

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

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In re:	:	Chapter 11
	:	
RYCKMAN CREEK RESOURCES, LLC,	:	Case No. 16-10292 (KJC)
et al.,	:	
	:	Jointly Administered
Debtors. ¹	:	
	:	Hrg Date: May 31, 2017 at 1:00 p.m. (Eastern)
-----	X	Obj. Due: May 24, 2017 at 4:00 p.m. (Eastern)

DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) APPROVING BIDDING PROCEDURES, (II) SCHEDULING THE BID DEADLINE AND THE AUCTION, (III) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, AND (IV) GRANTING RELATED RELIEF

Ryckman Creek Resources, LLC (“Ryckman”) and certain of its affiliates, the debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors” or the “Company”), hereby move (this “Motion”) this Court for entry of an order (the “Bidding Procedures Order”) under sections 105, 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) (i) approving the proposed auction and bidding procedures (the “Bidding Procedures”), attached as Exhibit 1 to the Bidding Procedures Order; (ii) establishing certain dates and deadlines, including the Indication of Interest Deadline, the Bid Deadline, and the date of the Auction (each as defined below), if any; (iii) approving the manner

¹ The Debtors and, where applicable, the last four digits of their respective taxpayer identification numbers, are as follows: Ryckman Creek Resources, LLC (4180), Ryckman Creek Resources Holding Company LLC, Peregrine Rocky Mountains LLC, and Peregrine Midstream Partners LLC (3363). The address of the Debtors’ corporate headquarters is 3 Riverway, Suite 1100, Houston, TX 77056.



of notice of the Auction, if any; and (iv) granting related relief. In further support of this Motion, the Debtors, by and through their undersigned counsel, respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105, 363, and 365. Such relief is also warranted under Bankruptcy Rules 2002, 6004, and 6006.

3. Under Rule 9013-1(f) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “Local Bankruptcy Rules”), the Debtors consent to the entry of a final judgment or order with respect to this Motion if it is determined that this Court would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties.

BACKGROUND

I. General Background

4. On February 2, 2016 (the “Petition Date”), the Debtors each commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the “Chapter 11 Cases”). The Chapter 11 Cases are jointly administered.

5. The Debtors continue to operate their business and manage their properties as debtors and debtors in possession under Bankruptcy Code sections 1107(a) and 1108.

6. On February 12, 2016 the Office of the United States Trustee for the District of Delaware (the “United States Trustee”) appointed an official committee of unsecured

creditors for the Chapter 11 Cases under Bankruptcy Code section 1102 [Docket No. 68] (the “Creditors’ Committee”). No trustee or examiner has been appointed in the Chapter 11 Cases.

7. The Company was formed to engage in the acquisition, development, marketing, and operation of an underground natural gas storage facility (the “Ryckman Creek Facility”), located in Uinta County, Wyoming.

8. Additional factual background information regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the Chapter 11 Cases, is set forth in detail in the *Declaration of Robert D. Albergotti, the Vice President of Restructuring of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 20].

II. The Debtors’ Financing

9. Ryckman is a borrower under that certain *Second Amended and Restated Credit Agreement*, dated as of October 31, 2014 (as the same has been amended, supplemented, modified, extended, renewed, restated, and/or replaced at any time prior to the Petition Date, the “Prepetition Credit Agreement”), with ING Capital LLC (“ING” or the “Agent”), as administrative agent and as collateral agent for the secured parties, the Bank of New York Mellon (“BONY”) as depository, and certain other lenders party thereto, including Bear River Acquisition Company Inc. (“Bear River,” and collectively, the “Completion Loan Lenders”).²

10. In connection with the filing of the Chapter 11 Cases, certain of the Prepetition Lenders, including the Agent, agreed to provide debtor-in-possession financing to the

² Under the Prepetition Credit Agreement, certain loans made under the prior Amended and Restated Credit Agreement, dated as of May 15, 2014, with ING as the administrative agent, BONY as depository, and the lenders party thereto (the “Term Loan Lenders” and, together with the Completion Loan Lenders, the “Prepetition Lenders”), were restructured.

Debtors to fund the Chapter 11 Cases. Accordingly, on the Petition Date, the Debtors filed their *Motion For Interim and Final Orders Under Bankruptcy Code Sections 105, 361, 362, 363, and 364, Bankruptcy Rules 2002 and 4001, and Local Bankruptcy Rule 4001-2 (I) Authorizing the Debtors to (A) Obtain Postpetition Financing on a Secured, Superpriority Basis and (B) Use Cash Collateral, (II) Granting Adequate Protection, (III) Scheduling a Final Hearing, and (IV) Granting Related Relief* [Docket No. 17] (the “DIP Motion”).

11. On March 24, 2016, this Court entered the *Final Order (I) Authorizing Debtor Ryckman Creek Resources, LLC to (A) Obtain Postpetition Financing on a Secured, Superpriority Basis and (B) Use Cash Collateral, (II) Granting Adequate Protection, and (III) Granting Related Relief* [Docket No. 195] (the “Final DIP Order”).³

12. The Final DIP Order authorized the Debtors to, among other things, obtain senior, super-priority debtor-in-possession secured financing, pursuant to that certain *Senior Secured, Super-Priority Debtor-in-Possession Credit and Security Agreement*, dated March 24, 2016, by and among Ryckman Creek Resources, LLC, as borrower, the other lenders party thereto from time to time (such lenders, the “DIP Lenders”), and the Agent.

RELIEF REQUESTED

13. By this Motion, the Debtors request, among other things, entry of the Bidding Procedures Order, in substantially the form attached hereto: (i) authorizing and approving the Bidding Procedures; (ii) establishing certain dates and deadlines, including the Indication of Interest Deadline, the Bid Deadline, and the date of the Auction (each as defined

³ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Final DIP Order.

below), if any; (iii) approving the manner of notice of the Auction, if any; and (iv) granting related relief.

BASIS FOR RELIEF

I. Events Leading to the Sales Process

14. In March of 2017, the DIP Lenders agreed to provide an additional \$10 million in financing pursuant to the terms of the Final DIP Order, as amended by the Fifth Amendment to Senior Secured, Super-Priority Debtor-in-Possession Credit and Security Agreement (the "Amendment").

15. Accordingly, on April 24, 2017, this Court entered the *Final Order Authorizing the Debtors to Amend the DIP Facility to Obtain Additional Financing and Granting Related Relief* [Docket No. 975] (the "Additional DIP Order"). The Additional DIP Order approved the Amendment and authorized the Debtors to obtain additional financing. See Additional DIP Order ¶ 4.

16. However, given the interest from several third parties regarding exit financing or alternative investment in the Debtors, the Debtors and the DIP Lenders agreed, and the Amendment further provides as a condition precedent to the effectiveness of the Amendment, that the Debtors shall engage the services of an investment bank satisfactory to the Debtors. See Amendment, section 3.1(G).

17. Moreover, the milestones attached as Exhibit B to the Amendment provide, among other things, that (i) the Debtors provide the DIP Lenders with letters of intent from interested parties with respect to exit financing proposals and/or sale of or other investment in

the Debtors' assets by April 21, 2017 and (ii) file a modified plan (the "Modified Plan")⁴ and related disclosure statement that either (a) incorporates the terms of a third party exit financing facility and/or (b) establishes bidding procedures for the sale of the Debtors' assets. See Amendment, Exhibit B.

18. In accordance with the Amendment, the Debtors retained Wells Fargo Securities, LLC ("Wells Fargo Securities") as their investment banker [Docket No. 983] for the purpose of pursuing a potential transaction involving (i) a merger, acquisition, consolidation, or other business combination, including a sale or plan of reorganization pursuant to the Bankruptcy Code, of which all or a portion of the business, assets, or existing equity or securities of the Company are, directly or indirectly, sold or transferred to, or combined with, another company (other than an ordinary course intra-company transaction) or (ii) the recapitalization of the Company by a provider of capital, which provider of capital is not a lender to or equity holder in the Company (a "Transaction").

19. The Debtors are in negotiations with certain of their DIP Lenders regarding the terms of the Modified Plan, which the Debtors anticipate filing prior to the May 25, 2017 deadline in the Amendment, as may be extended. See Amendment, Exhibit B.

20. The Bidding Procedures and the Modified Plan will provide for substantial flexibility with respect to the structure of any Transaction, and the terms of the Modified Plan may be revised as necessary to implement the terms of an acceptable third-party bid.

Accordingly, the Debtors file this Motion seeking approval of the Bidding Procedures to allow

⁴ On August 5, 2016, the Debtors filed the Second Amended Joint Chapter 11 Plan of Reorganization of Ryckman Creek Resources, LLC and its Affiliated Debtors and Debtors in Possession [Docket No. 548] (as amended, the "Plan") and its related disclosure statement [Docket No. 549]. The Debtors have solicited votes, but have yet to seek confirmation of the Plan.

the Debtors to determine the best possible path toward emergence and move forward with a Modified Plan that is in the best interest of the Debtors, their creditors, and other parties in interest.

II. The Debtors' Marketing and Sales Efforts

21. In consultation with Wells Fargo Securities, the Debtors developed a list of parties whom they believe may be interested in, and whom the Debtors reasonably believe would have the financial resources to consummate, a Transaction. The list of parties includes both strategic investors and financial investors (collectively, the "Contact Parties").⁵ Beginning on April 19, 2017, the Debtors and Wells Fargo Securities began to contact the Contact Parties to explore their interest in pursuing a Transaction.

22. Between April 19, 2017 and May 9, 2017, Wells Fargo Securities contacted approximately 50 Contact Parties. Approximately 11 of those parties have entered into confidentiality agreements ("Confidentiality Agreements") with the Company to further explore a potential Transaction, and Wells Fargo Securities' efforts to engage more Contact Parties in Confidentiality Agreements remain ongoing. Among other things, Wells Fargo Securities distributed a Confidential Information Presentation (the "CIP"), which describes in detail the Debtors' business and financial information, to the parties that executed Confidentiality Agreements.

23. The deadline for interested parties to submit non-binding indications of interest (the "Indications of Interest") is May 24, 2017. Upon review of the Indications of Interest, the Debtors will open the virtual data room (the "VDR") to Acceptable Bidders (as

⁵ The Debtors and Wells Fargo Securities will continue to discuss, and may supplement, the list of Contact Parties throughout the marketing process, as appropriate.

defined below) and provide for arrangements for in-person meetings with the Debtors' senior management, as requested, and allow the Acceptable Bidders to conduct additional due diligence with respect to the Company. The Bidding Procedures are described in more detail below.

