

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

In re:	§	Case No. 05-21207
	§	
ASARCO LLC, et al.,	§	Chapter 11
	§	
Debtors.	§	Jointly Administered
	§	

**ORDER SETTING DEADLINES AND PROCEDURES GOVERNING APPLICATIONS
PURSUANT TO BANKRUPTCY CODE §§ 330, 503(b)(3)(D) AND 503(b)(4) AND
OTHER RELATED MATTERS**

Came on for consideration ASARCO Incorporated and Americas Mining Corporation's Motion for Order Setting Deadlines and Procedures Governing Applications Pursuant to Bankruptcy Code §§ 330, 503(b)(3)(D) and 503(b)(4) and Other Related Matters (the "Motion"); and the Bankruptcy Court having jurisdiction to hear the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and due and proper notice of the Motion having been provided, and given the nature of the relief requested and the complexity of these chapter 11 cases and after due deliberation, and sufficient cause appearing therefore, the Bankruptcy Court has determined to establish certain dates, deadlines and procedures to govern:

(i) Applications for final allowances of compensation or reimbursement of expenses under § 330 of the Bankruptcy Code ("Final Fee Applications");

(ii) Halcyon Master Fund L.P. and DK Acquisition Partners, L.P.'s Motion for Order (A) Granting Movants Allowed Administrative Expense Claims Pursuant to Bankruptcy Code § 503(b); and (B) Authorizing and Directing Debtors To Pay Such Claims (the "Halcyon Substantial Contribution Motion") [Docket No. 13065];

(iii) Application of Sterlite (USA), Inc. and Sterlite Industries (India) Ltd. for Allowance of Compensation for Substantial Contribution Under 11 U.S.C. § 503(b) (the “Sterlite Substantial Contribution Motion”) [Docket No. 13269];

(iv) All other applications for the allowance of substantial contribution claims pursuant to Bankruptcy Code § 503(b)(3)(D), and related claims for reasonable compensation for professional services pursuant to Bankruptcy Code § 503(b)(4), other than the Halcyon Substantial Contribution Motion and the Sterlite Substantial Contribution Motion (“General Substantial Contribution Claims”);

(v) Applications for fee enhancements or success fees (“Fee Enhancement Applications”), including the Motion for Approval of Bonuses to Edward R. Caine and H. Malcolm Lovett, Jr. as Members of the Board of Directors of ASARCO LLC and Joseph F. Lapinsky [Docket No. 13384] and Joinder In Motion for Approval of Bonuses to Edward R. Caine and H. Malcolm Lovett, Jr. as Members of the Board of Directors of ASARCO LLC and Joseph F. Lapinsky [Docket No. 13423]; and

(vi) motions for appointment of a fee examiner pursuant to Bankruptcy Code § 105.

Accordingly, it is hereby ORDERED AS FOLLOWS:

1. Consistent with 28 U.S.C. §§ 157 and 1334, the Bankruptcy Court shall hear all matters described in the Motion, including: (i) Final Fee Applications; (ii) the Halcyon Substantial Contribution Motion; (iii) the Sterlite Substantial Contribution Motion; (iv) General Substantial Contribution Claims; (v) Fee Enhancement Applications; and (vi) motions for appointment of a fee examiner pursuant to Bankruptcy Code § 105.

Deadlines & Hearing Dates

Final Fee Applications, General Substantial Contribution Claims, and Fee Enhancement

Applications

2. Notwithstanding anything to the contrary in the Parent's Plan¹ or Confirmation Order (as amended or supplemented), the Court hereby establishes the following deadlines and hearing dates for Final Fee Applications, General Substantial Contribution Claims, and Fee Enhancement Applications:

(a) **Deadline:** All Final Fee Applications, General Substantial Contribution Claims, and Fee Enhancement Applications must be filed on or before **Monday, February 8, 2010** (the "Application Deadline"), unless otherwise allowed by the Bankruptcy Court, after a showing of good cause;

(b) **Objections:** Written objections to Final Fee Applications, General Substantial Contribution Claims, and Fee Enhancement Applications shall be filed and served upon the applicable notice parties on or before **Wednesday, March 10, 2010** (the "Objection Deadline"), unless otherwise allowed by the Bankruptcy Court, after a showing of good cause;

(c) **Discovery:**

(i) Any movant under a Final Fee Application, General Substantial Contribution Claim or Fee Enhancement Application (an "Applicant") or any person or party objecting or seeking to be heard in connection with any Final Fee Application, General Substantial Contribution Claim or Fee Enhancement Application (an "Objector") may serve on any other Applicant or Objector, interrogatories ("Interrogatories"), requests for production of documents ("Document Requests") and requests for admission ("RFAs"; together with the

¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Interrogatories and Document Requests, the “Discovery Requests”) in connection with the applicable Final Fee Application, General Substantial Contribution Claim or Fee Enhancement Application, by no later than **5:00 p.m. (Central)** on or before **Tuesday, March 30, 2010** (the “Discovery Request Cutoff”). Any Discovery Request served after the Discovery Request Cutoff without prior authorization by the Court or agreement among the relevant Applicants and Objectors shall be a nullity and the party on whom such request is served shall have no obligation to respond to such Discovery Request. All documents must be produced in compliance with Federal Rules of Bankruptcy Procedure 7026 and 7034 and Federal Rules of Civil Procedure 26 and 34. Nothing contained herein shall inhibit the rights of any of the Applicants or Objectors to object or respond to any Discovery Request as permitted by the Federal Rules of Civil Procedure governing discovery, as incorporated by the Federal Rules of Bankruptcy Procedure, provided that the time for all such objections and responses is consistent with the deadlines contained herein.

