

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
)	
Quicksilver Resources Inc., <u>et al.</u> , ¹	)	Case No. 15-10585 (LSS)
)	
Debtors.	)	Jointly Administered
)	
	)	Hearing Date: April 15, 2015 at 2:00 p.m. (EDT)
	)	Obj. Deadline: April 8, 2015 at 4:00 p.m. (EDT)
)	
	)	Re: Docket Nos. 10 & 101

NOTICE OF (I) ENTRY OF “INTERIM ORDER AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO PAY CERTAIN TAXES AND FEES” AND (II) SCHEDULING OF A FINAL HEARING THEREON

PLEASE TAKE NOTICE that, on March 17, 2015, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Debtors’ Motion for Entry of Interim and Final Orders Authorizing, but Not Directing, the Debtors to Pay Certain Taxes and Fees* [Docket No. 10] (the “Motion”) with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801 (the “Bankruptcy Court”). A copy of the Motion is attached hereto as **Exhibit A**.

PLEASE TAKE FURTHER NOTICE that, following a first day hearing to consider approval of the Motion on an interim basis, on March 19, 2015, the Bankruptcy Court entered the *Interim Order Authorizing, but Not Directing, the Debtors to Pay Certain Taxes and Fees*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Quicksilver Resources Inc. [6163]; Barnett Shale Operating LLC [0257]; Cowtown Drilling, Inc. [8899]; Cowtown Gas Processing L.P. [1404]; Cowtown Pipeline Funding, Inc. [9774]; Cowtown Pipeline L.P. [9769]; Cowtown Pipeline Management, Inc. [9771]; Makarios Resources International Holdings LLC [1765]; Makarios Resources International Inc. [7612]; QPP Holdings LLC [0057]; QPP Parent LLC [8748]; Quicksilver Production Partners GP LLC [2701]; Quicksilver Production Partners LP [9129]; and Silver Stream Pipeline Company LLC [9384]. The Debtors’ address is 801 Cherry Street, Suite 3700, Unit 19, Fort Worth, Texas 76102.

[Docket No. 101] (the "Interim Order"). A copy of the Interim Order is attached hereto as **Exhibit B**.

PLEASE TAKE FURTHER NOTICE that a hearing to consider approval of the Motion on a final basis will be held on **April 15, 2015 at 2:00 p.m. (Eastern Daylight Time)** before The Honorable Laurie Selber Silverstein at the Bankruptcy Court, 824 North Market Street, 6th Floor, Courtroom 2, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that objections or responses to the relief requested in the Motion, if any, must be made in writing, filed with the Bankruptcy Court, and served so as to be received on or before **April 8, 2015 at 4:00 p.m. (Eastern Daylight Time)** on the following parties: (a) Akin Gump Strauss Hauer & Feld LLP, 1700 Pacific Avenue, Suite 4100, Dallas, TX 75201, Attn: Charles R. Gibbs, Esq. and Sarah Link Schultz, Esq., proposed counsel to the Debtors; (b) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, DE 19801, Attn: Paul N. Heath, Esq., proposed Delaware counsel to the Debtors; (c) Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017, Attn: Steven M. Fuhrman, Esq., counsel to the First Lien Agent; (d) Latham & Watkins LLP, 885 Third Avenue, Suite 1000, New York, NY 10022, Attn: Mitchell A. Seider, Esq., counsel to the Second Lien Agent; (e) Emmet, Marvin & Martin LLP, 120 Broadway, 32nd Floor, New York, NY 10271, Attn: Edward P. Zujkowski, counsel to the Second Lien Indenture Trustee; (f) Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, NY 10005, Attn: Dennis F. Dunne, Esq. and Samuel A. Khalil, Esq., counsel to the Ad Hoc Group of Second Lienholders; and (g) the Office of the United States Trustee for Region 3, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Jane Leamy, Esq.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE FINAL RELIEF REQUESTED IN THE MOTION, ON A FINAL BASIS, WITHOUT FURTHER NOTICE OR A HEARING.

Wilmington, Delaware
Date: March 20, 2015

/s/ Amanda R. Steele

RICHARDS, LAYTON & FINGER, P.A.

Paul N. Heath (DE 3704)
Amanda R. Steele (DE 5530)
Rachel L. Biblo (DE 6012)
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

– and –

AKIN GUMP STRAUSS HAUER & FELD LLP

Charles R. Gibbs (admitted *pro hac vice*)
Sarah Link Schultz (admitted *pro hac vice*)
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201
Telephone: (214) 969-2800
Facsimile: (214) 969-4343

Ashleigh L. Blaylock (admitted *pro hac vice*)
Kevin M. Eide (admitted *pro hac vice*)
Robert S. Strauss Building
1333 New Hampshire Avenue, N.W.
Washington, DC 20036-1564
Telephone: (202) 887-4000
Facsimile: (202) 887-4288

PROPOSED COUNSEL FOR DEBTORS AND DEBTORS IN POSSESSION

Exhibit A

Motion

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
Quicksilver Resources Inc., <u>et al.</u> , ¹	)	Case No. 15-10585 ()
)	
Debtors.	)	Joint Administration Requested
)	

**DEBTORS’ MOTION FOR ENTRY OF INTERIM
AND FINAL ORDERS AUTHORIZING, BUT NOT
DIRECTING, THE DEBTORS TO PAY CERTAIN TAXES AND FEES**

The debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) respectfully submit this *Debtors’ Motion for Entry of Interim and Final Orders Authorizing, but Not Directing, the Debtors to Pay Certain Taxes and Fees* (the “Motion”). In support of the Motion, the Debtors represent and set forth as follows:²

PRELIMINARY STATEMENT³

1. By this Motion, the Debtors seek authority to pay Taxes and Fees that accrued pre-petition, but were unpaid as of the Petition Date, as well as any Taxes and Fees that accrue over the course of these chapter 11 cases. The ability to pay the Taxes and Fees as they come due is critical to the Debtors’ prospects for reorganization as failure to do so may lead to

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Quicksilver Resources Inc. [6163]; Barnett Shale Operating LLC [0257]; Cowtown Drilling, Inc. [8899]; Cowtown Gas Processing L.P. [1404]; Cowtown Pipeline Funding, Inc. [9774]; Cowtown Pipeline L.P. [9769]; Cowtown Pipeline Management, Inc. [9771]; Makarios Resources International Holdings LLC [1765]; Makarios Resources International Inc. [7612]; QPP Holdings LLC [0057]; QPP Parent LLC [8748]; Quicksilver Production Partners GP LLC [2701]; Quicksilver Production Partners LP [9129]; and Silver Stream Pipeline Company LLC [9384]. The Debtors’ address is 801 Cherry Street, Suite 3700, Unit 19, Fort Worth, Texas 76102.

² A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this Motion and the Debtors’ restructuring, are set forth in greater detail in the Declaration of Vanessa Gomez LaGatta in Support of First Day Pleadings (the “First Day Declaration”), filed contemporaneously with the Debtors’ voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

³ All capitalized terms used in the Preliminary Statement shall have the meanings ascribed to such terms in the body of the Motion.

substantial penalties and liens, the inability to operate their business, and personal liability for certain of their directors and officers. Accordingly, the Debtors submit that the relief requested herein is reasonable and appropriate under the circumstances.

JURISDICTION

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

3. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The predicates for the relief requested herein are Bankruptcy Code sections 362(b)(18), 363(b), 507(a)(8), and 541(d), and rules 6003, 6004(a), and 6004(h) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").⁴

BACKGROUND

A. General Background

5. On March 17, 2015 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in this Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases. No committees have been appointed or designated.

