

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

IN RE:

MARION CLAY & GRAVEL, LLC

NO. 15-50724 KMS

DEBTOR

AMENDED DISCLOSURE STATEMENT DATED OCTOBER 6, 2016

THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE CHAPTER 11 PLAN. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT. THERE WILL BE A HEARING ON THIS DISCLOSURE STATEMENT TO DETERMINE IF IT PROVIDES ADEQUATE INFORMATION. IF THE DISCLOSURE STATEMENT IS APPROVED BY THE BANKRUPTCY COURT, THERE WILL BE A SUBSEQUENT HEARING TO CONSIDER CONFIRMATION OF THE PLAN. ALL CREDITORS AND EQUITY INTEREST HOLDERS WILL BE NOTIFIED OF THE DATE OF SUCH CONFIRMATION HEARING.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE SECURITIES AND EXCHANGE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.

EXHIBITS TO AMENDED DISCLOSURE STATEMENT

EXHIBIT D-1	Chapter 11 Amended Plan of Reorganization
EXHIBIT D-2	Financial Projections
EXHIBIT D-3	Liquidation Analysis
EXHIBIT D-4	Relyance Bank
EXHIBIT D-5	Memorandum of Understanding
EXHIBIT D-6	Bio of Henry L. Coaxum, Jr.

I. INTRODUCTION

Jessie L. Conerly ("Conerly"), a party in interest in connection with the Marion Clay & Gravel, LLC ("Debtor") Chapter 11 has filed a Chapter 11 Amended Plan of Reorganization (the "Plan"). The Plan is attached to this Amended Disclosure Statement as **Exhibit D-1**. Conerly submits this Amended Disclosure Statement (this "Disclosure Statement"), pursuant to Section 1125 of title 11 of the United States Code (the "Bankruptcy Code"), to holders of Claims against and Interests in the Debtor, in connection with: (i) the solicitation of acceptances or rejections of the Plan (together with any modification, amendment or supplement, of the Plan), and (ii) the hearings to consider approval of the Plan to be scheduled before the United States Bankruptcy Court for the Southern District of Mississippi, Southern Division (the "Bankruptcy Court") on the date(s) set forth in the accompanying notice.

In the event of a conflict or difference between the definitions used, and provisions contained, in this Disclosure Statement and the Plan, the definitions and provisions contained in the Plan shall control. For ease of reference, those definitions have been reproduced below:

1. **"Administrative Claim"** means a claim for costs and expenses of administration of the Reorganization Case under section 503(b) of the Bankruptcy Code entitled to priority pursuant to section 507(a)(1) of the Bankruptcy Code.

2. **"Affiliate"** means with regard to any Person, (a) any Person, directly or indirectly, controlled by, under common control of, or controlling such Person; (b) any subsidiary of such Person or any parent entity of such Person; (c) any Person, directly or indirectly, in which such Person holds, of record or beneficially, ten percent (10%) or more of the equity or voting securities, membership interests or Membership Interests; (d) any Person which holds, directly or indirectly, of record or beneficially, ten percent (10%) or more of the

equity or voting securities, membership interests or Membership Interests of such Person; (e) any Person that, through contract, relationship or otherwise, exerts a substantial influence on the management of such Person's affairs; or (f) any Person that, through contract, relationship or otherwise, is influenced substantially in the management of its affairs by such Person.

3. **"Allowed Administrative Claim"** means all or that portion of an Administrative Claim which has been allowed pursuant to a Final Order of the Bankruptcy Court.

4. **"Allowed Claim" or "Allowed Interest"** means, respectively, except as otherwise allowed or provided for in the Plan or a Final Order of the Bankruptcy Court, a Claim or a Membership Interest, proof of which was timely and properly Filed or, if no proof of claim or proof of interest was filed, which has been or hereafter is listed by the Debtor on its Schedules as liquidated in amount and not disputed or contingent, and, in either case, as to which:

(a) no objection to the allowance thereof has been interposed on or before the later of: (i) the sixtieth (60th) day after the Effective Date, or (ii) the thirtieth (30th) day after proof of such Claim or Membership Interest is filed, or (iii) such other applicable period for objection as may be fixed or extended by the Bankruptcy Court, or

(b) any objection thereto has been determined by a Final Order to the extent such objection is determined in favor of the respective holder.

Unless otherwise specified herein or by order of the Bankruptcy Court, an "Allowed Claim" shall not include any interest, fees, costs or other charges on such Claim accruing after the Petition Date.

5. **"Avoidance Actions"** means all of the Debtor's and the Estate's rights and claims under sections 541 through 553 of the Bankruptcy Code, inclusive, or under any similar or related state or federal statute or common law, whether or not an action is initiated on or before the Effective Date.

6. **"Bankruptcy Court"** means the United States Bankruptcy Court for the Southern District of Mississippi, or, in the event such court ceases to exercise jurisdiction over

the Reorganization Case, such court or adjunct thereof that exercises jurisdiction over the Reorganization Case in lieu of the United States Bankruptcy Court for the Southern District of Mississippi.

7. **"Bankruptcy Rules"** means collectively, the (a) Federal Rules of Bankruptcy Procedure, and (b) Local Rules of the Bankruptcy Court, as applicable from time to time in the Reorganization Case.

8. **"BP Claim"** shall mean the Claim filed by the Debtor under the Deepwater Horizon claims settlement administered by the Deepwater Horizon Claims Office.

9. **"Cash"** means cash or cash equivalents.

10. **"Claim"** shall have the meaning set forth in section 101(5) of the Bankruptcy Code.

11. **"Confirmation Date"** means the date on which the Confirmation Order is entered by the Bankruptcy Court.

12. **"Commencement Date"** shall mean when all conditions for the Effective Date have occurred but no later than sixty (60) days after the Effective Date and Plan provisions commence.

13. **"Confirmation Hearing"** means the hearing held pursuant to section 1128(a) of the Bankruptcy Code at which the Bankruptcy Court considers confirmation of the Plan, including any continuances thereof.

14. **"Confirmation Order"** means the order of the Bankruptcy Court entered following the Confirmation Hearing that confirms the Plan.

15. **"Debtor in Possession"** means the Debtor between the Petition Date and the Effective Date when acting in the capacity of representative of its Estate in the Reorganization Case.

16. **"Deed of Trust"** means the Deed of Trust in favor of 23467 Mississippi LLC.

17. **"Disallowed Claim"** means (a) a Claim, or any portion thereof, that has

been disallowed by a Final Order or a settlement, (b) a Claim or any portion thereof that is Scheduled at zero or as contingent, disputed, or unliquidated and as to which a proof of claim bar date has been established but no proof of claim has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law, or (c) a Claim or any portion thereof that is not Scheduled and as to which a proof of claim bar date has been established but no proof of claim has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law.

18. **"Disallowed Interest"** means an equity interest in the Debtor that has been disallowed by Final Order or a settlement.

19. **"Disbursing Agent"** means the entity designated pursuant to the Plan to hold and distribute property under the Plan, which may be the Reorganized Debtor.

20. **"Disclosure Statement"** means the Disclosure Statement for the Debtor to accompany the Plan, as modified or amended, filed with the Bankruptcy Court.

21. **"Disputed Claim"** and **"Disputed Interest"**, mean any Claim or Membership Interest, that is neither an Allowed Claim nor a Disallowed Claim, or an Allowed Interest nor a Disallowed Interest, as the case may be.

22. **"Effective Date"** shall have the meaning ascribed to it in Section VI.D hereof.

23. **"Electing Equity Contributors"** means those Interest Holders who elect to fund a portion of the New Marion Clay Contribution.

24. **"Estate"** means the estate created in the Reorganization Case under section 541 of the Bankruptcy Code.

25. **"File"** or **"Filed"** means properly and timely filed with the Bankruptcy Court in the Reorganization Case, as reflected on the official docket of the Court for the Reorganization Case and served on Persons, as such filing and service are required pursuant to

the Bankruptcy Code, Bankruptcy Rules and/or Order of the Court.

26. **"Final Order"** means an order or judgment of the Bankruptcy Court or other applicable court as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending or as to which any right to appeal, petition for certiorari, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Debtor or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court or other applicable court shall have been affirmed by the highest court to which such order or judgment was appealed, or certiorari has been denied, or from which reargument or rehearing was sought, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired, with no further appeal, petition for certiorari or motion for reargument or rehearing pending; provided however that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be filed relating to such order or judgment shall not cause such order or judgment to not be a Final Order.

27. **"Interest Holders"** shall mean any person, firm or entity that possesses an equity interest in the Debtor.

28. **"Litigation Trust"** shall mean the trust created to pursue claims against Conerly.

29. **"Litigation Trust Claim"** shall mean the Claim possessed by the Debtor against Conerly.

30. **"Loan"** means the loan represented by the Promissory Note and the other Secured Lender Loan Documents in favor of 23467 Mississippi LLC dated March 10, 2009.

31. **"Maximum Amount"** means the sum of \$100,000.00.

32. **"Member Creditor Claim"** means a claim possessed by a Member Creditor Claimant in excess of \$5,000.00.

33. **"Member Creditor Claimant"** shall mean each Member of the Debtor that possesses an unsecured claim as a result of a loan made to the Debtor in excess of \$5,000.00.

34. **"Members"** mean collectively the Managing Member and other members of the Debtor.

35. **"Membership Agreement"** means the Membership Agreement that is filed as a Plan Supplement.

36. **"Membership Interests"** means the respective legal, equitable, contractual and other rights and ownership interests of the Managing Member and the members in and with respect to the Debtor.

37. **"New Managing Member"** shall mean New Aggregates Inc. (100% owned by Henry Coaxum, Jr.), who will own a one percent (1%) interest.

38. **"New Marion Clay Contribution"** means those funds to be contributed to the Reorganized Debtor as additional capital by New Managing Member or New LLC Members, or an affiliate thereof, and by the Electing Equity Contributors on the Effective Date in accordance with the Plan.

39. **"New LLC Members"** shall mean Henry L. Coaxum, Jr., Dr. O. T. Gordon, Jr. and Jessie L. Conerly. Each member, with the exception of Jessie L. Conerly, will own 49.5% and Jessie L. Conerly will own 1%. After all payments due under the Plan and the New LLC Members have recovered their capital contribution plus a fifteen percent (15%) return on their investment compounded annually, then Jessie L. Conerly shall become an equal partner in New Aggregates LLC. See CV of each member attached hereto.

