



ENTERED
05/01/2009

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

IN RE:

**CALTEX HOLDINGS LP
A Texas Limited Partnership,**

Debtor.

§
§
§
§
§
§
§

CASE NO. 09-31875

**ORDER AUTHORIZING USE OF CASH COLLATERAL AND
GRANTING ADEQUATE PROTECTION**

[RELATING TO DOCKET NOS. 81 and 109]

CAME ON FOR CONSIDERATION at a hearing on April 27 and 28, 2009, the Debtor's Amendment to Debtor's Expedited Motion for Final Hearing and Order Authorizing Use of Cash Collateral [Docket No. 81] and the Debtor's Second Amendment to Debtor's Expedited Motion for Final Hearing and Order Authorizing Use of Cash Collateral [Docket No. 109] (collectively, the "Cash Collateral Request"). Based upon the agreement announced at hearing between NewStar Financial, Inc. and certain of its related entities (collectively, "Lender") and CalTex Holdings LP ("Debtor"), the arguments of counsel at hearing, the evidence introduced at hearing, and it further appearing that the legal and factual bases set forth in the Cash Collateral Request, the objections filed by Lender and at the hearing establish just cause for the relief granted herein, and, any objections to the Cash Collateral Request having been consensually resolved, withdrawn, overruled and/or considered, and after due deliberation thereon, the Court finds that the Cash Collateral Request and the agreement between Lender and Debtor should be approved. Accordingly, the Court hereby finds and orders as follows:

1. All sale proceeds, revenues, rents and other receipts of the Debtor (collectively, "Receipts") shall be deposited in a cash collateral account (the "Account"). Any cash in the

Account shall constitute the cash collateral of the Lender. The Account shall be established in the name of the Debtor, as debtor-in-possession, with disbursement authority as described below.

2. The Debtor is authorized to use the cash collateral in the Account solely in accordance with the attached Budget (the "Budget") and the terms of this Order through June 28, 2009. Funds may be disbursed from the Account only upon electronic request delivered by Debtor to Lender (delivery to the following: tpierce@newstarfin.com, rboyd@newstarfin.com and smcisaac@newstarfin.com) no less than 48 hours prior to a proposed disbursement and Lender approval therefor. The Lender shall make an authorized representative available on no more than 48 hours notice (such notice to specifically request disbursement authority), and upon receipt of the request for disbursement shall forthwith provide disbursement authority for disbursements authorized under this Order. The notice requirement provided for in this paragraph 2 shall not apply to disbursement being made pursuant to paragraph 5 (i) below. Debtor shall further provide Lender with electronic and/or internet access to the Account so as to permit Lender to monitor the Account activity (such access to be "view only" access).

3. The Debtor is further authorized to use cash collateral to establish and fund a petty cash fund separate from the Account in the amount of up to \$5,000 per month, as reflected in the Budget. Such funds shall constitute Lender's cash collateral. Such funds shall be used by the Debtor in accordance with the Budget solely to fund those certain ordinary operating expenses historically or more expediently paid in cash, credit card or debit card. The deposit of funds in this petty cash account shall not be subject to the disbursement requirements of paragraph 2 above.

4. As adequate protection for the use of the cash collateral, the Lender is granted replacement security interests and liens (to the extent of and of the same priority as Lender's security interests and liens in and on the prepetition collateral) on all of the Debtor's existing and

hereafter acquired assets (excluding avoidance actions that may be brought under Chapter 5 of the Bankruptcy Code), and on all cash and non-cash proceeds of all the foregoing, but only to the extent and in the priority of Lender's valid and perfected liens on such assets prior to the petition date, which post-petition liens shall be deemed to be valid, perfected, non-avoidable and effective from the petition date.

5. Receipts (including any cash collateral then on hand) shall be disbursed by the Debtor as follows:

- (i) For the week of April 27, 2009, in the amount of \$166,000, for the line items listed in the Budget, with an allowed variance of 10%
- (ii) During May 2009 (starting the week of May 4, 2009),
 - (a) the first \$180,000 shall be used to fund actual operating expenses in accordance with the Budget for the period May 4-May 31, 2009;
 - (b) the next \$275,000 shall be paid to Lender as available but not later than May 31, 2009, and applied by Lender in accordance with the Loan Documents (as defined below), provided, that Lender shall not at this time apply any funds to unpaid pre-Petition Date loan fees with such issue to be reserved;
 - (c) all or any portion of the next \$100,000 shall be placed in reserve for the payment of Debtor's professional fees as permitted and/or authorized pursuant to further or separate order of the Court;
 - (d) all or any portion of the next \$48,500 shall be paid to the Debtor's general partner in order to fund certain management personnel in accordance with the Budget;
 - (e) all or any portion of the next \$396,500 shall be paid to Lender not later than May 31, 2009, and applied by Lender to principal; and
 - (f) all or any portion of the next \$1,000,000 shall be paid or disbursed as follows: 90% to Lender to be applied to principal and 10% used by CalTex to fund necessary capital expenditures.
- (iii) During June 2009,
 - (a) the first \$200,000 shall be used to fund actual operating expenses in accordance with the Budget for the period June 1-June 28, 2009;

