

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In re

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11  
Case No. 12-51502-659  
(Jointly Administered)

STIPULATION AND ORDER EXTENDING TIME UNDER 11 U.S.C. § 365(d)(4) FOR  
LEASES OF NON-RESIDENTIAL REAL PROPERTY WITH  
ALPHA NATURAL RESOURCES, INC.

This Stipulation and Order (the “Stipulation and Order”) is made as of January 24, 2013, by and between Patriot Coal Corporation (“Patriot”) and its affiliated debtors (collectively, the “Debtors”), as debtors and debtors in possession, on the one hand, and Alpha Natural Resources, Inc. and certain of its subsidiaries (collectively, “Alpha”), on the other (Alpha, together with Patriot, the “Parties”), through their respective and duly authorized counsel of record.

**Recitals**

WHEREAS, on July 9, 2012 (the “Petition Date”), the Debtors filed voluntary petitions under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of New York (the “New York Bankruptcy Court”);

WHEREAS, on the Petition Date, the Debtors also filed a motion for an order (i) confirming that a payment agreement with certain Alpha subsidiaries, dated August 1, 2005, (the “Payment Agreement”) was not an executory contract, or alternatively, (ii) approving rejection of the Payment Agreement (the “Payment Agreement Motion”);

WHEREAS, on August 6, 2012, after consultation with the New York Bankruptcy Court, the Debtors (i) withdrew the portion of the Payment Agreement Motion seeking an order

confirming that the Payment Agreement was not an executory contract and adjourned the balance of the Rejection Motion *sine die*, and (ii) commenced an adversary proceeding (the “Adversary Proceeding”) styled *Eastern Royalty LLC f/k/a Eastern Royalty Corp. v. Boone East Development Co., et al.*, seeking a declaratory judgment that the Payment Agreement was a standalone, fully integrated non-executory contract;

WHEREAS, on September 7, 2012, Alpha filed its answer to the complaint in the Adversary Proceeding, which also asserted a counterclaim for past-due tonnage payments under the Payment Agreement;

WHEREAS, on September 21, 2012, the Debtors filed a motion for judgment on the pleadings in the Adversary Proceeding pursuant to Rule 12(c) of the Federal Rules of Civil Procedure (the “Motion for Judgment on the Pleadings”), which, pursuant to a briefing schedule agreed to by the parties, was fully briefed by November 1, 2012;

WHEREAS, on October 10, 2012, pursuant to section 365(d)(4) of the Bankruptcy Code, the Debtors filed a motion for an extension of time to assume or reject unexpired leases of nonresidential real property (the “Motion to Extend”), which sought a 90-day extension, through and until February 4, 2013, to determine whether to assume or reject the unexpired leases of nonresidential real property;

WHEREAS, on October 23, 2012, the New York Bankruptcy Court granted the Motion to Extend;

WHEREAS, on November 27, 2012, the New York Bankruptcy Court issued a memorandum decision which transferred the above-captioned Chapter 11 cases and the Adversary Proceeding to the United States Bankruptcy Court for the Eastern District of Missouri

(the “Missouri Bankruptcy Court”), and on December 19, 2012, the New York Bankruptcy Court issued an order implementing the transfer of venue;

WHEREAS, on January 15, 2013, the Debtors filed a motion for authorization to assume or reject unexpired leases of nonresidential real property (the “Motion to Assume or Reject”), by which the Debtors seek, *inter alia*, to (i) assume certain agreements with Alpha subsidiaries (as set forth on Exhibit A, the “Alpha Proposed Assumed Agreements”), and (ii) exclude certain agreements with Alpha subsidiaries from the Proposed Assumed Agreements (as set forth on Exhibit B, the “Alpha Proposed Excluded Agreements,” and together with the Alpha Proposed Assumed Agreements, the “Alpha Agreements”);

WHEREAS, certain of the Alpha Agreements, including the Payment Agreement, are the subject of the Adversary Proceeding;

WHEREAS, there has been no argument or decision on the Motion for Judgment on the Pleadings;

WHEREAS, the Parties desire to extend the time for the Debtors to assume or reject the Alpha Agreements;

WHEREAS, the Parties desire to memorialize their agreement in this Stipulation and Order.