40. **"Note" or "Promissory Note"** shall mean the Promissory Note executed by the Debtor dated March 10, 2009 in favor of 23467 Mississippi LLC and any amendments thereto executed by the Debtor and as amended and restated to conform to the terms set forth in the Plan.

41. **"Oil Spill Claim"** shall mean the Claim possessed by the Debtor arising from an oil spill at the Property.

42. **"Person"** means an individual, corporation, Membership, joint venture, association, joint stock company, limited liability company, limited liability Membership, trust, estate, unincorporated organization, governmental unit (as defined in section 101(27) of the Bankruptcy Code), or other entity.

43. **"Petition Date"** means April 30, 2015.

44. **"Plan"** means the plan of reorganization, either in its present form or as it may be altered, amended, or modified from time to time in accordance with the Bankruptcy Code and Bankruptcy Rules.

45. **"Priority Non Tax Claim"** means a Claim entitled to priority under section 507(a) of the Bankruptcy Code other than an Administrative Claim and a tax claim entitled to priority under section 507(a)(8) of the Bankruptcy Code.

46. **"Priority Tax Claim"** shall mean any Claim entitled to priority in payment under section 507(a)(8) of the Bankruptcy Code, but only to the extent it is entitled to priority under such subsection but excluding Property Tax Claims.

47. **"Property"** means that certain real property set forth in the Loan and Security Agreement executed between the Debtor and 23467 Mississippi LLC.

48. **"Property Tax Claim"** means any tax claim held by a Governmental Unit secured by a lien against the Property.

49. **"Puckett Claim"** shall mean the claim of Puckett Machinery Company that is set forth in Proof of Claim 1-1.

50. **"Reorganization Case"** means this bankruptcy case under chapter 11 of the Bankruptcy Code.

51. **"Reorganized Debtor"** means the Debtor or New Aggregates, LLC, respectively, as revested with property of the Estate to the extent provided in the Plan on or after the Effective Date. On the Effective Date, the Debtor shall change its name to New Aggregates, LLC.

52. **"Retained Claims"** shall mean (i) the BP Claim; (ii) the Oil Spill Claim;

(iii) Litigation Trust Claims; (iv) any claim against the Members arising as a result of their Member Creditor Claims that are not waived pursuant to the Plan; and (v) any and all Claims, causes of action, demands, defenses, suits, judgments, choses in action, licenses, privileges, agreements and all other rights and remedies (legal or equitable) of the Debtor and the Estate, for or on behalf of Creditors and/or the Debtor and/or the Estate, including but not limited to any and all claims and/or causes of action by the Estate and/or the Debtor, against any and all Creditors or other Persons, of every kind or nature, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, matured or unmatured, whether arising before, on or after the Petition Date, in contract or in tort, at law or in equity, and whether or not brought as of the Effective Date, including but not limited to those for (i) damages, (ii) the recovery of monies, (iii) lien avoidance, subordination, surcharge, recharacterization, setoff, counterclaim, contribution or recoupment, (iv) tax refunds, (v) claims and defenses such as fraud, mistake, duress and usury, (vi) claims on contracts or for breaches of duties imposed by law, (vii) injunctive, equitable or other relief, (viii) claims and causes of action that may be asserted derivatively on behalf of the Debtor, the Estate or the Reorganized Debtor, (ix) claims and causes of action pursuant to section 362 of the Bankruptcy Code and (x) all Avoidance Actions.

53. **"Scheduled"** means set forth on the Schedules.

54. **"Schedules"** means the Schedules of Assets and Liabilities and List of Equity Security Holders filed by the Debtor under the Bankruptcy Rules, as the same have been or may be amended from time to time before the Effective Date.

55. **"Secured Claim"** means any claim that is secured by a valid, perfected and unavoidable lien on property in which the Estate has an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the claimholder's interest in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, and determined under section 506 of the Bankruptcy Code.

56. **"Secured Lender"** means 23467 Mississippi LLC.

57. **"Secured Lender Loan"** means all claims of the Secured Lender

evidenced by, arising under, or relating to the Secured Lender Loan Documents.

58. **"Secured Lender Loan Documents"** mean all documents evidencing the Secured Lender Loan executed by the Debtor, including, but not limited to, the Note and the Deed of Trust, which is executed by the Debtor in favor of the Secured Lender (or its processors-in-interest and/or assigns), and any other documents executed by the Debtor in consummation of the Plan and/or that need to be amended and restated to conform to the terms of the Plan.

59. **"Unsecured Claim"** means any claim that is not the Puckett Claim, an Administrative Claim, Priority Claim, Property Tax Claim, Secured Claim or Member Creditor Claim.

II. PURPOSE AND SUMMARY OF THE PLAN

THE DESCRIPTION OF THE PLAN SET FORTH BELOW CONSTITUTES A SUMMARY ONLY. HOLDERS OF CLAIMS AND INTERESTS AND OTHER PARTIES IN INTEREST ARE URGED TO REVIEW AND ANALYZE THE PLAN IN ITS ENTIRETY.

The primary purposes of the Plan are to:

- Provide for the continued operation and capital;
- Provide for the restructuring of the Debtor's capital structure; and
- Provide for payments to creditors and in accordance with the terms of the Plan.

III. SUMMARY OF CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN

A. TREATMENT OF CLAIMS AND INTERESTS

The Plan contemplates payment of all Allowed Claims against the Debtor utilizing the revenue from the ongoing operation of the Debtor's business to make the payments set forth therein. The holders of Membership Interests will be affected pursuant to the Plan.

B. CLAIMS UNDER THE PLAN

The following is a summary of the classification and treatment of Claims under the Plan:

<p>Unclassified. Allowed Administrative Expense Claims.</p> <p>Included in this Class are the claims of Equity Partners and Byrd and Wiser. It is believed the amount owed to Equity P after application of its retainer will be \$80,000.00 and Byrd and Wiser will be \$40,000.00. Heller Draper will file a claim for substantial contribution of about \$50,000.00.</p> <p>H. Varnadoe Enterprises, LLC asserts an Administrative Claim of \$27,567.00. A review of the elements of the Claim reflects that at least \$25,000.00 of the asserted Administrative Claim was paid prepetition. In addition, an additional claim of \$60,000.00 has been asserted. Conerly will not object to the additional \$60,000.00..</p> <p>Administrative Claims in favor of Conerly and Henry L. Coaxum, Jr. for funding adequate protection payments, tax payments and United States Trustee fees in the sum of \$90,000.00 shall be waived.</p>	<p>Unimpaired. Not entitled to vote.</p> <p>Subject to the bar date provisions herein, the Disbursing Agent shall pay each holder of an Allowed Administrative Claim against the Debtor on account of and in full satisfaction of such Allowed Administrative Claim, Cash equal to the amount of the Allowed Administrative Claim, on the later of: (a) the Effective Date, or (b) the date such Administrative Claim becomes an Allowed Administrative Claim, or, in either case, as soon thereafter as is practicable, except to the extent that the holder of an Allowed Administrative Claim agrees to a different treatment.</p> <p>On or before the Effective Date, all fees payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid in Cash in full.</p> <p>Except as provided below for professionals and non-tax liabilities incurred in the ordinary course of business by the Debtor in Possession, requests for payment of Administrative Claims and substantial contribution claims must be filed no later than sixty (60) days after the Effective Date. Holders of Administrative Claims (including, without limitation, any governmental units asserting claims for federal, state, or local taxes) that are required to File a request for payment of such claims and that do not File such requests by such bar date shall be forever barred from asserting such claims against the Debtor, Reorganized Debtor, any other Person, or any of their respective property.</p> <p>Holders of Allowed Administrative Claims shall not be entitled to interest on their Administrative Claims.</p> <p>All professionals or other entities requesting compensation or reimbursement of expenses under sections 327, 328, 330, 331, 503(b), 506 and 1103 of the Bankruptcy Code for services rendered before the Effective Date (including any compensation requested by any professional for any other entity for making a substantial contribution in the Reorganization Case or any creditor seeking recovery under 11 U.S.C. § 506(a)) shall File and serve on the Reorganized Debtor an application for final allowance of compensation and reimbursement of expenses no later than sixty (60) days after the Effective Date. If such claim is not filed, the professional or party seeking recovery under 11 U.S.C. § 506 shall be deemed to waive such claim. On the Effective Date, a reserve shall be established by the Reorganized Debtor for the estimated unpaid fees and expenses of the professionals accrued through the Effective Date, to be held by the Reorganized Debtor. The funds deposited into the reserve contemplated in this paragraph shall be free and clear of all liens, claims and encumbrances to the extent that such funds exceed the amount of professional fees estimated by Secured Lender in the document Filed with the Court two (2) Business Days prior to the Confirmation Hearing.</p> <p>Holders of Administrative Claims based on liabilities incurred in the ordinary course of business of the Debtor in Possession prior to the Effective Date (other than professionals or other entities described in subparagraph (ii) above, and governmental units that hold claims for taxes or claims and/or penalties related to such taxes) shall not be required to File any request for payment of such claims. Such Administrative Claims shall be assumed and paid by the Reorganized Debtor in the ordinary course of business under the terms and conditions of the particular transaction giving rise to such Administrative Claim, without any further action by the holders of such claims.</p> <p>Estimated percentage recovery: 100%</p>
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<p>Class 1 (Priority Non Tax Claims)</p> <p>Debtor believes there are no Priority Non-Tax Claims.</p>	<p>Unimpaired. Not entitled to vote.</p> <p>Class 1 is unimpaired under the Plan, and the holders of Priority Non Tax Claims are deemed to have voted in favor of the Plan. The Disbursing Agent shall pay each holder of an Allowed Priority Non Tax Claim against the Debtor on account of and in full satisfaction of such Allowed Priority Non Tax Claim, Cash equal to the amount of the Allowed Priority Non Tax Claim, on the later of: (a) the Effective Date, or (b) the date such Priority Non Tax Claim becomes an Allowed Priority Non Tax Claim, or, in either case, as soon thereafter as is practicable, except to the extent that the holder of an Allowed Priority Non Tax Claim agrees to a different treatment.</p> <p>Estimated percentage recovery: 100%, if any exist and are allowed.</p>
<p>Class 2 (Secured Lender)</p> <p>The total estimate of the Secured Lender Claims was \$1,900,000.00 as of the Petition Date. For Plan purposes, it is assumed to be \$2,000,000 .00 with post-petition accruals.</p>	<p>Impaired. Entitled to Vote.</p> <p>Class 2 is impaired under the Plan, and the holders of the Secured Lender Claims are entitled to vote on the Plan. The treatment of the Class 2 creditors shall be as follows:</p> <p><u>Term</u>: The term of Note, as restructured by the Plan, shall be three (3) years from the Effective Date of the Plan (the “<u>Maturity Date</u>”);</p> <p><u>Interest Rate</u>: The interest rate applicable to Secured Lender’s Claim during the Plan’s Term shall be 5%;</p> <p><u>Payments to Secured Lender</u>: The Debtor shall make monthly debt service payments to the secured creditors based upon the following: (a) the allowed amount of the secured creditor’s claim including amounts allowable under §506; (b) an interest rate of five percent (5%); and (c) an amortization of ten (10) years;</p> <p><u>Final Payment</u>: All unpaid interest and principal shall be paid to the Secured Lender on the third anniversary of the Effective Date;</p> <p><u>No Prepayment Penalty</u>: The Secured Lender’s Claim may be paid in full at any time by the Reorganized Debtor;</p> <p><u>Pledge Account</u>: The Reorganized Debtor, out of the New Marion Clay Contribution, may either post a \$200,000.00 letter of credit in favor of the Secured Lender or fund a segregated bank account which will serve as additional security for the Secured Lender’s Claim. The account shall be funded with the sum of \$200,000.00. The Reorganized Debtor may withdraw out of the account funds for the sole purpose of making Plan payments on the Class 2 creditor’s claim. Upon payment in full of the Class 2 creditor the balance remaining in the Pledge Account shall be released;</p> <p><u>Lien Retention</u>: Secured Lender shall be granted a lien on the Pledge Account described above and retain its liens on all of its Collateral (as defined in the Secured Lender Loan Documents) to the same extent and priority that such liens enjoyed prior to the Debtor’s filing for bankruptcy and/or pursuant to the Court Orders in the Debtor’s bankruptcy case until Secured Lender’s Claim is satisfied in full pursuant to the terms of the Plan. The documents in favor of the Secured Lender shall be binding on the Reorganized Debtor except as modified pursuant to this Plan; and</p> <p><u>Lien Documents</u>: The existing documents creating the security interest of the Secured Lender shall stay in full force and effect except as modified pursuant to this Plan.</p> <p>All defaults and events of default existing as of the Petition Date and as of the Effective Date shall be waived and any defaults and events of default resulting from the confirmation of the Plan, the occurrence of the Effective Date and/or the actions and transactions contemplated by the Plan, including the payments to be made under the Plan.</p> <p>Estimated percentage recovery: 100%</p>
<p>Class 3 (Puckett Claim)</p>	<p>Puckett possesses a judgment against the Debtor and others. The lien possessed by</p>