III. The Bidding Procedures

24. To optimally and expeditiously solicit, receive, and evaluate bids in a fair and accessible manner, and to maximize value for the Debtors' estates, the Debtors have developed the proposed Bidding Procedures to govern the process by which the Debtors are authorized to solicit bids regarding the Transaction and conduct an auction (the "Auction"). The following describes the salient terms of the Bidding Procedures and discloses certain information required under Local Bankruptcy Rule 6004-1:⁶

⁶ This summary is qualified in its entirety by the provisions of the Bidding Procedures. In the event of any inconsistencies between the terms of the Bidding Procedures and the terms herein, the terms of the Bidding Procedures shall govern. Unless otherwise defined in the summary set forth in the accompanying text, capitalized terms shall have the meanings ascribed to them in the Bidding Procedures.

(i) Participation Requirements.

- (a) To receive due diligence information, including non-public information regarding the Debtors, a party interested in consummating a Transaction (a "Potential Bidder") must deliver to each of: (1) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom, LLP, 155 North Upper Wacker Drive, Chicago, Illinois 60606, Attn: George N. Panagakis (george.panagakis@skadden.com) and Christopher M. Dressel (christopher.dressel@skadden.com), and One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801, Attention: Allie M. Keefe (allie.keefe@skadden.com); and (2) investment banker to the Debtors, Wells Fargo Securities, LLC, 375 Park Avenue, New York, New York 10152-0002, Attn: Hugh D. Babowal (hugh.babowal@wellsfargo.com), Nick Horodinca (nick.horodinca@wellsfargo.com), and Benjamin May (benajmin.a.may@wellsfargo.com) (collectively, the "Debtors' Advisors"), the following documents (collectively, the "Preliminary Bid Documents"):
- (A) an executed Confidentiality Agreement on terms acceptable to the Debtors, to the extent not already executed; and
- (B) proof by the Potential Bidder of its financial capacity to close a proposed Transaction, which may include financial statements of, or verified financial commitments obtained by, the Potential Bidder (or, if the Potential Bidder is an entity formed for the purpose of consummating the Transaction, the party that will bear liability for a breach), the adequacy of which will be assessed by the Debtors in consultation with the Consultation Parties.
- (b) Promptly after a Potential Bidder delivers Preliminary Bid Documents, the Debtors will determine and notify the Potential Bidder whether such Potential Bidder has submitted acceptable Preliminary Bid Documents so that the Potential Bidder may proceed to conduct due diligence and ultimately submit a Bid (as defined herein) and participate in the Auction (as defined herein), as applicable, and will provide copies of any such notices to the Notice Parties. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents, as determined by the Debtors in consultation with the Consultation Parties (each, an "Acceptable Bidder"), may submit Bids.

(ii) Non-Binding Indications of Interest.

- (a) Any party interested in a Transaction (regardless of whether such party has been determined to be an Acceptable Bidder) shall submit an Indication of Interest on or before May 24, 2017, at 5:00 p.m. (prevailing Eastern Time) (as may be extended without notice or hearing by the Debtors, with the consent of the Agent, the “Indication of Interest Deadline”). The Indication of Interest should (1) identify whether the party is interested in acquiring all or substantially all of the new common stock of the Reorganized Debtors; (2) set forth a proposed purchase price for the proposed Transaction, including by identifying separately any cash and non-cash components of the proposed Transaction consideration, including, for example, certain liabilities to be assumed; and (3) identify any proposed conditions to closing the Transaction.
- (b) Beginning on or as soon as is reasonably practicable after the Debtors determine that a Potential Bidder is an Acceptable Bidder, and following submission of an Indication of Interest that, in the Debtors’ reasonable discretion, satisfies the requirements for the Indication of Interest set forth above, the Debtors will provide such Acceptable Bidder with access to the VDR and other reasonable due diligence information, as requested by such Acceptable Bidder. The Debtors shall post substantially all written due diligence provided to any Acceptable Bidder to the VDR. All due diligence requests must be directed to Wells Fargo Securities. To the extent reasonably practicable, Wells Fargo Securities will also facilitate meetings between any interested Acceptable Bidder and the Debtors’ management team or arrange meetings at the Ryckman Creek Facility, which meetings will proceed in a manner determined by the Debtors, in their discretion. The due diligence period will end on the Bid Deadline (as defined below), and, subsequent to the Bid Deadline, the Debtors will have no obligation to furnish any due diligence information.
- (c) The Debtors will provide access, in the VDR, to a form chapter 11 plan sponsor agreement (“Form Plan Sponsor Agreement”). The Debtors and their advisors will coordinate all reasonable requests from Acceptable Bidders for additional information and due diligence access; provided that the Debtors may, in consultation with the Consultation Parties, decline to provide such information to Acceptable Bidders who, at such time and in the Debtors’ business judgment, have not established, or who have raised doubt, that such Acceptable Bidder intends in good faith to, or has the capacity to, consummate a Transaction.
- (d) Indications of Interest should be submitted to the Debtors’ Advisors by the Indication of Interest Deadline. The Debtors’

Advisors shall deliver any Indication of Interest received to the Notice Parties within two business days of receipt. Submitting an Indication of Interest by the Indication of Interest Deadline does not obligate an Acceptable Bidder to submit a formal bid or to participate in the sale process and does not exempt an Acceptable Bidder from also having to submit a Qualified Bid by the Bid Deadline to participate in the Auction (each as defined below). For the avoidance of doubt, the submission of an Indication of Interest by the Indication of Interest Deadline is not a prerequisite for Potential Bidders to submit a Qualified Bid.

- (iii) Bid Deadline. An Acceptable Bidder that desires to make a proposal, solicitation, or offer (each, a “Bid”) shall transmit such Bid via electronic mail (in .pdf or other similar format) so as to be actually received on or before June 26, 2017, at 5:00 p.m. (prevailing Eastern Time) (the “Bid Deadline”) to:
- (a) the Debtors, 3 Riverway, Suite 1100, Houston, Texas 77056, Attn: Robert D. Albergotti (ralbergotti@alixpartners.com);
 - (b) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, 155 North Upper Wacker Drive, Chicago, Illinois 60606, Attn: George N. Panagakis (george.panagakis@skadden.com) and Christopher M. Dressel (christopher.dressel@skadden.com), and One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801, Attention: Allie M. Keefe (allie.keefe@skadden.com);
 - (c) investment banker to the Debtors, Wells Fargo Securities, LLC, 375 Park Avenue, New York, New York 10152-0002, Attn: Hugh D. Babowal (hugh.babowal@wellsfargo.com), Nick Horodinca (nick.horodinca@wellsfargo.com), and Benjamin May (benajmin.a.may@wellsfargo.com);
 - (d) counsel to the Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201, Attn: Robert Jones (robert.jones@hkllaw.com) and Brent McIlwain (brent.mcilwain@hkllaw.com), and Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19899, Attn: Justin R. Alberto (jalberto@bayardlaw.com); and
 - (e) counsel to the Creditors’ Committee, Greenberg Traurig, LLP, 1007 North Orange Street, Suite 1200, Wilmington, Delaware 19801, Attn: Dennis A. Meloro (melorod@gtlaw.com); and 1000 Louisiana, Suite 1700, Houston, Texas 77002, Attn: Shari L. Heyen (HeyenS@gtlaw.com) and Michael L. Burnett (burnettm@gtlaw.com); and Terminus 200, 3333 Piedmont Road,

NE, Suite 2500, Atlanta, Georgia 30305, Attn: David B. Kurzweil
(kurzweild@gtlaw.com).

- (iv) Bid Requirements. Each Bid by an Acceptable Bidder (each, a “Bidder”) must be submitted in writing and satisfy the following requirements (collectively, the “Bid Requirements”):
- (a) Purchase Price: Each Bid must clearly set forth the terms of any proposed Transaction, including (and identifying separately) any cash and non-cash components of the proposed Transaction consideration, including, for example, certain liabilities to be assumed by the Bidder as part of the Plan (the “Purchase Price”).
 - (b) Deposit: Each Bid must be accompanied by a cash deposit in the amount equal to 5% of the aggregate value of the cash and non-cash consideration of the Bid (the “Deposit”) in the form of a wire transfer, certified check, or such other form acceptable to the Debtors, which shall be held in an interest-bearing escrow account (the “Escrow Account”).
 - (c) Marked Documents: Each Bid must include, at a minimum, a marked version of the Form Plan Sponsor Agreement, together with any supplements, exhibits, and schedules related thereto and any related transaction documents or other material documents integral to such Bid, pursuant to which the Acceptable Bidder proposes to effectuate the Transaction (collectively, the “Transaction Documents”). Any modifications to the Form Plan Sponsor Agreement must be in form and substance acceptable to the Debtors and the Agent.
 - (d) Committed Financing: To the extent that a Bid is not accompanied by evidence of the Acceptable Bidder’s capacity to consummate the Transaction set forth in its Bid with cash on hand, each Bid must include committed financing documented to the Debtors’ satisfaction, after consultation with the Consultation Parties, that demonstrates that the Bidder has received sufficient debt and/or equity funding commitments to satisfy the Bidder’s Purchase Price and other obligations under its Bid. Such funding commitments or other financing must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors.
 - (e) Contingencies; No Financing or Diligence Outs: A Bid shall not be conditioned on the obtaining or the sufficiency of financing, any internal approval, regulatory contingencies, or on the outcome or review of due diligence, but may be subject to the accuracy at the

closing of the Transaction of specified representations and warranties or the satisfaction at the closing of specified conditions.

