

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

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

**DOUBLE M MUD CO. INC'S APPLICATION FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE CLAIM**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY 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.

Double M Mud Co., Inc. (erroneously identified by Debtor San Juan Coal Company as “Filter Service”), 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 and payment of an administrative claim in the amount of \$2,595.52. In support of this Application, Double M Mud Co., Inc. (“Double M”) 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. Double M is a New Mexico Corporation. It purchased a business known as “Filter Service” several years ago.

6. Double M sells and delivers forged steel fittings, safety equipment, suction and hydraulic hoses, and filters necessary to oil, gas, and mining businesses. Double M is the largest Donaldson Filtration distributor in the Rocky Mountain Region and also stocks GE Osmonics filters, fresh water filtration products and other Donaldson parts at Double M’s Farmington, New Mexico store.

7. Double M has sold these products to San Juan Coal Company and other customers for more than 20 years. Because of its close proximity to San Juan Coal Company’s mining site, Double M can sell and deliver products to San Juan Coal Company the same day they are ordered whereas other vendors must ship the products to the site, meaning the products arrive at least a day after they are ordered.

8. As of the October 9, 2018 Petition Date, San Juan Coal Company had received products from Double M for which San Juan Coal Company has not paid. Double M's Proof of Claim (Claim 61-1, filed Dec. 12, 2018) in the amount of \$8,416.34 for pre-petition amounts owed by San Juan Coal Company to Double M.

9. That same date, Double M filed a proof of claim in the amount of \$7,439.38 pursuant to 11 U.S.C. § 203(b)(9) because San Juan Coal Company failed to pay for goods provided by Double M within 20 days of the Petition Date.

10. In addition, Double M provided goods to San Juan Coal Company after the Petition Date for which Double M has not been paid. These post-petition charges are shown on the invoice attached hereto as Exhibit A.

11. The post-petition goods provided by Double M are necessary for San Juan Coal Company's mining operations. San Juan Coal Company requested that Double M continue to provide goods to San Juan Coal Company after the Petition Date.

RELIEF REQUESTED

12. Double M respectfully requests that the Court enter an order for allowance and payment of its administrative priority claims in the amount of \$2,595.52 for the goods provided at San Juan Coal Company's request after the Petition Date pursuant to 11 U.S.C. §§ 507(a)(2) and 503(b)(1).

BASIS FOR RELIEF

13. The Debtors have an affirmative obligation to pay for actual and necessary costs and expenses of preserving the estate. *See* 11 U.S.C. § 503(b)(1)(A).

14. San Juan Coal Company is required to pay the amounts due and owing for the goods provided by Double M after the Petition Date at the request of San Juan Coal Company.

Accordingly, all post-petition amounts owing to Double M for said goods should be allowed as an administrative expense claim and immediately paid by the Debtors pursuant to section 503(b)(1). This amount is \$2,595.52, as reflected in Exhibit A.

15. San Juan Coal Company benefited from the post-petition provision of Double M's goods at the request of San Juan Coal Company by being able to continue operations and these goods enabled San Juan Coal Company to preserve the estate.

16. Based upon the foregoing, Double M respectfully requests that the Court enter an order allowing its administrative expense claim in the amount of \$2,595.52 as set forth in Exhibit A, pursuant to 11 U.S.C. §§ 507(a)(2) and 503(b)(1).

RESERVATION OF RIGHTS

16. Double M hereby reserves the right to amend this Application should additional information become available warranting such action. Double M also reserves all of its rights, claims, defenses, and remedies under the Bankruptcy Code and other applicable law.

CONCLUSION

WHEREFORE, Double M respectfully requests that this Court (i) grant the allowance and payment of its administrative claim in the amount of \$2,595.52 and (ii) grant Double M such other and further relief as this Court deems just and appropriate under the circumstances.

Dated: April 12, 2019

ANDERSON, LEHRMAN, BARRE & MARAIST, LLP

By /s/ Michelle K. Ostrye
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CERTIFICATE OF SERVICE

I certify that on April 12, 2019, a true and correct copy of this Application for Allowance and Payment of Administrative Claim was served on all parties authorized to receive notice through the ECF notice system in this case.

 /s/ Michelle K. Ostrye
Michelle K. Ostrye