6. This Motion incorporates by reference the facts set forth in the First Day Declaration as if fully set forth herein. Additional facts specific to this Motion are set forth below.

⁴ Under rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Debtors hereby confirm their consent to the entry of a final order by this Court in connection with this Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments in connection therewith consistent with Article III of the United States Constitution.

B. Specific Background

(i) Overview of the Debtors' Tax Obligations

7. In the ordinary course of business, the Debtors (a) incur income, sales, property, production, and other taxes (collectively, the "Taxes"); (b) pay or remit such Taxes to various taxing, licensing, and other governmental authorities (collectively, the "Authorities"); and (c) pay fees (collectively, the "Fees") to such Authorities for licenses, permits, and regulatory assessments required to conduct the Debtors' business in the ordinary course. A non-exclusive list of Authorities is attached hereto as Exhibit A.⁵ The Debtors pay or remit, as the case may be, the Taxes as incurred or monthly, quarterly, semiannually, or annually to the respective Authorities, as required by applicable laws and regulations. As of the Petition Date, the Debtors estimate that approximately \$3,136,464 relating to the pre-petition period will become due and owing to the Authorities in the ordinary course of business.

(ii) Income Taxes

8. As a result of their operations in various locations in the United States, the Debtors incur income tax liabilities due to the U.S. government and certain U.S. states (collectively, the "Income Taxes"). These Income Taxes are remitted to the applicable Authorities and to the Debtors' payroll processing vendor on a regular basis in connection with the Debtors' payroll obligations.⁶ However, because the Debtors are operating at a net loss for the pre-petition period, the Debtors owe minimal amounts to the Authorities on account of

⁵ Although Exhibit A is intended to include all Authorities, the Debtors may have inadvertently omitted certain Authorities. The relief requested is intended to apply to all Authorities, whether or not such Authorities are listed in Exhibit A.

⁶ The Debtors are also required by law to withhold amounts from their employees' wages that are related to federal, state, provincial, and local income taxes, including social security and Medicare taxes and employment insurance for remittance to the appropriate taxing and other governmental authorities (collectively, the "Payroll Taxes"). By separate motion, the Debtors are seeking authority to continue withholding and paying the Payroll Taxes. The same rationale and authority for granting the Debtors the authority to continue collecting and remitting the Taxes described herein applies to the Payroll Taxes.

Income Taxes. Accordingly, the Debtors estimate that little or no amounts relating to the pre-petition period will come due in the ordinary course of business during these chapter 11 cases on account of Income Taxes. Nevertheless, out of an abundance of caution, to the extent that the Debtors have (i) miscalculated the amounts due, (ii) paid an amount that was less than is actually owed, or (iii) made any payments pre-petition that were rejected, lost, or otherwise not received in full by any Authority, the Debtors request authority, in their sole discretion, to pay any amounts that may come due.

(iii) Sales Taxes

9. In certain states, the Debtors also incur sales taxes (collectively, the “Sales Taxes”) due to the sale of goods or taxable services within those jurisdictions. The Sales Taxes are generally due monthly on or about the twentieth of each month, one month in arrears. The amount of the Sales Taxes varies from month to month based on the Debtors’ production quantity, and generally ranges between \$195,000 and \$300,000 per month. As of the Petition Date, the Debtors estimate that approximately \$140,000 in Sales Taxes have accrued and remain unpaid for the pre-petition period.⁷ This balance will be due on April 20, 2015. If the Debtors do not pay the pre-petition Sales Taxes to the applicable Authorities when due, these Authorities may assess immediate, irreversible penalties for failure to make a timely payment. Such penalties may be entitled to priority treatment under Bankruptcy Code section 507(a)(8)(G).

(iv) Property Taxes

10. The Authorities also impose Taxes on the Debtors relating to property in which the Debtors own mineral, working, and royalty interests for the operation of their business

⁷ The Debtors may also be required to reimburse joint operating interest owners that remit Sales Taxes and Property Taxes on the Debtors’ behalf and then invoice the Debtors for their portion of such amounts. By separate motion, the Debtors are seeking authority to continue paying joint operating interest owners to reimburse them for such remittances.

(“Property Taxes”). For calendar year 2014, the Debtors incurred approximately \$13.2 million in Property Taxes, \$4.5 million of which is reimbursable by joint operating interest owners in the Debtors’ properties (i.e., the net Property Tax liability for 2014 was approximately \$8.7 million). The amount of Property Taxes varies each year based on the assessed value of the Debtors’ properties. The Property Taxes are generally paid annually in the January following the applicable calendar year.

11. As of the Petition Date, the Debtors estimate that approximately \$2.2 million in Property Taxes has accrued and remains unpaid for the pre-petition period. Of that amount, approximately \$45,000 is due in April 2015 to the applicable Authority in Colorado for calendar year 2014 Property Taxes. The balance of the pre-petition Property Taxes will be due in January 2016. Accordingly, by this Motion, the Debtors are seeking authority to pay the Property Taxes as they become due. If the Debtors do not pay the pre-petition Property Taxes to the applicable Authorities when due, these Authorities may immediately assess substantial, irreversible penalties for failure to make timely payment. In addition, nonpayment of Property Taxes when due might allow the applicable Authorities to impose liens on the Debtors’ property under Bankruptcy Code section 362(b)(18).

(v) *Production Taxes*

12. The Debtors pay taxes to the states in which they operate for minerals severed from the ground, which are known as severance or production taxes (“Production Taxes”). The primary liability for these Production Taxes is imposed on producers and purchasers of natural resources, such as oil, coal, or gas. The amount due varies based on the applicable tax rate for any particular well, the price of gas, and the volume produced. The Debtors pay Production Taxes for both their portion of the severed minerals and that portion attributable to non-operating working interest owners (i.e., the Debtors’ payments to non-operating working interest owners

are net of this tax liability). The Debtors have historically paid between \$6 million and \$8.4 million per year with respect to these production taxes and make payments to applicable Authorities on a monthly basis on the twentieth day of each month, two months in arrears. The Debtors estimate that, as of the date hereof, there is \$561,000 owing to the State of Texas⁸ with respect to pre-petition production taxes. Such amounts will be due as follows: \$358,000 on April 20, 2015 for February 2015 production and \$204,000 on May 20, 2015 for March 1-16, 2015 production. The Debtors anticipate that they will incur production taxes ranging from \$350,000 to \$475,000 per month in the ordinary course of their business throughout the remainder of 2015, subject to fluctuation from production volume and market prices.

(vi) *Business Taxes and Annual Reporting Fees*

13. Certain states require the Debtors to pay various business taxes. These taxes may be based on gross receipts or other bases determined by the taxing jurisdiction. Further, certain states require the Debtors to pay annual reporting fees to state governments to remain in good standing for purposes of conducting business within the state. The Debtors pay very small amounts of between \$10 and \$100 per year to each applicable state Authority with respect to these various business taxes and annual reporting fees. The Debtors estimate that, as of the date hereof, there are little or no amounts owing to the various Authorities with respect to pre-petition business taxes and annual reporting fees. The Debtors acknowledge that if any amounts are owed, some of these business taxes and annual reporting fees may, under applicable law, be entitled to a priority claim. Accordingly, the Debtors request authority to pay any such amounts,

⁸ Because Texas is the primary location of the Debtors' operations, the Debtors believe that no amounts are due to other states on account of Production Taxes at this time. However, out of an abundance of caution, to the extent that the Debtors have paid an amount that was less than is actually owed or made any payments pre-petition that were rejected, lost, or otherwise not received in full by any Authority, the Debtors request authority, in their sole discretion, to pay any amounts that may come due.

including business taxes and annual reporting fees that accrued pre-petition, as they come due in the ordinary course of business.

