



ENTERED
08/29/2019

**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)
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**STIPULATION AND AGREED ORDER RESOLVING DEBTORS’
THIRTEENTH OMNIBUS OBJECTION TO SCHEDULED CLAIM NO. S02186
OF WMC MACHINING AND SIXTEENTH OMNIBUS OBJECTION TO CLAIM
NO. 330-1 FILED IN CASE NO. 18-35696 BY WHEELER MACHINERY COMPANY
(Docket No. 2283)**

The WMLP Debtors² and, after the WMLP Effective Date, the WMLP Liquidation Trust, and the WLB Debtors³ (collectively, with the WMLP Debtors or WMLP Liquidation Trust, the “Debtors”) in the above-captioned cases and Wheeler Machinery Company (“Creditor,” and together with the Debtors, the “Parties”) hereby enter into this stipulation and order (this “Stipulation and Agreed Order”) as follows:

WHEREAS, on October 9, 2018 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”). These chapter 11

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 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.

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”).

cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015(b) [ECF No. 71];

WHEREAS, on October 18, 2018, the United States Trustee for the Southern District of Texas (the “U.S. Trustee”) appointed an official committee of unsecured creditors pursuant to § 1102 of the Bankruptcy Code (the “Committee”) [ECF No. 206];

WHEREAS, the Bankruptcy Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, this matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409;

WHEREAS, on March 2, 2019, the Bankruptcy Court entered the *Order Confirming the Amended Joint Chapter 11 Plan of Westmoreland Coal Company and Certain of Its Debtor Affiliates* (the “Confirmation Order”) [ECF No. 1561] confirming WLB Debtors’ plan (the “WLB Plan”);

WHEREAS, on March 15, 2019, the effective date of the WLB Plan occurred (the “Effective Date”) [ECF No. 1608];

WHEREAS, on June 5, 2019, the Bankruptcy Court entered the *Order Approving Disclosure Statement and Confirming Amended Joint Plan of Liquidation for the WMLP Debtors, as Modified* (the “WMLP Confirmation Order”) [ECF No. 1967] confirming the WMLP Debtors’ plan of liquidation (the “WMLP Plan”);

WHEREAS, on June 21, 2019, the effective date of the WMLP Plan occurred (the “WMLP Effective Date”) [ECF No. 2068];

WHEREAS, the Debtors filed the *Debtors’ Thirteenth Omnibus Objection to Certain Proofs of Claim (Satisfied Claims)* [ECF No. 1796] (the “Thirteenth Omnibus Objection”);

whereby the Debtors objected to Scheduled Claim No. S02186 of WMC Machining (DRC Scheduled Claim No. 51151), a d/b/a of Creditor (such claim, the “Scheduled Claim”);

WHEREAS, the Debtors filed the *Debtors’ Sixteenth Omnibus Objection to Certain Proofs of Claim (Modified Claims)* [ECF No. 1830] (the “Sixteenth Omnibus Objection,” and together with the Thirteenth Omnibus Objection, the “Objections”) whereby the Debtors objected to Claim No. 330-1 (DRC Claim No. 763) filed by Creditor in Case No. 18-35696 (such claim, the “Wheeler Claim”); and

WHEREAS, the Debtors and Creditor have agreed to resolve the Objections, as provided herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Stipulation and Agreed Order, the Parties hereby stipulate and agree as follows:

1. The Debtors hereby withdraw the Thirteenth Omnibus Objection solely with respect to the Scheduled Claim.
2. The Debtors hereby withdraw the Sixteenth Omnibus Objection solely with respect to the Wheeler Claim.
3. The Wheeler Claim is hereby modified to be an allowed general unsecured claim in the amount of \$149,955.35 against Debtor Westmoreland Kemmerer, LLC (Case No. 18-35696).
4. Because the Wheeler Claim supersedes the Scheduled Claim, the Parties agree that the Scheduled Claim is hereby disallowed and expunged.
5. 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 this Stipulation and Agreed Order.

6. The terms and conditions of this Stipulation and Agreed Order shall be immediately effective and enforceable upon entry by the Bankruptcy Court.

7. This Stipulation and Agreed Order is intended by the Parties to be binding upon their successors, agents, assigns, including bankruptcy trustees and estate representatives, and any parent, subsidiary, or affiliated entity of the Parties.

8. The undersigned hereby represent and warrant that they have full authority to execute this Stipulation and Agreed Order on behalf of the respective parties and that the respective parties have full knowledge of, and have consented to, this Stipulation and Agreed Order.

9. The Parties agree that each of them, through their respective counsel, has had a full opportunity to participate in the drafting of this Stipulation and Agreed Order and, accordingly, any claimed ambiguity shall be construed neither for nor against either of the Parties.

10. This Stipulation and Agreed Order constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior discussions, agreements, and understandings, both written and oral, among the Parties with respect thereto.

