

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

In re:

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



**Chapter 11
Case No. 18-36572 (DRJ)
(Jointly Administered)**

**NM TAXATION AND REVENUE DEPARTMENT'S RESPONSE TO DEBTOR'S
ELEVENTH OMNIBUS OBJECTION CERTAIN PROOFS OF CLAIM (SATISFIED
CLAIMS)**

The State of New Mexico, Taxation and Revenue Department ("Department"), appearing by and through Hector H. Balderas, Attorney General (James C. Jacobsen, Assistant Attorney General), states as its response to the *Debtor's Omnibus Objection to Certain Proofs of Claim (Satisfied Claims)*, filed April 26, 2019, as Document 1794 ("Objection"):

1. The Objection asserts that the Department's Claim No. S0098 against Joint Debtor San Juan Coal Company in the amount of \$194,086.56 has been satisfied.
2. Claim No. S0098 is not a Claim asserted by the Department. It is set forth on San Juan Coal Company's Schedules E/F, Document 399, page 98 of 183, as unsecured, nonpriority claim 3.141. Those Schedules did not specify the basis for the \$194,086.56 figure.
3. The Department's Claim against San Juan Coal Company is \$47,900.87 unsecured, of which \$41,172.65 is entitled to priority, as set forth in its Proof of Claim 1333, timely filed with the Claims Agent February 27, 2019 and docketed by the Court as Claim 93-1 on February 28, 2019. The Department's bases its Claim almost entirely on Gross Receipts and Compensating Use Taxes reported to it by San Juan Coal Company without payment in full of the tax liability, and associated statutory penalty and interest. The Department's Claim also takes note of a \$58.13 discrepancy between the amounts of New Mexico Employee Withholding

Tax reported to it during the 2nd quarter 2016 and that reported to the New Mexico Department of Workforce Solutions for the same period. The reporting to at least one of the agencies was erroneous.

4. San Juan Coal Company's scheduled debt to the Department not being representative of the Department's Claim, the Department has no objection to it being expunged or otherwise disregarded, so long as that action has no effect upon allowance of the Department's Claim as set out in its filed Proof of Claim.

WHEREFORE, the State of New Mexico, Taxation and Revenue Department prays the Court enter its order accordingly, and that the Court grant it such other and further relief as the Court deems just and appropriate.

Respectfully submitted,

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By: /s/ James C. Jacobsen
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I CERTIFY that on May 21, 2019 I electronically filed the foregoing objection with the Court via the CM/ECF system. On the date of filing, the CM/ECF system electronically served the objection on all attorneys and parties identified with the Court for electronic service on the record in this case in accordance with the CM/ECF system protocols. I certify that on the date of filing I mailed the foregoing by first class mail to the following parties, at the addresses listed below:

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/S/ James C. Jacobsen