(vii) *Delaware Franchise Taxes*

14. The Debtors pay franchise taxes to the state of Delaware to operate their business in that state. The Delaware franchise taxes are paid on a quarterly basis, in the aggregate amount of \$180,000 per year. The Debtors estimate that, as of the Petition Date, they have approximately \$36,100 in accrued, unpaid Delaware franchise taxes that will come due in May 2015.

(viii) *Miscellaneous Taxes and Fees*

15. Finally, the Debtors incur and pay in the ordinary course of operating their business certain stamp fees, regulatory assessments, permitting fees, levies, and other miscellaneous Taxes (collectively, the "Miscellaneous Taxes").⁹ For example, the Debtors pay to the Railroad Commission approximately \$2,000 per well for obtaining permits to drill new wells in the ordinary course of their business. Additionally, the Debtors pay the City of Fort Worth \$600 per well annually in exchange for permission to operate in the city. The Debtors estimate that between \$172,000 and \$200,000 will be due to the City of Fort Worth for such fees within the first 21 days of these chapter 11 cases, which amount is attributable to calendar year 2014. The Debtors similarly pay fees to the City of Arlington in exchange for permission to operate in the city, which fees amount to approximately \$18,000 per quarter. The next such payment will come due in May 2015 and is attributable to the period from April 1, 2015 to June

⁹ For the Debtors to obtain operating licenses in certain cities, they are required to deliver security instruments to the applicable city to secure the Debtors' obligations to, among other things, comply with road repair regulations and pay fines and penalties imposed by the city for breach of any ordinance. The Debtors use various bond agencies for the purpose of delivering such security instruments. One such agency has recently determined to cancel certain of the Debtors' bonds as of March 21, 2015. As a result, the Debtors expect to make cash deposits to the City of Granbury in the aggregate amount of \$600,000. The Debtors do not believe that such cash deposits constitute payment of a claim. However, out of an abundance of caution, the Debtors request authority, in their sole discretion, to make the cash deposits.

30, 2015. Operating fees are also due to the Railroad Commission in the amount of approximately \$2,800 per year, and such fees have already been paid for calendar year 2015. The Debtors believe that any additional Miscellaneous Taxes are a *de minimis* expense and that the continued payment of the Miscellaneous Taxes, including any such taxes due and owing on account of pre-petition Miscellaneous Taxes, are a necessary cost of continuing to operate their business. Accordingly, the Debtors request authority to pay any such amounts, including Miscellaneous Taxes that accrued pre-petition, as they come due in the ordinary course of business.

16. As discussed further below, the relief requested pursuant to the Motion is appropriate because a portion of the Taxes and Fees are likely not property of the Debtors' estates under Bankruptcy Code section 541(d) and nonpayment of the pre-petition Taxes and Fees could cause immediate and irreparable harm to the Debtors because it could (i) cause the Debtors to incur substantial, irreversible penalties from the Authorities that are likely to be paid in full and in cash as priority claims under Bankruptcy Code section 507(a)(8), (ii) result in certain of the Authorities imposing liens related to nonpayment of Taxes under Bankruptcy Code section 362(b)(18), (iii) prevent the Debtors from operating their business, and (iv) expose certain directors and officers of the Debtors to personal liability, which, in turn, could cause the Debtors' estates to incur indemnification liability or deplete insurance policy proceeds.

RELIEF REQUESTED

17. The Debtors submit this Motion pursuant to Bankruptcy Code sections 362(b)(18), 363(b), 507(a)(8), and 541(d) and Bankruptcy Rules 6003, 6004(a), and 6004(h) requesting entry of interim and final orders, substantially in the form attached hereto as **Exhibit B** and **Exhibit C** (the "**Proposed Interim Order**" and the "**Proposed Final Order**," respectively), (a) authorizing, but not directing, the Debtors to pay outstanding Taxes and Fees,

and (b) scheduling a final hearing (the “Final Hearing”) to consider entry of the Proposed Final Order. In the event that no objections to entry of the Proposed Final Order are timely received, the Debtors request that the Court enter the Proposed Final Order without need for the Final Hearing.

18. More specifically, to avoid irreparable harm to their estates, the Debtors seek interim authority to pay up to \$245,000 on account of Taxes and Fees that will come due within the first 21 days after the Petition Date. The Debtors also seek authority pursuant to the Proposed Final Order to remit and pay any Taxes and Fees, regardless of whether those amounts accrued before the Petition Date, in the ordinary course of business. For the avoidance of doubt, the authority requested pursuant to this Motion would be completely discretionary and without prejudice to the Debtors’ rights to contest the amounts of any Taxes and Fees on any grounds they deem appropriate.

SUPPORTING AUTHORITY

A. Certain of the Taxes Likely Are Not Property of the Debtors’ Estates

19. The Debtors’ payment of the Taxes, though arguably a pre-plan payment of a pre-petition claim, is justified because certain of these amounts are not property of the Debtors’ estates pursuant to Bankruptcy Code section 541(d).

20. Specifically, Bankruptcy Code section 541(d) provides, in relevant part, that “property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate under subsection (a)(1) or (2) of this section *only* to the extent of the debtors’ legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.” 11 U.S.C. § 541(d) (emphasis added).

21. Consistent with Bankruptcy Code section 541(d), courts have held that certain types of taxes are not part of a debtor's estate. *See, e.g., Begier v. Internal Revenue Serv.*, 496 U.S. 53, 57–60 (1990) (holding that any pre-petition payment of trust fund taxes is not a transfer subject to avoidance because such funds are not the debtor's property); *DuCharmes & Co. v. Mich. (In re DuCharmes & Co.)*, 852 F.2d 194, 195–96 (6th Cir. 1988) (holding that payments made on pre-petition federal tax liabilities by debtor pursuant to chapter 11 plan were “involuntary” and thus debtor could not direct allocation of such payments between trust fund and non-trust fund portions of debtor's tax liabilities); *Shank v. Wash. State Dep't of Revenue (In re Shank)*, 792 F.2d 829, 832–33 (9th Cir. 1986) (sales tax required by state law to be collected by sellers from their customers is a “trust fund” tax and not released by bankruptcy discharge); *DeChiaro v. N.Y. State Tax Comm'n*, 760 F.2d 432, 435–36 (2d Cir. 1985) (same); *W. Surety Co. v. Waite (In re Waite)*, 698 F.2d 1177, 1179 (11th Cir. 1983) (same).

22. Here, the Sales Taxes may well constitute amounts held in trust, which the Debtors are required to collect and hold in trust for payment to the Authorities. Accordingly, to the extent that the Sales Taxes constitute “trust fund” taxes, they are not property of the Debtors' estates under Bankruptcy Code section 541(d). *In re Am. Int'l Airways, Inc.*, 70 B.R. 102, 104–05 (Bankr. E.D. Pa. 1987); *see also Old Republic Nat'l Title Ins. Co. v. Tyler (In re Dameron)*, 155 F.3d 718, 721–23 (4th Cir. 1998) (funds from various lenders held by closing agent in trust for designated third parties not property of debtor's estate). Accordingly, because the Debtors do not have an equitable interest in the Sales Taxes, the Debtors should be permitted to remit the Sales Taxes to the Authorities as they become due, irrespective of these chapter 11 cases.

