

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re
PATRIOT COAL CORPORATION, *et al.*,
Debtors.¹

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

Re: Docket Nos. 1995 (re: 2067)

**THIRD OMNIBUS ORDER AUTHORIZING DEBTORS TO (i) ASSUME OR
(ii) REJECT UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

Upon the motion (the “**Motion**”)² of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) for entry of an order pursuant to Section 365 of the Bankruptcy Code and Bankruptcy Rule 6006 authorizing them to (i) assume certain of their unexpired leases of nonresidential real property and (ii) reject certain of their unexpired leases of nonresidential real property, as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the requested relief being a core proceeding the Court can determine pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided in accordance with the Case Management Order; and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having entered the (A) *Order Authorizing Debtors to (i) Assume or (ii) Rejected Unexpired Leases of Nonresidential Real Property* on February 13, 2013

¹ The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ Chapter 11 petitions.

² Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Motion.

[ECF No. 2822] and the (B) *Second Omnibus Order Authorizing Debtors to (i) Assume or (ii) Reject Unexpired Leases of Nonresidential Real Property* on March 1, 2013 [ECF No. 3023]; and the Debtors having settled that certain objection of Penn Virginia Operating Co. LLC and certain of its affiliates (collectively, “**Penn Virginia**”) to the Motion [ECF No. 2067]; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefore, it is

ORDERED that the relief requested in the Motion is granted as set forth herein; and it is further

ORDERED that subject to the reservations of rights set forth in this Order, those Debtors that are party to the assumed leases (each a “**Debtor-Lessee**” and, collectively, the “**Debtor-Lessees**”) identified on the attached Schedule A (each an “**Assumed Lease**” and, collectively, the “**Assumed Leases**”) ³ are authorized to assume the Assumed Leases, and the Assumed Leases are deemed assumed as of the date of payment of the applicable Cure Amount by the applicable Debtor-Lessee (the “**Effective Date**”), pursuant to Section 365 of the Bankruptcy Code, effective as of the Effective Date; and it is further

ORDERED that each Assumed Lease includes any modifications, amendments, addenda and/or supplements thereto and/or restatements thereof and/or any ancillary documents or agreements related thereto, including certain amendments negotiated in connection with the assumption of these leases; and it is further

ORDERED that, to the extent permitted by applicable law, each of the Debtor-Lessees maintains the statutory right to later reject any Assumed Lease, even following the occurrence of the Extended Assumption Deadline. If such Debtor-Lessee later rejects any of the Assumed Leases, the resulting damages that may be asserted by the lessors shall be limited by applicable law, including, without limitation, Sections 503(b)(7) and 502(b)(6) of the Bankruptcy Code; and it is further

ORDERED that the Debtor-Lessees’ rights to assign any of the Assumed Leases pursuant to, and to enjoy the protections of, Section 365(f) of the Bankruptcy Code are expressly preserved, and such Debtors may assign any Assumed Lease in the future

³ The descriptions of the Assumed Leases included in Schedule A are provided for convenience only and are not intended to modify, or to represent the Debtors’ interpretation of or a Court determination regarding, the terms of any Assumed Leases.

notwithstanding any provision of such Assumed Lease that prohibits, restricts or conditions the assignment of such Assumed Lease; *provided* that the right of Penn Virginia to oppose such assignment under applicable law, if any, including, without limitation, pursuant to Section 365(f)(2)(B) of the Bankruptcy Code, shall be preserved; and it is further

ORDERED that the amount to be paid to cure all prepetition defaults under each Assumed Lease pursuant to Section 365(b) of the Bankruptcy Code shall be the applicable Cure Amount set forth on the attached Schedule A or such other amount as may be agreed to in writing by the parties; *provided, however*, that Debtors will either obtain the consent of the Committee and the administrative agents for the Debtors' postpetition lenders (which consent, in each case, shall not be unreasonably withheld) or further order of the Court prior to paying a Cure Amount that differs from the amount set forth in Schedule A; and it is further

ORDERED that, upon payment of the Cure Amount, pursuant to the terms of the applicable Assumed Lease, there shall be no defaults that preclude assumption under (and, if and when applicable, assignment of) such Assumed Lease, and the applicable Debtors that are party to such Assumed Lease shall have been deemed to have satisfied all of their obligations under Section 365(b)(1) of the Bankruptcy Code with respect to such Assumed Lease; and it is further

ORDERED that, upon payment of the Cure Amounts, the counterparties to the Assumed Leases shall be forever barred and enjoined from asserting against the applicable Debtors any claims for cure costs under 11 U.S.C. § 365 other than the Cure Amounts set forth on Schedule A hereto or such other amount as may be agreed by the parties as provided in this Order; *provided however* that, except as set forth in this Order, the assumption of any Assumed Lease or payment of any Cure Amount does not represent a waiver by any party in interest, including the Debtors, of any rights, claims or defenses in connection with or arising from any Assumed Lease, including the obligation of any party to an Assumed Lease to comply with the terms of such Assumed Lease post-assumption; and it is further

ORDERED that each Debtor's estate shall only be obligated under this Order to the extent that such Debtor entity was a party to the applicable Assumed Lease or

Rejected Lease (as defined below) prior to the Petition Date, and nothing in this Order and/or the assumption or rejection of an Assumed Lease or Rejected Lease, as applicable, shall obligate any Debtor entity that was not an existing party to such Assumed Lease or Rejected Lease; and it is further