<p>Estimate Amount \$35,000</p>	<p>the Puckett judgment is inferior in ranking to the lien possessed by the Class 2 creditors and the ad valorem taxing authorities. If equity exists in the Puckett claim, Puckett will be paid its allowed secured claim as follows:</p> <ol style="list-style-type: none"> An interest rate of five percent (5%); An amortization of ten (10) years; A term of three (3) years; An interest rate of five percent (5%); and A monthly payment, the difference between the Puckett Class 3 claims and its Allowed Claim shall be a Class 5 claim and shall share pro rata with the Class 5 creditors.
<p>Class 4 (General Unsecured Claims)</p> <p>Claims in this Class total about \$200,000.00.</p> <p>This is exclusive of the Claim of Abrams Group Construction, LLC, which is disputed. That claim totals \$360,000.00.</p>	<p>Impaired. Entitled to Vote.</p> <p>Class 4 is impaired under the Plan, and the holders of Class 4 Claims are entitled to vote on the Plan. The Disbursing Agent shall pay each holder of an Allowed Unsecured Claim against the Debtor on account of and in full satisfaction of such Allowed Unsecured Claim, based upon the following:</p> <ol style="list-style-type: none"> a principal amount equal to such unsecured creditor's Allowed Claim; an interest rate of six percent (6%); an amortization of five (5) years; and a final payment of all unpaid principal and interest on the third anniversary of the Effective Date of a Plan. <p>Class 4 creditors may elect to accept on the Effective Date a cash payment equal to thirty-five percent (35%) of such creditor's Allowed Claim which amount shall be paid on the later of: (i) the Effective Date; or (ii) when such claim is allowed.</p> <p>The payment to the Class 4 creditors shall be paid pro rata with the Claims of the Class 5 creditors out of funds generated by the operation of the Reorganized Debtor, funds contributed by the members of the Reorganized Debtor, eighty percent (80%) of the BP Claim, twenty percent (20%) of the Oil Spill Claim and one hundred percent (100%) of the proceeds of the Litigation Trust Claim. Payment shall commence on the Commencement Date and shall be paid quarterly.</p> <p>Estimate percentage recovery: 100%, if any exist and are allowed.</p>
<p>Class 5 (Member Creditor Claims)</p> <p>The total estimate is \$3,000,000.00. These claims are subject to dispute and characterization.</p> <p>It is believed this Class will total \$1,200,000.00.</p>	<p>Impaired. Entitled to Vote.</p> <p>Class 5 is impaired under the Plan and is entitled to vote on the Plan. The Claim of Harry Varnadoe LLC shall be recognized in the amount of \$1,200,000.00 and shall be paid:</p> <ol style="list-style-type: none"> \$100,000.00 on the Effective Date of the Plan; Balance paid based upon the following: <ol style="list-style-type: none"> Interest rate of six percent (6%); Amortization of ten (10) years; Term of three (3) years; and Monthly payments. The claims of the member creditors shall be secured by a security interest junior to the claim of the Class 2 creditors; and The payments to the Class 5 creditors shall be in default if any payment due the Class 5 creditors is sixty days past due. <p>The payment to the Class 5 creditors shall be paid pro rata with the Claims of the Class 4 creditors from operations of the Reorganized Debtor; contributions from members of the Reorganized Debtor; eighty percent (80%) from the BP Claim, twenty percent (20%) from the Oil Spill Claim and one hundred percent (100%) of the proceeds from the Litigation Trust Claim. Payment shall commence on the Commencement Date and shall be paid quarterly.</p> <p>Estimated percentage recovery: 100%, if any exist and are allowed.</p>

The Claims and Claim amounts listed above are amounts estimated by the Debtor as of the filing of this Disclosure Statement and all such Claims are still being reviewed by the Debtor. A listing of Claims or any amounts with respect thereto above or elsewhere in this Disclosure Statement shall not constitute, or be deemed to constitute, allowance of such Claims and all such Claims and amounts are subject, and will remain subject, to challenge and objection by the Debtor and the Reorganized Debtor prior to voting on the Plan and at any time thereafter as provided in the Plan.

C. INTERESTS UNDER THE PLAN

The following is a summary of the classification and treatment of Interests under the Plan:

Class 6 (Members)	<p>Impaired. Entitled to Vote.</p> <p>Class 6 is impaired under the Plan and the holder of an Interest in this Class is entitled to vote on the Plan. Class 6 Members may elect to make a capital contribution equal to their pro rata share of ten percent (10%) of the Debtor. For each percentage acquired, the Members shall contribute \$10,000.00. If a Member does not elect to purchase an interest in the Reorganized Debtor, his interest will be terminated. In any event, if the Class 4 and Class 5 creditors are paid in full, any net recovery incident to eighty percent (80%) of the BP Claim, twenty percent (20%) of the Oil Spill Claim or one hundred percent (100%) of the Litigation Trust Claim shall be paid pro-rata to all Class 6 Members.</p> <p>Estimated percentage recovery: 100%.</p>
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V. GENERAL OVERVIEW AND BACKGROUND INFORMATION

(1) History

The Debtor owns and personally operated a sand and gravel operation located at 1843 Highway 43, Columbia, Mississippi (Marion County), comprised of approximately 872 acres, including several houses and 300 acres bordering the Peal River.

Marion Clay & Gravel, LLC was formed in 2009 to acquire an 872 acre site in Marion County, Mississippi at \$5,000,000 cost, and to commence mining operations for clay, sand and

gravel. The purchase price included \$2,500,000 paid to the seller and \$2,500,000 financed by the seller. The current balance on that note is approximately \$1,860,000.

The members of the Debtor include Conerly & Myles Enterprises, LLC (the Manager), H. Varnadoe Enterprises, LLC, ES Services, LLC, and Denis-Bates Enterprise, LLC. Conerly is a member of and 50% owner of Conerly & Myles Enterprises, LLC. The company began mining operations with used equipment that was subject to high maintenance, and the partners, other than Conerly, were unwilling to meet capital calls to meet mortgage payments and equipment costs.

The mining operations shut down due to the lack of funding. The Debtor filed for relief when the first mortgage holder moved to foreclose on the property.

Collateral Values

- \$1,779,160 1st Mortgage on 872 acres @ \$2,030/ acre (Appraisal)
- \$1,500,000 Current 750,000 Ton stockpile @ \$2.00/ton
- \$8,000,000 Conservation Tax Easement on 250-350 acres
- \$11,279,160 Total Collateral Value

Sources of Repayment

- Sources from mining operations
 - Mining operator has agreed to mine sand and gravel aggregates at a cost of \$6.00/ton between 15,000 - 60,000 Ton/ month as sales require
 - Bagged Sand- 50 lb bags (\$0.04/ lb = \$2.00/ bag = \$80/ ton)
 - All aggregate sales revenue should gross \$6.00 per ton in favor of New Aggregates, LLC with the consent of 23467, a Conservation Tax Easement – Value \$3,000,000.00

Conservation Land Easement Tax Credits

- While mining operations are beginning, Russ Patterson will be engaged to begin testing and surveying the property
- Russ's findings will be turned over to a mining minerals professional to evaluate his findings and place a current day market value of the mineral reserves
- Once valued, the reports will be turned over to the Shanahan Law Firm in North Carolina to prepare the application for the Conservation Easement (CE)

- With approval of 23467 or the payoff of 23467, tax benefits in the amount of between \$1,000,000.00 and \$3,000,000.00 will be available to preserve the land based on the value of the mineral resources
- The value has been estimated to be between \$8MM to \$10MM for approximately 250 – 300 acres
- The Reorganized Debtor will have to hold the credits for a year and a day from the date issued before they can be monetized
- The Closing will take place when 23467 is paid off or when they consent to the granting of the easement

Capital Needs – Use of Funds

- \$300,000 Administrative Fees and Substantial Contribution Claim
- \$177,600 3 Months Working Capital
- \$200,000 Funding the Pledge Account for the Secured Lender
- \$100,000 payment to member creditors

Sources for Plan Payments

1. Capital Contribution - New Marion Clay Contribution - \$1,000,000.00;
2. Inventory Production – Initial Sale - \$155,000.00¹;
3. Mining Operations;
4. Sale of Conservation Tax Easement; and
5. In addition, Plan payments may be made from recoveries incident to the BP Claims, Oil Spill Claims and Litigation Trust Claims. Plan payments, however, are not premised upon any recoveries from these claims.

