

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:) Case No. 303-04095
) Chapter 11
JAMES RIVER COAL COMPANY, et al.,) Jointly Administered
Debtors.) Judge Harrison

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: October 6, 2004.
IF A RESPONSE IS TIMELY FILED, THE INITIAL SETTLEMENT AND PRETRIAL CONFERENCE
WILL BE HELD ON: December 13, 2004, at 1:30 p.m., in Courtroom Three, 2nd Floor, Customs House, 701
Broadway, Nashville, Tennessee.

NOTICE OF OMNIBUS OBJECTION TO CERTAIN CLAIMS FOR RETIREE BENEFITS

The Reorganized Debtors have objected to the proof(s) of claim as set forth in the attached Objection.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to sustain the Objection and enter an Order granting the relief requested by the Reorganized Debtors, or if you want the Court to consider your views on the Objection, then on or before **October 6, 2004** (the "Response Deadline"), you or your attorney must file with the Court your written Response to the Objection explaining your position:

By Mail: U.S. Bankruptcy Court, P.O. Box 24890, Nashville, TN 37202-489090

In Person: U.S. Bankruptcy Court, 701 Broadway, 1st Floor, Nashville, TN (Monday-Friday, 8:00 a.m.-4:00 p.m.)

Your Response must state that the deadline for filing responses is October 6, 2004, the date of the scheduled Initial Settlement and Pretrial Conference is December 13, 2004, and that you are responding to the Reorganized Debtors' Objection to Claim. If you want a file stamped copy returned, you must include an extra copy and a self-addressed, stamped envelope.

You must also mail or fax a copy of your Response, so as to be received by the Response Deadline, to:

Paul G. Jennings
Gene L. Humphreys
Bass, Berry & Sims PLC
315 Deaderick Street, Suite 2700
Nashville, TN 37238
Fax: (615) 742-0404

Sean D. Malloy
McDonald Hopkins, LPA
2100 Bank One Center
600 Superior Avenue, East
Cleveland, OH 44114
Fax: (216) 348-5474

If a timely Response is filed, an Initial Settlement and Pretrial Conference will be held at the time and place indicated above. It will not be necessary for the parties to prepare a Joint Pretrial Statement for the Initial Settlement and Pretrial Conference. **THERE WILL BE NO FURTHER NOTICE OF THE INITIAL SETTLEMENT AND PRETRIAL CONFERENCE DATE.**

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Objection and may enter an order granting that relief.

Date: September 1, 2004

Signature: 

Paul G. Jennings
Gene L. Humphreys
BASS, BERRY & SIMS PLC
315 Deaderick Street, Suite 2700
Nashville, Tennessee 37238-3001
Telephone: (615) 742-6200
Facsimile: (615) 742-6293
Attorneys for Reorganized Debtors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

In re:	:	
	:	
JAMES RIVER COAL COMPANY, <i>et al.</i> ,	:	Chapter 11 Case No. 303-04095
	:	
Reorganized Debtors.	:	Jointly Administered Judge Harrison

OMNIBUS OBJECTION TO CERTAIN CLAIMS FOR RETIREE BENEFITS

The above-captioned reorganized debtors (collectively, the “Reorganized Debtors”),¹ hereby file this Omnibus Objection (the “Objection”) to Certain Claims for Retiree Benefits filed by various Claimants identified on the attached Exhibit A, and request entry of an order (the “Order”) substantially in the form attached hereto as Exhibit B. In support of this Objection, the Reorganized Debtors respectfully represent as follows:

BACKGROUND

1. On March 25, 2003 (the “Petition Date”), the Reorganized Debtors each filed voluntary petitions² in this Court for reorganization relief under Title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the “Bankruptcy Code”). On March 26, 2003, this Court entered an order providing for the joint administration of the Reorganized Debtors’

¹ The Debtors include: James River Coal Company; James River Coal Sales, Inc.; James River Coal Service Company; Leeco, Inc.; Leeco Processing Company; BDCC Holding Co., Inc.; Blue Diamond Export Company; Eolia Resources, Inc.; Blue Diamond Coal Company; Leatherwood Processing Company; Bledsoe Coal Corporation; Shamrock Coal Company, Incorporated; Bledsoe Processing Company; Johns Creek Elkhorn Coal Corporation; McCoy Elkhorn Coal Corporation; Pike County Resources, Inc.; Primary Energies Corporation; Johns Creek Processing Company; Bell County Coal Corporation; Hignite Processing Company; Bledsoe Coal Leasing Company; and, Johns Creek Coal Company.

