



ENTERED
07/01/2019

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

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

ORDER SUSTAINING DEBTORS’ NINETEENTH OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM (AMENDED CLAIMS, INCORRECT DEBTOR CLAIMS, NO LIABILITY CLAIMS, LATE-FILED CLAIMS, MODIFIED CLAIMS, AND RECLASSIFIED CLAIMS)

(Relates to ECF No. 1850)

Upon the objection (the “Objection”)² of the above-captioned WLB Debtors³ and the WMLP Debtors⁴ (collectively, with the WLB Debtors, the “Debtors”) for entry of an order (this “Order”) sustaining the Debtors’ Nineteenth Omnibus Objection to certain Objected Claims, all as more fully set forth in the Objection; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and this Objection in this district is permissible pursuant to 28 U.S.C. §§ 1408 and

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 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.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Objection.

³ “WLB Debtors” means all Debtors except for Westmoreland Resources GP, LLC, Westmoreland Resource Partners, LP (“WMLP”), and WMLP’s subsidiaries (collectively with WMLP, the “WMLP Debtors”).

⁴ Specifically, the WMLP Debtors are: (a) WMLP; (b) Westmoreland Kemmerer, LLC; (c) Oxford Mining Company, LLC; (d) Harrison Resources, LLC; (e) Oxford Mining Company-Kentucky, LLC; (f) Daron Coal Company, LLC; (g) Oxford Conesville, LLC; and (h) Westmoreland Kemmerer Fee Coal Holdings, LLC.

1409; and this Court having found that the relief requested in the Objection is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Objection and opportunity for a hearing on the Objection were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Objection and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Objection and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Objection is sustained as set forth herein.

1. Each Amended Claim identified on **Exhibit A** attached to this Order is disallowed in its entirety and replaced by the applicable Remaining Amended Claim identified on **Exhibit A** attached to this Order; *provided that* this Order will not affect the portion of the Remaining Amended Claim identified on **Exhibit A**; *provided further* that the Debtors reserve the right to object to Amended Remaining Claim on **Exhibit A** on any applicable grounds.

2. Each Incorrect Debtor Claim identified under the "Asserted" column on **Exhibit B** attached to this Order is disallowed and modified; *provided* that the Debtors reserve the right to object to any proof of claim identified in the "Modified" column of **Exhibit B** attached to this Order on any applicable grounds.

3. Each No Liability Claim identified on **Exhibit C** attached to this Order is disallowed and expunged to the extent set forth on **Exhibit C**.

4. Each Late-Filed Claim identified on **Exhibit D** attached to this Order is disallowed and expunged to the extent set forth on **Exhibit D**.

5. Each Reclassified Claim identified on **Exhibit E** attached to this Order is modified and reclassified; *provided that* the Debtors reserve the right to object to the Corrected Claims on any applicable grounds.

6. Each Modified Claim identified on **Exhibit F** attached to this Order is modified and reduced to the extent set forth in the “Modified” column on **Exhibit F**.

7. The Clerk of the Court is authorized and directed to update the claims register maintained in these chapter 11 cases to reflect the relief granted in the Order.

8. To the extent a response is filed regarding any Objected Claim, each such Objected Claim, and the Objection as it pertains to such Objected Claim, will constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. This Order will be deemed a separate order with respect to each Objected Claim.

9. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors’ right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Objection or any order granting the relief requested by this Objection; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to § 365 of the Bankruptcy Code; or (f) a waiver of the Debtors’ rights under the Bankruptcy Code or any other applicable law.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Objection.

12. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: July 01, 2019.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Amended Claims

Westmoreland Coal Company 18-35672 (DRJ)
 Exhibit A - Amended Claims

Basis for objection: See paragraph 16 of the Foregoing Objection

CLAIMS TO BE DISALLOWED

REMAINING CLAIMS

	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #/ ECF #	CLAIM AMOUNT	NAME	DATE FILED	CASE NUMBER / DEBTOR	CLAIM #/ ECF #	CLAIM AMOUNT	
1	STATE OF WYOMING DEPARTMENT OF REVENUE MINERAL TAX DIVISION 122 WEST 25TH ST CHEYENNE, WY 82002-0110	11/09/18	Westmoreland Kemmerer, LLC 18-35696 (DRJ)	87^/ 58.1	\$ 787,566.76	STATE OF WYOMING DEPARTMENT OF REVENUE MINERAL TAX DIVISION 122 WEST 25TH ST CHEYENNE, WY 82002-0110	05/07/19	Westmoreland Kemmerer, LLC 18-35696 (DRJ)	1371+/ 554.1	\$ 572,714.83	
Total					\$ 787,566.76	Total					\$ 572,714.83