B. Payment of the Taxes and Fees Will Avoid Unnecessary Distractions in these Chapter 11 Cases

23. Any regulatory dispute or delinquency that impacts the Debtors' ability to conduct business in a particular jurisdiction could have a wide-ranging and adverse effect on the Debtors' operations as a whole. Specifically, the Debtors' failure to pay the Taxes and Fees could adversely affect the Debtors' business operations because, among other things, (a) the Authorities could initiate audits of the Debtors or prevent the Debtors from continuing their business, which, even if unsuccessful, would unnecessarily divert the Debtors' attention away from the reorganization process; (b) the Authorities could attempt to suspend the Debtors' operations, file liens, seek to lift the automatic stay, and pursue other remedies that will harm the estates; and (c) certain directors and officers might be subject to personal liability—even if such a failure to pay such Taxes and Fees was not a result of malfeasance on their part—which would undoubtedly distract these key employees from their duties related to the Debtors' restructuring. In many instances, the Authorities may take such actions regardless of the chapter 11 filing. *See, e.g.*, 11 U.S.C. §§ 362(b)(9) (permitting tax audits and assessments); 362(b)(18) (allowing creation or perfection of liens for property taxes). Accordingly, the Debtors must continue to pay such amounts as they become due to ensure that they remain focused on operating the business and implementing a successful restructuring.

C. Certain Taxes and Fees May Constitute Secured or Priority Claims Entitled to Special Treatment Under the Bankruptcy Code

24. Claims for some of the Taxes and Fees are or may be priority claims entitled to payment before general unsecured creditors. *See* 11 U.S.C. § 507(a)(8). Moreover, to the extent that such amounts are entitled to priority treatment under Bankruptcy Code section 507(a)(8)(B), the governmental units also may attempt to assess interest and penalties. *See* 11 U.S.C. § 507(a)(8)(G) (granting eighth priority status to “a penalty related to a claim of a kind specified

in this paragraph and in compensation for actual pecuniary loss”). Thus, the payment of the Taxes and Fees at this time affects only the timing of the payment for the vast majority of the amounts at issue and therefore will not unduly prejudice the rights of other creditors.

D. Payment of the Taxes and Fees Is Warranted Under the Doctrine of Necessity and Authorized Under the Bankruptcy Code

25. When authorizing payments of certain pre-petition obligations, courts in this jurisdiction and others have relied upon several legal theories rooted in Bankruptcy Code sections 105(a), 363(b), 1107(a), and 1108. For example, courts have authorized payment of pre-petition obligations under Bankruptcy Code section 363(b) where a sound business purpose exists for doing so. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) (“The Supreme Court, the Third Circuit, and the District of Delaware all recognize the court’s power to authorize payment of pre-petition claims when such payment is necessary for the debtor’s survival during chapter 11.”); *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 939 (Bankr. D. Del. 1992) (recognizing that “[i]f payment of a pre-petition claim ‘is essential to the continued operation of [the debtor], payment may be authorized’”) (citing *In re Lehigh & New England Rwy. Co.*, 657 F.2d 570, 581 (3d Cir. 1981)); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (finding sound business justification for payment of certain pre-petition claims); *In re Tropical Sportswear Int’l Corp.*, 320 B.R. 15, 20 (Bankr. M.D. Fla. 2005) (holding that “section 363 is a source for authority to make critical vendor payments, and section 105 is used to fill in the blanks”).

26. Pursuant to Bankruptcy Code sections 1107(a) and 1108, debtors in possession are fiduciaries charged with “holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners.” *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Inherent in a debtor in possession’s fiduciary duties

is the obligation to “protect and preserve the estate, including an operating business’s going-concern value,” which, in certain instances, can be fulfilled “only . . . by the preplan satisfaction of a pre-petition claim.” *Id.* Indeed, the *CoServ* court specifically noted that the pre-plan satisfaction of pre-petition claims would be a valid exercise of the debtor’s fiduciary duty when the payment “is the only means to effect a substantial enhancement of the estate” *Id.*

27. In addition to the authority granted a debtor in possession under Bankruptcy Code sections 105(a), 363(b), 1107(a), and 1108, courts have developed the “doctrine of necessity” or the “necessity of payment” rule, which originated in the landmark case of *Miltenberger v. Logansport, C. & S.W.R. Co.*, 106 U.S. 286 (1882). Since *Miltenberger*, courts have expanded their application of the doctrine of necessity to cover instances of a debtor’s reorganization. *See Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (holding that the court was not “helpless” to apply the rule to supply creditors where the alternative was the cessation of operations). The United States Court of Appeals for the Third Circuit recognized the doctrine in *In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981).

28. In *Lehigh*, the Third Circuit held that a court could authorize the payment of pre-petition claims if such payment was essential to the continued operation of the debtor. *Id.* (stating that a court may authorize payment of pre-petition claims when there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); *see also In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972) (noting that the necessity of payment doctrine permits “immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims shall have been paid”); *In re Just for Feet, Inc.*, 242 B.R. at 824–26

(noting that debtors may pay pre-petition claims that are essential to continued operation of business); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (same).

29. Today, the rationale for the necessity of payment rule—the rehabilitation of a debtor in reorganization cases—is “the paramount policy and goal of Chapter 11.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 176; *see also Just For Feet*, 242 B.R. at 826 (finding that payment of pre-petition claims to certain trade vendors was “essential to the survival of the debtor during the chapter 11 reorganization.”); *In re Quality Interiors, Inc.*, 127 B.R. 391, 396 (Bankr. N.D. Ohio 1991) (“[P]ayment by a debtor-in-possession of pre-petition claims outside of a confirmed plan of reorganization is generally prohibited by the Bankruptcy Code,” but “[a] general practice has developed . . . where bankruptcy courts permit the payment of certain pre-petition claims, pursuant to 11 U.S.C. § 105, where the debtor will be unable to reorganize without such payment.”); *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (approving payment of pre-petition unsecured claims of tool makers as “necessary to avert a serious threat to the Chapter 11 process”); *Burchinal v. Cent. Wash. Bank (In re Adams Apple, Inc.)*, 829 F.2d 1484, 1490 (9th Cir. 1987) (noting that courts have found it appropriate to provide for the “unequal treatment of pre-petition debts when [such treatment is] necessary for rehabilitation”); 2 COLLIER ON BANKRUPTCY ¶ 105.04[4][a] (16th ed. rev. 2011) (discussing cases in which courts have relied upon the doctrine of necessity or the necessity of payment rule to pay pre-petition claims immediately).

30. Here, the Debtors’ payment of the Taxes and Fees is an exercise of sound business judgment and is necessary to permit a successful reorganization. As discussed above, the Debtors must continue to pay these amounts to continue operating in certain jurisdictions and to avoid costly distractions during these chapter 11 cases. Indeed, it is possible that the

Authorities would seek to interfere with the Debtors' business if the Taxes and Fees were not paid on a timely basis. Additionally, to the extent that failure to pay taxes would result in the Debtors incurring priority status claims, the relief requested herein merely expedites the treatment and distribution to the Authorities that would otherwise be made at a later date. *See* 11 U.S.C. § 507(a)(8).