² One of the Debtors, Johns Creek Coal Company, actually filed its voluntary petition in this Court on March 21, 2003.

Chapter 11 cases. Between the Petition Date and May 6, 2004 (the “Effective Date”), the Reorganized Debtors each remained as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On September 24, 2003, the Court entered an Order (Docket No. 413, the “Bar Date Order”) establishing November 17, 2003 as the last day for timely filing proofs of claim for general unsecured claims (the “General Bar Date”) and establishing January 16, 2004 as the last day for timely filing proofs of claim for governmental units (the “Governmental Bar Date”). On April 27, 2004, the Court entered an Order (Docket No. 737, the “Administrative Bar Date Order”) establishing June 30, 2004 as the last day for timely filing administrative claims (the “Administrative Bar Date”). (The Bar Date Order and the Administrative Bar Date Order are sometimes collectively referred to herein as the “Bar Date Orders.” The General Bar Date, the Governmental Bar Date, and the Administrative Bar Date, are sometimes collectively referred to herein as the “Bar Date.”)

3. On April 21, 2004, the Court held a confirmation hearing on the Reorganized Debtors’ Second Amended Joint Plan of Reorganization on April 21, 2004 (Docket No. 718, the “Plan”). The Court entered its Order confirming the Plan on April 22, 2004 (Docket No. 726, the “Confirmation Order”). The Confirmation Order confirmed the appointment of a Liquidating Trustee to administer a Liquidating Trust, which is the vehicle for making distributions to general unsecured creditors on account of their claims. The Plan provided that the Liquidating Trustee has the right to object to claims to the extent they involve General Unsecured Claims.

4. The Effective Date, as that term is defined in the Plan, occurred on May 6, 2004.

5. This Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. §157(b)(2). Venue of these

cases in this district is proper pursuant to 28 U.S.C. §§1408 and 1409. The statutory predicates for the relief requested herein are sections 102(1), 105(a), and 502 of the Bankruptcy Code and Rule 3007 of the Federal Rules of Bankruptcy Procedure.

RELIEF REQUESTED

6. Each of the claimants listed on the attached Exhibit A (each a “Claimant” and collectively the “Claimants”) filed one or more proofs of claim (the “Proof of Claim”). Each Proof of Claim purports to assert a claim against the Reorganized Debtors’ estate for certain retirement or black lung benefits (each a “Claim” and collectively, the “Claims”).³

7. The Reorganized Debtors dispute and deny that the Claimants are entitled to file a proof of claim against the Reorganized Debtors’ estate. Therefore, by this Objection, the Reorganized Debtors object to the allowance of the Claims and request that the Court enter the Order disallowing the Claims in their entirety.

BASIS FOR OBJECTION

8. The Reorganized Debtors’ obligations for retirement or black lung benefits were not discharged pursuant to the Plan, i.e., to the extent a Claimant was entitled to retiree or black lung benefits, the Reorganized Debtors’ bankruptcy cases did not affect that entitlement. Thus, the Claimants have no basis for any Claim for retiree or black lung benefits against the Reorganized Debtors’ bankruptcy estates, and the Claimants are not entitled to any distribution from the Liquidating Trustee.

³ One or more of the Claimants listed on Exhibit A may have elected the “cash option” on the ballot voting on confirmation of the Plan (hereinafter, a “Convenience Claimant”). All Convenience Claimants’ Claims have been fully satisfied by payment pursuant to the terms of the confirmed Plan. Thus, the fact that a Convenience Claimant is listed on Exhibit A does not entitle that Convenience Claimant to any further distribution from the Reorganized Debtors’ bankruptcy estates, even if the “maximum allowable amount” is higher than the Convenience Claim. In addition, the fact that a Convenience Claimant is listed on Exhibit A does not affect the distribution already received by the Convenience Claimant.