^ Claim is pending on Exhibit A to the Fourth Omnibus Claims Objection (Incorrect Debtor Claims)
 +Claim also appears on Exhibit B to the Nineteenth Omnibus Claims Objection (Incorrect Debtor Claims)

Exhibit B

Incorrect Debtor Claims

Basis for objection: See paragraph 17 of the Foregoing Objection

NAME	DATE FILED	CLAIM #	ECF CLAIM #	DEBTOR	CLAIM AMOUNT	ASSERTED	MODIFIED
						DEBTOR	CLAIM AMOUNT
1 ACE HARDWARE JILL THARP 709 PINE AVE KEMMERER, WY 83101	11/9/2018	91	62.1	Westmoreland Coal Company	\$ 3,795.16	Westmoreland Kemmerer, LLC	\$3,795.16
2 COMMONWEALTH OF KENTUCKY DEPARTMENT OF REVENUE LEGAL SUPPORT BRANCH PO BOX 5222 FRANKFORT, KY 40602	1/10/2019	1241	73.2	Westmoreland Coal Company	\$ 12,635.30*	Oxford Mining Company - Kentucky, LLC Westmoreland Coal Company Total:	\$9,784.98* \$2,850.32* \$12,635.30*
3 CONSOLIDATED ELECTRICAL DISTRIBUTORS INC 2405 W 5TH AVENUE DENVER, CO 80204	12/7/2018	497	219.1	Westmoreland Coal Company	\$ 26,486.61	San Juan Coal Company	\$26,486.61
4 MINING AND RECLAMATION INC JOHN SHUPERT 15953 ST RTE 60 PO BOX 555 DRESDEN, OH 43821	10/17/2018	55	3.1	Westmoreland Coal Company	\$ 86,666.40	Oxford Mining Company, LLC	\$86,666.40
5 STATE OF WYOMING DEPARTMENT OF REVENUE MINERAL TAX DIVISION 122 WEST 25TH ST CHEYENNE, WY 82002-0110	5/7/2019	1371	554.1	Westmoreland Coal Company	\$ 572,714.83	Westmoreland Kemmerer, LLC	\$572,714.83

* Indicates claim contains unliquidated and/or undetermined amounts

Exhibit C

No Liability Claims

Westmoreland Coal Company 18-35672 (DRJ)

Exhibit C - No Liability

Basis for objection: See paragraph 18 of the Foregoing Objection

NAME	DATE FILED	DEBTOR	CLAIM # / ECF #	CLAIM AMOUNT	REASON FOR DISALLOWANCE
1 COUNTY OF LEON TEXAS MCCREARY VESELSKA BRAGG AND ALLEN PC TARA LEDAY PO BOX 1269 ROUND ROCK, TX 78680-1269	10/22/2018	Westmoreland Coal Company	58 / 7.1	\$ 5,050.06	No liability exists on the Debtor's books and records. The asserted taxes were paid via check numbers 60072, 60073, 60074 and 60075 dated 11/9/2018.
2 DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE PO BOX 7346 PHILADELPHIA, PA 19101-7346	12/6/2018	Western Energy Company	399 / 24.1	\$ 128,907.45	No liability exists on the Debtor's books and records on account of interest and penalties for the periods ending 3/31/2017 and 9/30/2017. The taxes due for the period ending 3/31/2017 was paid in January 2019.
3 ECOSPHERE ENVIRONMENTAL SERVICES, INC. MACHELLE RICHBURG 776 E. SECOND AVE. DURANGO, CO 81301	12/5/2018	San Juan Coal Company	435^ / 192.1	\$ 14,434.50	No Liability exists on the Debtor's books and records. Post petition invoice numbers 11250 and 11281 were paid on EFT numbers 1001105, dated 12/7/2018, and 1005957, dated 1/25/2019. Pre-petition invoice number 11209 was paid by EFT number 1010755.
^ Claim is pending on Exhibit A to the Third Omnibus Claims Objection (Incorrect Debtor Claims)					
4 INTERSTATE POWER SYSTEMS INC C/O WINTHROP AND WEINSTINE P.A. IAN M. RUBENSTRUNK 225 SOUTH SIXTH ST., STE 3500 MINNEAPOLIS, MN 55402	12/6/2018	Western Energy Company	450 / 25.1	\$ 10,988.55	No Liability exists on the Debtor's books and records. Invoices have been paid by check #1013090 on 4/12/19 and check #60300 on 11/21/2019.
5 LEON INDEPENDENT SCHOOLD DISTRICT MCCREARY VESELKA BRAGG AND ALLEN PC TARA LEDAY PO BOX 1269 ROUND ROCK, TX 78680-1269	10/22/2018	Westmoreland Coal Company	59 / 8.1	\$ 11,718.91	No liability exists on the Debtor's books and records. The asserted taxes were paid via check numbers 60072, 60073, 60074 and 60075 dated 11/9/2018.
6 TEXAS COMPTROLLER OF PUBLIC ACCOUNTS OFFICE OF THE ATTORNEY GENERAL BANKRUPTCY - COLLECTIONS DIVISION MC-008 PO BOX 12548 AUSTIN, TX 78711-2548	1/11/2019	Texas Westmoreland Coal Company	1251 / 29.1	\$ 47,035.41*	No liability exists on the Debtor's books and records. The taxes due for the period May 2018 through October 2018 have been paid.
7 TEXAS COMPTROLLER OF PUBLIC ACCOUNTS OFFICE OF THE ATTORNEY GENERAL BANKRUPTCY - COLLECTIONS DIVISION MC-008 PO BOX 12548 AUSTIN, TX 78711-2548	2/7/2019	Texas Westmoreland Coal Company	1299 / 30.2	\$ 32,882.60*	No liability exists on the Debtor's books and records. The taxes due for the period October 2018 through January 2019 have been paid.