- (b) the next \$275,000 shall be paid to Lender as available but not later than June 28, 2009, and applied in accordance with paragraph 5(i)(b), above;
- (c) all or any portion of the next \$100,000 shall be placed in reserve for the payment of estate professional fees as permitted and/or authorized pursuant to further or separate order of the Court;
- (d) all or any portion of the next \$48,500 shall be paid to the Debtor's general partner in order to fund certain management personnel in accordance with the Budget;
- (e) all or any portion of the next \$376,500 shall be paid to Lender not later than June 30, 2009, and applied by Lender to principal;
- (f) all or any portion of the next \$1,000,000 shall be paid or disbursed as follows: 90% to Lender to be applied to principal and 10% used by CalTex to fund necessary capital expenditures.

6. The payment to Lender of \$275,000 in each of May and June, as set forth above, shall not be subject to or conditioned upon sufficient actual Receipts. The Budget is deemed to include this payment in each of May and June. Failure to make such payments shall be a default by Debtor under this Order.

7. Lender does not consent to any asset sales above the aggregate amount of \$2,000,000 during the period covered by this Order. In connection with any proposed asset sale during the term of this Order, Debtor shall provide to Lender the appraised value of any equipment to be sold, if available, and specific market pricing information as published by AMM or a similar entity as to any metals to be sold.

8. No later than the close of business on each Thursday, for the period ending the prior Friday, the Debtor shall provide Lender with the following reports:

- (1) a Budget report in the form of the Budget reflecting actual cash receipts and expenditures and any variances to the Budget; and
- (2) a sales report that reflects, for each sale of assets (including each delivery or take-away of assets previously sold), the purchaser (w/contact information), the items sold (if scrap metal, this shall include the weight and accompanying weight ticket from the scale), the sale price, net

proceeds to Debtor, date of sale and date sold asset removed from Debtor's premises.

9. Upon no less than 24 hours notice by Lender, the Debtor shall permit Lender and any of its agents or designees reasonable and free access to the Debtor's place of business during normal business hours to verify the existence, condition and location of collateral in which Lender asserts a security interest. On reasonable notice by Lender, the Debtor shall permit Lender and any of its agents or designees reasonable and free access to the Debtor's books and records to audit the reports required under paragraph 8, above.

10. Pursuant to various loan and security documents (collectively, the "Loan Documents"), Lender asserts a claim against Debtor as of the Petition Date in the amount of \$22,719,675.32 (the "Lender Claim"), all as will be more fully described in Lender's proof of claim. Lender asserts that the Lender Claim is secured by properly perfected, first-priority liens and security interests in and upon virtually all of the Debtor's assets in accordance with the Loan Documents (collectively, the "Lender Liens"). The Debtor and other parties-in-interest in this case shall be permitted to challenge the Lender, the Lender Claim and/or the Lender Liens up to and including June 30, 2009 (the "Challenge Deadline"). After the Challenge Deadline, any challenge to the Lender, the Lender Claim and/or the Lender Liens by the Debtor or any party-in-interest (including the Debtor's affiliates and insiders, and successors and assigns, including any trustee or other estate representative appointed as a representative of the Debtor or of the Debtor's estate in any successor case) shall be forever barred and enjoined. For purposes of this order, a "challenge to the Lender, the Lender Claim and/or the Lender Liens" shall include, without limitation, any of the following: (i) any defenses, offsets, demands or counterclaims relating to the Loan Documents, the Lender Claim, or to the validity, priority or perfection of the Lender Liens, (ii) any claim or cause of action by or on behalf of the Debtor, the Debtor-in-Possession, or the Debtor's estate against the Lender, (iii) any attempt to disallow, subordinate,

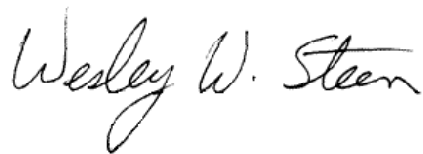
avoid or recharacterize any of the Lender Claim or Lender Liens, (iv) any avoidance or similar action against the Lender pursuant to the Bankruptcy Code or other applicable non-bankruptcy law. The Lender may, in its sole and absolute discretion and as evidenced by its explicit written consent, agree to extend the Challenge Deadline, and any such agreed extension may be limited in duration, scope or otherwise.

11. Nothing contained herein shall be deemed or construed to: (a) limit Lender to the relief granted herein; (b) bar Lender from seeking other and further relief (including, without limitation, relief from the terms of this Order) for cause shown on appropriate notice; or (c) require Lender to make any loans or advances to the Debtor.

12. Nothing contained in this Order shall be deemed or construed to: (a) limit the Debtor or any other party in interest to the relief granted herein; (b) except as provided in paragraph 10 above, prevent or bar the Debtor or any other party in interest from seeking further or additional relief with respect to property of the estate, including, but not limited to, the use, sale or lease of any of the property of the estate, obtaining financing pursuant to 11 U.S.C. §364 and proposing a plan of reorganization pursuant to 11 U.S.C. §§1121-1124.