RESPONSES TO THE OBJECTIONS

9. Any response to this Objection must be filed by the Response Deadline listed on the accompanying Notice and must comply with the requirements on the Notice. In addition, any response should contain the following information:

- (a) a description of the basis for the amount of the asserted Claims;
- (b) a concise statement specifically setting forth the reasons why the Claim should not be disallowed or modified by the Court in the manner set forth in this Objection, including, but not limited to, the specific factual and legal bases in support of the Response;
- (c) all documentation or other evidence of the Claim, to the extent not included with the Claim previously filed with the Court; and
- (d) the name, address, and telephone number of the person (which may be a legal representative) possessing ultimate authority to reconcile, settle, or otherwise resolve the Claim.

10. If a Response contains an address different from that stated on the objected to Claim, the address in the Response shall control and shall be the service address for other future service of papers.

11. On August 13, 2004, the Court entered an Order establishing procedures for claim objections (the “Claims Procedures Order”), a copy of which is attached hereto as Exhibit C. Pursuant to the Claims Procedures Order, if a timely Response is filed to a claim objection, the Claim will be treated as a Contested Claim. If a timely Response is filed, an initial settlement and pretrial conference will be held at the time established on the Notice accompanying this Objection. Joint pretrial statements will not be required before the initial settlement and pretrial

conference has been held. If the Contested Claim is not resolved by the initial settlement and pretrial conference, a Pretrial Order will be entered setting a substantive pretrial conference and requiring the parties to prepare a joint pretrial statement.

FURTHER OBJECTION RESERVED

12. **The Reorganized Debtors' objection(s) to the Claims are presently limited to the grounds asserted above. The Reorganized Debtors expressly reserve all rights for themselves and for the Liquidating Trustee to raise other objections to the Claims (subject to the provisions of the Bankruptcy Code and the confirmed Plan) , until such time as the Claim has been finally resolved by Court order. Such amendments may include, without limitation, additional objections to the amount of the Claim.**

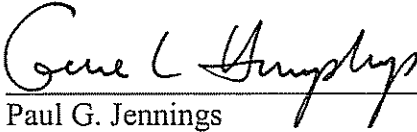
FURTHER INFORMATION

13. Questions about the Objection or requests for additional information about the proposed disposition of the Claims should be directed to the Reorganized Debtors' counsel either: (i) in writing at Bass, Berry & Sims PLC, 315 Deaderick Street, Suite 2700, Nashville, TN 37238 (Attn.: Gene L. Humphreys, Esq.); or (ii) by telephone at (615) 742-7757. The Claimants should not contact the Clerk of the Court to discuss the merits of the Claim.

WHEREFORE the Reorganized Debtors respectfully request that the Court enter an order disallowing and/or reclassifying the Claims as requested.

Dated: Nashville, Tennessee
September 1, 2004

RESPECTFULLY SUBMITTED:



Paul G. Jennings

Gene L. Humphreys

BASS, BERRY & SIMS PLC

315 Deaderick Street, Suite 2700

Nashville, TN 37238-0002

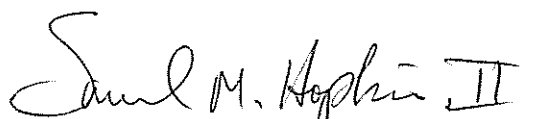
Tel: (615) 742-6200

Fax: (615) 742-6293

Attorneys for Reorganized Debtors

Declaration Under Penalty of Perjury

I, Samuel M. Hopkins II, am Chief Accounting Officer for James River Coal Company, and I have personal knowledge of the books and records of the Reorganized Debtors. I have read the foregoing Objection and reviewed the Claims and/or claims register where appropriate. As a result of my personal knowledge and review of documents, I have concluded that all of the factual assertions and statements made in support of the foregoing Objection are true to the best of my knowledge and information.