C. INFORMATION REGARDING THE DEBTOR’S PROPERTY

1. The Debtor owns 872 contiguous acres in Marion County, Mississippi.
2. The property has approximately 750,000 + tons of sand that has been mined and stockpiled on the property.
3. Soil borings indicate that sand and gravel are available to move to depths of 68 feet. The sand and gravel that was mined was from a 15 acre site to a depth of 35 feet.
4. The Debtor plans to set aside 350 acres for conservation tax credits.

¹ This amount is disputed.

D. SIGNIFICANT POST-PETITION EVENTS

In the course of a Chapter 11, a number of events occurred. The Debtor believes the following are the significant Chapter 11 events:

1. Petition Date, Amendment to Voluntary Petition and Withdrawal of Small Business Election.

On April 30, 2015, Debtor filed for relief under Chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its properties as debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

On May 26, 2015, the Debtor filed an amended Voluntary Petition removing the small business debtor designation [ECF Dkt. #s 33 and 34]. On July 28, 2015, the Debtor filed an amended Voluntary Petition to include the signature of Conerly as the Member of the Debtor.

2. Continuation of Business; Stay of Litigation.

Following the Petition Date, the Debtor has continued to operate as debtor-in-possession with the protection of the Bankruptcy Court. The Bankruptcy Court has certain supervisory powers over the Debtor's operations during the pendency of the Chapter 11 Case, including the power to approve any transactions that are outside the ordinary course of the Debtor's business.

An immediate effect of the filing of a bankruptcy case is the imposition of the automatic stay under the Bankruptcy Code which, with limited exceptions, enjoins the commencement or continuation of all litigation against the Debtor. This injunction will remain in effect until the Effective Date unless modified or lifted by order of the Bankruptcy Court.

3. Applications to Employ Bankruptcy Counsel and Special Counsel.

On May 13, 2015, the firm of Bryd & Wiser filed an *Application to Retain Counsel* [ECF Dkt. # 16] as bankruptcy counsel for the Debtor. The Bankruptcy Court entered an order on June 9, 2015 approving the employment of Bryd & Wiser [ECF Dkt. # 45].

On June 30, 2015, the Debtor filed an *Application to Employ* Martha Y. Curtis and the law firm of Sher Garner Cahill Richter Klein & Hilbert, L.L.C. as special counsel to represent the Debtor in connection with its claim for damages related to the BP Deepwater Horizon Drilling Rig Oil Spill Disaster [ECF Dkt. # 52]. The Bankruptcy Court entered an order on August 3, 2015 approving the employment of Sher Garner Cahill Richter Klein & Hilbert, L.L.C. [ECF Dkt. # 78].

4. Compliance with Bankruptcy Code, Bankruptcy Rules, Local Court Rules, and U.S. Trustee Guidelines for Region 5.

On May 22, 2015, the Debtor filed its Statement of Financial Affairs, Summary of Schedules, Schedules of Assets and Liabilities, Schedules of Executory Contracts and Unexpired Leases, and Lists of Equity Security Holders [ECF Dkt. #s 29 and 30]. On June 12, 2015, the Debtor filed an amended Summary of Schedules and an amended Schedule F – Creditors Holding Unsecured Nonpriority Claims. [ECF Dkt. # 48]. On July 24, 2015, the Debtor filed the following amended schedules: Schedule A – Real Property, Schedule B – Personal Property, Schedule C – (as non-applicable) Property Claimed as Exempt, Schedule D – Creditors Holding Secured Claims, Schedule G – Executory Contracts and Unexpired Leases and Schedule H – Codebtors, as well as an amended Statement of Financial Affairs [ECF Dkt. #s 65, 66, 67 and 68]. On July 27, 2015, the Debtor filed a second amended Schedule F – Creditors Holding Unsecured Nonpriority Claims [ECF Dkt. # 70].

Pursuant to section 341 of the Bankruptcy Code, a meeting of creditors for the Debtor was held on May 27, 2015 [ECF Dkt. # 35].

The Debtor has filed Monthly Operating Reports for May 2015, June 2015, July 2015 and August 2015 [ECF Dkt. #s 85, 86, 94 and 95]. The Court has modified the U.S. Trustee's guidelines to require the Debtor to file its bank statements.

In place, as required, is insurance through Foremost Insurance Company. Conerly is currently paying the policy premiums.

5. Debtor's Exclusivity Period to File a Plan of Reorganization.

Pursuant to section 1121(d)(1) of the Bankruptcy Code, the Debtor had until August 28, 2015, to file a plan of reorganization. On August 27, 2015, the Debtor filed a *Motion for Extension of Time Within Which to File its Disclosure Statement and Plan and to Extend Exclusivity Period* [ECF Dkt. # 87]. On September 24, 2015, the Bankruptcy Court granted the extension and the Debtor's exclusivity period was extended until December 23, 2015 [ECF Dkt. # 96]. As discussed in section 6 below, the Debtor waived its right to the exclusivity period to allow Conerly to file a plan of reorganization.

6. Motion to Employ Equity Partners HG LLC and Motion for Approval of Bid Procedures.

On May 19, 2015, the Debtor filed a *Motion to Employ Equity Partners HG LLC and Steven A. Jax (the Equity Partners Team)* seeking authority to engage Equity Partners HG LLC ("Equity Partners") "to restructure, advertise and market and to refinance, sell, lease or otherwise dispose of the Debtor's assets, or to find equity investors or a joint venture partner." [ECF Dkt. # 26, para. III]. Conerly objected to the agreement with Equity Partners to the extent that the agreement would allow for the payment of a commission for any transaction with Conerly. Prior to the employment of Equity Partners, the Debtor was aware of Conerly's intention to purchase the Debtor. Conerly's objection was over-ruled and on July 8, 2015, the Bankruptcy Court entered an order approving the employment of Equity Partners pursuant to the terms of the agreement attached to the motion [EFC Dkt. # 60]. Under the terms of the Agreement, the duration of the employment is 90 days or as long as any prospect identified during the 90 days is under a letter of intent for any transaction regarding the Debtor's business.

Equity Partners marketed the Debtor's assets by advertising in the Wall Street Journal, the Mississippi Business Journal, and on over 135 websites. The marketing resulted in approximately 28 groups executing confidentiality agreements and 7 site visits.

7. Motion for Approval of Bid Procedures in Connection with the Sale of Debtor's Assets.

On August 13, 2015, the Debtor filed a *Motion for Approval of Bid Procedures in Connection with the Sale of Debtor's Assets* [ECF Dkt. # 82]. On September 9, 2015, the Bankruptcy Court entered an order approving the bidding procedures and setting the auction for October 13, 2015 [ECF Dkt. # 92]. The order allowed the Secured Lender to credit bid up to the amount of its secured claim and the marketing process would be concluded if no qualified bid was submitted. The Debtor elected to cancel the auction on October 12, 2015, as the Debtor did not receive a qualifying bid.

8. Motion to Lift the Automatic Stay, for Abandonment or, in the Alternative, to Compel Adequate Protection or Compel Debtor to Proceed with Auction and Accept Credit Bid.

On October 22, 2015, the Secured Lender filed a *Motion to Lift the Automatic Stay, for Abandonment or, in the Alternative, to Compel Adequate Protection or Compel Debtor to Proceed with Auction and Accept Credit Bid* [ECF Dkt. # 98]. Conerly and the Debtor filed objections to the Secured Lender's motion [ECF Dkt. #s 107 and 108]. On December 3, 2015, the Bankruptcy Court conducted a hearing, evidence was introduced and witnesses testified. At the conclusion of the hearing, the Bankruptcy Court granted the Secured Lender's request for adequate protection payments in the amount of \$7,000.00 per month with payments commencing on December 15, 2015. The Bankruptcy Court ruled that the automatic stay of section 362 of the Bankruptcy Code would automatically terminate if a monthly adequate protection payment were not made within ten (10) days of the monthly due date. The Debtor agreed to waive exclusivity,

and Conerly was allowed to file a plan by January 15, 2016. The remaining issues in the Secured Lender's motion are held in abeyance pending confirmation of a plan of reorganization. On December 23, 2015, the Bankruptcy Court entered the *Order on Motion for Relief from Stay, or in the Alternative, for Adequate Protection* [ECF Dkt. # 112] memorializing the rulings stated on the record in open court at the hearing.

9. Mediation.

A mediation took place before Judge Olack. The result of the mediation was a settlement between Conerly, H. Varnadoe Enterprises, LLC as a member creditor and ES Services, LLC. The result of the settlement is incorporated in the treatment of the member creditors and the withdrawal of the competing plan filed by H. Varnadoe Enterprises, LLC and ES Services, LLC.

10. Tax Redemption.

A Motion for Relief from Stay was filed by 23467 with respect to a tax sale of the Debtor's property. Pursuant to an Order entered, the tax sale for 2013 was required to be redeemed prior to mid-August. The tax sale has been redeemed by Conerly.

VI. THE PLAN

The Debtor has proposed the Plan and believes that the classification and treatment of Claims and Membership Interests provided for in the Plan are consistent with the requirements of the Bankruptcy Code. Under the Bankruptcy Code, holders of Allowed Claims against and Membership Interests in the Debtor that are Impaired and that receive distributions under the Plan are entitled to vote on the Plan. A summary of the classification and treatment of Claims and Interests under the Plan is set forth above in this Disclosure Statement.

A. TREATMENT OF UNCLASSIFIED CLAIMS UNDER THE PLAN

The Plan was submitted by Conerly for the resolution of all outstanding creditor claims.

1. Administrative Claims.

a. Generally.

Subject to the bar date provisions herein, the Disbursing Agent shall pay each holder of an Allowed Administrative Claim against the Debtor on account of and in full satisfaction of such Allowed Administrative Claim, Cash equal to the amount of the Allowed Administrative Claim, on the later of: (a) the Effective Date, or (b) the date such Administrative Claim becomes an Allowed Administrative Claim, or, in either case, as soon thereafter as is practicable, except to the extent that the holder of an Allowed Administrative Claim agrees to a different treatment.

b. Payment of Statutory Fees.