**Agreed Order**

IT IS THEREFORE AGREED, AND UPON BANKRUPTCY COURT APPROVAL  
HEREOF, IT SHALL BE ORDERED AS FOLLOWS:

1. To the extent that section 365(d)(4) of the Bankruptcy Code applies, the time within which the Debtors must assume or reject the Alpha Agreements, listed on Exhibits A and B hereto, is hereby extended through and including April 6, 2013.

2. This Stipulation and Order hereby constitutes “prior written consent of the lessor” under section 365(d)(4)(B)(ii) of the Bankruptcy Code, to the extent such section applies, and no further consent of Alpha shall be required.

3. The Debtors hereby withdraw the Motion to Assume or Reject without prejudice as to the Alpha Agreements and shall revise any proposed order to remove the Alpha Agreements from its scope.

4. Any decision or order regarding the Motion to Assume or Reject will not determine, bind, be collateral estoppel, or otherwise prejudice the rights and defenses of the parties to the Alpha Agreements with respect to the claims and defenses in the Adversary Proceeding or otherwise.

5. Nothing herein shall be deemed to alter, amend or otherwise modify the terms of any of the Alpha Agreements, and such terms shall continue in full force and effect up to such time with respect to each of the Alpha Agreements as the Debtors have obtained an effective date of (a) rejection of such Alpha Agreement, or (b) assumption of such Alpha Agreement pursuant to section 365 of the Bankruptcy Code, in each case to the extent the Alpha Agreements are executory contracts under section 365 of the Bankruptcy Code.


6. Nothing herein shall be deemed a waiver of (a) any of Alpha’s actual or potential claims against the Debtors, including, without limitation, under sections 365 or 502 of the Bankruptcy Code on account of any potential rejection of the Alpha Agreements; (b) any of the Debtors’ actual or potential claims against Alpha; or (c) any arguments the Parties may have with respect to the severability or non-severability, as the case may be, of any of the Alpha Agreements from other non-residential property leases or executory contracts, including, without

limitation, the Payment Agreement. The Parties hereby reserve any and all rights with respect to the foregoing.

7. This Stipulation and Order is without prejudice to the Parties' agreement in writing to an additional extension beyond April 6, 2013, of the time within which the Debtors must assume or reject any or all of the Alpha Agreements, to the extent section 365(d)(4) of the Bankruptcy Code applies to the Alpha Agreements.

8. This Stipulation and Order shall inure to the benefit of and shall be binding upon the Parties, their successors and assigns.

9. This Stipulation and Order may be executed in one or more counterparts, which collectively shall form one and the same agreement. Any of the Parties may execute this Stipulation and Order by signing any such counterpart and each of such counterparts (whether an original or a copy) shall for all purposes be deemed an original.

  
KATHY A. SURRATT-STATES  
Chief United States Bankruptcy Judge

DATED: February 8, 2013  
St. Louis, Missouri  
jjh

Dated: January 25, 2013

Dated: January 25, 2013

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certain of its subsidiaries*

**Exhibit A to Stipulation and Order**

<b>Debtor's Contract ID</b>	<b>Debtor Parties to the Contracts</b>	<b>Counterparties to the Contracts</b>	<b>Date of Contract or Lease</b>	<b>Location and Description</b>
LND 843	ROBIN LAND COMPANY, LLC	BLACK KING MINE DEVELOPMENT CO.	4/29/1997	CABIN CREEK AREA; 2350-000003-00 : COAL LEASE, AS AMENDED
LMS0329	RIVERS EDGE MINING, INC.	BOONE EAST DEVELOPMENT CO.	10/22/2007	RIVERS EDGE; 0793-000013-00 : ROAD EASEMENT
LMS1538	ROBIN LAND COMPANY, LLC	BOONE EAST DEVELOPMENT CO.	12/30/1992	2330-000020-00 : ROAD EASEMENT
LND 057	EASTERN ROYALTY, LLC	BOONE EAST DEVELOPMENT CO.	8/1/2005	EASTERN ROYALTY LAND AREA; 0883-000010-00 : COAL LEASE; COAL LEASE- 8/1/05- BETWEEN BOONE EAST DEVELOPMENT AND EASTERN ROYALTY
LND 1226	ROBIN LAND COMPANY, LLC	BOONE EAST DEVELOPMENT CO.	3/31/2008	LINCOLN/BOONE AREA; 2335-000143-01: COAL LEASE, AS AMENDED; LEASE AND SUBLEASE
LND 808	ROBIN LAND COMPANY, LLC	BOONE WEST DEVELOPMENT CO.	12/11/2009	LINCOLN/BOONE AREA; 2335-000367-00 : COAL SUBLEASE
LND 020	PINE RIDGE COAL COMPANY, LLC	CENTRAL WEST VIRGINIA ENERGY CO.	1/1/1993	BIG MOUNTAIN LAND AREA; 0862-000011-00 : COAL SUBLEASE
LND 019	PINE RIDGE COAL COMPANY, LLC	ELK RUN COAL COMPANY	10/1/1990	BIG MOUNTAIN LAND AREA; 0862-000008-00 : COAL SUBLEASE
LMS0908	ROBIN LAND COMPANY, LLC	LOGAN COUNTY MINE SERVICES, INC.	11/12/1987	LOGAN COUNTY AREA; 2340-000286-00: SUBLEASE; SURFACE SUBLEASE FROM MASSEY