31. Courts in this jurisdiction and others have approved relief similar to the relief requested in this Motion. *See, e.g., In re Coldwater Creek Inc.*, No. 14-10867 (BLS) (Bankr. D. Del. Apr. 14, 2014); *In re Brookstone Holdings Corp.*, No. 14-10752 (BLS) (Bankr. D. Del. Apr. 4, 2014); *In re Quantum Foods, LLC*, No. 14-10318 (KJC) (Bankr. D. Del. Feb. 20, 2014); *In re Event Rentals, Inc.*, No. 14-10282 (PJW) (Bankr. D. Del. Feb. 18, 2014); *In re F & H Acquisition Corp.*, No. 13-13220 (KG) (Bankr. D. Del. Dec. 17, 2013); *In re EWGS Intermediary, LLC*, No. 13-12876 (MFW) (Bankr. D. Del. Nov. 5, 2013); *In re Longview Power, LLC*, No. 13-12211 (BLS) (Bankr. D. Del. Sept. 4, 2013); *In re Rural/Metro Corp.*, No. 13-11952 (KJC) (Bankr. D. Del. Aug. 6, 2013).¹⁰

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED

32. For a debtor to obtain relief to make payments within 21 days of the petition date, it must establish that making such payments satisfies the requirements mandated by Bankruptcy Rule 6003—namely, the relief requested is necessary to avoid “immediate and irreparable harm.” If a debtor’s prospect of reorganizing is threatened, or swift diminution in value of the debtor’s estate is likely, absent the granting of the requested relief, immediate and irreparable harm likely exists. *See In re WorldSpace, Inc.*, No. 08–12412-PJW, 2008 WL 8153639, at *2 (Bankr. D.

¹⁰ Because of the voluminous nature of the orders cited herein, such orders are not attached to this Motion. Copies of these orders are available on request of the Debtors’ proposed counsel.

Del. Oct. 20, 2008) (granting emergency motions for post-petition financing, adequate protection, and modification of the stay where the court found that the relief was necessary to avoid irreparable harm to the debtors and their estates because such relief was essential for the continued operations of the debtors' businesses); *In re New World Pasta Co.*, No. 04-02817-MDF, 2004 WL 5651052, at *5 (Bankr. M.D. Pa. July 9, 2004) (same); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 36 n.2 (Bankr. S.D.N.Y. 1990) (finding that "immediate and irreparable harm" exists where loss of the business threatens ability to reorganize).

33. Here, immediate and irreparable harm would result if the relief requested herein is not granted. As discussed above and in the First Day Declaration, the Authorities may assert that the Debtors' directors and officers are personally liable if the Debtors fail to meet their obligations to remit Taxes and Fees. Furthermore, the Authorities could initiate tax audits for failure to pay the Taxes. If the relief is not granted, the Debtors' directors and officers may be subject to personal tax-related lawsuits, and the Debtors would have to devote resources to respond to a government audit or an attempted shut-down of operations, all of which would cause the Debtors' estates immediate and irreparable harm by distracting management, multiplying claims, and depleting resources on hand. Moreover, the Authorities may assess substantial, irreversible penalties for failure to pay certain Taxes and Fees, which may have to be paid in cash and in full as priority claims, and may also create or perfect liens for failure to pay Property Taxes. Accordingly, the Debtors respectfully submit that they have satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 for the pre-petition amount of Taxes and Fees that the Debtors seek authority to pay pursuant to the Interim Order.

WAIVER OF BANKRUPTCY RULE 6004(a) AND 6004(h)

34. Given the nature of the relief requested herein, the Debtors respectfully request a waiver of (i) the notice requirements under Bankruptcy Rule 6004(a) and (ii) the fourteen day stay under Bankruptcy Rule 6004(h), to the extent that either rule is applicable.

DEBTORS' RESERVATION OF RIGHTS

35. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under Bankruptcy Code section 365. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

NOTICE

36. No trustee, examiner, or creditors' committee has been appointed in these chapter 11 cases. The Debtors have provided notice of this Motion to (a) the Office of the United States Trustee for the District of Delaware, Attn: Jane Leamy, Esq.; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agents under the Debtors' pre-petition credit facilities; (d) counsel to the Ad Hoc Group of Second Lienholders; (e) counsel to the indenture trustees under the Debtors' pre-petition indentures; (f) the United States Securities and Exchange Commission; (g) the United States Internal Revenue Service; and (h) any parties entitled to notice pursuant to Local Rule 9013-1(m). In light of the nature of the relief requested in this Motion, the Debtors respectfully submit that no further notice is necessary.

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court (a) enter the Proposed Interim Order substantially in the form annexed hereto as **Exhibit B** granting the relief requested in the Motion and such other and further relief as may be just and proper, and (b) schedule a Final Hearing on the Motion within 30 days of the Petition Date or as soon as is otherwise practicable thereafter to consider entry of the Final Order substantially in the form annexed hereto as **Exhibit C**.

Wilmington, Delaware
Date: March 17, 2015

/s/ Paul N. Heath

RICHARDS, LAYTON & FINGER, P.A.

Paul N. Heath (DE 3704)
Amanda R. Steele (DE 5530)
Rachel L. Biblo (DE 6012)
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701

– and –

AKIN GUMP STRAUSS HAUER & FELD LLP

Charles R. Gibbs (*pro hac vice* motion pending)
Sarah Link Schultz (*pro hac vice* motion pending)
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201
Telephone: (214) 969-2800
Facsimile: (214) 969-4343

Ashleigh L. Blaylock (*pro hac vice* motion pending)
Kevin M. Eide (*pro hac vice* motion pending)
Robert S. Strauss Building
1333 New Hampshire Avenue, N.W.
Washington, DC 20036-1564
Telephone: (202) 887-4000
Facsimile: (202) 887-4288

**PROPOSED COUNSEL FOR DEBTORS AND
DEBTORS IN POSSESSION**

Exhibit A**Authorities**

TAXING AUTHORITY	ADDRESS
ALASKA DEPARTMENT OF REVENUE	PO BOX 110420 JUNEAU, AK 99811-0420
BENCO OIL SERVICES	PO BOX 1166 VERNAL, UT 84078
BLACKFEET TRIBAL COUNCIL	PO BOX 3009 BROWNING, MT 59417
BOSQUE COUNTY TAC	PO BOX 346 MERIDIAN, TX 76665
BUREAU OF LAND MANAGEMENT	PO BOX 1828 CHEYENNE, WY 82003
BUREAU OF LAND MANAGEMENT	7906 E 33RD ST, STE 101 TULSA, OK 74145-1352
CENTERS FOR MEDICARE & MEDICAID SERVICES	7500 SECURITY BLVD BALTIMORE, MD 21244
CITY OF ARLINGTON	101 W ABRAM ST ARLINGTON, TX 76010
CITY OF FORT WORTH	1000 THROCKMORTON ST FORT WORTH, TX 76102
CITY OF GRANBURY	116 W BRIDGE ST GRANBURY, TX 76048
CITY OF HASLET	101 MAIN ST HASLET, TX 76052
COLORADO DEPARTMENT OF REVENUE	1375 SHERMAN ST DENVER, CO 80261-0013
COLORADO DEPARTMENT OF REVENUE	DENVER, CO 80261-0007
COLORADO DEPARTMENT OF REVENUE	DENVER, CO 80261-0006
COLORADO DEPARTMENT OF REVENUE	DENVER, CO 80261-0013