(ii) The Applicants and Objectors shall serve their respective responses, admissions and objections to each timely Discovery Request on or before **Wednesday, April 14, 2010** after being served with such Discovery Request.

(iii) By no later than 5:00 p.m. (Central) on or before **Friday, April 16, 2010**, any Applicants and Objectors (as applicable) shall file and serve a list of all witness(es) (a “Witness List”) whose testimony such party anticipates presenting at the hearing on the Final Fee Application, General Substantial Contribution Claim or Fee Enhancement Application, as applicable, together with a brief statement of the subject(s) that each listed witness is expected to testify to at the applicable hearing (the “Witness List Deadline”). For good cause shown or agreement among the relevant Applicants and Objectors, however, the Witness Lists and

statements may be supplemented subsequent to the Witness List Deadline. In such an event, the supplemental Witness List will provide a brief statement of the subject(s) that each listed witness is expected to testify to at the applicable hearing. In no event will any of the relevant Applicants or Objectors be required to present the testimony of any person listed on their respective Witness List or supplemental Witness List during the applicable hearing or, unless the Court orders otherwise, be allowed to present the testimony of any person not identified on the respective party's Witness List or supplemental Witness List. Any of the relevant Applicants or Objectors may present rebuttal witnesses that are not listed or whose expected testimony is not described on the Witness Lists where the need for such rebuttal witnesses was not reasonably anticipated. A party that intends to present a rebuttal witness must present rebuttal testimony through a written proffer and, unless the parties agree otherwise, make the rebuttal witness available for cross-examination at the applicable hearing. The parties shall reserve their respective rights to request to depose any such rebuttal witness and to oppose such a request for deposition.

(iv) By no later than 5:00 p.m. (Central) on or before **Monday, April 19, 2010**, the relevant Applicants and Objectors shall exchange among themselves their respective lists ("Deposition Witness Lists") identifying the witnesses whom they wish to depose in connection with the applicable hearings on the Final Fee Applications, General Substantial Contribution Claims, and Fee Enhancement Applications (the "Deposition Witness List Deadline"). The exchange of Deposition Witness Lists shall be in lieu of and shall be deemed to constitute Notice(s) for Depositions upon Oral Examination or subpoenas ("Deposition Notices"; together with the Discovery Requests, "Permitted Discovery") pursuant to Federal Rules of Bankruptcy Procedure 7030 and 9014 and Federal Rule of Civil Procedure 30. For good cause shown or agreement by the relevant Applicants or Objectors, however, the Deposition Witness

Lists and statements may be supplemented subsequent to the Deposition Witness List Deadline and will be deemed to constitute Notice(s) for Depositions upon Oral Examination or subpoenas. Nothing in this Order will restrict the rights of the relevant Applicants or Objectors to object to a Deposition Notice or supplemental Deposition Notice pursuant to grounds permissible under the Federal Rules of Civil Procedure, the Bankruptcy Code, or the Federal Rules of Bankruptcy Procedure, as applicable.

(v) Promptly after the exchange of Deposition Witness Lists, the relevant Applicants and Objectors shall meet and use their best efforts to reach agreement on the date, time, and place at which the deposition of each person identified in the Deposition Witness Lists shall be held (the “Depositions”). Unless extended by the Court on good cause shown or by agreement of the Objectors or the Applicants (as applicable), all Depositions shall be completed on or before **Monday, May 10, 2010** (the “Deposition Deadline”). Absent agreement of the parties, no individual in respect of whom a Deposition Notice has been served shall be required to appear for more than one seven-hour deposition. The parties desiring to depose a witness will coordinate with one another to reach agreement regarding the division of the allotted time for the witness. If no agreement can be reached, either (a) the parties shall seek a ruling from this Court on the issue or (b) those parties who desire to question the witness shall divide up time evenly.

(d) **Hearings:** The Court shall schedule hearings (each a “Hearing”; together the “Hearings”) to adjudicate the Final Fee Applications, General Substantial Contribution Claims, and Fee Enhancement Applications as follows:

(i) Final Fee Applications and Fee Enhancement Applications: the first hearing on such applications shall be scheduled for the week beginning **Monday, May 24,**

2010 with all subsequent hearings on such applications to take place on or before than **Friday, June 4, 2010**;

(ii) General Substantial Contribution Claims: the first hearing on such claims shall be scheduled for the week beginning **Monday, June 7, 2010** with all subsequent hearings on such claims to take place on or before than **Friday, June 25, 2010**.