Samuel M. Hopkins II

EXHIBIT A
Retiree Benefits

CLAIMANT	CLAIM NUMBER(S)	CLAIM DATE	CLAIM AMOUNT
ADAMS, DAVID F.	1146	11/19/2003	216,000.00
BLEVINS, JUNE	238	10/14/2003	368.15
CARROLL, LOIS J.	239	10/14/2003	181.08
CAUSEY, LONNIE	717	11/11/2003	357,120.00
CHARLES, FRED	541	10/27/2003	52,000.00
CHARLES, JR., JULIUS	540	10/27/2003	30,000.00
COMPTON, GRANT	471	10/24/2003	631.83
DOTSON, RICHARD R.	536	10/27/2003	150,000.00
DOTSON, SADIE S.	1140	11/19/2003	534.80
FOSTER, KENNETH R.	1084	11/17/2003	262,059.00
HALE, GARY	732, 733, 1150	11/19/2003	184,000.00
HALL, MARGARET C.	237	10/14/2003	169.40
HENSLEY, TIMOTHY	710	11/10/2003	11,056.98
HIGGINBOTHAM, RAY	1079	11/17/2003	46,376.82
HOLLIS, ROBERT W.	671, 672	11/7/2003	UNKNOWN
HYDEN, JOE T	1128, 1129	11/17/2003	344,836.80
JOSEPH, DEBORAH L.	396	10/20/2003	52.26
JUSTICE, JED	318	10/14/2003	167.50
KEENE, DAVID O.	913	11/14/2003	108,000.00
KELLY, JAMES E	335	10/15/2003	UNKNOWN
LYON, BILL	527	10/27/2003	423,331.00
MAYNARD, JR., JOHN B.	679	11/10/2003	920.59
MAYO, ROYCE	533	10/27/2003	136,848.60
MORRIS, JOSEPH T.	1205	12/24/2003	580.62
PENNINGTON, DANNY	377, 1238	10/20/2003	UNKNOWN
PENNINGTON, LEEROY	456	10/21/2003	8,368.57
RICE, KENNETH E	1144, 1145	11/19/2003	320,090.40
SAWYER, CHARLES E.	236	10/14/2003	142,026.00
SEIBER, LEON	312	10/14/2003	80.35
SLUSHER, CHARLES	554	10/27/2003	117.40
VARNEY, JOE E.	759	11/6/2003	660.00
WITT, DAVID W.	453	10/20/2003	71.36
YOUNG, JUDITH	675	11/10/2003	5,175.72

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

-----X		
In re:	:	
	:	
JAMES RIVER COAL COMPANY,	:	Chapter 11
<i>et al.,</i>	:	Case No. 303-04095
	:	
	:	Jointly Administered
Reorganized Debtors.	:	Judge Harrison
-----X		

**ORDER ON OMNIBUS OBJECTION TO
CERTAIN CLAIMS FOR RETIREE BENEFITS**

Upon the omnibus objection dated _____, 2004 (the "Objection"),¹ of the above-captioned Reorganized Debtors, to certain claims as more fully described in the Objection; and the deadline for responding to the Objection having passed; and there having been no responses to the Objection timely filed and served; and it appearing that the relief requested is in the best interest of the Reorganized Debtors, their estate, creditors and other parties in interest; all parties in interest having been heard or having had the opportunity to be heard, it appearing that good and sufficient notice of the Objection having been given and a reasonable opportunity to respond to, or be heard regarding, the relief requested in the Objection has been afforded to any entity known to have an interest in the Claim, and no other or further notice of the Objection or of the entry of this Order need be provided; and upon the entire record herein; and good and sufficient cause appearing therefor,

IT IS ORDERED, ADJUDGED AND DECREED:

1. The Reorganized Debtors' Objection is SUSTAINED.

¹ Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Objection.

2. Each Claim identified on the Exhibit attached hereto is DISALLOWED in its entirety.²

3. The rights of the Reorganized Debtors and/or the Liquidating Trustee to object to any of the Claims on any other ground is hereby preserved.

ENTER this _____ day of _____, 2004.