**Exhibit B to Stipulation and Order**

<b>Debtor's Contract ID</b>	<b>Debtor Parties to the Contracts</b>	<b>Counterparties to the Contracts</b>	<b>Date of Contract</b>	<b>Location and Description</b>
LMS2385	ROBIN LAND COMPANY, LLC	BLACK KING MINE DEVELOPMENT CO.	6/1/2007	CAMPB CREEK/SHREWSBURY AREA; 2330-000060-00 : AGREEMENT; JUNE 2007 AGREEMENT W/ MASSEY
LND 6167	ROBIN LAND COMPANY, LLC	BLACK KING MINE DEVELOPMENT CO.	7/31/1995	CABIN CREEK AREA; 2350-000018-00 : AGREEMENT OF PURCHASE AND SALE, PARTIAL ASSIGNMENT, AND DEED
LND 6170	ROBIN LAND COMPANY, LLC	BLACK KING MINE DEVELOPMENT CO.	4/29/1997	CABIN CREEK AREA; 2350-000022-00 : AGREEMENT
LND 6174	ROBIN LAND COMPANY, LLC	BLACK KING MINE DEVELOPMENT CO.	6/1/2007	CABIN CREEK AREA; 2350-000031-00 : AGREEMENT; JUNE 2007 EXCHANGE TRANSACTION
LMS0333	EASTERN ROYALTY, LLC	BOONE EAST DEVELOPMENT CO.	6/27/2008	EASTERN ROYALTY LAND AREA; 0883-000014-04 : AGREEMENT; 2008 PAYMENT AGREEMENT
LND 3628	EASTERN ROYALTY, LLC	BOONE EAST DEVELOPMENT CO.	6/27/2008	EASTERN ROYALTY LAND AREA; 0883-000010-03 : AGREEMENT; AGREEMENT - PAYMENT AGREEMENT EFFECTIVE 6/27/08 BETWEEN BOONE EAST DEVELOPMENT CO. AND EASTERN ROYALTY, LLC
LND 3319	EASTERN ASSOCIATED COAL, LLC	BOONE EAST DEVELOPMENT CO.	8/31/2005	KOPPERSTON RESERVE AREA; 0865-000001-02 : AGREEMENT; PAYMENT AGREEMENT- MASSEY TO PATRIOT (8-31-05)
LMS0332	EASTERN ROYALTY, LLC	BOONE EAST DEVELOPMENT CO.	6/27/2008	EASTERN ROYALTY LAND AREA; 0883-000014-03 : 2008 AGREEMENT