11. This Stipulation and Agreed Order shall not be modified, altered, amended or supplemented except by a writing executed by the Parties or their authorized representatives.

12. The Bankruptcy Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Agreed Order, and the Parties hereby consent to such jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation and Order.

IT IS SO ORDERED.

Signed: August 28, 2019



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

IN WITNESS WHEREOF, the Parties, by their authorized counsel, executed this Stipulation and Agreed Order as of the date written below.

Dated: August 23, 2019

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Dated: August 23, 2019

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COUNSEL TO WHEELER MACHINERY CO.

United States Bankruptcy Court
Southern District of Texas

In re:
Westmoreland Coal Company
Westmoreland Texas Jewett Coal Company
Debtors

Case No. 18-35672-drj
Chapter 11

CERTIFICATE OF NOTICE

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Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Aug 31, 2019.

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cr +Alva Ray Trail, 193 Dusty Miller St., Princeton, WV 24740-7663
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Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

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Westmoreland Coal Sales Company, Inc., 9540 South Maroon Circle, Suite 300,
Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20
Westmoreland Energy Services New York, Inc., 9540 South Maroon Circle, Suite 300,
Englewood, Co 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Energy Services, Inc.,
9540 South Maroon Circle, Suite 300, Englewood, co 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Energy, LLC,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20
Westmoreland Kemmerer Fee Coal Holdings, LLC, 9540 South Maroon Circle, Suite 300,
Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Kemmerer, LLC,
9540 South Maroon Circle, Suite 300, Englewood, co 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Mining LLC,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20
Westmoreland North Carolina Power, LLC, 9540 South Maroon Circle, Suite 300,
Englewood, Co 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Partners,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Power, Inc.,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Resource Partners, LP,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Resources GP, LLC,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Resources, Inc.,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20
Westmoreland San Juan Holdings, Inc., 9540 South Maroon Circle, Suite 300,
Englewood, Co 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland San Juan, LLC,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 Westmoreland Savage Corporation,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

db E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20
Westmoreland Texas Jewett Coal Company, 9540 South Maroon Circle, Suite 300,
Englewood, CO 80112

dbpos E-mail/Text: legal@westmoreland.com Aug 29 2019 21:28:20 WRI Partners, Inc.,
9540 South Maroon Circle, Suite 300, Englewood, CO 80112

aty +E-mail/Text: ccooper@mooneygreen.com Aug 29 2019 21:31:32 Diana Bardes,
Mooney, Green, Saindon, Murphy & Welch, 1920 L Street, N.W., Suite 400,
Washington, DC 20036-5041

aty +E-mail/Text: sst@lawtoll.com Aug 29 2019 21:28:10 Sheldon S Toll,
Law Office of Sheldon S. Toll PLLC, 29580 Northwestern Hwy., Suite 1000,
Southfield, MI 48034-1031

cr E-mail/Text: houston_bankruptcy@LGBS.com Aug 29 2019 21:30:47 Harris County,
Linebarger Goggan Blair & Sampson LLP, C/O John P. Dillman, PO Box 3064,
Houston, TX 77253-3064

cr +E-mail/Text: stephen@youtzvaldez.com Aug 29 2019 21:28:15
International Union of Operating Engineers, Local, c/o Youtz & Valdez PC,
900 Gold Avenue SW, Albuquerque, NM 87102-3043

cr +E-mail/Text: TRD-bankruptcyunit@state.nm.us Aug 29 2019 21:29:54
New Mexico Taxation and Revenue Department, P.O. Box 8575, Albuquerque, NM 87198-8575

cr E-mail/Text: pat@pmfpc.com Aug 29 2019 21:31:22 United Mine Workers of America,
c/o Patrick M. Flynn, P.C., 1225 North Loop W, STE 1000, Houston, TX 77008-1775
TOTAL: 42

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

aty The WMLP Debtors and the Conflicts Committee of th
aty Vedder Price P.C.
cr A. Harper
cr ACE American Insurance Company
cr ACE Insurance Company of Texas
cr ACE Property & Casualty Insurance Company
intp Andrew Skillin
intp Ankura Trust Company, LLC
intp Anthony Winder
intp Argonaut Insurance Company
cr Avista Corporation
cr B. Grannon
cr Benjamin J. Smith