Westmoreland Coal Company 18-35672 (DRJ)

Exhibit C - No Liability

Basis for objection: See paragraph 18 of the Foregoing Objection

NAME	DATE FILED	DEBTOR	CLAIM # / ECF #	CLAIM AMOUNT	REASON FOR DISALLOWANCE
8 UINTA COUNTY TREASURER TERRY BRIMHALL-TREASURER PO BOX 1530 EVANSTON, WY82931-1150	11/5/2018	Haystack Coal Company	50^ / 47.2	\$ 240,259.12*	No liability exists on the Debtor's books and records. The taxes due in October of 2018 were paid.
			TOTAL	\$ 491,276.60*	

^ Claim is pending on Exhibit A to the Fourth Omnibus Claims Objection (Incorrect Debtor Claims)

Exhibit D

Late-Filed Claims

Westmoreland Coal Company 18-35672 (DRJ)

Exhibit D - Late Filed

Basis for objection: See paragraph 19 of the Foregoing Objection

NAME	DATE FILED	DEBTOR	CLAIM # / ECF #	CLAIM AMOUNT	REASON FOR DISALLOWANCE
1 CAPSTONE HOLDING COMPANY P O BOX 115 BANNOCK, OH 43972	2/25/2019	Oxford Mining Company, LLC	1326^ / 93.1	\$ 20,302.57	Claim filed after the general bar date of December 12, 2018.
^ Claim also appears on Exhibit A to the Twentieth Omnibus Claims Objection (No Liability Claims)					
2 CAPSTONE HOLDING COMPNAY THOMAS MCK. HAZLETT P O BOX 115 BANNOCK, OH 43972	12/17/2018	Oxford Mining Company, LLC	1147^ / 79.1	\$ 20,302.57	Claim filed after the general bar date of December 12, 2018.
^ Claim also appears on Exhibit A to the Twentieth Omnibus Claims Objection (No Liability Claims)					
3 RECO EQUIPMENT INC. 41245 RECO ROAD BELMONT, OH 43718	4/16/2019	Westmoreland Coal Company	1367 / 551.1	\$ 29,445.71	Claim filed after the general bar date of December 12, 2018.
TOTAL				\$ 70,050.85	

Exhibit E

Reclassified Claims

Westmoreland Coal Company 18-35672 (DRJ)

Exhibit E - Reclassified Claims

Basis for objection: See paragraph 22 of the Foregoing Objection

NAME	CLAIM# / ECF#	ASSERTED			RECLASSIFIED		
		DEBTOR	PRIORITY STATUS	AMOUNT	DEBTOR	PRIORITY STATUS	AMOUNT
1 COLUMBUS EQUIPMENT CO JEFFREY B SAMS 1040 BLACKLICK EASTERN RD STE 140 PICKERINGTON, OH 43147	224^ / 18.1	Oxford Mining Company, LLC	503(b)(9)	\$29,090.28	Oxford Mining Company, LLC	503(b)(9)	\$28,673.80
		Oxford Mining Company, LLC	Unsecured	\$107,126.45	Oxford Mining Company, LLC	Unsecured	\$107,542.93
		Subtotal			\$136,216.73	Subtotal	
Reason: Asserted invoices 539680, 539768, 539995, 539403, 540406, 539712, 541346, 541729, 542148, 542565, 543092, 543549, and 543848 include a total of \$416.48 of freight charges which are not entitled to 503b9 status under the Bankruptcy Code.							
^ Claim also appears on Exhibit F to the Nineteenth Omnibus Claims Objection (Modified Claims)							
2 MARVIN COBB 189 KEEPSAKE LOOP WESTCLIFFE, CO 81252	1018 / 400.1	Westmoreland Coal Company	Priority	\$10,209.00	Westmoreland Coal Company	Priority	\$0.00
					Westmoreland Coal Company	Unsecured	\$10,209.00
					Subtotal		
Reason: Claim for retiree medical reimbursement is not entitled to priority status under Section 507(a)(5) of the Bankruptcy Code.							
3 MORRIS F. MASON P.O. BOX 124 FLYNN, TX 77855	324 / 139.1	Westmoreland Coal Company	Priority	\$3,375.84	Westmoreland Coal Company	Priority	\$0.00
					Westmoreland Coal Company	Unsecured	\$3,375.84
					Subtotal		
Reason: Claim for health insurance reimbursement does not qualify for priority status under Section 507(a)(5) of the Bankruptcy Code.							
4 WAYMON MCKINNEY C/O SHIRLEY J. MCKINNEY PO BOX 712 MULLENS, WV 25882	510 / 221.1	Westmoreland Coal Company	Priority	Undetermined*	Westmoreland Coal Company	Priority	\$0.00
					Westmoreland Coal Company	Unsecured	Undetermined*
					Subtotal		
Reason: Claim for medical and vision insurance is not entitled to priority status under Section 507(a)(5) of the Bankruptcy Code.							
TOTAL				\$ 149,801.57*	TOTAL		\$ 149,801.57*