- (f) Identity: Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Bidder if such Bidder is an entity formed for the purpose of consummating the proposed Transaction contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid. Each Bid must also include contact information for the specific person(s) and counsel to contact regarding such Bid.
- (g) Authorization: Each Bid must contain evidence that the Bidder has obtained authorization or approval from its board of directors (or comparable governing body acceptable to the Debtors) with respect to the submission of the Bid and the consummation of the Transactions contemplated in such Bid.
- (h) As-Is, Where-Is: Each Bid must include a written acknowledgement and representation that the Bidder: (1) has had an opportunity to conduct any and all due diligence regarding the Company prior to making its offer; (2) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the assets of the Company in making its Bid; and (3) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Company or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Bidder's Transaction Documents.
- (i) By submitting its Bid, each Bidder is agreeing, and shall be deemed to have agreed, to abide by and honor the terms of the Bidding Procedures and to refrain from submitting a Bid or seeking to reopen the Auction after conclusion of the Auction. The submission of a Bid shall constitute a binding and irrevocable offer to acquire all or substantially all of the new common stock of the Reorganized Debtors as reflected in such Bid.
- (v) Designation of Qualified Bidders.
 - (a) A Bid will be considered a "Qualified Bid," and each Bidder that submits a Qualified Bid will be considered a "Qualified Bidder," if the Debtors determine, after consultation with the other Consultation Parties, that such Bid:

- (1) satisfies the Bid Requirements set forth above; and
 - (2) is reasonably likely (based on availability of financing, any regulatory issues, experience, and other considerations) to be consummated, if selected as the Winning Bid (as defined below), within a time frame acceptable to the Debtors, the Agent, the Prepetition Lenders, and the DIP Lenders.
- (b) Within one business day after the Bid Deadline, the Debtors will notify each Qualified Bidder whether such party is a Qualified Bidder and shall provide the Notice Parties a copy of each Qualified Bid.
- (c) Upon notification by the Debtors to the Qualified Bidder that its Bid is a Qualified Bid, the Qualified Bidder shall be deemed to agree to serve as a backup bidder (the “Backup Bidder”) in the event that its Qualified Bid is determined by the Debtors, in the exercise of their business judgment after consultation with the Consultation Parties, to be the second-highest or otherwise second-best Qualified Bid. Such Qualified Bidder shall be required to serve as a Backup Bidder until such time that the Transaction is consummated through confirmation of the Modified Plan and closing of the Transaction.
- (d) Between the date that the Debtors notify a Bidder that it is a Qualified Bidder and the Auction, the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the prior written consent of the Debtors, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase their Purchase Price, or otherwise improve the terms of, as determined by the Debtors, the Qualified Bid, during the period that such Qualified Bid remains binding as specified in these Bidding Procedures; provided that any Qualified Bid may be improved at the Auction as set forth herein. Any improved Qualified Bid must continue to comply with the requirements for Qualified Bids set forth in these Bidding Procedures.
- (vi) The Auction.
- (a) If the Debtors receive one or more Qualified Bids from a party other than the DIP Lenders, the Debtors will conduct the Auction to determine the Winning Bidder.
 - (b) No later than June 27, 2017, at 5:00 p.m. (prevailing Eastern Time), the Debtors, after consultation with the Consultation Parties, will notify all Qualified Bidders of the highest or otherwise best

Qualified Bid, as determined in the Debtors' business judgement (the "Baseline Bid"), and provide copies of the documents supporting the Baseline Bid to all Qualified Bidders and the Notice Parties. The Debtors' determination of which Qualified Bid constitutes the Baseline Bid and which Qualified Bid constitutes the Winning Bid shall take into account any factors the Debtors, after consultation with the Consultation Parties, reasonably deem relevant to the value of the Qualified Bid to the Debtors' estates, including, among other things: (1) the number, type, and nature of any changes to the Form Plan Sponsor Agreement requested by the Qualified Bidder; (2) the amount and nature of the total consideration; (3) the likelihood that the Transaction contemplated by the Bid will close and the timing thereof; (4) the net economic effect of any changes to the value to be received by the Debtors' estates from the Transaction contemplated by the Baseline Bid; and (5) the tax consequences of such Qualified Bid (collectively, the "Bid Assessment Criteria").

- (c) In the event that the Debtors (in consultation with the Creditors' Committee and the Agent) determine that they have received more than one Qualified Bid, the Debtors are authorized to conduct the Auction. Other than as expressly set forth herein, the Debtors may conduct an Auction in the manner they determine, in consultation with the Creditors' Committee and the Agent, will result in the highest or otherwise best offer for a Transaction. The Auction shall take place at 9:30 a.m. (prevailing Eastern Time) on June 28, 2017, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036, or such later date and time as selected by the Debtors, with the consent of the Agent, in their sole discretion.

The Auction shall be conducted in a timely fashion and governed by the following procedures:

- (1) The Debtors shall conduct the Auction:
- The Debtors and the Debtors' Advisors shall direct and preside over the Auction. At the start of the Auction, the Debtors shall describe the terms of the Baseline Bid. All incremental bids made thereafter shall be Overbids (as defined herein) and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including

the Baseline Bid, all Overbids, and the Winning Bid.

- Only Qualified Bidders, the Agent, the DIP Lenders, the Prepetition Lenders, Bear River, the Creditors' Committee, and each of their respective legal and financial advisors, shall be entitled to attend the Auction, and the Qualified Bidders shall appear at the Auction in person and may speak or submit Bids themselves or through duly authorized representatives. Only Qualified Bidders shall be entitled to Bid at the Auction.

(2) Terms of Overbids: "Overbid" means any Bid made at the Auction by a Qualified Bidder subsequent to the Debtors' announcement of the Baseline Bid. Each Overbid must comply with the following conditions:

- Minimum Overbid Increment. Any Overbid following the Baseline Bid or following any subsequent Prevailing Highest Bid (as defined below) shall be in increments of value (including revised treatment under the Plan) equal to \$1,000,000, as determined by the Debtors in an exercise of their business judgment, after consultation with the Consultation Parties.
- Conclusion of Each Overbid Round. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline (as the Debtors may, in their business judgment, after consultation with the Consultation Parties, extend from time to time, the "Overbid Round Deadline") by which time any Overbids must be submitted to the Debtors.
- Overbid Alterations. An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors' estates than any prior Qualified Bid or Overbid, as determined in the Debtors' business judgment, after consultation with the Consultation Parties, but shall otherwise comply with the terms of these Bidding Procedures.
- Announcing Highest Bid. Subsequent to each Overbid Round Deadline, the Debtors shall

announce whether the Debtors have identified, after consultation with the Consultation Parties, an Overbid as being higher or otherwise better than the Baseline Bid, in the initial Overbid round, or, in subsequent rounds, the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the “Prevailing Highest Bid”). The Debtors shall describe to all Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Bid Assessment Criteria.

- (3) Adjourning the Auction: The Debtors reserve the right, in their business judgment, to adjourn the Auction one or more times, after consultation with the Consultation Parties and the Creditors’ Committee, to, among other things: (A) facilitate discussions between the Debtors and the Qualified Bidders, (B) allow Qualified Bidders to consider how they wish to proceed, and (C) allow Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, in their business judgment, may require, that the Qualified Bidder has sufficient internal resources or has received sufficient non-contingent debt and/or equity funding commitment to consummate the proposed Transaction at the prevailing Overbid amount.
- (4) Closing the Auction: The Auction shall continue until there is only one Qualified Bid that the Debtors determine, in their business judgment, after consultation with the Consultation Parties, to be the highest or otherwise best Qualified Bid for substantially all of the new common stock of the Reorganized Debtors. Such Qualified Bid shall be declared the “Winning Bid,” and such Qualified Bidder, the “Winning Bidder,” at which point the Auction will be closed. The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid at the Auction to the then Prevailing Highest Bid. Such acceptance by the Debtors of the Winning Bid is conditioned upon approval by the Court of the Winning Bid under the terms of the Modified Plan. For the avoidance of doubt, nothing in these Bidding Procedures shall prevent the Debtors from exercising their respective fiduciary duties under applicable law. As soon as reasonably practicable after closing the Auction, the

Debtors shall finalize definitive documentation to implement the terms of the Winning Bid, including, as applicable, the Plan, the Plan Supplement (as defined in the Plan), and the Confirmation Order (as defined in the Plan) and, cause such definitive documentation to be filed with the Court, as necessary.

- (5) No Collusion; Good-Faith *Bona Fide* Offer: Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (A) it has not engaged in any collusion with respect to the bidding and (B) its Qualified Bid is a good-faith *bona fide* offer and it intends to consummate the proposed Transaction if selected as the Winning Bidder.

(vii) Expense Reimbursement and Breakup Fee.

- (a) Upon entry of the Bidding Procedures Order, the Debtors shall be authorized, but not obligated, in an exercise of their business judgment, to (1) select no more than one Acceptable Bidder, other than the DIP Lenders, to act as a stalking horse bidder (a “Stalking Horse Bidder”) in connection with the Auction, (2) agree to reimburse the reasonable and documented out-of-pocket fees and expenses of such Stalking Horse Bidder (the “Expense Reimbursement”), and (3) in connection with any staking horse agreement with a Stalking Horse Bidder, provide for a breakup fee (the “Breakup Fee”) in an amount not to exceed 3% of the proposed Purchase Price. The amount of any Expense Reimbursement paid to any Stalking Horse Bidder pursuant to these Bidding Procedures shall be deducted from the Breakup Fee, if payable, and in any event, shall not exceed \$500,000.

(viii) Backup Bidder.

- (a) Notwithstanding anything in the Bidding Procedures to the contrary, the Qualified Bidder with the next-highest or otherwise second-best Qualified Bid, as determined by the Debtors in the exercise of their business judgment after consultation with the Consultation Parties, shall be required to serve as the Backup Bidder until such time that the Transaction is consummated through confirmation of the Modified Plan and closing of the Transaction, and each Qualified Bidder shall agree and be deemed to agree to be the Backup Bidder if so designated by the Debtors.
- (b) The identity of the Backup Bidder and the amount and material terms of the Qualified Bid of the Backup Bidder shall be announced by the Debtors, after consultation with the Consultation

Parties, at the conclusion of the Auction at the same time the Debtors announce the identity of the Winning Bidder. The Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submits one or more Overbids at the Auction, its final Overbid) open and irrevocable until such time that the Transaction is consummated through confirmation of the Modified Plan and closing of the Transaction. The Backup Bidder's Deposit shall be held in escrow pending confirmation of the Modified Plan and closing of the Transaction.

- (c) If the Winning Bidder fails to consummate the approved Transactions contemplated by its Winning Bid, the Debtors (with the consent of the Agent) may select the Backup Bidder as the Winning Bidder, and such Backup Bidder shall be deemed the Winning Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all Transactions contemplated by the Winning Bid of such Backup Bidder without further order of the Court or notice to any party. In such case, the defaulting Winning Bidder's Deposit shall be forfeited to the Debtors, and the Debtors specifically reserve the right to seek all available remedies against the defaulting Winning Bidder, including with respect to specific performance.

(ix) Notice and Consultation Parties.

- (a) Information that must be provided to the "Notice Parties" under the Bidding Procedures must be provided to the following parties: (1) counsel to the Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201, Attn: Robert Jones (robert.jones@hklaw.com) and Brent McIlwain (brent.mcilwain@hklaw.com), and Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19899, Attn: Justin R. Alberto (jalberto@bayardlaw.com); (2) counsel to Bear River Acquisition Company, Inc. and EQT Partners, Inc., Morris, Nichols, Arsht & Tunnel LLP, 1201 North market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899, and Vinson & Elkins LLP, 2001 Ross Avenue, Suite 3700, Dallas, Texas 75201, Attn: Michael A. Saslaw (msaslaw@velaw.com), Matthew W. Moran (mmoran@velaw.com), Sarah H. Mitchell (smitchell@velaw.com), and George M. Padis (gpadis@velaw.com), and 666 Fifth Avenue, 26th Floor, New York, New York 10103, Attn: Steven M. Abramowitz (sabramowitz@velaw.com); and (3) counsel to the Creditors' Committee, Greenberg Traurig, LLP, 1007 North Orange Street, Suite 1200, Wilmington, Delaware 19801, Attn: Dennis A. Meloro (melorod@gtlaw.com); and 1000 Louisiana, Suite 1700, Houston,

Texas 77002, Attn: Shari L. Heyen (HeyenS@gtlaw.com) and Michael L. Burnett (burnettm@gtlaw.com); and Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Attn: David B. Kurzweil (kurzweild@gtlaw.com).