On or before the Effective Date, all fees payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid in Cash in full.

c. Bar Date For Administrative Claims.

i. General Provisions.

Except as provided below for professionals and non-tax liabilities incurred in the ordinary course of business by the Debtor in Possession, requests for payment of Administrative Claims and substantial contribution claims must be filed no later than sixty (60) days after the Effective Date. Holders of Administrative Claims (including, without limitation, any governmental units asserting claims for federal, state, or local taxes) that are required to File a request for payment of such claims and that do not File such requests by such bar date shall be forever barred from asserting such claims against the Debtor, Reorganized Debtor, any other Person, or any of their respective property.

Holders of Allowed Administrative Claims shall not be entitled to interest on their Administrative Claims.

ii. Professionals.

All professionals or other entities requesting compensation or reimbursement of expenses under sections 327, 328, 330, 331, 503(b), 506 and 1103 of the Bankruptcy Code for

services rendered before the Effective Date (including any compensation requested by any professional for any other entity for making a substantial contribution in the Reorganization Case or any creditor seeking recovery under 11 U.S.C. § 506(a)) shall File and serve on the Reorganized Debtor an application for final allowance of compensation and reimbursement of expenses no later than sixty (60) days after the Effective Date. If such claim is not filed, the professional or party seeking recovery under 11 U.S.C. § 506 shall be deemed to waive such claim. On the Effective Date, a reserve shall be established by the Reorganized Debtor for the estimated unpaid fees and expenses of the professionals accrued through the Effective Date, to be held by the Reorganized Debtor. The funds deposited into the reserve contemplated in this paragraph shall be free and clear of all liens, claims and encumbrances to the extent that such funds exceed the amount of professional fees estimated by Secured Lender in the document Filed with the Court two (2) Business Days prior to the Confirmation Hearing.

iii. Ordinary Course Liabilities.

Holders of Administrative Claims based on liabilities incurred in the ordinary course of business of the Debtor in Possession prior to the Effective Date (other than professionals or other entities described in subparagraph (ii) above, and governmental units that hold claims for taxes or claims and/or penalties related to such taxes) shall not be required to File any request for payment of such claims. Such Administrative Claims shall be assumed and paid by the Reorganized Debtor in the ordinary course of business under the terms and conditions of the particular transaction giving rise to such Administrative Claim, without any further action by the holders of such claims.

2. Priority Tax Claims.

Each holder of an Allowed Priority Tax Claim shall receive one of the following three treatments, as determined by the Reorganized Debtor in its sole and absolute discretion, on account of and in full satisfaction of such Allowed Priority Tax Claim: (a) Cash on the Effective Date, or on such other date on which such Priority Tax Claim becomes an Allowed Claim, in an amount equal to the amount of the Allowed Priority Tax Claim; (b) regular installment payments

in Cash of a value, as of the Effective Date, equal to the amount of the Allowed Priority Tax Claim, plus interest at such annual rate as is determined in accordance with section 511 of the Bankruptcy Code, over a period ending not later than five (5) years after the Petition Date; or (c) on such other terms and conditions as agreed to by the Reorganized Debtor and the holder of the Allowed Priority Tax Claim. Holders of Priority Tax Claims shall not be entitled to receive any payment on account of penalties with respect to or arising in connection with, such Priority Tax Claims. The Reorganized Debtor may prepay, without penalty, at any time any Allowed Priority Tax Claim treated in accordance with option (b) above.

B. TREATMENT OF CLASSIFIED CLAIMS UNDER THE PLAN

1. Class 1 (Priority Non Tax Claims).

Class 1 is unimpaired under the Plan, and the holders of Priority Non Tax Claims are deemed to have voted in favor of the Plan. The Disbursing Agent shall pay each holder of an Allowed Priority Non Tax Claim against the Debtor on account of and in full satisfaction of such Allowed Priority Non Tax Claim, Cash equal to the amount of the Allowed Priority Non Tax Claim, on the later of: (a) the Effective Date, or (b) the date such Priority Non Tax Claim becomes an Allowed Priority Non Tax Claim, or, in either case, as soon thereafter as is practicable, except to the extent that the holder of an Allowed Priority Non Tax Claim agrees to a different treatment.

2. Class 2 (Secured Lender).

Class 2 is impaired under the Plan, and the holders of the Secured Lender Claims are entitled to vote on the Plan. The treatment of the Class 2 creditors shall be as follows:

- Term: The term of Note, as restructured by the Plan, shall be three (3) years from the Effective Date of the Plan (the “Maturity Date”);
- Interest Rate: The interest rate applicable to Secured Lender’s Claim during the Plan’s Term shall be 5%;
- Payments to Secured Lender: The Debtor shall make monthly debt service payments to the secured creditors based upon the following: (a) the allowed amount of the secured

creditor's claim including amounts allowable under §506; (b) an interest rate of five percent (5%); and (c) an amortization of ten (10) years;

- Final Payment: All unpaid interest and principal shall be paid to the Secured Lender on the third anniversary of the Effective Date;
- No Prepayment Penalty: The Secured Lender's Claim may be paid in full at any time by the Reorganized Debtor;
- Pledge Account: The Reorganized Debtor, out of the New Marion Clay Contribution, may either post a \$200,000.00 letter of credit in favor of the Secured Lender or fund a segregated bank account which will serve as additional security for the Secured Lender's Claim. The account shall be funded with the sum of \$200,000.00. The Reorganized Debtor may withdraw out of the account funds for the sole purpose of making Plan payments on the Class 2 creditor's claim. Upon payment in full of the Class 2 creditor, the balance remaining in the Pledge Account shall be released;
- Lien Retention: Secured Lender shall be granted a lien on the Pledge Account described above and retain its liens on all of its Collateral (as defined in the Secured Lender Loan Documents) to the same extent and priority that such liens enjoyed prior to the Debtor's filing for bankruptcy and/or pursuant to the Court Orders in the Debtor's bankruptcy case until Secured Lender's Claim is satisfied in full pursuant to the terms of the Plan. The documents in favor of the Secured Lender shall be binding on the Reorganized Debtor except as modified pursuant to the Plan; and
- Lien Documents: The existing documents creating the security interest of the Secured Lender shall stay in full force and effect except as modified pursuant to the Plan.

Defaults: All defaults and events of default existing as of the Petition Date and as of the Effective Date shall be waived and any defaults and events of default resulting from the confirmation of the Plan, the occurrence of the Effective Date and/or the actions and transactions contemplated by the Plan, including the payments to be made under the Plan.

3. Class 3 (Puckett Claim).

Puckett possesses a judgment against the Debtor and others. The lien possessed by the Puckett judgment is inferior in ranking to the lien possessed by the Class 2 creditors and the ad valorem taxing authorities. If equity exists in the Puckett claim, Puckett will be paid its allowed secured claim as follows:

- a. An interest rate of five percent (5%);
- b. An amortization of ten (10) years;
- c. A term of three (3) years; and
- d. A monthly payment, the difference between the Puckett Class 3 claims

and its Allowed Claim shall be a Class 5 claim and shall share pro rata with the Class 5 creditors.

4. Class 4 (General Unsecured Claims).

Class 4 is impaired under the Plan, and the holders of Class 4 Claims are entitled to vote on the Plan. The Disbursing Agent shall pay each holder of an Allowed Unsecured Claim against the Debtor on account of and in full satisfaction of such Allowed Unsecured Claim, based upon the following:

- (a) a principal amount equal to such unsecured creditor's Allowed Claim;
- (b) an interest rate of six percent (6%);
- (c) an amortization of five (5) years; and
- (d) a final payment of all unpaid principal and interest on the third anniversary

of the Effective Date of a Plan.

Class 4 creditors may elect to accept on the Effective Date a cash payment equal to thirty-five percent (35%) of such creditor's Allowed Claim which amount shall be paid on the later of: (i) the Effective Date; or (ii) when such claim is allowed.

The payment to the Class 4 creditors shall be paid pro rata with the Claims of the Class 5 creditors out of funds generated by the operation of the Reorganized Debtor, funds contributed by the members of the Reorganized Debtor, eighty percent (80%) of the BP Claim, twenty percent (20%) of the Oil Spill Claim and one hundred percent (100%) of the proceeds of

the Litigation Trust Claim. Payment shall commence on the Commencement Date and shall be paid quarterly.

5. Class 5 (Member Creditor Claims).

Class 5 is impaired under the Plan and each holder of a Class 5 Allowed Claim is entitled to vote on the Plan. The Claim of H. Varnadoe Enterprises, LLC shall be recognized in the amount of \$1,200,000.00 and shall be paid:

1. \$100,000.00 on the Effective Date of the Plan;
2. Balance paid based upon the following:
 - (a) Interest rate of six percent (6%);
 - (b) Amortization of ten (10) years;
 - (c) Term of three (3) years; and
 - (d) Monthly payments.
3. The claim of H. Varnadoe Enterprises, LLC, in the amount of \$1,100,000.00, shall be secured by a security interest junior to the claim of the Class 2 creditors; and
4. The payments to the Class 5 creditors shall be in default sixty days after notice of non-monetary breach without cure, and immediate default upon a missed payment.

The payment to the Class 5 creditors shall be paid pro rata with the Claims of the Class 4 creditors from operations of the Reorganized Debtor; contributions from members of the Reorganized Debtor; eighty percent (80%) from the BP Claim, twenty percent (20%) from the Oil Spill Claim and one hundred percent (100%) of the proceeds from the Litigation Trust Claim. Payment shall commence on the Commencement Date and shall be paid quarterly.

C. TREATMENT OF CLASSIFIED INTERESTS UNDER THE PLAN

1. Class 6 (Members).

Class 6 is impaired under the Plan and the holder of an Interest in this Class is entitled to vote on the Plan. Class 6 Members may elect to make a capital contribution equal to their pro rata share of ten percent (10%) of the Debtor. For each percentage acquired, the Members shall contribute \$10,000.00. If a Member does not elect to purchase an interest in the Reorganized Debtor, his interest will be terminated. In any event, if the Class 4 and Class 5 creditors are paid in full, any net recovery incident to eighty percent (80%) of the BP Claim, twenty percent (20%) of the Oil Spill Claim or one hundred percent (100%) of the Litigation Trust Claim shall be paid pro-rata to all Class 6 Members.