13. In the event that the Debtor defaults under or violates this Order, (i) the Debtor's authority to use cash collateral, including any cash in the Account, shall immediately terminate, and (ii) Lender's obligation to authorize disbursements under this Order shall terminate.

Dated April 30, 2009



United States Bankruptcy Judge

At the hearing on April 28, the Court noted that the proposed cash collateral order provided for payments to Lender and other dispositions of funds far in excess of the amounts that Debtor was authorized to raise through sales of assets. Provision in this order for payments that exceed the amount of cash that Debtor is currently authorized to raise does not imply that the Court will approve additional 363 sales or other pre-confirmation transactions. The parties did not explain or discuss transactions that would fund substantially all of the waterfall distributions. /s/ wws

CalTex Holdings, LP														
Cash Sources & Uses														
Weekly Projections														
Week beginning ==>														
Week ==>														
	1	2	3	4	5	6	7	8	9	10	11	12	13	
Actual														
Starting Cash Balance		46,828	16,996	73,479	69,043	35,047	78,951	102,576	86,262	90,720	90,765	162,723	152,006	119,264
SOURCES														
Cash Sources & Uses														
Sales - Emission Credits								25,000		50,000	50,000	50,000	50,000	50,000
Sales - Timber								12,500	12,500	12,500	12,500	12,500	12,500	12,500
Sales - Metal	-	-	-	-	90,000		-	-	-	-	-	-	-	-
Sales - Equipment		196,000			125,000	50,000	99,000	50,000	50,000		50,000	75,000		
Total Sources (cash inflows)	-	196,000	-	-	215,000	50,000	136,500	62,500	62,500	112,500	62,500	137,500	62,500	62,500
USES														
OPERATING EXPENSES														
CalTex Holdings GP	27,864	-	-	33,996	6,000	25,000	48,500	27,500	6,000	20,000	48,500	27,500	6,000	6,000
Repair & maintenance			500		300	300	1,133	1,133	1,133	1,133	1,133	1,133	1,133	1,133
Fuel			160		600				600					600
Telephone							1,000				1,000			
Internet		1,250	952											
Cell phone			500											
Electricity		750	364				375				375			
Security		28,000			25,000			20,000				20,000		
Insurance - financed		7,997			2,000		2,000		2,000		2,000			2,000
Insurance - Worker's comp		101,269			121,639				30,593		30,593			30,593
Environmental testing/materials	1,968				5,963				2,221		2,221			2,221
Permits & fees			276		200	200	200	200	200	200	200	200	200	200
Safety expenses			1,000		3,019		500	500	500	500	500	500	500	500
Office expenses			276			500	500	500	500	500	500	500	500	500
Equipment Rent/leases			232		125	125	125	125	125	125	125	125	125	125
Training		251					301			500	301			500
DIP financing fee														
Other expenses			176		250	250	250	250	250	250	250	250	250	250
SITE REMEDIATION														
Fire water system (net of insurance recovery)										10,000	10,000	10,000	10,000	10,000
Drainage/SPCC (net of insurance recovery)									8,333	8,333	8,333	8,333	8,333	8,333
Total Uses (cash outflows)	29,832	139,517	4,435	33,996	171,096	26,375	55,384	58,042	62,456	40,542	73,217	68,542	62,456	62,456
Net Cash Sources (Uses)	(29,832)	56,483	(4,435)	(33,996)	43,904	23,625	81,116	4,458	44	71,958	(10,717)	68,958	44	44
Cash Balance Before Professional Fees	16,996	73,479	69,043	35,047	78,951	102,576	183,692	90,720	90,765	162,723	152,006	220,964	119,308	119,308
Professional Fees and Expenses														
Bankruptcy counsel							30,000.00						30,000.00	
Special Litigation counsel							25,000.00						25,000.00	
Special Corporate Counsel							2,000.00						2,000.00	
Accounting Services							25,000.00						10,000.00	
Environmental Survey							15,430.00						34,700.00	
Total Professional Fees & Expenses	-	-	-	-	-	-	97,430.00	-	-	-	-	-	101,700.00	-

CalTex Holdings, LP															
Cash Sources & Uses															
Weekly Projections															
Week beginning ==>															
	(Apr-09)	3/27/2009	4/6/2009	4/13/2009	4/20/2009	4/27/2009	5/4/2009	5/11/2009	5/18/2009	5/25/2009	6/1/2009	6/8/2009	6/15/2009	6/22/2009	(Jun-09)
	1	2	3	4	5	6	7	8	9	10	11	12	13		
Week ==>															
Ending Cash Balance	16,995.51	73,478.79	69,043.43	35,047.43	78,951.27	102,576.27	86,262.11	90,720.44	90,764.77	162,723.11	152,005.61	119,263.94	119,308.28		