- (b) The term “Consultation Parties” as used in the Bidding Procedures shall mean: (1) counsel to the Agent; (2) counsel to Bear River; and (3) counsel to the Creditors’ Committee; provided that no Consultation Party (or their respective clients) shall be permitted to participate in the Auction or otherwise submit any Bid at or prior to the Auction.

- (x) Reservation of Rights. Notwithstanding anything to the contrary in these Bidding Procedures, the Debtors reserve their rights, as they may determine to be in the best interest of their estates and in the exercise of their fiduciary obligations, to: (a) after consultation with the Consultation Parties and the consent of the Agent, modify the Bidding Procedures or impose, at or prior to the Auction, different and/or additional terms and conditions of the Auction, (b) announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction and which additional procedural rules shall only apply from and after such announcement, (c) determine which bidders are Qualified Bidders, (d) determine which bids qualify as Qualified Bids and Overbids, (e) determine whether to accept any Qualified Bid or Overbid, (f) determine which Qualified Bid is the highest or otherwise best proposal and which is the next highest or otherwise best proposal, (g) reject any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures, the Bidding Procedures Order, or the requirements of the Bankruptcy Code, or (iii) contrary to the best interests of the Debtors and their estates, (h) waive terms and conditions set forth herein with respect to all potential Bidders, and (i) extend the deadlines set forth herein.

- (xi) Confirmation Hearing. A hearing to consider confirmation of the Plan and approval of the Transaction (the “Confirmation Hearing”) pursuant to which the Debtors and the Winning Bidder will consummate the Transaction will be held on or prior to August 2, 2017. The Confirmation Hearing may be continued to a later date by the Debtors by sending prior notice to, or making an announcement at, the Confirmation Hearing. No further notice of any such continuance will be required to be provided to any party. At the Confirmation Hearing, the Debtors shall submit the Plan, which shall incorporate the terms of the Winning Bid, to the Court for confirmation.

25. Importantly, the Bidding Procedures recognize the Debtors’ fiduciary obligations to maximize sale value, and, as such, do not impair the Debtors’ ability to consider

all qualified bid proposals, and, as noted, preserve the Debtors' right to modify the Bidding Procedures as necessary or appropriate to maximize value for the Debtors' estates.

IV. Notice Procedures

26. The Auction, if any, shall take place at 9:30 a.m. (prevailing Eastern Time) on June 28, 2017, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036, or such later date and time as selected by the Debtors.

27. The Debtors further submit that notice of this Motion and the related hearing to consider entry of the Bidding Procedures Order constitutes good and sufficient notice of the Auction and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. The Debtors submit that no other or further notice of the Auction is required.

APPLICABLE AUTHORITY

28. "Under Delaware law, the business judgment rule operates as a presumption 'that directors making a business decision, not involving self-interest, act on an informed basis, in good faith and in the honest belief that their actions are in the corporation's best interest.'" Continuing Creditors' Comm. of Star Telecomms., Inc. v. Edgecomb, 385 F. Supp. 2d 449, 462 (D. Del. 2004) (quoting Grobow v. Perot, 539 A.2d 180, 187 (Del. 1988)); accord Ad Hoc Comm. of Equity Holders of Tectonic Network, Inc. v. Wolford, 554 F. Supp. 2d 538, 555 n.111 (D. Del. 2008). Thus, this Court should grant the relief requested in this Motion if the Debtors demonstrate a sound business justification therefor. See In re Del. & Hudson Ry. Co., 124 B.R. 169, 179 (D. Del. 1991).

29. The Debtors have sound business justifications for pursuing a Transaction at this time. At the time the Debtors commenced the Chapter 11 Cases, they did not anticipate

entering into a Transaction to sell the Company. However, after multiple discussions with the Agent, the Debtors agreed that initiating a sales process would be in the best interest of the Debtors' estates. In addition, the Debtors believe that the proposed Bidding Procedures will encourage third-party participation in an effort to maximize value. Accordingly, the Debtors will be in a position to determine the path toward emergence that is in the best interest of the Debtors, their creditors, and all parties in interest.

I. The Bidding Procedures are Fair and are Designed to Maximize the Value of the Debtors' Estates

30. Bankruptcy Code section 363(b)(1) provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). The Debtors believe that the Bidding Procedures are appropriate under Bankruptcy Code sections 105 and 363 to ensure that the bidding process is fair and reasonable and will yield the maximum value for their estates and creditors. The Bidding Procedures proposed herein are designed to maximize the value received for the acquiring the Company through the purchase of all or substantially all of the common stock of the Reorganized Debtors by facilitating a competitive bidding process in which all potential bidders are encouraged to participate and submit competing bids.

31. The Bidding Procedures provide potential bidders with sufficient notice and an opportunity to acquire information necessary to submit a timely and informed bid. Thus, the Debtors and all parties in interest can be assured that the consideration for a Transaction will be fair and reasonable. At the same time, the Bidding Procedures provide the Debtors with the opportunity to consider all competing offers and to select, in their reasonable business judgment, and after consultation with the Consultation Parties and their respective advisors, the highest and best offer for the new common stock of the Reorganized Debtors.

32. Accordingly, the Debtors believe the Court should approve the Bidding Procedures. Similar procedures have been previously approved by this Court. See, e.g., In re Standard Register Co., Case No. 15-10541 (BLS) (Bankr. D. Del. Apr. 15, 2015); In re LCI Holding Co., Case No. 12-13319 (KG) (Bankr. D. Del. Jan. 25, 2013); In re Vertis Holdings, Inc., Case No. 12-12821 (CSS) (Bankr. D. Del. Nov. 2, 2012); In re Northstar Aerospace (USA) Inc., Case No. 12-11817 (MFW) (Bankr. D. Del. June 27, 2012); In re Traffic Control & Safety Corp., Case No. 12-11287 (KJC) (Bankr. D. Del. May 14, 2012); In re Real Mex Rests. Inc., Case No. 11-13122 (BLS) (Bankr. D. Del. Nov. 9, 2011); In re Nortel Networks, Inc., Case No. 09-10138 (KG) (Bankr. D. Del. June 30, 2009); In re Tweeter Home Entm't Grp., Inc., Case No. 07-10787 (PJW) (Bankr. D. Del. June 27, 2007).⁷

II. The Proposed Bid Protections Should Be Authorized

33. The Debtors also seek authority, but not direction, in the event the Debtors elect to enter into a stalking horse agreement with a Bidder other than the DIP Lenders, to pay the Expense Reimbursement in an aggregate amount not to exceed \$500,000 and the Breakup Fee in an amount not to exceed 3% of any proposed Purchase Price (collectively, the “Bid Protections”). The amount of any Expense Reimbursement paid to any Stalking Horse Bidder pursuant to these Bidding Procedures shall be deducted from the Breakup Fee, if payable.

34. The Debtors submit that the proposed Bid Protections are fair and reasonable. The Debtors seek authority to pay the Expense Reimbursement and Breakup Fee only at their discretion, if the Debtors determine in their business judgement that such selection of a Stalking Horse Bidder and payment of the Bid Protections will facilitate a competitive

⁷ Because of the voluminous nature of the orders cited herein, they are not attached to the Motion. Copies of these orders, however, are available on request.

bidding and Auction process. Historically, bankruptcy courts have approved bidding incentives similar to those proposed here, pursuant to the “business judgment rule.” See, e.g., Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 654-63 (S.D.N.Y. 1992); In re 995 Fifth Ave. Assocs., L.P., 96 B.R. 24, 28-29 (Bankr. S.D.N.Y. 1989).

35. The United States Court of Appeals for the Third Circuit, however, has established standards for determining the propriety of bidding incentives in the bankruptcy context. See Calpine Corp. v. O’Brien Env’tl. Energy, Inc. (In re O’Brien Env’tl. Energy, Inc.), 181 F.3d 527, 533-38 (3d Cir. 1999); see also In re Reliant Energy Channelview LP, 594 F.3d 200 (3d Cir. 2010). The Court has held that even though bidding incentives are measured against a business judgment standard in nonbankruptcy transactions, the administrative expense provisions of Bankruptcy Code section 503(b) govern in the bankruptcy context. See O’Brien Env’tl. Energy, 181 F.3d at 535. Accordingly, to be approved, bidding incentives must provide some postpetition benefit to the debtor’s estate. See id.

36. The Debtors seek authority, but not direction, to pay a Breakup Fee in an amount not to exceed 3% of the proposed Purchase Price and the Expense Reimbursement in an amount not to exceed \$500,000, only in the event that the Debtors elect to enter into a stalking horse arrangement with a third-party bidder (i.e., other than the DIP Lenders). Further, the Debtors’ ability to offer the Breakup Fee and Expense Reimbursement to a potential Stalking Horse Bidder enable them to ensure the consummation of the Transaction at a price they believe to be fair, while at the same time, providing them with the potential of even greater benefit to the estates. “Break-up fees are important tools to encourage bidding and to maximize the value of the debtor’s assets In fact, because the . . . corporation has a duty to encourage bidding,

break-up fees can be necessary to discharge [such] duties to maximize value.” Integrated Res., 147 B.R. at 659–60 (emphasis added). Specifically, bid protections like the Breakup Fee “may be legitimately necessary to convince a ‘white knight’ bidder to enter the bidding by providing some form of compensation for the risks it is undertaking.” In re 995 Fifth Ave. Assocs., L.P., 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (quotations omitted); see also Integrated Res., 147 B.R. at 660–61 (bid protections can prompt bidders to commence negotiations and “ensure that a bidder does not retract its bid”).

37. This Court has approved protections similar to the proposed Bid Protections as reasonable and consistent with the type and range of bidding protection typically approved. See, e.g., In re Vertis Holdings, Inc., Case No. 12-12821 (CSS) (Bankr. D. Del. Nov. 2, 2012) (approving break-up fee of over 3% of stalking horse purchase price and expense reimbursement of \$2,500,000); In re Trident Microsystems, Inc., Case No. 12-10069 (CSS) (Bankr. D. Del. Jan. 18, 2012) (approving break-up fee of 3% of stalking horse purchase price and expense reimbursement of \$1,350,000).

38. The Debtors submit that the Bid Protections are fair and reasonable. The Bid Protections may fairly compensate any Acceptable Bidder or potential Stalking Horse Bidder for the time and expense associated with preparing its Bid and the risk that it will not be the Winning Bidder. Moreover, the Debtors seek authority to incur and pay the Expense Reimbursement and Breakup Fee obligations in their discretion as a valid exercise of their business judgment and as otherwise within the legal standards set forth in this district.