D. MEANS FOR EXECUTION AND IMPLEMENTATION OF THE PLAN

1. Effective Date.

The "Effective Date" of the Plan shall be the first business day selected by the Debtor with the written agreement of New Aggregates LLC that is after the Confirmation Date and upon which all conditions to the effectiveness of the Plan have been satisfied or waived as provided for below, which shall be no later than thirty (30) days after the Confirmation Order is final.

2. Effective Date Conditions.

Notwithstanding any other provision of the Plan, the Effective Date shall not occur until each of the following conditions have been either (a) satisfied (or satisfied contemporaneously with the Effective Date) or (b) waived by the Debtor with the written agreement of New Aggregates LLC:

(i) The Confirmation Order, approved in form and substance satisfactory to New Aggregates LLC becomes a final non-appealable Order; and

(ii) The New Marion Clay Contribution from New Aggregates LLC and the New LLC Members and the Electing Equity Contributors, if any, shall have been received.

3. Revesting of Assets and Operations of Property.

Except as otherwise set forth herein, the Secured Lender Loan Documents, or in the Confirmation Order, as of the Effective Date, all property of the Estate (including debtor in possession bank accounts, Cash held by any receiver, custodian or similar person or entity, insurance policies, including title insurance, and all rights of the Debtor thereunder, and the Retained Claims and Causes of Action) shall revert in the Reorganized Debtor free and clear of all claims, liens, encumbrances and other interests of creditors and holders of interests. From and after the Effective Date, the Reorganized Debtor may operate its business and use, acquire, and dispose of property and settle and compromise claims or interests without supervision by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order.

On the Effective Date, pursuant to the Plan and the Confirmation Order, any receiver, custodian or similar person or entity appointed prior to the Effective Date for the Debtor or any of its property shall be terminated and discharged from its responsibilities and duties and all property, including Cash, of the Debtor held by such receiver, custodian or similar person or

entity shall be immediately turned over to the Reorganized Debtor, without setoff or offset.

4. Funding of the Plan.

The Cash required to be distributed under the Plan to the holders of Allowed Administrative Claims and Allowed Claims on the Effective Date (or on such later date when such Claims become Allowed Claims) shall be provided by (i) the Cash held by the Debtor on the Effective Date, (ii) the New Marion Clay Contribution; (iii) mining operations; (iv) the sale of tax credits; and (v) proceeds from Retained Claims.

5. LLC Structure and Operation

i. The Membership Agreement.

The Membership Agreement shall be amended and restated pursuant to the Plan as set forth herein, including:

Change in LLC Name: The name of the Debtor shall be changed to New Aggregates LLC and that shall be the name of the Reorganized Debtor.

New Managing Member: The existing General Partner shall be removed as the managing member and New Aggregates Inc. shall be as of the Effective Date the sole managing member of the Reorganized Debtor. New Aggregates Inc. shall receive a one (1%) Membership Interest in the Reorganized Debtor and in exchange for such Membership Interest, New Aggregates Inc. as a managing member shall make its pro rata share of the New Marion Clay Contribution to the Reorganized Debtor. The existing Membership Interest of the current

managing member shall be extinguished.

6. New Managing Member Liability.

New Aggregates Inc. shall have no liability to any Person with respect to any debt, obligation or Claim against the Debtor or the General Partner, or with respect to any Membership Interest that arose prior to the Effective Date and that is not paid pursuant to the Plan, and shall be indemnified by the Reorganized Debtor for any such liability in accordance with the Membership Agreement.

7. New Marion Clay Contribution.

New LLC Members and the New Managing Member, or an affiliate thereof, and the Electing Equity Contributors, if any, shall provide to the Reorganized Debtor as a capital contribution on the Effective Date an aggregate amount up to \$1,000,000.00, less the contributions of the Electing Equity Contributors which amount will be used to satisfy in part the Allowed Administrative Claims and Allowed Claims against the Debtor.

The New Marion Clay Contribution shall be funded in the first instance by the Electing Equity Contributors. In connection with Confirmation of the Plan, each current Interest Holder of the Debtor shall have the option, to be exercised in writing, pursuant to an executed subscription agreement, no later than five (5) business days before the date of the Confirmation Hearing, to fund their pro rata share of the New Marion Clay Contribution in any amount up to the Maximum Amount. The New Marion Clay Contribution to be made by an Electing Equity

Contributor shall be due with the executed subscription agreement and shall be held in escrow by Heller Draper Patrick Horn & Dabney pending the occurrence of the Effective Date.

To the extent the aggregate amount of the New Marion Clay Contributions to be made by all of the Electing Equity Contributors on the Effective Date is less than the Maximum Amount, then New Aggregates Inc. or the New LLC Members, or an affiliate thereof, shall make a New Marion Clay Contribution on the Effective Date equal to the difference between (i) the amount of Cash, not to exceed the Maximum Amount, and the amount contributed by the Electing Equity Contributors and (ii) the aggregate amount of all New Marion Clay Contributions funded by all of the Electing Equity Contributors on the Effective Date.

To the extent the aggregate amount of all New Marion Clay Contributions to be made by all of the Electing Equity Contributors on the Effective Date is more than the Maximum Amount, then the respective New Marion Clay Contribution of each of the Electing Equity Contributors shall be reduced proportionately based upon the percentage Membership Interest held by such Member as reflected on the Debtor's records.

The New Marion Clay Contributions shall be treated as capital contributions under the Membership Agreement and entitled to priority in repayment and a return on capital on the terms and conditions set forth in the Plan and the Membership Agreement.

8. Disbursing Agent.

Subject to the approval of the Bankruptcy Court, the Reorganized Debtor, or such

other entity as the Reorganized Debtor may employ, shall act as Disbursing Agent under the Plan and make all distributions required under the Plan. Unless otherwise required, the Disbursing Agent shall serve without bond. The Litigation Trust shall be managed by Harry Varnadoe. The Debtor and the Reorganized Debtor will not fund the Litigation Trust.

9. Objections to Claims/Administrative Claims/Interests.

Only the Reorganized Debtor shall be entitled to object to Claims and Interests. Any objections to Claims and Interests shall be served and filed on or before the later of: (i) sixty (60) days after the Effective Date; (ii) thirty (30) days after a request for payment or proof of Claim or Interest is timely Filed and properly served; or (iii) such other date as may be fixed by the Bankruptcy Court, whether before or after the dates specified in subsections (i) and (ii) herein, upon motion of the Reorganized Debtor on an ex-parte basis without notice to creditors or otherwise. Notwithstanding any authority to the contrary, an objection to a Claim or Interest shall be deemed properly served on the Creditor if service is effected in any one of the following manners: (a) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (b) by first class mail, postage prepaid, on any counsel that has appeared on the Creditor's or Interest holders' behalf in the Reorganization Case; or (c) by first class mail, postage prepaid, on the signatory on the proof of Claim or Interest or other representative identified in the proof of Claim or Interest or any attachment thereto.

The Reorganized Debtor may object to or settle, without Court approval, any

Administrative Claim. Any objections to Administrative Claims shall be served and filed on or before the later of: (i) forty-five (45) days after the Effective Date; (ii) thirty (30) days after a request for payment or allowance of an Administrative Claim is timely Filed and properly served; or (iii) such other date as may be fixed by the Bankruptcy Court, whether before or after the dates specified in subsections (i) and (ii) herein.

10. Disputed Claims.

Pending resolution of a Disputed Claim, all Cash to be distributed to the holder of the Disputed Claim shall be placed in a segregated bank account at a federally insured financial institution and maintained by the Disbursing Agent until distribution to the holder of such Claim under the Plan. Distribution shall be made only from the Disputed Claims reserve and only at such time as a particular Claim is determined to be an Allowed Claim. The holder of a Disputed Claim that is ultimately allowed shall have no recourse against the Reorganized Debtor or its property for the payment of its Allowed Claim. No interest shall accrue or will be paid with respect to any Disputed Claim for the period from the Effective Date to the date a distribution, if any, is made with respect to said Disputed Claim upon becoming an Allowed Claim. To the extent that a Disputed Claim ultimately is disallowed or allowed in an amount less than the amount of the reserves for such Disputed Claim, any resulting surplus in the reserve shall be transferred from the reserve to the Reorganized Debtor.

11. Discharge of Debtor and Injunction.

Except as otherwise provided herein, the rights afforded in the Plan and the treatment of all Claims and Membership Interests therein shall be in exchange for and in complete satisfaction, discharge, and release of all Claims and Membership Interests of any nature, whatsoever, including, any interest accrued on such claims from and after the Petition Date against the Debtor, the Debtor in Possession, or any of their assets or properties. Except as otherwise provided in the Plan or the Confirmation Order, on or after the Effective Date: (i) the Debtor shall be deemed discharged and released to the fullest extent permitted by section 1141 of the Bankruptcy Code from all claims and interests, including claims and interests that arose before the Effective Date and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code whether or not: (a) a proof of claim or proof of interest based on such debt or interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (b) a claim or interest based on such debt or interest is allowed pursuant to section 502 of the Bankruptcy Code, or (c) the holder of a claim or interest based on such debt or interest has accepted the Plan; and (ii) all Persons shall be precluded from asserting against the Debtor, the Reorganized Debtor, New Aggregates LLC, their successors, or their respective assets or properties any other or future claims or interests based upon any act or omission, transaction, or other activity of any kind or nature relating to the Debtor or the Debtor-in-Possession that

occurred before the Effective Date.

Except as otherwise provided in the Plan or the Confirmation Order, and in addition to the injunction provided under sections 524(a) and 1141 of the Bankruptcy Code on and after the Effective Date, all Persons who have held, currently hold or may hold a debt, claim, or interest discharged under the Plan are permanently enjoined from taking any of the following actions on account of any such discharge, debt, claim, or interest: (1) commencing or continuing in any manner any action or other proceeding against the Debtor, the Reorganized Debtor, New Aggregates LLC, their successors, or their respective properties; (2) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree or order against the Debtor, Reorganized Debtor, New Aggregates LLC, their successors, or their respective properties; (3) creating, perfecting, or enforcing any lien or encumbrance against the Debtor, Reorganized Debtor, New Aggregates LLC, their successors, or their respective properties; (4) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Debtor, Reorganized Debtor, New Aggregates LLC, their successors, or their respective properties; and (5) commencing or continuing any action in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order. Any Person injured by any willful violation of such injunction may recover actual damages, including costs and attorneys' fees and, in appropriate circumstances, may recover punitive damages from the willful violator.

