

TERESA G. WHITNEY  
Special Assistant Attorney General  
MONTANA DEPARTMENT OF REVENUE  
Legal Services Office  
125 North Roberts Street  
PO Box 7701  
Helena, Montana 59604-7701  
Phone: (406) 444-7990  
Email: [twhitney@mt.gov](mailto:twhitney@mt.gov)  
Montana State Bar No. 8385

ADMITTED PRO HAC VICE

Attorney for Montana Department of Revenue

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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

**MONTANA DEPARTMENT OF REVENUE'S  
NOTICE OF ADMINISTRATIVE CLAIM AND RESERVATION OF RIGHTS**

TO THE HONORABLE DAVID R. JONES  
UNITED STATE BANKRUPTCY JUDGE:

COMES NOW, the Montana Department of Revenue ("Department"), by and through the undersigned counsel, respectfully files this Notice of Administrative Claim and Reservation of Rights:

<sup>1</sup> Due to the large number of debtors in these chapter 11 cases, which are jointly administered, a complete list of the debtors and the last four digits of their tax identification, registration, or like numbers not provided herein. A complete list of such information may be obtained on the website of the proposed Westmoreland Coal Company's service address for the purposes of these chapter 11 cases is 9540 South Maroon Circle, Suite 300, Englewood, Colorado 80112.

## JURISDICTION AND VENUE

1. This 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

1. On October 9, 2018, the Debtors filed voluntary petitions seeking relief under chapter 11 of the Bankruptcy Code. Since the orders for relief under chapter 11 were entered, the Debtors have operated as debtors in possession under 11 U.S.C. §§ 1107(a) and 1108. No trustee or examiner has been appointed in these chapter 11 cases.
2. A hearing on confirmation of the Joint Chapter 11 Plan of Westmoreland Coal Company and Certain of its Debtor Affiliates (“Plan”) is currently set for February 13, 2019. *See* docket no. 789.
3. According to the Plan, the Supplemental Administrative Claims Bar Date (for claims arising after January 4, 2019) is set for 30 days after the Plan Effective Date. *See* docket no. 788-1, ¶151, p. 16.
4. The Plan Effective Date is defined as the first business day after the Confirmation Date. *See* docket no. 788-1, ¶113, p. 13.
5. The Confirmation Date is the date on which the Bankruptcy Court enters the Confirmation Order on the docket of the chapter 11 cases within the meaning of Bankruptcy Rules 5003 and 9021. *See* docket no. 788-1, ¶ 38, p. 7.
2. The following Debtors file tax returns, property reports, and pay taxes to the Department: Western Energy Co.; Westmoreland Coal Company; Westmoreland Resources; and Westmoreland Savage Corp.
3. The tax types and returns that Debtors file with the Department are as follows:

**Western Energy Co.**

Withholding taxes pursuant to § 15-30-2504, MCA.

Coal Gross Proceeds pursuant to §§ 15-23-701, et seq., MCA.

Coal Severance Tax pursuant to § 15-35-104, MCA.

Resource Indemnity Trust Tax pursuant to §§ 15-38-105 and 106, MCA.

Industrial Personal Property statement pursuant to §§ 15-8-301 and 303, MCA.

**Westmoreland Coal Company**

Withholding taxes pursuant to § 15-30-2504, MCA.

Corporate License Tax pursuant to §§ 15-31-101, et seq., MCA.

**Westmoreland Resources**

Withholding taxes pursuant to § 15-30-2504, MCA.

Resource Indemnity Trust Tax pursuant to §§ 15-38-105 and 106, MCA.

Industrial Personal Property statement pursuant to §§ 15-8-301 and 303, MCA.

**Westmoreland Savage Corp.**

Withholding taxes pursuant to § 15-30-2504, MCA

Coal Gross Proceeds pursuant to §§ 15-23-701, et seq., MCA.

Coal Severance Tax pursuant to § 15-35-104, MCA.

Resource Indemnity Trust Tax pursuant to §§ 15-38-105 and 106, MCA.

Industrial Personal Property statement pursuant to §§ 15-8-301 and 303, MCA.

4. The tax returns and reports stated above are due on or before the following statutory deadlines:
  - a. Withholding tax annual reconciliation statement due on or before **January 31, 2019**, pursuant to § 15-30-2507, MCA.

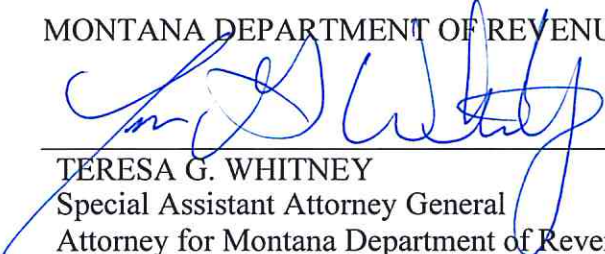
- a. Withholding tax payments are remitted by the 15<sup>th</sup> of the following month that the taxes are withheld pursuant to § 15-30-2504, MCA.
  - b. Coal Gross Proceeds, Statement of Gross Yield due on or before **March 31, 2019**, pursuant to §15-23-701 MCA.
    - i. The first half of Coal Gross Proceeds taxes are due and payable on **November 30, 2019**.
  - c. Coal Severance Tax quarterly statements and payments are due on or before **January 30, 2019**, and 30 days after the close of each quarter thereafter pursuant to § 15-35-104, MCA.
  - d. Resource Indemnity Trust Tax report of gross yield and tax payment are due on or before **March 1, 2019**, pursuant to § 15-38-105, MCA.
  - e. Corporate Income Tax return and tax payment due on or before **November 15, 2019**, pursuant to § 15-31-502, MCA.
  - f. Industrial Personal Property statement due on or before **March 1, 2019**, pursuant to § 15-8-303, MCA, and Administrative Rules of Montana 42.21.158(7). [this report is then rolled into their property taxes due on or before November 30, 2019].
5. As of the date of this Notice, the Department's records reflect that the Debtors are current on all required tax filings and payments.
  6. However, assuming that the confirmation hearing occurs on February 13, 2019, and the Court enters a Confirmation Order soon thereafter, the Supplemental Claims Bar Date may toll before many of the required tax returns and statements are statutorily due to the Department according to Montana law.



7. As such, the Debtors may incur administrative expenses pursuant to 11 U.S.C. § 503(b)(1)(B), the nature and amount of the taxes are unknown at this time and may be determined after the Supplemental Claims Bar Date.
8. To the extent the Supplemental Claims Bar Date seeks to bar administrative claims which would be allowed pursuant to 11 U.S.C. § 502, the Department reserves its right to Amend this Notice of Administrative Claim should additional information become available after the filing of the required returns which would warrant such action.
9. The Department also reserves all its rights, claims, defenses, and remedies under the Bankruptcy Code and other applicable law.
10. Counsel for the Department has spoken with counsel for the Debtors and counsel for Debtors does not object to the Department providing this Notice of Administrative Claim without a monetary amount. This is with the understanding that this notice may be amended to include final dollar amounts should Debtors fail to file and pay the taxes by the filing and payment deadlines according to Montana law.

DATED this 25<sup>th</sup> day of January, 2019.

MONTANA DEPARTMENT OF REVENUE



---

TERESA G. WHITNEY  
Special Assistant Attorney General  
Attorney for Montana Department of Revenue

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 25<sup>th</sup> day of January, 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.



TERESA G. WHITNEY