III. The Form and Manner of Notice Should Be Approved

39. Pursuant to Bankruptcy Rule 2002(a), the Debtors are required to provide creditors with 21 days’ notice of the Auction. Pursuant to Bankruptcy Rule 2002(c), such notice

must include the time and place of the Auction and the deadline for filing any objections to the relief requested herein.

40. The Debtors submit that the notice procedures described more fully above, including notice of this Motion and the related hearing to consider entry of the Bidding Procedures Order, constitutes good and sufficient notice of the Auction and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. The Debtors submit that no other or further notice is necessary and the Debtors request that this Court approve the form and manner of notice set forth herein.

WAIVER OF STAY UNDER BANKRUPTCY RULE 6004(h)

41. The Debtors also request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtors seek in the Motion is necessary for the Debtors ensure a successful sale process and resolution of the Chapter 11 Cases. The Debtors must be able to provide certainty to the KEIP Participants that they will be compensated for their efforts to maximize value of the Debtors’ estates during the remainder of these cases. Accordingly, the Debtors respectfully request that this Court waive the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

NOTICE

42. Notice of this Motion shall be given to (i) the United States Trustee; (ii) counsel to the agent for the Debtors' prepetition secured lenders; (iii) counsel to the agent for the Debtors' postpetition secured lenders; (iv) counsel to the Creditors' Committee; (v) all parties who have expressed a written interest in some or all of the Debtors' assets; (vi) all parties known to have asserted any claim, lien, interest, or encumbrance in or on the Debtors' assets; and (vii) any such other party entitled to notice pursuant to Bankruptcy Rule 2002(b) and Local Bankruptcy Rule 2002-1. The Debtors submit that no other or further notice need be provided.

NO PRIOR REQUEST

43. No previous request for the relief sought herein has been made to this Court or any other court.

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CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court enter the Order, substantially in the form annexed hereto, granting the relief sought herein and granting such other and further relief as may be just and proper.

Dated: Wilmington, Delaware
May 10, 2017

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

/s/ Sarah E. Pierce

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Alison M. Keefe (I.D. No. 6187)
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- and -

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Chicago, Illinois 60606
Telephone: (312) 407-0700
Fax: (312) 407-0411

Counsel for Debtors and Debtors in Possession

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

-----	X	
	:	Chapter 11
In re:	:	
	:	Case No. 16-10292 (KJC)
RYCKMAN CREEK RESOURCES, LLC,	:	
et al.,	:	Jointly Administered
	:	
Debtors. ¹	:	Hrg. Date: May 31, 2017 at 1:00 p.m. (Eastern)
	:	Obj. Due: May 24, 2017 at 4:00 p.m. (Eastern)
-----	X	

**NOTICE OF DEBTORS’ MOTION FOR ENTRY OF AN ORDER (I) APPROVING
BIDDING PROCEDURES, (II) SCHEDULING THE BID DEADLINE AND THE
AUCTION, (III) APPROVING THE FORM AND MANNER OF NOTICE THEREOF,
AND (IV) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that the debtors and debtors in possession in the above-captioned jointly administered bankruptcy cases (collectively, the “Debtors”) filed the Debtors’ Motion For Entry Of An Order (I) Approving Bidding Procedures, (II) Scheduling The Bid Deadline And The Auction, (III) Approving The Form And Manner Of Notice Thereof, And (IV) Granting Related Relief (the “Motion”).

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion or the relief requested therein must be made in writing, filed with the Bankruptcy Court (as defined below), and served so as to be received by the following parties no later than **May 24, 2017 at 4:00 p.m. (Eastern)**:

¹ The Debtors and, where applicable, the last four digits of their respective taxpayer identification numbers, are as follows: Ryckman Creek Resources, LLC (4180), Ryckman Creek Resources Holding Company LLC, Peregrine Rocky Mountains LLC, and Peregrine Midstream Partners LLC (3363). The address of the Debtors’ corporate headquarters is 3 Riverway, Suite 1100, Houston, TX 77056.

(i) the Debtors, Ryckman Creek Resources, LLC, 3 Riverway, Houston, Texas 77056, Attention: General Counsel (JRuth@PeregrineMPLLC.com);

(ii) counsel for the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, 155 North Wacker Drive, Chicago, Illinois 60606, Attention: George N. Panagakis (george.panagakis@skadden.com) and Tabitha J. Atkin (tabitha.atkin@skadden.com); and One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801, Attention: Sarah E. Pierce (sarah.pierce@skadden.com);

(iii) counsel to the agent for the Debtors' prepetition secured lenders and the agent for the Debtors' postpetition secured lenders, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201, Attention: Robert Jones (Robert.Jones@hkllaw.com) and Brent McIlwain (Brent.McIlwain@hkllaw.com), and Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19899, Attention: Neil B. Glassman (nglassman@bayardlaw.com);

(iv) counsel to the Official Committee of Unsecured Creditors, Greenberg Traurig, LLP, 1007 North Orange Street, Suite 1200, Wilmington, Delaware 19801, Attention: Dennis A. Meloro (melorod@gtlaw.com); and 1000 Louisiana, Suite 1700, Houston, Texas 77002, Attention: Shari L. Heyen (HeyenS@gtlaw.com) and Michael L. Burnett (BurnettM@gtlaw.com); and Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Attention: David B. Kurzweil (KurzweilD@gtlaw.com); and

(v) the Office of the U.S. Trustee, J. Caleb Boggs Federal Building, 844 King Street, Room 2207, Wilmington, DE 19801, Attention: Richard L. Schepacarter, Esq. (richard.schepacarter@usdoj.gov).

PLEASE TAKE FURTHER NOTICE that the hearing on the Motion (the "Hearing") will be held on **May 31, 2017 at 1:00 p.m. (Eastern)** before the Honorable Kevin J. Carey, United States Bankruptcy Judge for the District of Delaware, in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), 5th Floor, Courtroom 5, 824 Market Street, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED AND RECEIVED IN ACCORDANCE WITH THE ABOVE PROCEDURES, THE RELIEF REQUESTED IN THE MOTION MAY BE GRANTED WITHOUT FURTHER NOTICE OR HEARING.

Dated: Wilmington, Delaware
May 10, 2017

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

/s/ Sarah E. Pierce

Sarah E. Pierce (I.D. No. 4648)
Alison M. Keefe (I.D. No. 6187)
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- and -

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Christopher M. Dressel
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Chicago, Illinois 60606
Telephone: (312) 407-0700
Fax: (312) 407-0411

Counsel for Debtors and Debtors in Possession

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

	X	
	:	
In re:	:	Chapter 11
	:	
RYCKMAN CREEK RESOURCES, LLC,	:	Case No. 16-10292 (KJC)
et al.,	:	
	:	Jointly Administered
Debtors. ¹	:	
	:	Related Docket No. __
	X	

ORDER (I) APPROVING BIDDING PROCEDURES, (II) SCHEDULING THE BID DEADLINE AND THE AUCTION, (III) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, AND (IV) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of the Debtors under sections 105, 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of this order (this “Order”) (i) approving the proposed auction and bidding procedures (the “Bidding Procedures”), attached hereto as Exhibit 1, (ii) establishing certain dates and deadlines, including the Indication of Interest Deadline, the Bid Deadline, and the date of the Auction, if any, (iii) approving the manner of notice of the Auction, if any, and (iv) granting related relief; and this 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 under 28 U.S.C. § 157(b); and venue being proper before this Court under 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion, the relief requested therein, and

¹ The Debtors and, where applicable, the last four digits of their respective taxpayer identification numbers, are as follows: Ryckman Creek Resources, LLC (4180), Ryckman Creek Resources Holding Company LLC, Peregrine Rocky Mountains LLC, and Peregrine Midstream Partners LLC (3363). The address of the Debtors’ corporate headquarters is 3 Riverway, Suite 1100, Houston, TX 77056.

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

the hearing on the Motion (the “Bidding Procedures Hearing”) having been given under the particular circumstances; and this Court having determined that the relief sought in the Motion is in the best interests of the Debtors’ estates, their creditors, and all parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor; it is hereby,

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is GRANTED as set forth herein.

2. Any objections filed in response to the Motion and the relief granted herein, to the extent not resolved as set forth herein or at the Bidding Procedures Hearing, are hereby overruled.

I. Key Dates and Deadlines

3. Indication of Interest Deadline. May 24, 2017, at 5:00 p.m. (prevailing Eastern Time), was the deadline by which any party interested in a Transaction shall submit a non-binding Indication of Interest. Submitting an Indication of Interest by the Indication of Interest Deadline does not obligate a party to submit a formal bid or to participate in the sale process, and does not exempt any party from also having to submit a Qualified Bid by the Bid Deadline to participate in the Auction. The submission of an Indication of Interest by the Indication of Interest Deadline is not a prerequisite for potential Bidders to submit a Qualified Bid.

4. Bid Deadline. June 26, 2017, at 5:00 p.m. (prevailing Eastern Time) is the deadline by which Bids (as well as the Deposit and all other documentation required under the Bidding Procedures for Qualified Bidders) must be submitted in accordance with the terms of the Bidding Procedures.

5. Auction. June 28, 2017, at 9:30 a.m. (prevailing Eastern Time), is the date and time of the Auction, if any, which will be held at the offices of Skadden, Arps, Slate,

Meagher & Flom LLP, located at Four Times Square, New York, New York 10036. The Debtors shall send written notice of the date, time, and place of the Auction to the Qualified Bidders concurrently with service of this Order, and will post notice of the date, time, and place of the Auction no later than two business days before such Auction on the website of the Debtors' claims and noticing agent, Kurtzman Carson Consultants LLC, at <http://www.kccllc.net/Ryckman>.

II. Auction, Bidding Procedures, and Related Relief

6. The Bidding Procedures, substantially in the form attached hereto as Exhibit 1, are incorporated herein and are hereby approved in their entirety, and the Bidding Procedures shall govern the submission, receipt, and analysis of all Bids relating to any Transaction. Any party desiring to submit a Bid shall comply with the Bidding Procedures and this Order. The Debtors are authorized to take any and all actions necessary to implement the Bidding Procedures.

7. If the Debtors do not receive a Qualified Bid by the Bid Deadline from a party other than the DIP Lenders, the Auction shall be cancelled. If the Debtors receive one or more Qualified Bids from a party other than the DIP Lenders, the Debtors will conduct the Auction in accordance with the Bidding Procedures.

8. At the Auction, each Qualified Bidder will be entitled, but will not be obligated, to submit Overbids.

9. At the Auction, the Debtors may, after consultation with the Consultation Parties: (i) select, in their business judgment, pursuant to the Bidding Procedures, the highest or otherwise best Bid and the Winning Bidder and Backup Bidder and (ii) reject any Bid (regardless of whether such Bid is a Qualified Bid) that, in the Debtors' business judgment is (a) inadequate, insufficient, or not the highest or best Bid; (b) not in conformity with the requirements of the

Bankruptcy Code, the Bankruptcy Rules, or this Order; or (c) contrary to, or otherwise not in the best interest of the Debtors' estates, creditors, or other parties in interest.