12. Exculpation and Limitation of Liability.

On or after the Effective Date, none of the Debtor, the Debtor in Possession, the Reorganized Debtor, New Aggregates LLC and the New Members or any of their respective employees, officers, directors, Members, members, managers, agents, or representatives, or any professional persons employed by them shall have or incur any liability to any Person, and are hereby released from any such liability or any claims or causes of action related thereto, for any act taken or omission made in connection with, relating to, or arising out of (i) the Reorganization Case, (ii) the negotiation, formulation and filing of the Plan, and any contract, instrument, release, or other agreement or document created in connection with the Plan, including the Membership Agreement, (iii) the negotiation, preparing, filing and dissemination of the Disclosure Statement and the solicitation of votes on, or funds for, the Plan, (iv) the New Marion Clay Contribution, (v) confirmation of the Plan, and (vi) the consummation and administration of the Plan, or distribution of any property under the Plan that does not arise from intentional misconduct or gross negligence as determined under applicable law.

VII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES

The following discussion summarizes certain U.S. federal income tax consequences of the implementation of the Plan to the Debtor and certain U.S. holders of Claims and Interests.

The following summary is based on the Internal Revenue Code of 1986, as amended (the “Tax Code”), Treasury Regulations promulgated thereunder, judicial decisions, and published administrative rules and pronouncements of the Internal Revenue Service (the “IRS”), all as in effect on the date hereof. Changes in such rules or new interpretations thereof may have retroactive effect and could significantly affect the tax consequences described below.

The U.S. federal income tax consequences of the Plan are complex and are subject to significant uncertainties. No assurance can be given that legislative or administrative changes or court decisions may not be forthcoming which would require significant modification of the statements expressed in this section. Certain tax aspects of the Plan are uncertain due to the lack of applicable regulations and other tax precedent. The Debtor has not requested a ruling from the IRS or an opinion of counsel with respect to any of the tax aspects of the Plan. Thus, no assurance can be given as to the interpretation that the IRS will adopt.

TO ENSURE COMPLIANCE WITH IRS CIRCULAR 230, HOLDERS OF CLAIMS AND ANY INTERESTS ARE HEREBY NOTIFIED THAT (a) ANY DISCUSSION OF TAX ISSUES CONTAINED OR REFERRED TO IN THIS DISCLOSURE STATEMENT IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED UNDER THE TAX CODE, AND (b) THIS DISCUSSION WAS WRITTEN IN CONNECTION WITH THE PROMOTION OF THE PLAN.

HOLDERS OF CLAIMS AND INTERESTS SHOULD CONSULT THEIR TAX ADVISOR TO DETERMINE THE AMOUNT AND TIMING OF ANY INCOME OR LOSS SUFFERED AS A RESULT OF THE CANCELLATION OF THE CLAIMS OR STOCK OPTIONS HELD BY SUCH PERSON, WHETHER SUCH INCOME OR LOSS IS ORDINARY OR CAPITAL AND THE TAX EFFECT OF ANY RIGHT TO, AND RECEIPT OF DEFERRED PAYMENT.

THE ABOVE DISCUSSION IS FOR INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES.

ACCORDINGLY, ALL HOLDERS SHOULD CONSULT THEIR TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE, LOCAL AND NON-U.S. INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

The Debtor is a conduit entity and, as such, pays no taxes. The plan treatment of the Debtor's assets generates a potential tax event for the equity holders of the Debtor. The tax event can be a gain or loss depending on the equity owner's basis in the Membership and the gain or loss can either be a capital gain or ordinary income depending on the individual's treatment of the investment in the Debtor.

VIII. LIQUIDATION ANALYSIS UNDER CHAPTER 7

Under the Bankruptcy Code, in order for a plan to be confirmed, each creditor must receive or retain under the Plan a recovery that has a value at least equal to the value of the distribution that such creditor would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

Pursuant to the Debtor's liquidation analysis, the Debtor believes that recoveries under a Chapter 7 liquidation scenario would be significantly lower than that proposed by the Plan for a variety of reasons. First, the sale of the Debtor's primary asset under a compressed timeframe and the distressed nature of a Chapter 7 liquidation will most likely result in lower sale values than the Debtor will receive under the terms of the Plan due to the lack of liquidity in today's market. Second, the conversion of the case to Chapter 7 liquidation would necessitate the payment of fees to the Chapter 7 Trustee, and attorneys, accountants and other professionals retained by the Chapter 7 Trustee, for disposition of the assets. These fees directly reduce any recovery otherwise available to creditors and/or the holders of Membership Interests.

Accordingly, each holder of a Claim will receive or retain under the Plan a recovery that has a value at least equal to the value of the distribution that such creditor would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

In addition, all trade creditors are being paid in full, all persons with equity interests have an option to share in the profits and upside of the Reorganized Debtor.

IX. CONFIRMATION PROCEDURE

Under the Bankruptcy Code, the following steps must be taken to confirm the Plan:

A. VOTING AND OTHER PROCEDURES

A Ballot for the acceptance or rejection of the Plan is enclosed with the Disclosure Statement submitted to the holders of Claims that are entitled to vote to accept or reject the Plan and each holder of an Interest in Class 6 shall be entitled to vote to accept or reject the Plan. Each holder of a Claim in Class 1 is deemed to have accepted the Plan.

Pursuant to the provisions of the Bankruptcy Code, only holders of claims in classes of claims that are impaired under the terms and provisions of a chapter 11 plan and are to receive distributions thereunder are entitled to vote to accept or reject the plan. Classes of claims in which the holders of claims and interests will not receive or retain any property under a chapter 11 plan are deemed to have rejected the plan and are not entitled to vote to accept or reject the plan. Classes of claims in which the holders of claims or interests are unimpaired under a Chapter 11 plan are deemed to have accepted the plan and also are not entitled to vote to accept or reject the plan.

The Bankruptcy Code defines “acceptance” of a plan by a class of: (i) Claims, as acceptance by creditors actually voting in that class that hold at least two-thirds in dollar amount and more than one-half in number of the claims; and (ii) Interests, as acceptance by interest

holders in that class actually voting that hold at least two-thirds in amount of the Interests in a debtor.

A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that such acceptance or rejection was not solicited or procured in good faith or otherwise in accordance with the provisions of the Bankruptcy Code.

With respect to the Plan, any holder of a Claim in an Impaired Class (i) whose Claim has been listed by the Debtor in the Schedules filed with the Bankruptcy Court (provided that such Claim has not been scheduled as disputed, contingent or unliquidated), or (ii) who filed a proof of claim on or before the applicable bar date (or, if not filed by such date, any proof of claim filed within any other applicable period of limitations or with leave of the Bankruptcy Court), which Claim has not been disallowed and is not the subject of an objection, is entitled to vote. Holders of Claims that are disputed, contingent and/or unliquidated are entitled to vote their Claims only to the extent that such Claims are Allowed for the purpose of voting pursuant to an order of the Bankruptcy Court. The Debtor may seek a determination that any Class of Claims that is entitled to vote to accept or reject the Debtor's Plan that does not vote to accept or reject the Debtor's Plan be deemed to accept the Plan, as applicable.

After carefully reviewing this Disclosure Statement, including any exhibits, each holder of an Allowed Claim or Membership Interest entitled to vote may vote whether to accept or reject the Debtor's Plan. A Ballot for voting on the Plan accompanies this Disclosure Statement. If you hold a Claim or Membership Interest in more than one Class and you are entitled to vote Claims or Membership Interests in more than one Class, you may receive a Ballot or Ballots, which will permit you to vote in all appropriate Classes of Claims. Please vote and return your

Ballot to Heller, Draper, Patrick, Horn & Dabney, LLC as follows, whether by U.S. mail, or by hand delivery or courier service:

**Heller, Draper, Patrick, Horn & Dabney, LLC
Attention: Douglas S. Draper
650 Poydras Street, Suite 2500
New Orleans, LA 70130**

ANY EXECUTED BALLOT THAT FAILS TO INDICATE AN ACCEPTANCE OR REJECTION OF THE PLAN WILL NOT BE COUNTED. BALLOTS RETURNED TO THE HELLER, DRAPER, PATRICK, & HORN, LLC BY FACSIMILE TRANSMISSION OR ANY OTHER ELECTRONIC MEANS WILL NOT BE COUNTED.

**THE VOTING DEADLINE IS
5:00 P.M., CENTRAL
TIME ZONE, ON**
_____.

APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN. ALL CREDITORS THAT ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN SHOULD READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING ON THE PLAN.

Ballots must be *received* by Heller, Draper, Patrick, Horn & Dabney, L.L.C. by the Voting Deadline. If a Ballot is received after the Voting Deadline, it will not be counted. Complete the Ballot by providing all the information requested, and sign, date and return the Ballot by mail, overnight courier or personal delivery to Heller, Draper, Patrick, Horn & Dabney, LLC at the address set forth above.

TO BE COUNTED, YOUR BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE PLAN MUST BE RECEIVED NO LATER THAN THE TIME AND DATE SET FORTH IN THE ACCOMPANYING NOTICE.

ANY OBJECTIONS TO THE CONFIRMATION OF THE PLAN MUST BE FILED IN ACCORDANCE WITH AND NO LATER THAN THE TIME AND DATE SET FORTH IN THE ACCOMPANYING NOTICE.

If you are entitled to vote on the Plan and you did not receive a Ballot, received a damaged Ballot or lost your Ballot, or if you have any questions concerning the procedures for voting on the Plan, please telephone the Voting Agent at the following telephone number: **1-504-299-3351**.

B. DISCLAIMERS AND ENDORSEMENTS

This Disclosure Statement contains information about the Debtor's Plan. Holders of Claims and Membership Interests are urged to study the text of the Plan carefully to determine the impact of the Plan on their Claims or Membership Interests and to consult with their financial, tax and legal advisors.

Nothing contained in this Disclosure Statement or the Plan will be deemed an admission or statement against interest that can be used against the Debtor in any pending or future litigation. Any reference to creditors or Claims or Membership Interests in this Disclosure Statement is not an admission with respect to the existence, ownership, validity, priority, or extent of any alleged Lien, Claim, Membership Interest or encumbrance.

Certain statements and assertions in this Disclosure Statement may be subject to dispute by parties in interest.