TAXING AUTHORITY	ADDRESS
COLORADO DEPT OF PUBLIC HEALTH &	4300 CHERRY CREEK DR S ASD AR B1 DENVER, CO 80246-1530
CULBERSON COUNTY	PO BOX 668 VAN HORN, TX 79855
CULBERSON COUNTY	PO BOX 550 VAN HORN, TX 79855
DALLAS COUNTY TAX ASSESSOR COLLECTOR	PO BOX 139066 DALLAS, TX 75313-9066
DELAWARE DIVISION OF REVENUE	THOMAS COLLINS BUILDING 540 S DUPONT HWY DOVER, DE 11901
DELAWARE SECRETARY OF STATE	DIVISION OF CORPORATIONS PO BOX 5509 BINGHAMTON, NY 13902-5509
DENTON COUNTY	9060 TEASLEY LANE DENTON, TX 76210
DENTON COUNTY CLERK	1450 E MCKINNEY ST DENTON, TX 76209
DENTON COUNTY TAX ASSESSOR/COLLECTOR	PO BOX 90223 DENTON, TX 76202-5223
DEPARTMENT OF INTERIOR MMS FOR BIA	NATIVE AMERICAN BANK PO BOX 730 BROWNING, MT 59417
DEPARTMENT OF THE TREASURY	CINCINNATI, OH 45999-0009
DEPARTMENT OF THE TREASURY	1100 COMMERCE ST DALLAS, TX 75242
ECTOR COUNTY APPRAISAL DISTRICT	1301 E EIGHTH ST ODESSA, TX 79761-4703
ERATH COUNTY	320 WEST COLLEGE STEPHENVILLE, TX 76401

TAXING AUTHORITY	ADDRESS
FLORIDA DEPARTMENT OF REVENUE	DALLAS SERVICE CENTER 4425 W AIRPORT FREEWAY, STE 575 IRVING, TX 75062
FLORIDA DEPARTMENT OF REVENUE	5050 W TENNESSEE ST TALLAHASSEE, FL 32399-0135
FRANCHISE TAX BOARD	PO BOX 942857 SACRAMENTO, CA 94257-0531
FREMONT COUNTY TREASURER	PO BOX 465 LANDER, WY 82520
HILL CAD TAX COLLECTIONS	PO BOX 416 HILLSBORO, TX 76645
HILL COUNTY TAX OFFICE	P O BOX 412 HILLSBORO, TX 76645
HOOD COUNTY DISTRICT CLERK	1200 WEST PEARL GRANBURY, TX 76048
HOOD COUNTY TREASURER	1402 W PEARL, STE 6 GRANBURY, TX 76048
INDIANA DEPARTMENT OF REVENUE	PO BOX 595 INDIANAPOLIS, IN 46206-0595
INDIANA DEPARTMENT OF REVENUE	PO BOX 7228 INDIANAPOLIS, IN 46207-7228
INDIANA DEPARTMENT OF REVENUE	100 N SENATE AVE INDIANAPOLIS, IN 46204-2253
INDIANA SECRETARY OF STATE	302 W WASHINGTON ST, RM E018 INDIANAPOLIS, IN 46204
INTERNAL REVENUE SERVICE	CENTRALIZED INSOLVENCY OPERATION 2970 MARKET ST PHILADELPHIA, PA 19101
JOHNSON COUNTY TAX A/C	PO BOX 75 CLEBURNE, TX 76033-0075

TAXING AUTHORITY	ADDRESS
KANSAS DEPARTMENT OF REVENUE	915 SW HARRISON ST TOPEKA, KS 66612-1588
KENTUCKY DEPARTMENT OF REVENUE	FRANKFORT, KY 40620-0000
MICHIGAN DEPARTMENT OF TREASURY	PO BOX 30774 LANSING, MI 48909-8274
MIDLAND COUNTY TAX ASSESSOR / COLLECTOR	PO BOX 712 MIDLAND, TX 79702
MOFFAT COUNTY TREASURER	221 W VICTORY WAY, STE 230 CRAIG, CO 81626
MONTANA DEPARTMENT OF REVENUE	PO BOX 6309 HELENA, MT 59604-6309
MONTANA DEPARTMENT OF REVENUE	PO BOX 5805 HELENA, MT 59604-5805
MONTANA DEPARTMENT OF REVENUE	PO BOX 8021 HELENA, MT 59604-8021
MONTANA SECRETARY OF STATE	PO BOX 202802 HELENA, MT 59620-2802
NEW MEXICO TAXATION & REVENUE DEPT	PO BOX 25127 SANTA FE, NM 87504-5127
NEW MEXICO TAXATION & REVENUE DEPT	PO BOX 25128 SANTA FE, NM 87504-5128
OFFICE OF NATURAL RESOURCES REVENUE	PO BOX 25627 DENVER, CO 80225
OHIO DEPT. OF TAXATION	PO BOX 182101 COLUMBUS, OH 43218-2101
OKLAHOMA SECRETARY OF STATE	2300 N LINCOLN BLVD, RM 101 OKLAHOMA CITY, OK 73105-4897
OKLAHOMA TAX COMMISSION	PO BOX 26930 OKLAHOMA CITY, OK 73126-0930

TAXING AUTHORITY	ADDRESS
OKLAHOMA TAX COMMISSION	PO BOX 26890 OKLAHOMA CITY , OK 73126-0890
PA DEPARTMENT OF REVENUE	PO BOX 280422 HARRISBURG, PA 17128-0422
PARKER COUNTY APPRAISAL DISTRICT	1108 SANTA FE DR WEATHERFORD, TX 76086-5818
PECOS COUNTY TAX OFFICE	COURTHOUSE ANNEX 200 S NELSON ST FORT STOCKTON, TX 79735
RAILROAD COMMISSION OF TEXAS	1701 N CONGRESS PO BOX 12967 AUSTIN, TX 78711-2967
REEVES COUNTY	PO BOX 700 PECOS, TX 79772
REEVES COUNTY APPRAISAL DISTRICT	PO BOX 1229 PECOS, TX 79772
ROUTT COUNTY ROAD & BRIDGE	PO BOX 773598 STEAMBOAT SPRINGS, CO 80477
ROUTT COUNTY TREASURER	PO BOX 770907 STEAMBOAT SPRINGS, CO 80477
ROUTT COUNTY TREASURY	PO BOX 773749 STEAMBOAT, CO 80477
SECRETARY OF STATE OF TEXAS	PO BOX 12887 AUSTIN, TX 78711-2887
SOMERVELL CAD	112 ALLEN DR GLEN ROSE, TX 76043
STATE COMPTRROLLER	111 E 17TH ST AUSTIN, TX 78774-0100
STATE COMPTRROLLER	PO BOX 12247 AUSTIN, TX 78711-2247

TAXING AUTHORITY	ADDRESS
STATE OF MICHIGAN	PO BOX 30054 LANSING, MI 48909
STATE OF ALASKA	PO BOX 110806 JUNEAU, AK 99811-0806
STATE OF COLORADO	OIL AND GAS CONSERVATION COMMISSION 1120 LINCOLN ST, STE 801 DENVER, CO 80203
STATE OF MICHIGAN	PO BOX 30702 LANSING, MI 48909
STATE OF MONTANA	PO BOX 201601 HELENA, MT 59620-1601
STATE OF WYOMING	122 W 25TH ST HERSCHLER BLDG, 3RD FL WEST CHEYENNE, WY 82002-0600
TARRANT COUNTY TAX ASSESSOR-COLLECTOR	PO BOX 961018 FORT WORTH, TX 76161-0018
TEXAS STATE COMPTROLLER	111 E 17TH ST AUSTIN, TX 78774-0100
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS	PO BOX 149348 AUSTIN, TX 78714-9348
TEXAS DEPARTMENT OF STATE HEALTH SERVICE	CASH RECEIPTS MC 2005 DSHS TIER TWO CHEMICAL REPORTING PROGRAM AUSTIN, TX 78714-9347
TEXAS DEPT OF LICENSING & REG BLR DIV	PO BOX 12157 AUSTIN, TX 78711
TEXAS GENERAL LAND OFC ST TEX	1700 N CONGRESS AVE AUSTIN, TX 78701-1436
TEXAS GENERAL LAND OFFICE	STEPHEN F AUSTIN BUILDING 1700 N CONGRESS AVE AUSTIN, TX 78701-1495