<b>Debtor's Contract ID</b>	<b>Debtor Parties to the Contracts</b>	<b>Counterparties to the Contracts</b>	<b>Date of Contract</b>	<b>Location and Description</b>
LND 3627	EASTERN ROYALTY, LLC	BOONE EAST DEVELOPMENT CO.	6/27/08	EASTERN ROYALTY LAND AREA; 0883-000010-02 : AGREEMENT DATED 6/27/2008 AMONG BOONE EAST DEVELOPMENT CO. AND ELK RUN COAL COMPANY INC. AND HERITAGE COAL COMPANY LLC AND EASTERN ROYALTY, LLC CONTAINING LEASE SURRENDERS, LEASE AMENDMENTS, PAYMENTS, AND PAYMENT AGRE
LND 6174	ROBIN LAND COMPANY, LLC	BOONE EAST DEVELOPMENT CO.	6/1/2007	CABIN CREEK AREA; 2350-000031-00 : AGREEMENT; JUNE 2007 EXCHANGE TRANSACTION
LND 7019	PINE RIDGE COAL COMPANY, LLC; EASTERN ASSOCIATED COAL, LLC	BOONE EAST DEVELOPMENT CO.	9/10/1999	862-015 - MASSEY AGREEMENT
LMS0336	ROBIN LAND COMPANY, LLC	BOONE EAST DEVELOPMENT CO.	9/30/2011	2330-000001-01 : ASSIGNMENT; PARTIAL ASSIGNMENT OF WARD HEIRS LEASE
CRAL7	EASTERN ROYALTY, LLC	BOONE EAST DEVELOPMENT CO.	8/31/2005	8-31-2005 PAYMENT AGREEMENT
LMS3082-001	EASTERN ROYALTY, LLC	BOONE EAST DEVELOPMENT CO.	8/31/2005	PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (WPP RESERVES)
LND 3674	ROBIN LAND COMPANY, LLC	BOONE WEST DEVELOPMENT CO	3/31/2008	LINCOLN/BOONE AREA; 2335-000206-00 : COAL LEASE; AGREEMENT - AGREEMENT DATED 3/31/08 BETWEEN ROBIN LAND COMPANY, LLC AND BOONE WEST DEVELOPMENT CO.
LMS0448	PINE RIDGE COAL COMPANY, LLC	CERES LAND COMPANY	8/31/2005	WALHONDE LAND AREA; 0860-000003-02 : AGREEMENT; PAYMENT AGREEMENT 8-31-05- MASSEY TO PATRIOT
LND 3310	PINE RIDGE COAL COMPANY, LLC	ELK RUN COAL COMPANY, INC.	8/31/2005	BIG MOUNTAIN LAND AREA; 0862-000001-01 : AGREEMENT; PAYMENT AGREEMENT - ELK RUN TO PATRIOT (8-31-05)
LND 7020	PINE RIDGE COAL COMPANY, LLC	INDEPENDENCE COAL COMPANY INC	9/1/1991	862-017 - ASSIGNMENT AND ASSUMPTION AGREEMENT
LND 7016	PINE RIDGE COAL COMPANY, LLC	INDEPENDENCE COAL COMPANY INC	3/1/2003	862-017 - PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT

<b>Debtor's Contract ID</b>	<b>Debtor Parties to the Contracts</b>	<b>Counterparties to the Contracts</b>	<b>Date of Contract</b>	<b>Location and Description</b>
LMS1841	ROBIN LAND COMPANY, LLC	MARFORK COAL CO. INC.	4/29/1997	CABIN CREEK AREA; 2350-000002-00 : OVERRIDING ROYALTY
CRAL7	EASTERN ROYALTY, LLC	NEW RIVER ENERGY CORPORATION	8/31/2005	8-31-2005 PAYMENT AGREEMENT
LND 058-001	EASTERN ROYALTY, LLC	NEW RIVER ENERGY CORPORATION	8/31/2005	PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (BERWIND NO. 2 GAS RESERVES)
LND 7017	PINE RIDGE COAL COMPANY, LLC	OMAR MINING COMPANY	1/1/1993	862-014 - PARTIAL ASSIGNMENT, LEASE AMENDMENT AND CONSENT TO ASSIGN
CRAL7	EASTERN ROYALTY, LLC	PERFORMANCE COAL COMPANY	8/31/2005	8-31-2005 PAYMENT AGREEMENT
LMS0237-001	EASTERN ROYALTY, LLC	PERFORMANCE COAL COMPANY	8/31/2005	PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (BERWIND NO. 2 GAS RESERVES)
LND 059-001	EASTERN ROYALTY, LLC	PERFORMANCE COAL COMPANY	8/31/2005	PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (WPP RESERVES)
LND 3674-001	ROBIN LAND COMPANY, LLC	BOONE WEST DEVELOPMENT CO.	3/31/2008	CONSENT, PARTIAL ASSIGNMENT AND AMENDMENT