C. THE CONFIRMATION HEARING

The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a Confirmation Hearing with respect to the Plan. The Confirmation Hearing in respect of the Plan has been scheduled for the date and time set forth in the accompanying notice before the United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of Mississippi, Southern Division, 2012 15th Street, Gulfport, Mississippi 39501. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice other than an announcement of the adjourned date made at the Confirmation Hearing or posted at the courthouse at the Confirmation Hearing or at an adjournment thereof. Any objection to confirmation (i) must be made in writing, (ii) must specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim or a description of the interest in the Debtor held by the objector, and (iii) must be timely made. Any such objections must be filed with the Bankruptcy Court and served so that they are received by the Bankruptcy Court, and the following counsel, on or before the date and time set forth in the accompanying notice:

Counsel for Conerly:

Heller, Draper, Patrick, Horn & Dabney, LLC
 Douglas S. Draper, La. Bar Roll No 5073
 Leslie A. Collins, La. Bar Roll No. 14891
 Greta M. Brouphy, La Bar Roll No. 26216
 650 Poydras Street, Suite 2500
 New Orleans, LA 70130-6103
 Telephone: (504) 299-3300
 Fax: (504) 299-3399

D. CONFIRMATION

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan if the requirements of Section 1129 of the Bankruptcy Code are met. Among the requirements for

confirmation of a plan are that the plan is (i) accepted by all Impaired Classes of Claims or, if rejected by an Impaired Class, that the plan "does not discriminate unfairly" and is "fair and equitable" as to such Class, (ii) feasible, and (iii) in the "best interests" of creditors that are Impaired under the Plan.

E. UNFAIR DISCRIMINATION AND FAIR AND EQUITABLE TESTS

Under the Bankruptcy Code, a plan does not have to be accepted by every class of creditors or interest holders to be confirmed. If a class of claims rejects a plan or is deemed to reject a plan, the plan proponent has the right to request confirmation of the plan pursuant to Section 1129(b) of the Bankruptcy Code the so-called "cramdown" provision of the Bankruptcy Code. Section 1129(b) permits the confirmation of a plan notwithstanding the non-acceptance of such plan by one or more impaired classes of claims and interests. Under that section, a plan may be confirmed by a bankruptcy court if it does not "discriminate unfairly" and is "fair and equitable" with respect to each non-accepting class, and meets the other legal criteria for confirmation.

In the event that any Class of Claims or Interests fails to accept the Plan in accordance with section 1129(a)(8) of the Bankruptcy Code, Conerly reserves the right to (a) request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code, and/or (b) modify the Plan in accordance with section 1127(a) of the Bankruptcy Code.

1. Secured Creditors

The Secured Creditors are being paid in full under the Plan.

2. Unsecured Creditors

The Unsecured Creditors and Member Creditor Claimants are being paid more than they would receive in a liquidation. The Unsecured Creditors are being paid in full under the Plan.

3. Holders of Interests

The holders of interests are exercising a right to invest in the Reorganized Debtor commensurate with their interest. It is believed this right provides to them a greater recovery than they would receive if the Debtor was liquidated.

4. No Unfair Discrimination

In addition, the “cram down” standards of the Bankruptcy Code prohibit “unfair discrimination” with respect to the claims of any impaired, non-accepting class. While the “unfair discrimination” determination depends upon the particular facts of a case and the nature of the claims at issue, in general, courts have interpreted the standard to mean that the impaired, non-accepting class must receive treatment under a plan of reorganization which allocates value to such class in a manner that is consistent with the treatment given to other classes with claims against the debtor of equal or junior status.

All Classes will receive distributions under the Plan; thus, no Classes are conclusively presumed to have rejected the Plan. Conerly believes that the treatment of all Classes of Claims and Interests under the Plan satisfies the “no unfair discrimination” requirement for nonconsensual confirmation of the Plan under section 1129(b) of the Bankruptcy Code. With respect to each such Impaired, non-accepting Class, there is no Class of equal priority receiving more favorable treatment under the Plan, and no Class that is junior to such Impaired, non-accepting Class will receive or retain any property under the Plan on account of the Claims or Interests in such Class.

F. FEASIBILITY

The Bankruptcy Code requires that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization unless the liquidation of the debtor is provided for in the plan. It is not likely that the confirmation will be followed by liquidation or the need for further financial reorganization of the Debtor. Financial projections demonstrating

the pro forma financial results of the Reorganized Debtor are attached as **Exhibit D-2**. The Pro Forma was prepared by Michael Thibodeaux based upon reports concerning the sand and gravel at the property. The New LLC Members, collectively, have in excess of \$2,000,000.00 in liquid assets.

G. BEST INTEREST TEST

In order to confirm a plan of reorganization, the Bankruptcy Court must determine that the plan is in the best interests of all classes of creditors and equity security holders impaired under that plan. The "best interest" test requires that the Bankruptcy Court find that the plan provides to each member of each impaired class of claims and interests (unless each such member has accepted the plan) a recovery which has a value at least equal to the value of the distribution that each creditor or interest holder would receive if the debtor was liquidated under chapter 7 of the Bankruptcy Code.

All Classes will receive distributions under the Plan; thus, no Classes are conclusively presumed to have rejected the Plan. The Debtor requests confirmation of the Plan over the rejection of any Classes. In so doing, the Debtor seeks to establish that the Plan complies with the best interest of creditors test with respect to any such Class or Classes, and satisfy all other legal criteria for confirmation.

As reflected in the discussion above, and as demonstrated in the Liquidation Analysis attached as an **Exhibit D-3** to this Disclosure Statement, the Debtor believes that the Plan provides to each holder of a Claim and Interest holder a value at least equal to the value of the distribution that each holder would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

H. CERTAIN RISK FACTORS TO BE CONSIDERED

HOLDERS OF CLAIMS AGAINST AND MEMBERSHIP INTERESTS IN THE DEBTOR SHOULD READ AND CONSIDER CAREFULLY THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT, THE PLAN (AND ANY DOCUMENTS DELIVERED TOGETHER HERewith AND/OR INCORPORATED BY REFERENCE), BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. THESE RISK FACTORS SHOULD NOT BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND THE IMPLEMENTATION OF THE PLAN.

I. CERTAIN BANKRUPTCY CONSIDERATIONS

1. Risk of Liquidation of the Debtor's Estate

If the Plan is not confirmed and consummated, there can be no assurance that the Debtor's Chapter 11 Case will continue as chapter 11 reorganization case rather than be converted to liquidation, or that any alternative plan of reorganization would be on terms as favorable or more favorable to holders of Claims and Membership Interests as the terms of the Plan. If a liquidation or different reorganization were to occur, the distributions to certain holders of Allowed Claims may be reduced, or possibly completely eliminated. As previously noted, the Debtor believes that in a liquidation under chapter 7, additional administrative expenses of a chapter 7 trustee and such trustee's attorneys, accountants, and other professionals, would cause a diminution in the value of the Debtor's Estate. In addition, certain additional Claims may arise in a chapter 7 liquidation and from the rejection of unexpired leases and other executory contracts in connection with any cessation of the Debtor's operations. As described above, this might negatively impact the amount of distributions under the Plan, if any, to holders of Allowed Claims or Allowed Membership Interests. As a result of these circumstances, the Debtor believes that the Plan provides a significantly higher return to holders of Claims against

and Membership Interests in the Debtor, as compared to liquidation. **The secured creditor 23467 Mississippi LLC, the only creditor that would be paid if the Debtor was liquidated based upon the offers received to date, asserts: The Disclosure Statement of Conerly makes various claims about a conservation easement that may be pursued to generate funds for New Aggregates, Inc. 23467 Mississippi, LLC is the secured creditor holding a valid first lien on the real property that would be subject to the proposed conservation easement and will not consent to the creation of a conservation easement because it appears that such easement would substantially impair the value of the real property that is subject to the mortgage of 23467 Mississippi, LLC. Abrams Group Construction, LLC asserts that the Plan filed by Conerly is not capable of confirmation due to the failure of the secured creditor to agree to the conservation easement.**

2. The Debtor Has Spoken to a Number of Potential Buyers and No Offer Has Been Received That Will Pay All Creditors In Full

The occurrence of the Effective Date in the Plan is conditioned upon the happening of certain events. There can be no assurance that all of these events will occur or that those that do not occur will be waived. Accordingly, even if the Plan is confirmed, there can be no assurance that the Effective Date will occur.

3. Uncertainty Regarding Objections to Claims

The Plan provides that certain objections to Claims can be filed with the Bankruptcy Court after the Effective Date. A creditor may not know that its Claim will be objected to until after the Effective Date.

4. Failure of the Debtor to Conduct Successful Mining Operations

The Debtor will conduct mining operations that have risks as to pricing and quantity.

5. BP Claim Recovery

A substantial risk exists that no recovery will be received incident to the BP Claim. Conerly offers the following in connection with the BP Claim.

The Debtor has filed a Claim in connection with the Deepwater Horizon Claims Program. Martha Curtis of the law firm Sher Garner is the lawyer representing Debtor in connection with the Claim. The fee basis with Sher Garner is a contingent fee of twenty-five percent (25%). It was initially believed by the Debtor that the Claim, as filed, potentially could recover \$43,561.00 provided the business was not a start-up.

On October 15, 2015, the claims office issued a denial of the Claim contending that the Claim failed to meet the causation test for a "start-up business." The requirements for a start-up business to meet the causation test are more stringent than if the Debtor was an operating business at the time of the spill.

The determination made by the claims office is currently under appeal and new documents are being submitted to determine if the Claim will meet the causation test.

X. RETAINED CLAIMS

Under the Bankruptcy Code, the Debtor possesses no claims against third parties, except as set forth herein, that arise either under the Bankruptcy Code or existing law. In connection with this case, the Debtor shall retain its Retained Claims except for the Litigation Trust Claims that will be transferred to the Litigation Trust. Any recoveries from the Litigation Trust shall be paid to the Reorganized Debtor and shall be used to make payments pursuant to the terms of the Plan and the priorities established therein.

XI. CONCLUSION AND RECOMMENDATION

The Debtor believes that confirmation and implementation of the Plan is preferable to any alternative. In addition, any other alternative would involve significant delay, litigation, uncertainty, substantial additional administrative costs, and may result in the Debtor's

liquidation. The Debtor urges holders of Impaired Claims and Membership Interests against the Debtor to vote in favor of the Plan.

Dated: October 6, 2016

DISCLOSURE STATEMENT FILED BY:

/s/ Jessie L. Conerly

Jessie L. Conerly

/s/ Greta M. Brouphy

Douglas S. Draper, (*pro hac vice*)

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