TAXING AUTHORITY	ADDRESS
TEXAS GENERAL LAND OFFICE	PO BOX 12873 AUSTIN, TX 78711-2873
TEXAS STATE COMPTROLLER	PO BOX 12030 AUSTIN, TX 78711-2030
TOWN OF NORTHLAKE	1301 FM 407 JUSTIN, TX 76052
U S DEPARTMENT OF TRANSPORTATION	PO BOX 269039 OKLAHOMA CITY, OK 73125
U S DEPARTMENT OF TREASURY	PO BOX 44375 WASHINGTON, DC 20026-4375
UNITED STATES TREASURY	PO BOX 105421 ATLANTA, GA 30348-5421
US DEPT OF INTERIOR - BLM	2850 YOUNGFIELD ST LAKEWOOD, CO 80215
WEST VIRGINIA STATE TAX DEPARTMENT	PO BOX 1202 CHARLESTON, WV 25324-1202
WHITNEY I S D	PO BOX 592 WHITNEY, TX 76692
WYOMING DEPARTMENT OF REVENUE	122 W 25TH ST CHEYENNE, WY 82002-0110
WYOMING OIL & GAS CONSERVATION COMM	PO BOX 2640 2211 KING BLVD CASPER, WY 82602
WYOMING SECRETARY OF STATE	200 W 24TH ST CHEYENNE, WY 82002-0020

Exhibit B

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
Quicksilver Resources Inc., <u>et al.</u> , ¹	)	Case No. 15-10585 ()
)	
Debtors.	)	Joint Administration Requested
)	

**INTERIM ORDER AUTHORIZING, BUT NOT
DIRECTING, THE DEBTORS TO PAY CERTAIN TAXES AND FEES**

Upon the Motion² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of this Interim Order pursuant to Bankruptcy Code sections 363(b), 507(a)(8), and 541(d), and Bankruptcy Rules 6003, 6004(a), and 6004(h) (a) authorizing, but not directing, the Debtors to remit and pay certain Taxes and Fees, regardless of whether they accrued or arose before the Petition Date, in the ordinary course of business, to the extent necessary to prevent immediate and irreparable harm to the Debtors and their estates and (b) scheduling a Final Hearing to the extent that a hearing is necessary, all as further described in the Motion; and the Court having jurisdiction to consider this Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Quicksilver Resources Inc. [6163]; Barnett Shale Operating LLC [0257]; Cowtown Drilling, Inc. [8899]; Cowtown Gas Processing L.P. [1404]; Cowtown Pipeline Funding, Inc. [9774]; Cowtown Pipeline L.P. [9769]; Cowtown Pipeline Management, Inc. [9771]; Makarios Resources International Holdings LLC [1765]; Makarios Resources International Inc. [7612]; QPP Holdings LLC [0057]; QPP Parent LLC [8748]; Quicksilver Production Partners GP LLC [2701]; Quicksilver Production Partners LP [9129]; and Silver Stream Pipeline Company LLC [9384]. The Debtors’ address is 801 Cherry Street, Suite 3700, Unit 19, Fort Worth, Texas 76102.

² All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion; and upon the First Day Declaration, the record of the hearing, and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted on an interim basis to the extent provided herein.
2. The Debtors are authorized, but not directed, to remit and pay to the Authorities up to a total of \$245,000 in Taxes and Fees that accrued before the Petition Date, in a reasonable exercise of the Debtors' business judgment, subject to the terms of any cash collateral or financing order entered by the Court.
3. The Debtors are authorized, but not directed, to issue post-petition checks or to effect post-petition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to pre-petition amounts authorized to be paid herein.
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.
5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the pre-petition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, provided that sufficient funds are on deposit in the applicable accounts to

cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Interim Order.

6. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, the creation of an administrative priority claim on account of the pre-petition obligations sought to be paid, or the assumption or adoption of any contract or agreement under Bankruptcy Code section 365.

7. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion or are otherwise deemed waived.

8. The Final Hearing on the Motion shall be held on _____, 2015 at ____:____ __.m. (prevailing Eastern Time). Any objections or responses to entry of the proposed Final Order shall be filed on or before seven calendar days before the Final Hearing and served on the following parties: (a) Akin Gump Strauss Hauer & Feld LLP, 1700 Pacific Avenue, Suite 4100, Dallas, TX 75201, Attn: Charles R. Gibbs, Esq. and Sarah Link Schultz, Esq., proposed counsel to the Debtors; (b) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, DE 19801, Attn: Paul N. Heath, Esq., proposed Delaware counsel to the Debtors; (c) Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017, Attn: Steven M. Fuhrman, Esq., counsel to the First Lien Agent; (d) Latham & Watkins LLP, 885 Third Avenue, Suite 1000, New York, NY 10022, Attn: Mitchell A. Seider, Esq., counsel to the Second Lien Agent; (e) Emmet, Marvin & Martin LLP, 120 Broadway, 32nd Floor, New York, NY 10271, Attn: Edward P. Zujkowski, counsel to the Second Lien Indenture Trustee; (f) Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, NY 10005,

Attn: Dennis F. Dunne, Esq. and Samuel A. Khalil, Esq., counsel to the Ad Hoc Group of Second Lienholders; and (g) the Office of the United States Trustee for Region 3, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Jane Leamy, Esq., no later than ____:____.m. (prevailing Eastern Time) on _____, 2015.

9. In the event that no objections are timely received, the Court may enter the Proposed Final Order without need for the Final Hearing.

10. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014, or otherwise, this Order shall be immediately effective and enforceable upon its entry.

11. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Wilmington, Delaware
Date: _____, 2015

United States Bankruptcy Judge

Exhibit C

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
Quicksilver Resources Inc., <u>et al.</u> , ¹	)	Case No. 15-10585 ()
)	
Debtors.	)	Joint Administration Requested
)	

**FINAL ORDER AUTHORIZING, BUT NOT
DIRECTING, THE DEBTORS TO PAY CERTAIN TAXES AND FEES**

Upon the Motion² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), for entry of this Final Order pursuant to Bankruptcy Code sections 363(b), 507(a)(8), and 541(d), and Bankruptcy Rules 6003, 6004(a), and 6004(h) (a) authorizing, but not directing, the Debtors to remit and pay certain Taxes and Fees, regardless of whether they accrued or arose before the Petition Date, in the ordinary course of business, to the extent necessary to prevent immediate and irreparable harm to the Debtors and their estates, all as more fully set forth in the Motion; and the Court having entered the Interim Order captioned *Interim Order Authorizing, but Not Directing, the Debtors to Pay Certain Taxes and Fees* [Docket No. ___]; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. § 157(b)(2); and venue

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Quicksilver Resources Inc. [6163]; Barnett Shale Operating LLC [0257]; Cowtown Drilling, Inc. [8899]; Cowtown Gas Processing L.P. [1404]; Cowtown Pipeline Funding, Inc. [9774]; Cowtown Pipeline L.P. [9769]; Cowtown Pipeline Management, Inc. [9771]; Makarios Resources International Holdings LLC [1765]; Makarios Resources International Inc. [7612]; QPP Holdings LLC [0057]; QPP Parent LLC [8748]; Quicksilver Production Partners GP LLC [2701]; Quicksilver Production Partners LP [9129]; and Silver Stream Pipeline Company LLC [9384]. The Debtors’ address is 801 Cherry Street, Suite 3700, Unit 19, Fort Worth, Texas 76102.

