

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

In re:

WESTMORELAND COAL COMPANY, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-35672 (DRJ)

(Jointly Administered)

**MCKINSEY RECOVERY & TRANSFORMATION SERVICES U.S., LLC'S  
FIFTH STATUS REPORT IN ACCORDANCE WITH ORDER ON JOINT MOTION IN  
FURTHERANCE OF MEDIATION AGREEMENT [DKT. 1427]**

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<sup>1</sup> Due to the large number of debtors in these chapter 11 cases, which are consolidated for procedural purposes only, 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.

### **FIFTH STATUS REPORT**

1. McKinsey Recovery & Transformation Services U.S., LLC (“RTS”) submits this fifth status report in accordance with the procedures set forth in the joint motion filed on February 20, 2019 by RTS and Westmoreland Coal Company and certain of its debtor affiliates, Dkt. 1422 (“Motion”), and so-ordered by this Court on February 21, 2019, Dkt. 1427, at ¶¶ 1, 3.

2. RTS agreed to “report back to the Court within two weeks of the entry of the order contemplated by this motion” and to “file a status report every two weeks thereafter.” *See* Mot. at ¶¶ 5(a) & 6.

3. On March 6, 2019, RTS filed its initial status report, naming D.J. (Jan) Baker as the expert that RTS planned to retain to work with it to develop a new disclosure protocol. *See* Dkt. 1586. Two weeks later, on March 20, 2019, RTS filed a second status report attaching Mr. Baker’s consulting agreement (“Second Status Report”). Dkt. 1626, Ex. A. On April 3, 2019, RTS filed a third status report (“Third Status Report”) informing the Court that it had retained Mr. Paul Singerman to serve as a “fresh eyes” expert to review the draft protocol. Dkt. 1686. RTS attached Mr. Singerman’s consulting agreement to the Third Status Report. *Id.* at Ex. B. On April 17, 2019, RTS filed a fourth status report (“Fourth Status Report”) memorializing the filing deadlines to which RTS committed during the joint evidentiary hearing on April 16 to approve the settlement between the U.S. Trustee and RTS.<sup>2</sup>

4. In the Fourth Status Report, RTS reported that it anticipates filing a proposed final version of the disclosure protocol by the end of May and that it anticipates filing updated disclo-

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<sup>2</sup> This Court, along with the *ANR* and *SunEdison* courts, jointly approved the settlement agreement as amended on the record. *Westmoreland*, Dkt. 1769; *In re Old ANR*, Case No. 19-mp-302 (E.D. Va. opened Jan. 16, 2019), Dkt. 45; *In re SunEdison*, Case No. 16-10992 (Bankr. S.D.N.Y. filed April 21, 2016), Dkt. 5924.

sures in accordance with that protocol by July 3, 2019. *See* Dkt. 1759, at ¶ 6. RTS continues to move forward in accordance with this stated timeline.

5. During the week of April 22, and as set forth in RTS's Fourth Status Report, Mr. Baker and Mr. Singerman circulated a revised protocol draft to RTS and Debtors' counsel. *Id.* at ¶ 5. On April 25, Mr. Baker, Mr. Singerman, and a colleague of Mr. Singerman—Dan Lampert—together with counsel for RTS met to review that draft. The parties discussed input received from industry interviews about disclosure practices used by various types of industry participants in their efforts to comply with applicable provisions of the Bankruptcy Code and Bankruptcy Rules and, in that context, discussed the contours of the proposed protocol. Mr. Baker, Mr. Singerman, and Mr. Lampert have since held several follow-up discussions among themselves as they continue to revise the protocol. They have also engaged in follow-up fact-finding discussions and interviews with industry professionals and are working to update the protocol to incorporate feedback received during these interviews. Mr. Baker and Mr. Singerman anticipate circulating a revised draft of the protocol to RTS and Debtors' counsel by May 3 and will thereafter circulate the draft to those industry professionals who were previously interviewed and expressed an interest in commenting on the draft before it is filed. *See id.*

6. RTS will continue to update the Court regarding progress in its next status report.

Dated: May 1, 2019  
Houston, TX

Respectfully submitted,

By: /s/ Faith E. Gay

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2019, I caused the foregoing pleading to be filed with the Court and thereby served by the Court's CM/ECF noticing to all parties registered to receive electronic notice in this case.

/s/ Zack A. Clement