* Indicates claim contains unliquidated and/or undetermined amounts

Exhibit F

Modified Claims

Basis for objection: See paragraph 23 of the Foregoing Objection

NAME	CLAIM# / ECF#	ASSERTED			MODIFIED		
		DEBTOR	PRIORITY STATUS	AMOUNT	DEBTOR	PRIORITY STATUS	AMOUNT
1 COLUMBUS EQUIPMENT CO JEFFREY B SAMS 1040 BLACKLICK EASTERN RD STE 140 PICKERINGTON, OH 43147	224^ / 18.1		503(b)(9)	\$28,673.80	Oxford Mining Company, LLC	503(b)(9)	\$40.87
			Unsecured	\$107,542.93	Oxford Mining Company, LLC	Unsecured	\$108,196.41
			Subtotal	\$136,216.73		Subtotal	\$108,237.28

Reason: Invoices 544047, 544859, and 521354 (credit amount) are post-petition invoices that were paid by check #1001143 on 12/7/18.

Invoices 530308, 539680, 539768, 539995, 535487, 539403, 540406, 540592, 539712, 539922, 540455, 540854, 541194 (credit amount), 541080, 541115, 519725, 541346, 541669, 541729, 512121, 542148, 542565, 543089, 543487 (credit amount), 543549, and 543848 were paid by EFT number 1007653 on 2/15/19

Invoice 543685 is a post-petition invoice that was paid by check #1009467 on 3/1/19.

Invoice 538173 is a pre petition invoice that was paid by check number 988584 on 7/20/2018

Credit amounts on invoices 541194, 543487, and 521354 have been taken on payment numbers 1007653 and 1001143 on 2/15/19 and 12/7/18, respectively.

Asserted invoices 544269 and 278685 are post petition invoices which are now liabilities of the purchaser, CCU Coal and Construction LLC, and are not on the Debtor's books and records.

^ Claim also appears on Exhibit E to the Nineteenth Omnibus Claims Objection (Reclassified Claims)

2 COMMONWEALTH OF KENTUCKY DEPARTMENT OF REVENUE LEGAL SUPPORT BRANCH PO BOX 5222 FRANKFORT, KY 40602	1241^ / 73.2	Oxford Mining Company - Kentucky, LLC	Priority	\$4,330.49*	Oxford Mining Company - Kentucky, LLC	Priority	\$47.10
		Westmoreland Coal Company	Priority	\$1,140.91*	Westmoreland Coal Company	Priority	\$1,140.91
		Oxford Mining Company - Kentucky, LLC	Unsecured	\$5,454.49*	Oxford Mining Company - Kentucky, LLC	Unsecured	\$3,601.74
		Westmoreland Coal Company	Unsecured	\$1,709.41*	Westmoreland Coal Company	Unsecured	\$1,709.41
			Subtotal	\$12,635.30*		Subtotal	\$6,499.16

Reason: Debtor timely filed and paid the severance tax on 3/20/2018 by way of check number 8140 in the amount of \$4,095. Interest, penalties or other fees in the amount of \$2,031.14 are not valid for timely filed and paid returns.

Debtor timely filed the severance tax return on 10/10/2018 . Penalties and other fees in the amount of \$10 are not valid for timely filed returns.

^ Claim also appears on Exhibit B to the Nineteenth Omnibus Claims Objection (Incorrect Debtor Claims)

TOTAL	\$ 148,852.03*	TOTAL	\$ 114,736.44
--------------	-----------------------	--------------	----------------------