Hon. Marian F. Harrison
United States Bankruptcy Judge

APPROVED FOR ENTRY:

Paul G. Jennings
Gene L. Humphreys
BASS, BERRY & SIMS PLC
315 Deaderick Street, Suite 2700
Nashville, TN 37238-0002
Tel: (615) 742-6200
Fax: (615) 742-6293

Attorneys for Reorganized Debtors

² One or more of the Claimants listed on Exhibit A may have elected the “cash option” on the ballot voting on confirmation of the Plan (hereinafter, a “Convenience Claimant”). All Convenience Claimants’ Claims have been fully satisfied by payment pursuant to the terms of the confirmed Plan. Thus, the fact that a Convenience Claimant is listed on Exhibit A does not entitle that Convenience Claimant to any further distribution from the Reorganized Debtors’ bankruptcy estates, even if the “maximum allowable amount” is higher than the Convenience Claim. In addition, the fact that a Convenience Claimant is listed on Exhibit A does not affect the distribution already received by the Convenience Claimant.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RECEIVED
FOR ENTRY

2004 AUG 16 PM 4:05
U.S. BANKRUPTCY COURT
MIDDLE DISTRICT OF TN.

-----X	X	
In re:	:	
	:	
JAMES RIVER COAL COMPANY,	:	Chapter 11
<i>et al.</i> ,	:	Case No. 303-04095
	:	
	:	Jointly Administered
Debtors.	:	Judge Harrison
-----X	X	

**ORDER APPROVING CLAIMS RESOLUTION PROCEDURES
AND SETTING INITIAL SETTLEMENT AND PRETRIAL CONFERENCE
DATES FOR CLAIMS OBJECTIONS**

Upon the Motion of the Reorganized Debtors for Order Approving Claims Resolution Procedures and Setting Initial Settlement and Pretrial Conference Dates for Claims Objections (Docket No. 836, the "Motion"), and upon the entire record in these cases; and the Court being satisfied that the relief set forth herein is appropriate under the circumstances; and the Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The Reorganized Debtors' Motion is hereby SUSTAINED.
2. Any Objection¹ to a Claim shall be served on the Claimant at the address provided on the Claim and shall be served by regular mail, postage prepaid, along with a Notice. The Notice shall include a date and time for an Initial Settlement and Pretrial Conference, which date shall be at least 60 days after the date of the Notice. If the Reorganized Debtors file an

¹ All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them in the Motion.

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Objection, it shall also be served on the Liquidating Trustee's counsel. If the Liquidating Trustee files an Objection, it shall also be served on the Reorganized Debtors' counsel.

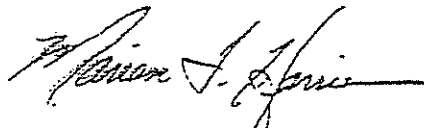
3. All Contested Claims shall be scheduled for a Initial Settlement and Pretrial Conference on one of the following dates, as designated by the Reorganized Debtors in the Notice of Objection, at the United States Bankruptcy Court for the Middle District of Tennessee, Courtroom Three, Second Floor Customs House, 701 Broadway, Nashville, Tennessee:

November 8, 2004 at 1:30 p.m.
December 13, 2004 at 1:30 p.m.
January 24, 2005 at 1:30 p.m.
March 7, 2005 at 1:30 p.m.

or such other date(s) as may be provided by the Court.

4. Any Objections that remain unresolved after the scheduled Initial Settlement and Pretrial Conference shall be set for a substantive pretrial conference before the Court, pursuant to a separate pretrial order.

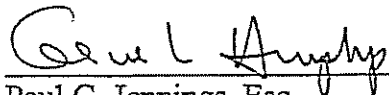
ENTER this _____ day of August, 2004.



AUG 13 2004

Hon. Marian Harrison

APPROVED FOR ENTRY:



Paul G. Jennings, Esq.
Gene L. Humphreys, Esq.
BASS, BERRY & SIMS PLC
315 Deaderick Street, Suite 2700
Nashville, Tennessee 37238-2700
Telephone: (615) 742-6200
Facsimile: (615) 742-6293
Attorneys for Reorganized Debtors

A copy of this order shall be mailed in accordance with Fed. R. Bankr. P. 2002, LBR 9013-1 and 9013-3 by:

Debtor or Dr's Atty Atty for Movant
 Trustee or Tr's Atty

Clerk's Office only:

Chief Deputy
 Financial Clerk
 Judgment Book
 Adversary Case
 UST

Debtor and Dr's Atty
 Trustee &/or Tr's Atty
 Movant &/or Mvt's Atty
 All parties to agreed order
 All parties in cert of suc
 All creditors

8-16-04