10. No person or entity, other than an Acceptable Bidder entitled to Expense Reimbursement, or a Stalking Horse Bidder entitled to a Breakup Fee, in each case as determined by the Debtors in their business judgment and discretion, shall be entitled to any expense reimbursement, breakup fees, "topping," termination, or other similar fee or payment, and by submitting a Bid, such person or entity is deemed to have waived their right to request or file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of Bankruptcy Code section 503(b) or otherwise.

11. The Breakup Fee and Expense Reimbursement are approved on the terms set forth in the Bidding Procedures, and the Debtors are authorized, but not directed, to incur and pay the Breakup Fee and Expense Reimbursement in an exercise of their business judgment without further action or order by this Court; provided that the amount of the Breakup Fee shall not exceed 3% of any proposed Stalking Horse Bidder Purchase Price, and the Expense Reimbursement shall not exceed \$500,000, which amount shall be deducted from the Breakup Fee, if payable.

III. Miscellaneous

12. The failure to include or reference a particular provision of the Bidding Procedures specifically in this Order shall not diminish or impair the effectiveness or enforceability of such a provision.

13. In the event of any inconsistencies between this Order, the Motion, and/or the Bidding Procedures, this Order shall govern.

14. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

15. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: Wilmington, Delaware

_____, 2017

Honorable Kevin J. Carey
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

Bidding Procedures

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

-----	X	
	:	
In re:	:	Chapter 11
	:	
RYCKMAN CREEK RESOURCES, LLC,	:	Case No. 16-10292 (KJC)
et al.,	:	
	:	Jointly Administered
Debtors. ³	:	
	:	
-----	X	

BIDDING PROCEDURES

On May 10, 2017, the Debtors filed the Debtors’ Motion for Entry of an Order (I) Approving Bidding Procedures, (II) Scheduling the Bid Deadline and the Auction, (III) Approving the Form and Manner of Notice Thereof, and (IV) Granting Related Relief [Docket No. [●]] (the “Bidding Procedures Motion”),⁴ seeking approval of, among other things, the procedures through which they will determine the highest or otherwise best offer for consummating a transaction to sell all or substantially all of the new common stock in the Reorganized Debtors (the “Transaction”).⁵

On [●], 2017, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered an order [Docket No. [●]] (the “Bidding Procedures Order”), approving the Bidding Procedures Motion and the proposed auction and bidding procedures set forth below (the “Bidding Procedures”). These Bidding Procedures set forth the process by which the Debtors are authorized to solicit bids regarding the Transaction and conduct an auction (the “Auction”) to determine the Winning Bidder (as defined below).

MARKETING PROCESS

I. Contact Parties

The Debtors, in consultation with Wells Fargo Securities, LLC (“Wells Fargo Securities”), the Debtors’ investment banker, have developed a list of parties whom they believe

³ The Debtors and, where applicable, the last four digits of their respective taxpayer identification numbers, are as follows: Ryckman Creek Resources, LLC (4180), Ryckman Creek Resources Holding Company LLC, Peregrine Rocky Mountains LLC, and Peregrine Midstream Partners LLC (3363). The address of the Debtors’ corporate headquarters is 3 Riverway, Suite 1100, Houston, TX 77056.

⁴ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

⁵ As used herein, the “Reorganized Debtors” shall refer to the Debtors or any successors thereto, by merger, consolidation, or otherwise, from and after the effective date of the Debtors’ plan of reorganization, but excluding specifically any of the Debtors who are dissolved pursuant to such plan.

may be interested in, and whom the Debtors reasonably believe would have the financial resources to consummate, a Transaction. The list of parties includes both strategic investors and financial investors (collectively, the “Contact Parties”). The Debtors and Wells Fargo Securities began to contact the Contact Parties to explore their interest in pursuing a Transaction. The Debtors and Wells Fargo Securities will continue to discuss, and may supplement, the list of Contact Parties throughout the marketing process, as appropriate.

The Debtors may distribute (to the extent not already distributed) to each Contact Party and any other interested party, an information package (the “Information Package”) consisting of: (i) a copy of the Bidding Procedures, the Bidding Procedures Motion, and the Bidding Procedures Order; (ii) a form confidentiality agreement (a “Confidentiality Agreement”); and (iii) other materials as appropriate under the circumstances. The Information Package shall be in form and substance reasonably satisfactory to the Consultation Parties (as defined below).

II. Participation Requirements

To receive due diligence information, including non-public information regarding the Debtors, a party interested in consummating a Transaction (a “Potential Bidder”) must deliver to each of: (i) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom, LLP, 155 North Upper Wacker Drive, Chicago, Illinois 60606, Attn: George N. Panagakis (george.panagakis@skadden.com) and Christopher M. Dressel (christopher.dressel@skadden.com), and One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801, Attention: Allie M. Keefe (allie.keefe@skadden.com); and (ii) investment banker to the Debtors, Wells Fargo Securities, LLC, 375 Park Avenue, New York, New York 10152-0002, Attn: Hugh D. Babowal (hugh.babowal@wellsfargo.com), Nick Horodinca (nick.horodinca@wellsfargo.com), and Benjamin May (benajmin.a.may@wellsfargo.com) (collectively, the “Debtors’ Advisors”), the following documents (collectively, the “Preliminary Bid Documents”):

- (a) An executed Confidentiality Agreement on terms acceptable to the Debtors, to the extent not already executed; and
- (b) proof by the Potential Bidder of its financial capacity to close a proposed Transaction, which may include financial statements of, or verified financial commitments obtained by, the Potential Bidder (or, if the Potential Bidder is an entity formed for the purpose of consummating the Transaction, the party that will bear liability for a breach), the adequacy of which will be assessed by the Debtors in consultation with the Consultation Parties.

Promptly after a Potential Bidder delivers Preliminary Bid Documents, the Debtors will determine and notify the Potential Bidder whether such Potential Bidder has submitted acceptable Preliminary Bid Documents so that the Potential Bidder may proceed to conduct due diligence and ultimately submit a Bid (as defined herein) and participate in the Auction, as applicable, and will provide copies of any such notices to the Notice Parties. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents, as

determined by the Debtors in consultation with the Consultation Parties (each, an “Acceptable Bidder”), may submit Bids.

III. Non-Binding Indications of Interest

Any party interested in a Transaction (regardless of whether such party has been determined to be an Acceptable Bidder) shall submit an Indication of Interest on or before May 24, 2017, at 5:00 p.m. (prevailing Eastern Time) (as may be extended without notice or hearing by the Debtors, with the consent of the Agent, the “Indication of Interest Deadline”). The Indication of Interest should (i) identify whether the party is interested in acquiring all or substantially all of the common stock of the Reorganized Debtors; (ii) set forth a proposed purchase price for the proposed Transaction, including by identifying separately any cash and non-cash components of the proposed Transaction consideration, including, for example, certain liabilities to be assumed; and (iii) identify any proposed conditions to closing the Transaction.

Beginning on or as soon as is reasonably practicable after the Debtors determine that a Potential Bidder is an Acceptable Bidder, and following submission of an Indication of Interest that, in the Debtors’ reasonable discretion, satisfies the requirements for the Indication of Interest set forth above, the Debtors will provide such Acceptable Bidder with access to the virtual data room (the “VDR”) and other reasonable due diligence information, as requested by such Acceptable Bidder. The Debtors shall post substantially all written due diligence provided to any Acceptable Bidder to the VDR. All due diligence requests must be directed to Wells Fargo Securities. To the extent reasonably practicable, Wells Fargo Securities will also facilitate meetings between any interested Acceptable Bidder and the Debtors’ management team or arrange meetings at the Ryckman Creek Facility, which meetings will proceed in a manner determined by the Debtors, in their discretion. The due diligence period will end on the Bid Deadline (as defined below), and, subsequent to the Bid Deadline, the Debtors will have no obligation to furnish any due diligence information.

The Debtors will provide access, in the VDR, to a form chapter 11 plan sponsor agreement (“Form Plan Sponsor Agreement”). The Debtors and their advisors will coordinate all reasonable requests from Acceptable Bidders for additional information and due diligence access; provided that the Debtors may, in consultation with the Consultation Parties, decline to provide such information to Acceptable Bidders who, at such time and in the Debtors’ business judgment, have not established, or who have raised doubt, that such Acceptable Bidder intends in good faith to, or has the capacity to, consummate a Transaction.

Each Acceptable Bidder shall comply with all reasonable requests for additional information and due diligence access by the Debtors or the Debtors’ Advisors regarding such Acceptable Bidder and its contemplated Transaction.

Indications of Interest should be submitted to the Debtors’ Advisors by the Indication of Interest Deadline. The Debtors’ Advisors shall deliver any Indication of Interest received to the Notice Parties within two business days of receipt.

Submitting an Indication of Interest by the Indication of Interest Deadline does not obligate an Acceptable Bidder to submit a formal bid or to participate in the sale process and

does not exempt an Acceptable Bidder from also having to submit a Qualified Bid by the Bid Deadline to participate in the Auction (each as defined below). For the avoidance of doubt, the submission of an Indication of Interest by the Indication of Interest Deadline is not a prerequisite for Potential Bidders to submit a Qualified Bid.

AUCTION PROCESS

I. Bid Deadline

An Acceptable Bidder that desires to make a proposal, solicitation, or offer (each, a “Bid”) shall transmit such Bid via electronic mail (in .pdf or other similar format) so as to be actually received on or before June 26, 2017, at 5:00 p.m. (prevailing Eastern Time) (the “Bid Deadline”) to:

- (a) the Debtors, 3 Riverway, Suite 1100, Houston, Texas 77056, Attn: Robert D. Albergotti (ralbergotti@alixpartners.com);
- (b) counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, 155 North Upper Wacker Drive, Chicago, Illinois 60606, Attn: George N. Panagakis (george.panagakis@skadden.com) and Christopher M. Dressel (christopher.dressel@skadden.com), and One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801, Attention: Allie M. Keefe (allie.keefe@skadden.com);
- (c) investment banker to the Debtors, Wells Fargo Securities, LLC, 375 Park Avenue, New York, New York 10152-0002, Attn: Hugh D. Babowal (hugh.babowal@wellsfargo.com), Nick Horodinca (nick.horodinca@wellsfargo.com), and Benjamin May (benajmin.a.may@wellsfargo.com);
- (d) counsel to the Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201, Attn: Robert Jones (robert.jones@hklaw.com) and Brent McIlwain (brent.mcilwain@hklaw.com), and Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, Delaware 19899, Attn: Justin R. Alberto (jalberto@bayardlaw.com); and
- (e) counsel to the Creditors’ Committee, Greenberg Traurig, LLP, 1007 North Orange Street, Suite 1200, Wilmington, Delaware 19801, Attn: Dennis A. Meloro (melorod@gtlaw.com); and 1000 Louisiana, Suite 1700, Houston, Texas 77002, Attn: Shari L. Heyen (HeyenS@gtlaw.com) and Michael L. Burnett (burnettm@gtlaw.com); and Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Attn: David B. Kurzweil (kurzweild@gtlaw.com).

II. Bid Requirements

Each Bid by an Acceptable Bidder (each, a “Bidder”) must be submitted in writing and satisfy the following requirements (collectively, the “Bid Requirements”):

- (a) Purchase Price: Each Bid must clearly set forth the terms of any proposed Transaction, including (and identifying separately) any cash and non-cash components of the proposed Transaction consideration, including, for example, certain liabilities to be assumed by the Bidder as part of the Plan (the “Purchase Price”).
- (b) Deposit: Each Bid must be accompanied by a cash deposit in the amount equal to 5% of the aggregate value of the cash and non-cash consideration of the Bid (the “Deposit”) in the form of a wire transfer, certified check, or such other form acceptable to the Debtors, which shall be held in an interest-bearing escrow account (the “Escrow Account”).
- (c) Marked Documents: Each Bid must include, at a minimum, a marked version of the Form Plan Sponsor Agreement, together with any supplements, exhibits, and schedules related thereto and any related transaction documents or other material documents integral to such Bid, pursuant to which the Acceptable Bidder proposes to effectuate the Transaction (collectively, the “Transaction Documents”). Any modifications to the Form Plan Sponsor Agreement must be in form and substance acceptable to the Debtors and the Agent.
- (d) Committed Financing: To the extent that a Bid is not accompanied by evidence of the Acceptable Bidder’s capacity to consummate the Transaction set forth in its Bid with cash on hand, each Bid must include committed financing documented to the Debtors’ satisfaction, after consultation with the Consultation Parties, that demonstrates that the Bidder has received sufficient debt and/or equity funding commitments to satisfy the Bidder’s Purchase Price and other obligations under its Bid. Such funding commitments or other financing must be unconditional and must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants and conditions acceptable to the Debtors.
- (e) Contingencies; No Financing or Diligence Outs: A Bid shall not be conditioned on the obtaining or the sufficiency of financing, any internal approval, regulatory contingencies, or on the outcome or review of due diligence, but may be subject to the accuracy at the closing of the Transaction of specified representations and warranties or the satisfaction at the closing of specified conditions.
- (f) Identity: Each Bid must fully disclose the identity of each entity that will be bidding or otherwise participating in connection with such Bid (including each equity holder or other financial backer of the Bidder if such Bidder is an entity formed for the purpose of consummating the proposed Transaction contemplated by such Bid), and the complete terms of any such participation. Under no circumstances shall any undisclosed principals, equity holders, or financial backers be associated with any Bid.

Each Bid must also include contact information for the specific person(s) and counsel to contact regarding such Bid.

- (g) Authorization: Each Bid must contain evidence that the Bidder has obtained authorization or approval from its board of directors (or comparable governing body acceptable to the Debtors) with respect to the submission of the Bid and the consummation of the Transactions contemplated in such Bid.
- (h) As-Is, Where-Is: Each Bid must include a written acknowledgement and representation that the Bidder: (1) has had an opportunity to conduct any and all due diligence regarding the Company prior to making its offer; (2) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the assets of the Company in making its Bid; and (3) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Company or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Bidder's Transaction Documents.

By submitting its Bid, each Bidder is agreeing, and shall be deemed to have agreed, to abide by and honor the terms of these Bidding Procedures and to refrain from submitting a Bid or seeking to reopen the Auction after conclusion of the Auction. **The submission of a Bid shall constitute a binding and irrevocable offer to acquire all or substantially all of the new common stock of the Reorganized Debtors as reflected in such Bid.**

III. Designation of Qualified Bidders

A Bid will be considered a "Qualified Bid," and each Bidder that submits a Qualified Bid will be considered a "Qualified Bidder," if the Debtors determine, after consultation with the other Consultation Parties, that such Bid:

- (a) Satisfies the Bid Requirements set forth above; and
- (b) is reasonably likely (based on availability of financing, any regulatory issues, experience, and other considerations) to be consummated, if selected as the Winning Bid (as defined below), within a time frame acceptable to the Debtors, the Agent, the Prepetition Lenders, and the DIP Lenders.

Within one business day after the Bid Deadline, the Debtors will notify each Qualified Bidder whether such party is a Qualified Bidder and shall provide the Notice Parties a copy of each Qualified Bid.

If any Bid is determined by the Debtors not to be a Qualified Bid, the Debtors will refund such Acceptable Bidder's Deposit, and all accumulated interest thereon, on the date that is three business days after the Bid Deadline, or as soon as reasonably practicable thereafter.

Upon notification by the Debtors to the Qualified Bidder that its Bid is a Qualified Bid, the Qualified Bidder shall be deemed to agree to serve as a backup bidder (the "Backup Bidder") in the event that its Qualified Bid is determined by the Debtors, in the exercise of their business judgment after consultation with the Consultation Parties, to be the second-highest or otherwise second-best Qualified Bid. Such Qualified Bidder shall be required to serve as a Backup Bidder until such time that the Transaction is consummated through confirmation of the Modified Plan and closing of the Transaction.

Between the date that the Debtors notify a Bidder that it is a Qualified Bidder and the Auction, the Debtors may discuss, negotiate, or seek clarification of any Qualified Bid from a Qualified Bidder. Without the prior written consent of the Debtors, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase their Purchase Price, or otherwise improve the terms of, as determined by the Debtors, the Qualified Bid, during the period that such Qualified Bid remains binding as specified in these Bidding Procedures; provided that any Qualified Bid may be improved at the Auction as set forth herein. Any improved Qualified Bid must continue to comply with the requirements for Qualified Bids set forth in these Bidding Procedures.

IV. The Auction

If the Debtors receive one or more Qualified Bids from a party other than the DIP Lenders, the Debtors will conduct the Auction to determine the Winning Bidder with respect to acquiring all or substantially all of the new common stock of the Reorganized Debtors.

No later than June 27, 2017, at 5:00 p.m. (prevailing Eastern Time), the Debtors, after consultation with the Consultation Parties, will notify all Qualified Bidders of the highest or otherwise best Qualified Bid, as determined in the Debtors' business judgment (the "Baseline Bid"), and provide copies of the documents supporting the Baseline Bid to all Qualified Bidders and the Notice Parties. The Debtors' determination of which Qualified Bid constitutes the Baseline Bid and which Qualified Bid constitutes the Winning Bid shall take into account any factors the Debtors, after consultation with the Consultation Parties, reasonably deem relevant to the value of the Qualified Bid to the Debtors' estates, including, among other things: (a) the number, type, and nature of any changes to the Form Plan Sponsor Agreement requested by the Qualified Bidder; (b) the amount and nature of the total consideration; (c) the likelihood that the Transaction contemplated by the Bid will close and the timing thereof; (d) the net economic effect of any changes to the value to be received by the Debtors' estates from the Transaction contemplated by the Baseline Bid; and (e) the tax consequences of such Qualified Bid (collectively, the "Bid Assessment Criteria").

In the event that the Debtors (in consultation with the Creditors' Committee and the Agent) determine that they have received more than one Qualified Bid, the Debtors are authorized to conduct the Auction. Other than as expressly set forth herein, the Debtors may conduct an Auction in the manner they determine, in consultation with the Creditors' Committee

and the Agent, will result in the highest or otherwise best offer for a Transaction. The Auction shall take place at 9:30 a.m. (prevailing Eastern Time) on June 28, 2017, at the offices of Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036, or such later date and time as selected by the Debtors, with the consent of the Agent, in their sole discretion.

(a) The Debtors Shall Conduct the Auction

The Debtors and the Debtors' Advisors shall direct and preside over the Auction. At the start of the Auction, the Debtors shall describe the terms of the Baseline Bid. All incremental Bids made thereafter shall be Overbids (as defined herein) and shall be made and received on an open basis, and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders. The Debtors shall maintain a written transcript of all Bids made and announced at the Auction, including the Baseline Bid, all Overbids, and the Winning Bid.

Only Qualified Bidders, the Agent, the DIP Lenders, the Prepetition Lenders, Bear River, the Creditors' Committee and each of their respective legal and financial advisors, shall be entitled to attend the Auction, and the Qualified Bidders shall appear at the Auction in person and may speak or submit Bids themselves or through duly authorized representatives. Only Qualified Bidders shall be entitled to Bid at the Auction.

(b) Terms of Overbids

"Overbid" means any Bid made at the Auction by a Qualified Bidder subsequent to the Debtors' announcement of the Baseline Bid. Each Overbid must comply with the following conditions:

- (i) Minimum Overbid Increment. Any Overbid following the Baseline Bid or following any subsequent Prevailing Highest Bid (as defined below) shall be in increments of value (including revised treatment under the Plan) equal to \$1,000,000, as determined by the Debtors in an exercise of their business judgment, after consultation with the Consultation Parties.
- (ii) Conclusion of Each Overbid Round. Upon the solicitation of each round of Overbids, the Debtors may announce a deadline (as the Debtors may, in their business judgment, after consultation with the Consultation Parties, extend from time to time, the "Overbid Round Deadline") by which time any Overbids must be submitted to the Debtors.
- (iii) Overbid Alterations. An Overbid may contain alterations, modifications, additions, or deletions of any terms of the Bid no less favorable to the Debtors' estates than any prior Qualified Bid or Overbid, as determined in the Debtors' business judgment, after consultation with the Consultation Parties, but shall otherwise comply with the terms of these Bidding Procedures.

(iv) Announcing Highest Bid. Subsequent to each Overbid Round Deadline, the Debtors shall announce whether the Debtors have identified, after consultation with the Consultation Parties, an Overbid as being higher or otherwise better than the Baseline Bid, in the initial Overbid round, or, in subsequent rounds, the Overbid previously designated by the Debtors as the prevailing highest or otherwise best Bid (the “Prevailing Highest Bid”). The Debtors shall describe to all Qualified Bidders the material terms of any new Overbid designated by the Debtors as the Prevailing Highest Bid as well as the value attributable by the Debtors to such Prevailing Highest Bid based on, among other things, the Bid Assessment Criteria.

(c) Adjourning the Auction

The Debtors reserve the right, in their business judgment, to adjourn the Auction one or more times, after consultation with the Consultation Parties and the Creditors’ Committee, to, among other things: (i) facilitate discussions between the Debtors and the Qualified Bidders, (ii) allow Qualified Bidders to consider how they wish to proceed, and (iii) allow Qualified Bidders the opportunity to provide the Debtors with such additional evidence as the Debtors, in their business judgment, may require, that the Qualified Bidder has sufficient internal resources or has received sufficient non-contingent debt and/or equity funding commitment to consummate the proposed Transaction at the prevailing Overbid amount.

(d) Closing the Auction

The Auction shall continue until there is only one Qualified Bid that the Debtors determine, in their business judgment, after consultation with the Consultation Parties, to be the highest or otherwise best Qualified Bid for substantially all of the new common stock of the Reorganized Debtors. Such Qualified Bid shall be declared the “Winning Bid,” and such Qualified Bidder, the “Winning Bidder,” at which point the Auction will be closed. The Auction shall not close unless and until all Qualified Bidders have been given a reasonable opportunity to submit an Overbid at the Auction to the then Prevailing Highest Bid. Such acceptance by the Debtors of the Winning Bid is conditioned upon approval by the Court of the Winning Bid under the terms of the Modified Plan. For the avoidance of doubt, nothing in these Bidding Procedures shall prevent the Debtors from exercising their respective fiduciary duties under applicable law. As soon as reasonably practicable after closing the Auction, the Debtors shall finalize definitive documentation to implement the terms of the Winning Bid, including, as applicable, the Plan, the Plan Supplement (as defined in the Plan), and the Confirmation Order (as defined in the Plan) and, cause such definitive documentation to be filed with the Court, as necessary.

(e) No Collusion; Good-Faith *Bona Fide* Offer

Each Qualified Bidder participating at the Auction will be required to confirm on the record at the Auction that (i) it has not engaged in any collusion with respect to the bidding and (ii) its Qualified Bid is a good-faith *bona fide* offer and it intends to consummate the proposed Transaction if selected as the Winning Bidder.

V. Expense Reimbursement and Breakup Fee

Upon entry of the Bidding Procedures Order, the Debtors shall be authorized, but not obligated, in an exercise of their business judgment, to (a) select no more than one Acceptable Bidder, other than the DIP Lenders, to act as a stalking horse bidder (a “Stalking Horse Bidder”) in connection with the Auction, (b) agree to reimburse the reasonable and documented out-of-pocket fees and expenses of such Stalking Horse Bidder (the “Expense Reimbursement”), and (c) in connection with any staking horse agreement with a Stalking Horse Bidder, provide for a breakup fee (the “Breakup Fee”) in an amount not to exceed 3% of the proposed Purchase Price. The amount of any Expense Reimbursement paid to any Stalking Horse Bidder pursuant to these Bidding Procedures shall be deducted from the Breakup Fee, if payable, and in any event, shall not exceed \$500,000.

VI. Backup Bidder

Notwithstanding anything in these Bidding Procedures to the contrary, the Qualified Bidder with the next-highest or otherwise second-best Qualified Bid, as determined by the Debtors in the exercise of their business judgment after consultation with the Consultation Parties, shall be required to serve as the Backup Bidder until such time that the Transaction is consummated through confirmation of the Modified Plan and closing of the Transaction, and each Qualified Bidder shall agree and be deemed to agree to be the Backup Bidder if so designated by the Debtors.

The identity of the Backup Bidder and the amount and material terms of the Qualified Bid of the Backup Bidder shall be announced by the Debtors, after consultation with the Consultation Parties, at the conclusion of the Auction at the same time the Debtors announce the identity of the Winning Bidder. The Backup Bidder shall be required to keep its Qualified Bid (or if the Backup Bidder submits one or more Overbids at the Auction, its final Overbid) open and irrevocable until such time that the Transaction is consummated through confirmation of the Modified Plan and closing of the Transaction. The Backup Bidder’s Deposit shall be held in escrow pending confirmation of the Modified Plan and closing of the Transaction.

If the Winning Bidder fails to consummate the approved Transactions contemplated by its Winning Bid, the Debtors (with the consent of the Agent) may select the Backup Bidder as the Winning Bidder, and such Backup Bidder shall be deemed the Winning Bidder for all purposes. The Debtors will be authorized, but not required, to consummate all Transactions contemplated by the Winning Bid of such Backup Bidder without further order of the Court or notice to any party. In such case, the defaulting Winning Bidder’s Deposit shall be forfeited to the Debtors, and the Debtors specifically reserve the right to seek all available remedies against the defaulting Winning Bidder, including with respect to specific performance.

VII. Notice and Consultation Parties

Information that must be provided to the “Notice Parties” under these Bidding Procedures must be provided to the following parties: (1) counsel to the Agent, Holland & Knight LLP, 200 Crescent Court, Suite 1600, Dallas, Texas 75201, Attn: Robert Jones (robert.jones@hklaw.com) and Brent McIlwain (brent.mcilwain@hklaw.com), and Bayard, P.A.,

222 Delaware Avenue, Suite 900, Wilmington, Delaware 19899, Attn: Justin R. Alberto (jalberto@bayardlaw.com); (2) counsel to Bear River Acquisition Company, Inc. and EQT Partners, Inc., Morris, Nichols, Arsht & Tunnel LLP, 1201 North market Street, 16th Floor, P.O. Box 1347, Wilmington, Delaware 19899, and Vinson & Elkins LLP, 2001 Ross Avenue, Suite 3700, Dallas, Texas 75201, Attn: Michael A. Saslaw (msaslaw@velaw.com), Matthew W. Moran (mmoran@velaw.com), Sarah H. Mitchell (smitchell@velaw.com), and George M. Padis (gpadis@velaw.com), and 666 Fifth Avenue, 26th Floor, New York, New York 10103, Attn: Steven M. Abramowitz (sabramowitz@velaw.com); and (3) counsel to the Creditors' Committee, Greenberg Traurig, LLP, 1007 North Orange Street, Suite 1200, Wilmington, Delaware 19801, Attn: Dennis A. Meloro (melorod@gtlaw.com); and 1000 Louisiana, Suite 1700, Houston, Texas 77002, Attn: Shari L. Heyen (HeyenS@gtlaw.com) and Michael L. Burnett (burnettm@gtlaw.com); and Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Attn: David B. Kurzweil (kurzweild@gtlaw.com).

The term "Consultation Parties" as used in these Bidding Procedures shall mean: (a) counsel to the Agent; (b) counsel to Bear River; and (c) counsel to the Creditors' Committee; provided that no Consultation Party (or their respective clients) shall be permitted to participate in the Auction or otherwise submit any Bid at or prior to the Auction.

Notwithstanding anything to the contrary herein, all rights, claims, interests, benefits, and other protections of the DIP Lenders and, as applicable, their respective affiliates, assignees, designees, or partners in their capacities as "DIP Lenders" under (a) and as defined in, the *Final Order (I) Authorizing Debtor Ryckman Creek Resources, LLC to (A) Obtain Postpetition Financing on a Secured, Superpriority Basis and (B) Use Cash Collateral, (II) Granting Adequate Protection, and (III) Granting Related Relief* [Docket No. 195] (together with all annexes, schedules, and exhibits thereto, the "Final DIP Order") and the other DIP Loan Documents (as defined in the Final DIP Order), (b) the Bankruptcy Code, and (c) other applicable law, in each case, shall be fully preserved and not limited or otherwise impaired in any respect by these Bidding Procedures.

VIII. "As Is, Where Is"

Consummation of any Transaction will be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Debtors or their estates, except as specifically accepted or agreed to by the Debtors in accordance with the terms of any plan support agreement. Except as specifically accepted or agreed to by the Debtors, all of the Debtors' right, title, and interest in and to the Company will be transferred pursuant to the Plan free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests in accordance with Bankruptcy Code sections 363(f) and 1123(a)(5)(D).

By submitting a Bid, each Acceptable Bidder will be deemed to acknowledge and represent that it (a) has had an opportunity to conduct any and all due diligence regarding the Company prior to making its offer; (b) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the assets of the Company in making its Bid; and (c) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise,

regarding the Company or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Bidder's Transaction Documents.

IX. Reservation of Rights

Notwithstanding anything to the contrary in these Bidding Procedures, the Debtors reserve their rights, as they may determine to be in the best interest of their estates and in the exercise of their fiduciary obligations, to: (a) after consultation with the Consultation Parties and the consent of the Agent, modify the Bidding Procedures or impose, at or prior to the Auction, different and/or additional terms and conditions of the Auction, (b) announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction and which additional procedural rules shall only apply from and after such announcement, (c) determine which bidders are Qualified Bidders, (d) determine which bids qualify as Qualified Bids and Overbids, (e) determine whether to accept any Qualified Bid or Overbid, (f) determine which Qualified Bid is the highest or otherwise best proposal and which is the next highest or otherwise best proposal, (g) reject any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures, the Bidding Procedures Order, or the requirements of the Bankruptcy Code, or (iii) contrary to the best interests of the Debtors and their estates, (h) waive terms and conditions set forth herein with respect to all potential Bidders, and (i) extend the deadlines set forth herein.

X. Consent to Jurisdiction

All Qualified Bidders, any potential Stalking Horse Bidder, and all Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court to enter an order or orders, which shall be binding in all respects, in any way related to the Debtors or a Transaction, and have waived any right to a jury trial in connection with any disputes relating to the Chapter 11 Cases, the Auction, and the construction and enforcement of these Bidding Procedures.

XI. Confirmation Hearing

A hearing to consider confirmation of the Plan and approval of the Transaction (the "Confirmation Hearing") pursuant to which the Debtors and the Winning Bidder will consummate the Transaction will be held on or prior to August 2, 2017.

The Confirmation Hearing may be continued to a later date by the Debtors by sending prior notice to, or making an announcement at, the Confirmation Hearing. No further notice of any such continuance will be required to be provided to any party.

At the Confirmation Hearing, the Debtors shall submit the Plan, which shall incorporate the terms of the Winning Bid, to the Court for confirmation.

XII. Return of Deposit

The Deposit of the Winning Bidder shall be applied to the purchase price of such Transaction at closing. The Deposits for each Qualified Bidder shall be held in one or more interest-bearing escrow accounts on terms acceptable to the Debtors in their sole discretion and shall be returned (other than with respect to the Winning Bidder and the Backup Bidder) on the

date that is three business days after the Auction, or as soon as is reasonably practicable thereafter. Upon the return of the Deposits, the applicable Qualified Bidders shall receive any and all interest that will have accrued thereon.

If a Winning Bidder fails to consummate a proposed Transaction because of a breach by such Winning Bidder, the Debtors will not have any obligation to return the Deposit deposited by such Winning Bidder, which may be retained by the Debtors as liquidated damages, in addition to any and all rights, remedies, or causes of action that may be available to the Debtors, and the Debtors shall be free to consummate the proposed Transaction with the applicable Backup Bidder without the need for an additional hearing or order of the Court.

XIII. No Modification of Bidding Procedures

These Bidding Procedures may not be modified except with the express prior written consent of the Debtors and the Agent, after consultation with the Consultation Parties.

Dated: Wilmington, Delaware

May [●], 2017

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/s/

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