy Filing.

Objection

4. MID does not object to the portion of the Motion which seeks to establish a Bar Date or the use of a particular form as to § 503(b)(9) Claims. However, MID does object to the Motion to the extent it seeks to delay payment or prohibit the filing of motions for allowance of § 503(b)(9) administrative priority claims.

Motions for Allowance Must Be Permitted

5. Bankruptcy Code § 503(a) expressly permits a claimant to file a "request" (i.e., motion) for the payment of an administrative claim. It states "An entity may timely file a request for payment of an administrative expense,...". This Court should not enter an order which purports to *de facto* overrule this statute by prohibiting such motions.

6. Further, Bankruptcy Code § 503(b) commences with the language "After notice and a hearing, there shall be allowed administrative expenses,...". Hence, § 503(b) contemplates that administrative expenses will come before the court for approval. Using the customary claims' resolution process as urged by the Motion is inappropriate. The Motion argues that since a properly filed claim is deemed to be prima facie evidence of its validity and amount under Bankruptcy Rule 3001(f) there is no need for claimants to file motions to allow § 503(b)(9) claims because they will ultimately be allowed, by default, if not objected to. The problem with this argument is that statutes control over conflicting rules. A notice and hearing is required by § 503(b) before allowance of § 503(b)(9) claims or the allowance of most other types of administrative claims. See, e.g., *In re Fullmer*, 962 F.2d 1463, 1467 (10th Cir. 1992) (claims set forth in § 503(b) requests "do not enjoy same presumption of correctness as those asserted by proofs of claim" (citation omitted)); see also 4-503 *Collier on Bankruptcy* (15th Ed.) ("administrative claims, except ordinary expense claims paid pursuant to sections 363 and 364 of the Code, are allowed only after notice and a hearing and are not 'deemed allowed' but rather must be actually allowed by court order" (citations omitted)).

7. When Congress meant to eliminate the need for filing a motion for allowance of an administrative claim it knew how to so provide. For instance, § 363(c)(1) provides for ordinary course of business payments without court approval; § 503(b)(1)(D) provides that "...a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative claim." By negative implication, it's clear that § 503(a) does require a motion by other creditors desiring to achieve administrative status.

8. There are good, practical reasons to resolve the amount of administrative claims sooner rather than later. First, even if the Court allows the Debtor to defer payment to plan confirmation, § 1129(a)(9) requires payment in full, in cash on the effective date of the plan. To demonstrate feasibility (§ 1129(a)(11)) the Debtors will need to demonstrate that all administrative claims can be paid at confirmation. Therefore, dealing with the allowance of administrative claims before confirmation is important. Demonstrating the necessary "exit financing" is often a critical element in plan confirmation. This is not true for non-priority, unsecured claims which can be paid over time at a reduced amount. For non-priority claims, knowing the precise amount at confirmation is not nearly so important or necessary.

9. The second reason to presently proceed with the resolution of § 503(b)(9) claims is that the failure to do so will negate the claimants rights to immediate payment upon confirmation pursuant to § 1129(a)(9). If the Debtors are permitted to delay resolution of administrative claims, as is frequently done with non-priority claims, it will result in the administrative claimants not being paid upon confirmation as they are entitled.

Payment of § 503(b)(9) Claims Should Be Made Promptly

10. Bankruptcy Code § 503(b) does not distinguish, or create a hierarchy or priority, between administrative claims. All are equal once they are allowed. The Debtors are paying many claims prior to confirmation. Professional fees and other administrative expenses are being paid. There is no statutory basis for providing § 503(b)(9) claimants with a less advantageous treatment. In fact, this Court has authorized the payment of claims with a lower priority than the administrative claims (e.g., prepetition wages, a § 507(a)(4) priority claim). Congress saw fit in the 2005 BAPCPA amendments to confer administrative claim status on vendors for goods delivered within 20 days of bankruptcy. Had Congress desired to make these claims subordinate to other administrative claims, it could have done so. There is no basis for this Court to subordinate § 503(b)(9) claims to other administrative claims.

WHEREFORE, MID respectfully requests that the Court:

1. Not prohibit claimants from filing motions for allowance of Bankruptcy Code §503(b)(9) claims;
2. Order the payment of Bankruptcy Code §503(b)(9) claims promptly after the allowance of such claims.
3. Awarding such other and further relief as the Court deems just and appropriate.