District/off: 0541-4

User: emiller
Form ID: pdf002Page 5 of 6
Total Noticed: 179

Date Rcvd: Aug 29, 2019

***** BYPASSED RECIPIENTS (continued) *****

cr Bob Post
 intp Brett Grunig
 intp Brian Nelson
 cr Brian Post
 intp CCU Coal and Construction LLC
 intp CIBC Bank USA
 intp Calder Lutz
 cr Canadian Imperial Bank of Commerce
 intp Charles M. Hunzie
 cr Chevron Products Company, a division of Chevron U.
 cr Christopher K Seglem
 cr Chrystella Montoya
 cr Chubb Insurance Company of Canada
 cr City of Dover, Ohio
 op Claims Administrator Cullen Speckhart
 intp Clarson Moore
 cr Claud E Onrada
 intp Claudia Ourada
 intp Clint Bowen
 op Coal Act Retirees Committee
 intp Connie Gunter
 cr Conveyors & Equipment, Inc.
 intp David Auilg
 intp Dower Rolex
 sp Drinker Biddle & Reath LLP
 intp Eddie W Gomez
 intp Emily Oddino
 intp Epsilon Palomins
 inre Ethel Nadine Mead, Trust
 cr Evan Pargeon
 cr Everly I Silva, Sr.
 cr Federal Insurance Company
 cr First Surety Corporation
 cr Floyd Cozort
 cr GT Nix Construction, Inc.
 intp Gary Biebinger, Jr.
 cr Genesis Alkali, LLC
 intp Gilbert Remmal
 cr Great Northern Insurance Company
 intp Great Northern Properties L.P.
 cr HYG Financial Services, Inc. fka NMHG Financial Se
 cr Henry Moore
 intp Hopedale Mining LLC
 cr Illinois Union Insurance Company
 cr J. Carano
 cr J. Collins
 cr James Cardill, Birdstone Gap, VT
 intp James W Barker
 intp Jason B Chandler
 intp Jason K.
 intp John B. McKnight, IV
 intp John Beachler
 intp Johnny L. Cantor
 intp Joni Henderson
 cr K. Dixon
 intp Kathleen Plaistd
 intp Kevin L.
 intp Kilgore Company
 cr Kinder Morgan Utopia LLC
 cr L. Boone
 intp Larry Kennedy
 cr Lenders and Ad Hoc Noteholders
 intp Les Rex
 cr M. Baisden
 intp MKiall
 cr MLP Ad Hoc Group
 intp Mar-Bow Value Partners, LLC
 cr Marie Crum
 consult McKinsey Recovery & Transformation Services U.S.,
 intp Mickil Klinginbury
 cr Mine Safety and Health, US Department of Labor
 cr Montana Dakota Utilities Co.
 cr Montana Department of Natural Resources and Conser
 cr Montana Department of Revenue
 intp Moody's Investors Service, Inc.
 cr NRG Texas Power LLC
 intp Natural Resource Partners L.P.
 intp Navakai, Inc
 intp Neil L Argyle

District/off: 0541-4

User: emiller
Form ID: pdf002

Page 6 of 6
Total Noticed: 179

Date Rcvd: Aug 29, 2019

***** BYPASSED RECIPIENTS (continued) *****

cr Nelson Brothers Mining Services, LLC
 cr Norman R. Mestos
 intp North Dakota Public Service Commissio
 cr Northwest Colstrip Owners (NWCO)
 intp Ohio Department of Natural Resources
 intp Ohio Environmental Protection Agency
 cr Ohio Machinery Co. ("Ohio Cat") and OMCO Leasing C
 cr Paul Buchanan
 cr Pension Benefit Guaranty Corporation
 cr Portland General Electric Company
 consult PricewaterhouseCoopers LLP
 cr Prudential Retirement Insurance and Annuity Company
 cr Puget Sound Energy, Inc.
 intp Robert Huff
 cr Robert McLaughlin
 cr Robert T Sanchez
 cr Rock Springs Royalty Company LLC
 cr Ronald Crum
 intp Samoa Hale Jordan
 cr San Juan County Museum Association
 intp State of Montana, Department of Revenue
 intp State of Ohio
 cr Stephanie Crum
 cr Talen Montana, LLC
 cr Tenaska Power Services Co.
 intp Thayne Christensen
 crcm The Official Committee of Unsecured Creditors
 cr The Sierra Club
 intp The WMLP Debtors, US
 cr Todd Manring
 intp Tom Price
 cr Travelers Casualty and Surety Company of America
 intp Tyler Hysell
 cr U.S. Bank National Association
 cr United States Department of Labor
 cr United States Department of the Interior
 cr United States Secretary of Labor
 cr United States of America
 intp Verdie Winder
 intp Virgil Kent Service
 intp WPP LLC
 cr Wagner Equipment Co.
 cr Westchester Fire Insurance Company
 cr Westchester Surplus Lines Insurance Company
 intp Western Organization of Resource Councils
 cr Wheeler Machinery Co.
 intp Whitney Garrett
 cr Wilmington Savings Fund Society, FSB
 intp Wyoming Office of State Lands and Investments
 intp* +G. R. Peart, P.O. Box 114, Randolph, UT 84064-0114

TOTALS: 141, * 1, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Aug 31, 2019

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 29, 2019 at the address(es) listed below:
NONE.

TOTAL: 0