(iii) For purposes of any Hearing, the relevant Applicants and Objectors must present the direct testimony of any designated witness by submission of a declaration of such person (“Proffers”) in lieu of direct testimony;

(iv) All Proffers shall be filed and served no later than three (3) business days prior to commencement of the applicable Hearing;

(v) All declarants shall be available for cross-examination at the applicable Hearing, unless the parties agree otherwise;

Halcyon Substantial Contribution Motion

3. Notwithstanding anything to the contrary in the Parent’s Plan or Confirmation Order (as amended or supplemented), the Court hereby extends the general guidelines outlined above with respect to the Final Fee Applications, General Substantial Contribution Claims and Fee Enhancement Applications, to the Halcyon Substantial Contribution Motion, with the following deadlines and hearing dates:

(a) **Discovery:**

(i) Any person or party objecting to or seeking to be heard in connection with the Halcyon Substantial Contribution Motion (“Halcyon Objector”) may serve interrogatories (“Halcyon Interrogatories”), requests for production of documents (“Halcyon Document Requests”) and requests for admission (“Halcyon RFAs”); together with the Halcyon

Interrogatories and Halcyon Document Requests, the “Halcyon Discovery Requests”) in connection with the Halcyon Substantial Contribution Motion, by no later than 5:00 p.m. (Central) on **December 23, 2009**.

(ii) All parties shall serve their respective responses, admissions and objections to each timely Halcyon Discovery Request on or before **December 31, 2009** and all responsive documents must be produced on or before **January 15, 2009**.

(v) **Depositions:** all depositions pertaining to the Halcyon Substantial Contribution Motion must be completed by **January 31, 2010**.

(b) **Hearings:** The Court shall schedule hearing(s) to adjudicate the Halcyon Substantial Contribution Motion the week beginning **February 8, 2010**.

Sterlite Substantial Contribution Motion

4. Notwithstanding anything to the contrary in the Parent’s Plan or Confirmation Order (as amended or supplemented), the Court hereby extends the general guidelines outlined above with respect to the Final Fee Applications, General Substantial Contribution Claims and Fee Enhancement Applications, to the Sterlite Substantial Contribution Motion, with the following deadlines and hearing dates:

(a) **Objections:** Written objections to Sterlite Substantial Contribution Motion shall be filed and served upon the applicable notice parties on or before **Friday, January 15, 2010** (the “Sterlite Objection Deadline”), unless otherwise allowed by the Bankruptcy Court;

(b) **Discovery:**

(i) Any person or party objecting to or seeking to be heard in connection with the Sterlite Substantial Contribution Motion (“Sterlite Objector”) may serve on

Sterlite (USA), Inc. and Sterlite Industries (India) Ltd. interrogatories (“Sterlite Interrogatories”), requests for production of documents (“Sterlite Document Requests”) and requests for admission (“Sterlite RFAs”; together with the Sterlite Interrogatories and Sterlite Document Requests, the “Sterlite Discovery Requests”) in connection with the Sterlite Substantial Contribution Motion, by no later than 5:00 p.m. (Central) on **Friday, January 22, 2010**.

(ii) Sterlite shall serve their respective responses, admissions and objections to each timely Sterlite Discovery Request on or before **February 12, 2010** and all responsive documents must be produced on or before **Wednesday, February 17, 2010**.

(v) **Depositions:** all depositions pertaining to the Sterlite Substantial Contribution Motion must be completed by **March 19, 2010**.

(b) **Hearings:** The Court shall schedule hearing(s) to adjudicate the Sterlite Substantial Contribution Motion on **April __, 2010**.

Motion for Fee Examiner Pursuant to § 105

5. Notwithstanding anything to the contrary in the Parent’s Plan or Confirmation Order (as amended or supplemented), the Court hereby establishes the following objection deadlines and hearing dates with respect to any motion for the appointment of a fee examiner pursuant of § 105 (a “Motion for Fee Examiner”):

(a) **Deadline:** any Motion for Fee Examiner must be filed on or before **Friday, January 15, 2010** (the “Fee Examiner Deadline”), unless otherwise allowed by the Bankruptcy Court;

(b) **Objections:** Written objections to any Motion for Fee Examiner shall be filed and served upon the applicable notice parties on or before **Friday, January 22, 2010** (the “Fee Examiner Objection Deadline”), unless otherwise allowed by the Bankruptcy Court;

(c) **Discovery:** No discovery shall be permitted in connection with any Motion for Fee Examiner, unless otherwise ordered by this Court.

(d) **Hearings:** The Court shall set a hearing to consider any timely filed Motion for Fee Examiner for **February __, 2010**.

Dated: _____

RICHARD S. SCHMIDT
UNITED STATES BANKRUPTCY JUDGE