Dated: Sacramento, CA
April 15, 2008

DOWNEY BRAND LLP

By: /s/ R. Dale Ginter

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Attorneys for Creditor Merced Irrigation
District

CERTIFICATE OF SERVICE

I, R. Dale Ginter, hereby certify that on this 15th day of April, 2008, I caused a true and correct copy of the **MERCED IRRIGATION DISTRICT'S OBJECTION TO THE DEBTORS' MOTION FOR ENTRY OF AN ORDER ESTABLISHING AND IMPLEMENTING EXCLUSIVE, GLOBAL PROCEDURES FOR THE RESOLUTION AND PAYMENT OF SECTION 503(b)(9) CLAIMS RELATING TO GOODS RECEIVED WITHIN TWENTY DAYS PRIOR TO THE PETITION DATE** to be served upon the parties listed below via email pursuant to Court Order.

David.boyle@airgas.com; idizengoff@akingump.com; dbotter@akingump.com; ssschultz@akingump.com; KEN.COLEMAN@ALLENVERY.COM; hirsh.robert@arentfox.com; QUEBECORSERVICE@APORTER.COM; CHARLES_MALLOY@APORTER.COM; ROSA_EVERGREEN@APORTER.COM; amfgoblue@aol.com; kim.robinson@bfkn.com; William.barrett@bfkn.com; benanti_associates@msn.com; orzyr@bennettjones.ca; zychk@bennettjones.ca; patrick@bbslaw.com; Rbeheler@blackwellsanders.com; seb@bandblaw.com; relifford@bandblaw.com; ttighe@brelaw.com; borgeslawfirm@aol.com; gregory.petrick@cwt.com; david.leamon@cwt.com; arlbank@pbfcm.com; rseltzer@cwsny.com; rgise@cwsny.com; sfalanga@connellfoley.com; jneiss@contrariancapital.com; szuber@daypitney.com; hryder@daypitney.com; rmeth@daypitney.com; adoshi@daypitney.com; sharrington@dmoc.com; Ginter, Dale; louis.benza@empireblue.com; kgiannelli@gibbonslaw.com; dcrapo@gibbonslaw.com; vuocolod@gtlaw.com; tonettig@gtlaw.com; mwanslee@gustlaw.com; sagolden@hhlaw.com; dckaufman@hhlaw.com; barbara.parlin@hkllaw.com; margolin@hugheshubbard.com; lubell@hugheshubbard.com; rbk@jmbm.com; bankruptcydepartment2@kelleydrye.com; bankruptcydepartment2@kelleydrye.com; lbehning@kennedycovington.com; sborders@kslaw.com; mcarter@kslaw.com; sjgreer@kslaw.com; rwynne@kirkland.com; sosimmerman@kwgd.com; richard.levy@lw.com; peter.knight@lw.com; gabriel.delvirginia@verizon.net; dallas.bankruptcy@publicans.com; chris.donoho@lovells.com; robin.keller@lovells.com; krosen@lowenstein.com; slevine@lowenstein.com; jsherwood@lowenstein.com; bnathan@lowenstein.com; kgoldberg@lowenstein.com; mluskin@lse-law.com; thoffman@lse-law.com; rdaversa@mayerbrown.com; ataggart@mayerbrown.com; weguchi@mayerbrown.com; byan@mayerbrown.com; knoble@mayerbrown.com; agolianopoulos@mayerbrown.com; mccarthy@msclawyers.com; jmaddock@mcguirewoods.com; nwhittenburg@millermartin.com; bankrupt@modl.com; pwcarey@modl.com; bankrupt@modl.com; davidwheeler@mvalaw.com; hbeltzer@morganlewis.com; kgartenberg@morganlewis.com; bankruptcy@morrisoncohen.com; jmarshall@munsch.com; rmunsch@munsch.com; rurbanik@munsch.com; jong@munsch.com; afridman@tds.net; DTAY@OGILVYRENAULT.COM; seth.dizard@wilaw.com; tsandler@osler.com; sgolick@osler.com; lkempinsky@pwkllp.com; jyang@pwkllp.com; krettek.joseph@pbgc.gov; miller.michael@pbgc.gov; knye@quarles.com; rlp@quarles.com; MICHELE.BOLDUC@QUEBECORWORLDINC.COM; mfmegrath@ravichmeyer.com; dshaike@reidandriege.com; rkoquebec@rkollp.com; rkoquebec@rkollp.com; MFRIEDMAN@RKOLLP.COM; rross@fedex.com; marc.hirschfield@ropesgray.com;

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