

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

WESTMORELAND COAL COMPANY, *et al.*,
Debtors¹.

Chapter 11

Case No. 18-35672 (DRJ)

(Jointly Administered)

**LIMITED OBJECTION AND RESERVATION OF RIGHTS
OF OHIO MACHINERY CO. AND OMCO LEASING CORPORATION**

Ohio Machinery Co., d.b.a. Ohio CAT (“**Ohio CAT**”), and affiliate OMCO Leasing Corporation (“**OMCO**”), by and through their undersigned counsel, file the following limited objection and reservation of rights (the “**Limited Objection**”) to the *Joint Expedited Motion of the WLB Debtors and the WMLP Debtors for Entry of an Order (I) Approving the Sale of (A) Substantially all of the Assets of Oxford Mining Company, LLC, and Certain of Its Subsidiaries and (B) the Buckingham Mine, (II) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases In Connection Therewith, and (III) Granting Related Relief, Including Approval of the Related Sale Process* [Docket No. 1116] (the “**Motion**”) filed by the above captioned debtors and debtors-in-possession (collectively, the “**Debtors**”). In support thereof, Ohio CAT and OMOC respectfully state as follows:

¹ Due to the large number of debtors in these chapter 11 cases, for which joint administration has been granted, 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 Debtors’ claims and noticing agent in these chapter 11 cases at 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.

1. On October 9, 2018, each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “**Bankruptcy Code**”). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being administered jointly.

2. On January 22, 2019, the Debtors filed the Motion, which includes a proposed “Assignment and Cure Objection Deadline” of February 1, 2019 at 12:00 PM (prevailing Central Time) along with a proposed notice attached as Exhibit E to the same (the “**Notice**”) listing executory contracts and/or unexpired leases that the Debtors “may” assume and/or assign. Therein, the Debtors indicate that they may assume and/or assign the *Addendum to Lease Agreement – Caterpillar 994F Loader (S/N 44200151)* (the “**OMCO Lease**”) between Oxford Mining Company, LLC and OMCO. In relation thereto, the Debtors also propose a “Cure Cost” of \$24,759.00.

OMCO

3. OMCO does not object to the assumption and/or assignment of the OMCO Lease, however, disagrees with the amount proposed in the Notice to cure any and all defaults thereunder. Based on OMCO’s current estimates, the balance of lease payments due and outstanding under the OMCO Lease as of January 31, 2019 is \$60,129.00, which should be included and paid as part of any cure.

4. OMCO asserts this limited objection to the Motion to the extent the Debtors propose to assume and/or assign the OMCO Lease without curing any and all defaults thereunder in accordance with the requirements of section 365 of the Bankruptcy Code.

OHIO CAT

5. Ohio CAT maintains numerous rental agreements with Oxford Mining Company, LLC (the “**Rental Agreements**”), none of which appear to be presently included in the list of executory contracts and/or unexpired leases to be assumed and/or assigned under the Motion or Notice; however, based upon discussions with counsel to the Debtors, it is the understanding of Ohio CAT that the Rental Agreements will be assumed and/or assigned in connection with the Motion.

6. Attached hereto as **Exhibit A** is a list of the Rental Agreements for which outstanding rental payments are due and outstanding as of January 30, 2019, the aggregate amount of which is \$202,558.81, which, to the extent assumed, should be included and paid as part of any cure.

7. Ohio CAT asserts this limited objection to the Motion to the extent the Debtors propose to assume and/or assign any of the Rental Agreements without curing any and all defaults thereunder in accordance with the requirements of section 365 of the Bankruptcy Code.

RESERVATION OF RIGHTS

8. Ohio CAT and OMCO both hereby reserve their rights to change and/or amend the amounts asserted herein should additional information become available warranting such action. Ohio CAT and OMCO further reserve all of their rights, claims, defenses, and remedies under the Bankruptcy Code and other applicable law with respect to the same.

9. Furthermore, nothing in this Limited Objection is intended to be, or should be construed as, a waiver by either Ohio CAT or OMCO of any of their rights under the OMCO

Lease, the Rental Agreements, any other applicable contract, lease and/or rental agreement, the Bankruptcy Code, or applicable law.

WHEREFORE, based upon the foregoing and for good cause shown, Ohio CAT and OMCO respectfully request that the Court sustain these Limited Objections and grant such other and further relief as the Court may deem just and proper.

Dated: February 1, 2019

Respectfully submitted,

/s/ Cullen D. Speckhart

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*Counsel to Ohio Machinery Co. and OMCO
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CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2019, the foregoing *Limited Objection and Reservation of Rights of Ohio Machinery Co. and OMCO Leasing* was served upon all parties authorized to receive notice through the Court's ECF notice system in this case and pursuant to the notice requirements under the General Objection Procedures as defined in Dkt. No. 1116-3, pp. 4-5.

/s/ Cullen D. Speckhart

Cullen D. Speckhart, Esq.

EXHIBIT A

| Ohio Machinery Co. Rental Agreement Summary | | | |
|--|------------------------|----------------------|--|
| Customer No. | Customer name | Agreement No. | Rental Payments Due (as of 1/30/2019) |
| 1057420 | OXFORD MINING /SLS RTR | G31140 | \$ 8,400.00 |
| 1057420 | OXFORD MINING /SLS RTR | G82884 | \$ 12,538.80 |
| 1057420 | OXFORD MINING /SLS RTR | G84039 | \$ 11,640.00 |
| 1057420 | OXFORD MINING /SLS RTR | G84294 | \$ 6,560.00 |
| 1057420 | OXFORD MINING /SLS RTR | G84297 | \$ 9,480.00 |
| 1057420 | OXFORD MINING /SLS RTR | G86779 | \$ 4,365.00 |
| 1057420 | OXFORD MINING /SLS RTR | G87948 | \$ 3,660.00 |
| 1057420 | OXFORD MINING /SLS RTR | G88641 | \$ 15,252.41 |
| 1057420 | OXFORD MINING /SLS RTR | G88791 | \$ 5,009.93 |
| 1057420 | OXFORD MINING /SLS RTR | G89986 | \$ 15,300.00 |
| 1057420 | OXFORD MINING /SLS RTR | G90283 | \$ 11,640.00 |
| 1057420 | OXFORD MINING /SLS RTR | G91957 | \$ 15,226.00 |
| 1057420 | OXFORD MINING /SLS RTR | G93798 | \$ 5,820.00 |
| 1057420 | OXFORD MINING /SLS RTR | G93831 | \$ 3,660.00 |
| 1057420 | OXFORD MINING /SLS RTR | G93833 | \$ 1,830.00 |
| 1057420 | OXFORD MINING /SLS RTR | G94357 | \$ 5,160.00 |
| 1057420 | OXFORD MINING /SLS RTR | G94592 | \$ 5,820.00 |
| 1057420 | OXFORD MINING /SLS RTR | G95047 | \$ 1,830.00 |
| 1057420 | OXFORD MINING /SLS RTR | L05744 | \$ 36,990.00 |
| 1057420 | OXFORD MINING /SLS RTR | L05745 | \$ 22,376.67 |
| TOTAL | | | \$ 202,558.81 |