

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re:	)	Chapter 11
WESTMORELAND COAL COMPANY, <i>et al.</i> , <sup>1</sup>	)	Case No. 18-35672 (DRJ)
Debtors.	)	(Jointly Administered)

**NAVAKAI, INC.’S APPLICATION FOR  
ALLOWANCE AND PAYMENT OF ADMINISTRATIVE CLAIM**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSLY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

Navakai, Inc., a Colorado corporation, by and through its undersigned counsel, files this Application for Allowance and Payment of Administrative Claim pursuant to 11 U.S.C. §§ 507(a)(2) and 503(b)(1) (this “Application”), and hereby seeks entry of an order for allowance

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<sup>1</sup> Due to the large number of debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the debtors and the last four digits of their tax identification, registration, or like numbers is not provided herein. A complete list of such information may be obtained on the website of the proposed claims and noticing agent in these chapter 11 cases at [www.donlinrecano.com/westmoreland](http://www.donlinrecano.com/westmoreland). Westmoreland Coal Company’s service address for the purposes of these chapter 11 cases is 9540 South Maroon Circle, Suite 300, Englewood, Colorado 80112.

and payment of an administrative claim in the amount of \$21,787.57. In support of this Application, Navakai, Inc. respectfully states as follows:

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

3. On October 9, 2018 (the “Petition Date”), the Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “Court”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered.

4. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to 11 U.S.C. §§ 1107(a) and 1108.

5. The Debtors set an “Initial Administrative Claims Bar Date” for January 25, 2019, by when all requests for payments of administrative claims that arose on or prior to January 4, 2019, must be filed. *See Order (II) Approving the Adequacy of the Disclosure Statement, (I) Approving the Solicitation and Notice Procedures with Respect to Confirmation of the Joint Chapter 11 Plan of Westmoreland Coal Company and Certain of its Debtor Affiliates, (III) Approving the Forms and Ballots and Notices in Connection Therewith, and (IV) Scheduling Certain Dates with Respect Thereto*, p. 4, ¶ 7 [Docket No. 841].

6. The Debtors and Navakai, Inc. are parties to a number of executory contracts (collectively, the “Navakai Contracts”) for the provision of various IT services and the maintenance of various IT equipment (collectively, “Navakai Services”).

7. At the Debtors' request, Navakai, Inc. has continued to provide Navakai Services to the Debtors under the terms of the Navakai Contract since the Petition Date. The Debtors have not paid all obligations that have arisen during the post-petition period for Navakai Services, and certain amounts remain due and owing for the period from and after the Petition Date through and including January 4, 2019. These amounts are described in greater detail in a chart attached hereto as Exhibit A.<sup>2</sup>

### **RELIEF REQUESTED**

8. Navakai, Inc. respectfully requests that the Court enter an order for allowance and payment of its administrative priority claims in the amount of \$21,787.57 for the Navakai Services provided at the Debtors' request in the ordinary course of operations between the Petition Date and January 4, 2019, pursuant to 11 U.S.C. §§ 507(a)(2) and 503(b)(1).

### **BASIS FOR RELIEF**

9. The Debtors as Debtors-in-Possession have an affirmative obligation to pay for goods and services provided post-petition in the ordinary course of the Debtors' operations at the Debtors' request.

10. The Debtors have failed to pay all amounts due and owing for Navakai Services provided at the Debtors' request under the Navakai Contracts from the Petition Date through January 4, 2019. Accordingly, all post-petition amounts owing to Navakai, Inc. for said Navakai Services should be allowed as an administrative expense claim and immediately paid by the Debtors pursuant to section 503(b)(1).

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<sup>2</sup> Exhibit A is a summary of invoices. Individual invoices supporting this Application will be provided to Debtors' counsel and are also available upon request.

11. The Debtors benefited from the post-petition provision of the Navakai Services provided by Navakai, Inc. at the Debtors' request by being able to continue operations and these benefits enabled the Debtors to preserve the estate.

12. Based upon the foregoing, Navakai, Inc. respectfully requests that the Court enter an order allowing their administrative expense claim in the amount of \$21,787.57 as set forth in Exhibit A, pursuant to 11 U.S.C. §§ 507(a)(2) and 503(b)(1). Supplemental information for any amount shown on Exhibit A will be made available upon request.

### **RESERVATION OF RIGHTS**

13. Navakai, Inc. hereby reserves the right to amend its Administrative Claim should additional information become available warranting such action. Navakai, Inc. also reserves all of its rights, claims defenses, and remedies under the Bankruptcy Code and other applicable law.

### **CONCLUSION**

WHEREFORE, Navakai, Inc. respectfully requests that this Court (i) grant the allowance and payment of its administrative claim in the amount of \$21,787.57; and (ii) grant Navakai, Inc. such other and further relief as this Court deems just and appropriate under the circumstances.

Dated: January 25, 2019.  
Houston, Texas

KANE RUSSELL COLEMAN LOGAN PC

By: /s/ Michael P. Ridulfo

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on January 25, 2019, a true and correct copy of the foregoing was served electronically via the court's ECF noticing system on all parties registered to receive notice.

/s/ Demetri J. Economou  
Demetri J. Economou