² All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and the Court having held the Final Hearing to consider the relief requested in the Motion; and upon the First Day Declaration, the record of the Final Hearing, and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted on a final basis to the extent provided herein.
2. The relief provided in the Interim Order is approved on a final basis.
3. The Debtors are authorized, but not directed, to remit and pay to the Authorities the Taxes and Fees in the ordinary course of business, provided that payments on account of pre-petition Taxes and Fees shall not exceed \$3,300,000 during these chapter 11 cases without further order of the Court, subject to the terms of any cash collateral or financing order entered by the Court.
4. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Final Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, the creation of an administrative priority claim on account of the assumption, or adoption of any contract or agreement under Bankruptcy Code section 365.
5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the pre-petition obligations approved herein are authorized

to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, provided that sufficient funds are on deposit in the applicable accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Final Order.

6. Notice of the Motion as provided therein shall be deemed good and sufficient, and the requirements of Bankruptcy Rule 6004(a) and the Local Bankruptcy Rules are satisfied by such notice.

7. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014, or otherwise, this Final Order shall be immediately effective and enforceable upon its entry.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

9. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Final Order.

Wilmington, Delaware
Date: _____, 2015

United States Bankruptcy Judge

File a First Day Motion:[15-10585 Quicksilver Resources Inc.](#)

Type: bk

Chapter: 11 v

Office: 1 (Delaware)

Assets: y

Case Flag: PlnDue, VerifDue,
DsclsDue**U.S. Bankruptcy Court****District of Delaware**

Notice of Electronic Filing

The following transaction was received from Paul N. Heath entered on 3/17/2015 at 6:23 PM EDT and filed on 3/17/2015

Case Name: Quicksilver Resources Inc.**Case Number:** [15-10585](#)**Document Number:** [10](#)**Docket Text:**

Motion to Pay Sales and Use Taxes (*Debtors' Motion for Entry of Interim and Final Orders Authorizing, but not Directing, the Debtors to Pay Certain Taxes and Fees*) Filed By Quicksilver Resources Inc. (Heath, Paul)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**W:\AJ\Quicksilver\KWK - Taxes Motion.pdf**Electronic document Stamp:**

[STAMP bkecfStamp_ID=983460418 [Date=3/17/2015] [FileNumber=13021080-0
] [24010b6c5ada67492a132e8dac95027b655846887aa8229d18b379513b69efcc039
131cc8e0c8961f109aefddb3f16c0e16040074b6520af6e323df1fe146de9]]

15-10585 Notice will be electronically mailed to:

Paul N. Heath on behalf of Debtor Quicksilver Resources Inc.

RBGroup@rlf.com

Paul Noble Heath on behalf of Debtor Quicksilver Resources Inc.

heath@rlf.com, RBGroup@rlf.com

Amanda R. Steele on behalf of Debtor Quicksilver Resources Inc.

steele@rlf.com, rbgroup@rlf.com

United States Trustee

USTPREGION03.WL.ECF@USDOJ.GOV

15-10585 Notice will not be electronically mailed to:

Exhibit B

Interim Order

ORIGINAL

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
	)	Chapter 11
)	
Quicksilver Resources Inc., <u>et al.</u> , ¹	)	Case No. 15-10585 (LSS)
)	
Debtors.	)	Joint Administration Requested
	)	Re: Docket No. 10

**INTERIM ORDER AUTHORIZING, BUT NOT
DIRECTING, THE DEBTORS TO PAY CERTAIN TAXES AND FEES**

Upon the Motion² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of this Interim Order pursuant to Bankruptcy Code sections 363(b), 507(a)(8), and 541(d), and Bankruptcy Rules 6003, 6004(a), and 6004(h) (a) authorizing, but not directing, the Debtors to remit and pay certain Taxes and Fees, regardless of whether they accrued or arose before the Petition Date, in the ordinary course of business, to the extent necessary to prevent immediate and irreparable harm to the Debtors and their estates and (b) scheduling a Final Hearing to the extent that a hearing is necessary, all as further described in the Motion; and the Court having jurisdiction to consider this Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Quicksilver Resources Inc. [6163]; Barnett Shale Operating LLC [0257]; Cowtown Drilling, Inc. [8899]; Cowtown Gas Processing L.P. [1404]; Cowtown Pipeline Funding, Inc. [9774]; Cowtown Pipeline L.P. [9769]; Cowtown Pipeline Management, Inc. [9771]; Makarios Resources International Holdings LLC [1765]; Makarios Resources International Inc. [7612]; QPP Holdings LLC [0057]; QPP Parent LLC [8748]; Quicksilver Production Partners GP LLC [2701]; Quicksilver Production Partners LP [9129]; and Silver Stream Pipeline Company LLC [9384]. The Debtors’ address is 801 Cherry Street, Suite 3700, Unit 19, Fort Worth, Texas 76102.

² All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion; and upon the First Day Declaration, the record of the hearing, and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted on an interim basis to the extent provided herein.
2. The Debtors are authorized, but not directed, to remit and pay to the Authorities up to a total of \$245,000 in Taxes and Fees that accrued before the Petition Date, in a reasonable exercise of the Debtors' business judgment, subject to the terms of any cash collateral or financing order entered by the Court.
3. The Debtors are authorized, but not directed, to issue post-petition checks or to effect post-petition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to pre-petition amounts authorized to be paid herein.
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.
5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the pre-petition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, provided that sufficient funds are on deposit in the applicable accounts to

cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Interim Order.

6. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained in this Order shall constitute, nor is it intended to constitute, an admission as to the validity or priority of any claim against the Debtors, the creation of an administrative priority claim on account of the pre-petition obligations sought to be paid, or the assumption or adoption of any contract or agreement under Bankruptcy Code section 365.

7. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion or are otherwise deemed waived.

8. The Final Hearing on the Motion shall be held on April 15, 2015 at 2:00 p.m. (prevailing Eastern Time). Any objections or responses to entry of the proposed Final Order shall be filed on or before seven calendar days before the Final Hearing and served on the following parties: (a) Akin Gump Strauss Hauer & Feld LLP, 1700 Pacific Avenue, Suite 4100, Dallas, TX 75201, Attn: Charles R. Gibbs, Esq. and Sarah Link Schultz, Esq., proposed counsel to the Debtors; (b) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, DE 19801, Attn: Paul N. Heath, Esq., proposed Delaware counsel to the Debtors; (c) Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017, Attn: Steven M. Fuhrman, Esq., counsel to the First Lien Agent; (d) Latham & Watkins LLP, 885 Third Avenue, Suite 1000, New York, NY 10022, Attn: Mitchell A. Seider, Esq., counsel to the Second Lien Agent; (e) Emmet, Marvin & Martin LLP, 120 Broadway, 32nd Floor, New York, NY 10271, Attn: Edward P. Zujkowski, counsel to the Second Lien Indenture Trustee; (f) Milbank, Tweed, Hadley & McCloy LLP, 28 Liberty Street, New York, NY 10005,

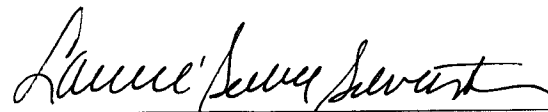
Attn: Dennis F. Dunne, Esq. and Samuel A. Khalil, Esq., counsel to the Ad Hoc Group of Second Lienholders; and (g) the Office of the United States Trustee for Region 3, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801, Attn: Jane Leamy, Esq., no later than 4:00 p.m. (prevailing Eastern Time) on April 8, 2015.

9. In the event that no objections are timely received, the Court may enter the Proposed Final Order without need for the Final Hearing.

10. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014, or otherwise, this Order shall be immediately effective and enforceable upon its entry.

11. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Wilmington, Delaware
Date: March 19, 2015



THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE