IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
TRIANGLE USA PETROLEUM CORPORATION, *et al.*,	Case No. 16-11566 (MFW)
	Jointly Administered
Debtors.[1]	**Related Docket No. 585**
	Hearing Date: March 10, 2017 at 10:30 a.m. **Objection Deadline: February 10, 2017 at 4:00 p.m.**

THE MINERAL INTEREST PLAINTIFFS' OBJECTION TO CONFIRMATION OF DEBTORS' PROPOSED PLAN OF REORGANIZATION

The Mineral Interest Plaintiffs, by and through their undersigned counsel, hereby set forth their preliminary objection to the *Second Amended Joint Chapter 11 Plan of Reorganization of Triangle USA Petroleum Corporation and Its Affiliated Debtors* [Docket No. 585] (the "Plan") as follows:

INTRODUCTION

1. The Mineral Interest Plaintiffs are all owners of either (i) overriding royalty interests ("ORRIs") or (ii) working interests ("WIs" and together with ORRIs, the "Mineral Interests") in real property in North Dakota on which the above-captioned debtors and debtors-in-possession (each a "Debtor" and collectively, the "Debtors") operate oil and natural gas wells.[2]

[1] The Debtors and the last four digits of their respective taxpayer identification numbers are: Triangle USA Petroleum Corporation (0717); Foxtrot Resources LLC (6690); Leaf Minerals, LLC (9522); Ranger Fabrication, LLC (6889); Ranger Fabrication Management, LLC (1015); and Ranger Fabrication Management Holdings, LLC (0750). The address of the Debtors' corporate headquarters is 1200 17th Street, Suite 2500, Denver, Colorado 80202.

[2] The identity of the Mineral Interest Plaintiffs and a detailed description of their Mineral Interests is set forth in their *Complaint for Declaratory Judgment to Determine Validity, Extent and Priority of Liens and Interests* (the "Mineral Interest Adversary Complaint") filed in Adversary Proceeding No. 16-51538 (Bankr. D. Del. 2016) [Adv. Docket No. 1].

2. Under applicable state law, the Mineral Interests are real property rights that run with the land.

3. Therefore, the Mineral Interest Plaintiffs, because of their ownership of the Mineral Interests are entitled to payment of ORRIs and/or payment of their proportionate share of the net proceeds of production from their respective drilling and spacing unit (*i.e.,* the WIs). The Mineral Interest Plaintiffs have never received any such payment since the time that the Debtors purportedly assumed operations.

4. The Debtors have acknowledged that "the payment of a Royalty represents the distribution to the Royalty holder of his or her real property rather than the payment of an *in personam* claim. Thus, the [royalty holder's] share of the gross proceeds of production is effectively held in trust [by the E&P operator] until it is remitted to such holder." *See Motion for Entry of Final Order Under Bankruptcy Code Sections 105(a), 363, 541, 1107(a), and 1108 and Bankruptcy Rules 6003 and 6004 Authorizing Debtors to Honor and Pay Oil and Gas Obligations* [Docket No. 10] (the "Mineral Obligations Motion") at ¶ 34.

5. Likewise, the Debtors have acknowledged that a WI is a real property interest conveyed by an oil and gas lease which represents a holder's proportionate share of the net proceeds of production from a defined geographic unit. *Id.* at ¶ 35 (noting that when an operator remits disbursements to holders of working interests "they are simply accounting for such Working Interest Holders' proportionate share of the net proceeds of production from the Unit.").

6. The Debtors have received and will continue to receive funds on account of the Mineral Interests. Those funds are the property of the Mineral Interest Plaintiffs, but are now being used by the Debtors.

7. On January 4, 2017, during oral argument on the *Motion of Debtors to Dismiss Crossclaim Pursuant to Federal Rule 12(b)(1) for Lack of Subject Matter Jurisdiction, or, in the Alternative, Abstain Pursuant to 28 U.S.C. § 1334*, [Adv. Pro. No. 16-51037 (MFW), Adv. Docket No. 21], the Court and Debtors' counsel engaged in a colloquy in which Debtors' counsel represented that disputed funds are held in suspense and that once "the resolution takes place, the funds are directed to the proper party." Transcript of Hearing at 20:16-20, Adv. Pro No. 16-51037 (MFW) (Jan. 4, 2017).[3] The colloquy continued:

> THE COURT: And you're doing that?
>
> MR. DRESSEL: If a court rules that they have a valid working interest or overriding royalty interest, we would absolutely do that . . . .

Id. at 20:21-24.

8. During the same hearing, the Court and the Debtors continued their exchange as follows:

> THE COURT: But don't the Mineral Interest Plaintiffs assert they have an interest in those funds, specifically?
>
> MR. DRESSEL: They do, Your Honor. And the settlement will not release any interests that the Mineral Interest Plaintiffs may claim against Tidal. So if the Mineral Interest Plaintiffs believe that they have a lien on the crude oil that was sold to Tidal, the settlement would not purport to extinguish that asserted interest. Both Tidal and Mineral Interest Plaintiffs would reserve their defenses with respect to those disputed funds.
>
> THE COURT: But don't they also assert they have an interest in the money that Tidal pays you?
>
> MR. DRESSEL: They do, and they can claim that, but think that that dispute should be resolved in North Dakota Court.

Id. at 6:24 to 7:13.

[3] Relevant portions of the January 4, 2017 hearing transcript are attached hereto as **Exhibit A**.

9. This exchange perfectly illustrates TUSA's stance relating to the Mineral Interest Plaintiffs – TUSA is aware of its obligations, but refuses to comply absent compulsion. Despite the Debtors' repeated assertions to the contrary, they are not transferring, escrowing or accounting for any of the funds for the benefit of the Mineral Interest Plaintiffs. The Debtors have acknowledged that such funds "constitute funds held in trust for others and therefore are not property of the Debtors' estates. These funds are not available for distribution under a chapter 11 plan and thus can be paid in the ordinary course of business without prejudice to creditors." Mineral Obligations Motion at ¶ 32. Debtors continue to convert the proceeds properly payable to the Mineral Interest Plaintiffs and use them to pay their own expenses, to the detriment of the Mineral Interest Plaintiffs. The Court should not let Debtors continue their conversion to the prejudice of the Mineral Interest Plaintiffs.

TREATMENT OF THE MINERAL INTERESTS UNDER THE PLAN

10. In pleadings filed with this Court, the Debtors have argued that the Mineral Interests asserted by the Mineral Interest Plaintiffs will "ride through" the Plan and be unaffected by the Plan or any Confirmation Order. *See, e.g., Memorandum in Support of Motion of Debtors to Dismiss Crossclaim Pursuant to Federal Rule 12(b)(1) for Lack of Subject Matter Jurisdiction, or, in the Alternative, Abstain Pursuant to 28 U.S.C. § 1334* [Adv. Pro. No. 16-51037 (MFW), Docket No. 22] at 1 ("the Mineral Interest Plaintiffs/Cross-Claimants' putative interests will ride through the Debtors' chapter 11 proceedings unaffected and will not be subject to treatment under a plan"); *id*. at 13 ("the [Mineral Interest Plaintiffs'] putative ORRIs and WIs will ride through a chapter 11 plan unaffected").

11. With regard to the Mineral Interests, the Plan states as follows:

> **Section 5.20 Preservation of Uncompromised Oil and Gas Obligations.** Notwithstanding any other provision in the Plan, but

> subject in all respects to all payments authorized to be made pursuant to the Oil and Gas Obligations Order, on and after the Effective Date, all Uncompromised Oil and Gas Obligations shall be fully preserved and remain in full force and effect in accordance with the terms of the granting instruments or other governing documents, if any, applicable to such Uncompromised Oil and Gas Obligations, which granting instruments and governing documents, if any, shall equally remain in full force and effect, and no Uncompromised Oil and Gas Obligations, including payment obligations, whether arising before or after the Petition Date, shall be compromised or discharged by the Plan. For the avoidance of doubt, nothing in this Section 5.20 shall prejudice the right of the Debtors or the Reorganized Debtors, as applicable, to contest the validity of any asserted Uncompromised Oil and Gas Obligation on grounds available under applicable law or otherwise.

Plan at Section 5.20.

12. The Plan defines "Uncompromised Oil and Gas Obligations" as follows:

> 1.163 "Uncompromised Oil and Gas Obligation" means (a) a Working Interest or a Working Interest Burden (each as defined in the Oil and Gas Obligations Order) or (b) any obligation of the Debtors or the Reorganized Debtors, as applicable, under applicable law, with respect to the "plugging and abandonment" of any oil and gas well operated by the Debtors or the Reorganized Debtors, as applicable; or (c) any claim for the return or refund of any JIB collected by the Debtors, with respect to any oil and gas well on a drilling spacing unit operated by the Debtors.

Plan at Section 1.163.

13. The Mineral Obligations Motion, in turn, defines "Working Interest" as follows:

> In practice, the mineral estate owner rarely conducts exploration and production activities itself. Rather, it leases its exclusive exploration and production rights to an E&P operator pursuant to an "Oil and Gas Lease." The exclusive exploration and production rights conveyed pursuant to an oil and gas lease comprise the "Working Interest."

Mineral Obligations Motion at ¶ 11.

14. The Mineral Obligations Motion defines "Working Interest Burden" as follows:

> Certain of the Debtors' Oil and Gas Leases are also burdened by other mineral interest payment obligations. These include

> overriding royalty interests, non-participating royalty interests, net profit interests, and production payments (collectively, and together with Royalties, "Working Interest Burdens;" the holders thereof, "Mineral Interest Holders"; and the payments made thereto, "Mineral Interest Payments").

Id. at ¶ 12 (footnote omitted).

15. Although the Debtors have repeatedly stated that the Mineral Interests asserted by the Mineral Interest Plaintiffs will "ride through" the Plan, the Debtors have contested the validity of the Mineral Interests. The Plan is therefore sufficiently ambiguous to require the Debtors to provide expressly, in the Plan and in the Confirmation Order, that the Mineral Interests held by the Mineral Interest Plaintiffs will, indeed, ride through the Plan. If the Debtors truly intend for the Mineral Interests to "ride through," then they should make specific reference to the claims and allegations of the Mineral Interest Plaintiffs in the "ride through" provisions of the Plan.[4]

16. Further, because of the lack of accounting, escrow, or other assurance regarding the funds claimed by the Mineral Interest Plaintiffs, the continued actions of Debtors will make it more difficult for the Mineral Interest Plaintiffs to recover their property when they prevail on their claims. The Debtors should provide adequate protections to the Mineral Interest Plaintiffs, such as a third party escrow, so that the funds will actually be available for distribution once this Court, or any Court identifies the proper owners.

THE IMPROPER CONVEYANCE OF THE MINERAL INTERESTS TO THE REORGANIZED DEBTOR UNDER THE PLAN

17. In the Mineral Obligations Motion, the Debtors successfully sought an Order authorizing, but not obligating, the Debtors to pay current Mineral Obligations. No payments have

[4] The Plan or any confirmation order should make clear that Section 9.02 (Discharge of the Debtors) shall not preclude the Mineral Interest Plaintiffs from establishing their Mineral Interests in this Court or any other court of competent jurisdiction.

been made to the Mineral Interest Plaintiffs. Instead, Debtors have utilized that Order to pay to themselves the funds due to the Mineral Interest Plaintiffs.

18. At least the Debtors are consistent. Debtors have taken every opportunity in their dealings with the Mineral Interest Plaintiffs to ignore statutory and contractual obligations in order to further scheme to steal the property and proceeds rightfully belonging to the Mineral Interest Plaintiffs. Their latest act of hinting that some kind of escrow or suspense account exists for the protection of the Mineral Interest Plaintiffs is only the current ruse. The pattern and practice of the Debtors in doing whatever they wish and to attempt to justify their conversion only after being caught is illustrated by the following examples (which are only a few among many):

(a) Upon acquiring their mineral interests at issue in this matter, Debtors failed to acknowledge the existence of or follow any provisions of the contract that controls the actions of the owners of WIs, the Joint Operating Agreement ("JOA").[5] Debtors first act upon acquiring their interest was to unilaterally enroll themselves as "Successor Operator." This was in spite of the clear requirement of the JOA that the other parties to the JOA have the right to vote on the "Successor Operator." *See* JOA at V.B.1 – Resignation or Removal of Operator.

(b) Similarly, Debtors also entered into "Top Leases" for the Mineral Interests, and failed to provide an opportunity to participate in those Top Leases to the other owners, as required by the JOA. *See* JOA at VIII. B – Renewal or Extension of Leases.

(c) After making themselves the "Successor Operator" and then entering into Top Leases without following any of the proscriptions or requirements of the relevant JOAs, Debtors then attempted to wrongfully execute the *coup de grace* to the owners of WIs by

[5] Copies of the relevant JOAs are attached to the Mineral Interest Adversary Complaint at Exhibits C and M.

surrendering their interests in the base lease without offering the surrendered lease to those owners, as required by the JOA. *See* JOA at VIII.A – Surrender of Leases.

(d) The most egregious and blatant act of Debtors in executing their scheme was to deny the ownership and proceeds of the owners of WIs in the J. Garvin Jacobson well, a well that those owners themselves paid to have drilled.

19. The Debtors manufacture excuses, delay responses, and justifications for their actions at a faster clip than they ever conducted business as an oil and gas operator. Their gambit to mislead the Court into thinking that some sort of "suspense account" or other protection exists for the Mineral Interest Plaintiffs is part of its years-long scheme. That scheme must now stop.

20. As admitted in part by the Debtors, that they are not paying any funds to the Mineral Interest Plaintiffs and are instead using those funds themselves, Debtors have failed to segregate those funds or even account for them. The Mineral Obligations Motion suggested that, in the event of disputes relating to mineral interests, proceeds of the sale of oil were being deposited in a "suspense account." Specifically, the Debtors represented:

> At any given time, the Debtors maintain Mineral Interest Payments and Net Working Interest Payments (as defined below) in suspense for potential future payment ("**Suspense Funds**"). Suspense Funds may arise from a variety of circumstances, including title disputes, unlocatable interest holders, and disputes over JIB billings (as defined below). As of the Petition Date, the Debtors hold approximately $14 million in Suspense Funds, of which approximately $100,000 may be released within the next 21 days.

Mineral Obligations Motion at ¶ 16.

21. That representation was apparently wrong. The Mineral Plaintiffs have learned that no funds are being held in suspense on account of their Mineral Interests. At a hearing before this Court on January 4, 2017, Debtors' counsel engaged in the following colloquy with the Court in

which Debtors' counsel conceded that the Debtors were not segregating funds on account of the Mineral Interests:

> MR. DRESSEL: Your Honor, just a few brief points in reply. I think I'll start with what counsel has labeled the "slice of the pie" argument, and just try and clarify what we're -- what we're pointing to, in that regard.
>
> There's clearly a difference to TUSA as to whether these particular plaintiffs have valid interests. The difference, you know, in practical terms, in money terms, is quite slight. But that's not the point that we're making.
>
> The point we're making is that the interests that they assert that they have cannot be affected in this restructuring process because they constitute, if valid, working interests and overriding royalty interests in mineral interests in North Dakota. Those are either going to be not valid at all, or they're going to be valid, and they're simply going to ride through the plan unaffected.
>
> And that brings me to a second point, which is –
>
> THE COURT: Well, in the interim, you're not paying them their alleged royalties.
>
> MR. DRESSEL: That's correct. It is commonplace, in the oil and gas industry, when there is a title dispute, such as this one, the funds are held in suspense. And upon the resolution of that dispute by a court, the funds are directed to the proper parties. And so –
>
> THE COURT: And you're doing that?
>
> MR. DRESSEL: If a north -- if a court rules that they have a valid working interest or overriding royalty interest, we would absolutely do that, and we would do it in full, and it would not be subject to compromise under a plan.
>
> THE COURT: Well, did you -- did I miss the point? The funds are not held in suspense pending a determination.
>
> MR. DRESSEL: The debtors – the debtors are not paying these parties at this time, but --
>
> THE COURT: Are you holding the funds in suspense?

> MR. DRESSEL: They're not in a segregated account, if that's what Your Honor is asking. Some of the funds are being held by our counterparties. And I -- some of the funds -- the debtors have liabilities on their books that are reflected as suspense payments, that account for disputed royalties and other interests in the oil and gas properties. I don't believe that those are segregated accounts, but they're held in the ordinary course for an oil and gas company like the debtors, and they would be paid in full to these counterparties, if their liabilities were determined to be valid. So those obligations would not be compromised. The term, as I mentioned is a "suspense fund." I don't believe it actually constitutes a separate escrow amount.

Transcript of Hearing at 19:23 to 21:18, Adv. Pro No. 16-51037 (MFW) (Jan. 4, 2017).

22. In other words, prior to and during the course of these Chapter 11 proceedings, the Debtors have been using the property of Mineral Interest Plaintiffs to operate their businesses.

23. Worse still, the Plan proposes to continue the Debtors' practice of converting the Mineral Interest Plaintiffs' property for their own use.

24. The Plan states:

> **Section 9.01 Vesting of Assets.** Except as otherwise explicitly provided in this Plan, on the Effective Date, all property comprising the Estate (including Causes of Action, but excluding property that has been abandoned pursuant to an order of the Bankruptcy Court) shall vest in the Reorganized Debtors which, as Debtors, owned such property or interest in property as of the Effective Date, free and clear of all Claims, Liens, charges, encumbrances, rights, and Interests (except for such Liens as may be retained in favor of the RBL Agent to secure the Excluded RBL Obligations); *provided, however,* that any property held by any of the Inactive Debtors dissolved pursuant to Section 5.09 shall vest in New TUSA HoldCo solely in its capacity as Distribution Agent for the Ranger Debtors. As of and following the Effective Date, the Reorganized Debtors may operate their business and use, acquire, and dispose of property and settle and compromise Claims, Interests, or Causes of Action without supervision of the Bankruptcy Court, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by this Plan or the Confirmation Order.

Plan at Section 9.01. The Debtors have never recognized the Mineral Interests held by the Mineral Interest Plaintiffs. It is plain from the text of the Plan that the Debtors will continue to improperly use the Mineral Interest Plaintiffs' property and proceeds thereof, under the authority of a confirmation order.

25. The Court should not confirm a plan that purports to vest assets in a reorganized debtor where the ownership of those assets by the debtor or its bankruptcy estate is in dispute. This principle has been routinely applied by this Court and others to deny a debtor the ability to sell assets pursuant to section 363 of the Bankruptcy Code where the ownership of those assets is in dispute. *See In re Whitehall Jewelers Holdings, Inc*., 2008 Bankr. LEXIS 2120 at *11 (Bankr. D. Del. July 28, 2008) (holding that debtors were not permitted to sell certain consignment inventory pursuant to section 363(f) without first demonstrating that the subject goods were property of the estate); *Darby v. Zimmerman (In re Popp)*, 323 B.R. 260, 268 (B.A.P. 9th Cir. 2005) (noting that "a bankruptcy court may not allow the sale of property as 'property of the estate' without first determining whether the debtor in fact owned the property"); *see also* 3 Collier on Bankruptcy ¶ 363.02[1][d] ("Where there is a dispute over whether the estate owns the property to be sold, the bankruptcy court should not authorize the sale.").

26. At the very least, until the parties' respective rights are determined, all pre- and post-petition proceeds relating to sale of oil production, gas production, and liquids production from the Mineral Interests should be held in a segregated escrow account pending resolution of the parties' dispute. Debtors do not apparently consider those amounts to be significant in any event, having previously told the Court that the difference to Debtors if the interests are valid is

"in monetary terms is quite slight." Transcript of Hearing at 20:4-5, Adv. Pro No. 16-51037 (MFW) (Jan. 4, 2017).[6]

27. Finally, the Plan Injunction would prevent the Mineral Interest Plaintiffs from continuing to assert their rights. The Plan states:

> **Section 9.08 Injunction.** The satisfaction, release, and discharge pursuant to this Article IX shall act as an injunction, from and after the Effective Date, against any Entity (a) commencing or continuing in any manner or in any place, any action, employment of process, or other proceeding; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (c) creating, perfecting, or enforcing any Lien or encumbrance; (d) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, except as set forth in Section 8.10 or 8.11 of the Plan, in each case with respect to any Claim, Interest, or Cause of Action satisfied, released or to be released, exculpated or to be exculpated, or discharged under this Plan or pursuant to the Confirmation Order and to the fullest extent authorized or provided by the Bankruptcy Code, including to the extent provided for or authorized by sections 524 and 1141 thereof; *provided, however,* that nothing contained herein shall preclude such Entities from exercising their rights pursuant to and consistent with the terms of this Plan or the Confirmation Order.

Plan at Section 9.08. Given the ambiguities relating to the preservation of Mineral Interests described above, the Debtors could assert that this plan injunction would prevent the Mineral Interest Plaintiffs from establishing their ownership interests. The language of the Plan Injunction should make it clear that the Mineral Interest Plaintiffs may continue to assert their ownership interests either in this Court or in any other court of competent jurisdiction.

[6] The Mineral Interest Plaintiffs disagree with this assertion, but perhaps it is a question of perspective. Nonetheless, the amount to be escrowed as calculated by the Mineral Interest Plaintiffs is approximately $16,000,000.00 and will increase by $700,000.00 monthly as new production is sold.

WHEREFORE, for the reasons set forth above the Mineral Interest Plaintiffs respectfully request that this Court deny confirmation of the Plan.

Dated: February 10, 2017

DUANE MORRIS LLP

/s/ Michael R. Lastowski
Michael R. Lastowski (DE 3892)
Sommer L. Ross (DE 4598)
Jarret P. Hitchings (DE 5564)
222 Delaware Avenue, Suite 1600
Wilmington, DE 19801-1659
Telephone: (302) 657-4900
Facsimile: (302) 657-4901
mlastowski@duanemorris.com
slross@duanemorris.com
jphitchings@duanemorris.com

- and -

TARLOW & STONECIPHER, PLLC
Matt J. Kelly, Esq.
1705 West College Street
Bozeman, MT 59718
Telephone: (406) 586-9718
mkelly@lawmt.com

Counsel for the Mineral Interest Plaintiffs

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	Chapter 11
TRIANGLE USA PETROLEUM CORPORATION, et al,	Case No. 16-11566(MFW)
Debtors.	Courtroom No. 4 824 Market Street Wilmington, Delaware 19801
	Wednesday, January 4, 2017
TIDAL ENERGY MARKETING (U.S.), LLC,	Adv. Proc. 16-51037(MFW)
vs.	
TRIANGLE USA PETROLEUM CORPORATION, et al	
FLINT HILLS RESOURCES, LP,	Adv. Proc. 16-51047(MFW)
vs.	
TRIANGLE USA PETROLEUM CORPORATION, et al	

TRANSCRIPT OF ORAL ARGUMENT
ON COMPLAINTS FOR DECLARATORY AND INTERPLEADER RELIEF
BEFORE THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Audio Operator:	Electronically Recorded by Brandon McCarthy, ECRO
Transcription Company:	Reliable 1007 N. Orange Street Wilmington, Delaware 19801 (302)654-8080 Email: gmatthews@reliable-co.com

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

these Chapter 11 cases unimpaired and unaffected. And that's made clear in Section 5.2(o) of the plans that the debtors have filed in this case.

Because the issues at stake in this litigation are so remote from the business of these Chapter 11 cases, the debtors believe that this litigation should proceed in the State Court in which it was originally commenced. By way of --

THE COURT: Well, you aren't seeking to dismiss the interpleader action, though.

MR. DRESSEL: The motion to dismiss relates only to the cross-claims.

THE COURT: And how could I decide the interpleader, then, without considering all the claims to those funds?

MR. DRESSEL: Your Honor, we believe that -- I would say two things, Your Honor:

First of all, with respect to the Tidal interpleader action, we've reached a settlement with Tidal that would result in the release of those proceeds, and we have a 9019 motion on file to approve that settlement, which would resolve that --

THE COURT: And --

MR. DRESSEL: -- interpleader action.

THE COURT: And to whom would those funds be released?

MR. DRESSEL: They would be released to the debtors.

THE COURT: But don't the Mineral Interest Plaintiffs assert they have an interest in those funds, specifically?

MR. DRESSEL: They do, Your Honor. And the settlement would not release any interests that the Mineral Interest Plaintiffs may claim against Tidal. So, if the Mineral Interest Plaintiffs believe that they have a lien on the crude oil that was sold to Tidal, the settlement would not purport to extinguish that asserted interest. Both Tidal and the Mineral Interest Plaintiffs would reserve their defenses with respect to those disputed funds.

THE COURT: But don't they also assert they have an interest in the money that Tidal pays you?

MR. DRESSEL: They do, and they can claim that, but we think that that dispute should be resolved in the North Dakota Court. We don't think that the cross-claim is an essential aspect of the interpleader action. In fact, you know, we believe that the Tidal interpleader action will be resolved. We're hopeful and we're working towards a similar settlement of the Flint Hills interpleader action.

But we believe that, if Tidal is no longer seeking to interplead the funds into the court -- and we're optimistic we can get to a similar result with Flint Hills -- then we believe that that is a suitable resolution. Then it doesn't require the Court to actually weigh in on the merits of the actual underlying dispute, which is a dispute, not as to proceeds, but as to real property interest in North Dakota.

Your Honor, I think we raised three grounds in our

think it will be more efficient for us, we'll get our claims determined more quickly, and we'll determine what is and what is not property of the estate, and to what extent the debtor is holding funds in trust for us.

There's two final points. There was some -- the debtors raised, in connection with permissive jurisdiction [sic], two arguments not raised in the papers, and that was the complexity of state court issues -- it wasn't raised at all. There's no evidence of complex state court legal issues.

And as to factual complexity, I don't think the case is necessarily factual complex. It is notice pleading, and we could have just abbreviated what we were saying in the dec. action. We thought we would lay it out. And it really comes down to examining a handful of transactions.

And as to the right to a jury trial, we've sought one in North Dakota, but we wouldn't seek one here.

THE COURT: All right.

MR. LASTOWSKI: If Your Honor has any question, I'd be please to answer; if not --

THE COURT: No. Thank --

MR. LASTOWSKI: -- I'll gladly cede the podium.

THE COURT: Thank you.

MR. DRESSEL: Your Honor, just a few brief points in reply. I think I'll start with what counsel has labeled the "slice of the pie" argument, and just try and clarify what

we're -- what we're pointing to, in that regard.

There's clearly a difference to TUSA as to whether these particular plaintiffs have valid interests. The difference, you know, in practical terms, in monetary terms, is quite slight. But that's not the point that we're making.

The point we're making is that the interests that they assert that they have cannot be affected in this restructuring process because they constitute, if valid, working interests and overriding royalty interests in mineral interests in North Dakota. Those are either going to be not valid at all, or they're going to be valid, and they're simply going to ride through the plan unaffected.

And that brings me to a second point, which is --

THE COURT: Well, in the interim, you're not paying them their alleged royalties.

MR. DRESSEL: That's correct. It is commonplace, in the oil and gas industry, when there is a title dispute, such as this one, the funds are held in suspense. And upon the resolution of that dispute by a court, the funds are directed to the proper parties. And so --

THE COURT: And you're doing that?

MR. DRESSEL: If a north -- if a court rules that they have a valid working interest or overriding royalty interest, we would absolutely do that, and we would do it in full, and it would not be subject to compromise under a plan.

THE COURT: Well, did you -- did I miss the point? The funds are not held in suspense pending a determination.

MR. DRESSEL: The debtors -- the debtors are not paying these parties at this time, but --

THE COURT: Are you holding the funds in suspense?

MR. DRESSEL: They're not in a segregated account, if that's what Your Honor is asking. Some of the funds are being held by our counterparties. And I -- some of the funds -- the debtors have liabilities on their books that are reflected as suspense payments, that account for disputed royalties and other interests in the oil and gas properties. I don't believe that those are segregated accounts, but they're held in the ordinary course for an oil and gas company like the debtors, and they would be paid in full to these counterparties, if their liabilities were determined to be valid. So those obligations would not be compromised. The term, as I mentioned is a "suspense fund." I don't believe it actually constitutes a separate escrow amount.

That leads me to the next point, which is that we wouldn't intend to keep these Chapter 11 cases open while we resolve this dispute. The idea is that we would confirm a plan that leaves their rights unimpaired, and then those rights would be adjudicated in the ordinary course of business, in the North Dakota action.

We believe that, considering both the practicalities,

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

/s/ Coleen Rand January 5, 2017

Coleen Rand

Certified Court Transcriptionist

For Reliable

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
TRIANGLE USA PETROLEUM CORPORATION, *et al.*,	Case No. 16-11566 (MFW)
	Jointly Administered
Debtors.[1]	

CERTIFICATE OF SERVICE

I, Michael R. Lastowski, hereby certify that on February 10, 2017, I caused a true and correct copy of *The Mineral Interest Plaintiffs' Objection To Confirmation Of Debtors' Proposed Plan Of Reorganization* to be served upon the following individuals *via* electronic mail and First Class Mail:

Triangle USA Petroleum Corporation
Attention: Secretary
1200 17th Street, Suite 2500
Denver, CO 80202
agarber@trianglepetroleum.com

Ron E. Meisler
Christopher M. Dressel
Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive
Chicago, IL 60606
ron.meisler@skadden.com
christopher.dressel@skadden.com

Sarah E. Pierce
Skadden, Arps, Slate, Meagher & Flom LLP
One Rodney Square
920 N. King Street
Wilmington, DE 19801
sarah.pierce@skadden.com

William A. (Trey) Wood, III
Bracewell LLP
711 Louisiana Street, Suite 2300
Houston, TX 77002
trey.wood@bracewelllaw.com

Jennifer Feldsher
Bracewell LLP
1251 Avenue of the Americas
New York, NY 10020
jennifer.feldsher@bracewelllaw.com

Matthew J. Williams
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
mjwilliams@gibsondunn.com

[1] The Debtors and the last four digits of their respective taxpayer identification numbers are: Triangle USA Petroleum Corporation (0717); Foxtrot Resources LLC (6690); Leaf Minerals, LLC (9522); Ranger Fabrication, LLC (6889); Ranger Fabrication Management, LLC (1015); and Ranger Fabrication Management Holdings, LLC (0750). The address of the Debtors' corporate headquarters is 1200 17th Street, Suite 2500, Denver, Colorado 80202.

Alfredo R. Perez
Weil, Gotshal & Manges LLP
700 Louisiana Street, Suite 1700
Houston, TX 77002
alfredo.perez@weil.com

John K. Lyons
DLA Piper LLP (US)
203 North LaSalle Street, Suite 1900
Chicago, IL 60601
john.lyons@dlapiper.com

Vince Slusher
Andrew Zollinger
DLA Piper LLP (US)
1717 Main Street, Suite 4600
Dallas, TX 75201
vince.slusher@dlapiper.com
andrew.zollinger@dlapiper.com

Stuart M. Brown
R. Craig Martin
Daniel M. Brogan
DLA Piper LLP (US)
1201 N. Market Street, Suite 2100
Wilmington, DE 19801
stuart.brown@dlapiper.com
craig.martin@dlapiper.com
daniel.brogan@dlapiper.com

Rita Marie Ritrovato
Wilmington Trust, National Association
1100 North Market Street, 5th Floor
Wilmington, DE 19890
rritrovato@wilmingtontrust.com

Jane Leamy
Office of the U.S. Trustee
J. Caleb Boggs Federal Building
844 King Street, Room 2207
Wilmington, DE 19801
jane.m.leamy@usdoj.gov

Dated: February 10, 2017

DUANE MORRIS LLP

/s/ Michael R. Lastowski
Michael R. Lastowski (DE 3892)
Sommer L. Ross (DE 4598)
Jarret P. Hitchings (DE 5564)
222 Delaware Avenue, Suite 1600
Wilmington, DE 19801-1659
Telephone: (302) 657-4900
Facsimile: (302) 657-4901
mlastowski@duanemorris.com
slross@duanemorris.com
jphitchings@duanemorris.com

Counsel for the Mineral Interest Plaintiffs