ORDERED that the Debtors are authorized to reject the rejected leases identified on the attached Schedule B (the “**Rejected Leases**”),⁴ and the Rejected Leases are deemed rejected, pursuant to Section 365 of the Bankruptcy Code, effective as of the applicable date set forth on Schedule B; and it is further

ORDERED that each Rejected Lease includes any modifications, amendments, addenda and/or supplements thereto and/or restatements thereof and/or any ancillary documents or agreements related thereto, including, without limitation, any (i) payment agreements; (ii) royalty agreements, including overriding royalty agreements; (iii) assignment and assumption agreements; (iv) purchase and other acquisition agreements; (v) sale agreements; and (vi) purchase option agreements; and it is further

ORDERED that, without further order of this Court, all counterparties to any Rejected Lease are prohibited from setting off or otherwise utilizing any monies deposited by the Debtors with such counterparty as a security deposit or pursuant to another similar arrangement; and it is further

ORDERED that the Debtors may in the ordinary course enter into easement agreements with counterparties to any Rejected Leases to allow the Debtors to conduct and complete reclamation work so as to permit the Debtors to complete reclamation obligations, if any; and it is further

ORDERED that pursuant to the Order Establishing Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof [ECF No. 1388] (the “**Bar Date Order**”), any lessor under a Rejected Lease must file a proof of claim for any damages resulting from the rejection of the Rejected Lease (a “**Rejection Damages Claim**”) no later than 30 days after the entry of this Order (the “**Rejection Damages Bar Date**”). All such proofs of claims shall be filed by the Rejection Damages Bar Date in

⁴ The descriptions of the Rejected Leases included in Schedule B are provided for convenience only and are not intended to modify, or to represent the Debtors’ interpretation of or a Court determination regarding, the terms of any Rejected Leases.


accordance with the requirements of the Bar Date Order. If a lessor fails to timely and properly file a Rejection Damages Claim by the Rejection Damages Bar Date, such party shall be forever barred, estopped and enjoined from asserting such Rejection Damages Claim against the Debtors or voting or receiving distributions under any plan of reorganization in these cases on account of such Rejection Damages Claim; and it is further

ORDERED that the Motion satisfied Bankruptcy Rules 6006, 6007 and 9014; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order; and it is further

ORDERED that the Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Order; and it is further

ORDERED that proper, timely, adequate and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the Eastern District of Missouri, and no other or further notice of the Motion or the entry of this Order shall be required


KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

DATED: June 19, 2013
St. Louis, Missouri
jjh

Order prepared by:
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Schedule A—Assumed Leases

Debtors' Contract ID	Debtor Parties to the Contracts and Leases to be Assumed	Counterparties to the Contracts and Leases to be Assumed	Date of Contract or Lease	Location and Description of Real Property that is the Subject of a Lease to be Assumed	Cure Amount
LMS1533	BIG EAGLE RAIL, LLC	K RAIL LLC	5/22/2000	EAGLE JOINT; 2951-000003-00 : LEASE; RAILROAD LEASE, DATED 4/12/00, BETWEEN KANAWHA RAIL CORP AND KANAWHA EAGLE COAL	\$19,473.48
LMS1534	WINIFREDE DOCK LIMITED LIABILITY COMPANY	K RAIL LLC	3/1/2000	EAGLE JOINT; 2951-000005-00 : LEASE; WINIFREDE DOCK LEASE	\$62,881.47
LMS2181	KANAWHA EAGLE COAL, LLC	PENN VIRGINIA OPERATING CO LLC	1/18/1999	EAGLE JOINT; 2951-000001-00; LENS CREEK LEASE	\$76,679.73
LMS2182	KANAWHA EAGLE COAL, LLC	PENN VIRGINIA OPERATING CO LLC	1/1/1995	EAGLE JOINT; 2951-000002-00 : COAL SUBLEASE; CRIMSON LEASE	\$456,132.80
LND 054	EASTERN ROYALTY, LLC	PENN VIRGINIA OPERATING CO LLC	6/16/2003	EASTERN ROYALTY LAND AREA; 0883-000005-00 : COAL LEASE; AMENDED AND RESTATED LEASE TO EASTERN ROYALTY CORP. BY PENN VIRGINIA OPERATING CO, LLC- 6/16/03.	\$680,904.50
LND 321	WILDCAT, LLC	PENN VIRGINIA OPERATING CO LLC	11/1/2000	WILDCAT AREA; 2360-000001-00 : COAL SUBLEASE, AS AMENDED; SUBLEASE DATED 11/1/00 BETWEEN PENN VIRGINIA COAL COMPANY AND WILDCAT COAL COMPANY	\$27,948.77
LND 325	PANTHER LLC	PENN VIRGINIA OPERATING CO LLC	12/20/2001	PANTHER AREA; 2365-000003-00 : COAL SUBLEASE, AS AMENDED; SUBLEASE DATED 12/20/01 BETWEEN PENN VIRGINIA OPERATING CO., LLC (SUBLESSOR) AND PANTHER LLC (SUBLESSEE)	\$17,138.65
LND 467	REMINGTON LLC	PENN VIRGINIA OPERATING CO LLC	11/1/1997	REMINGTON AREA; 2355-000001-00 : COAL LEASE, AS AMENDED; 1997 COAL SUBLEASE, AS AMENDED	\$2,142.33
KYLND7000	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	6/2/2011	DECLARATION OF RESTRICTIVE COVENANTS FOR CONSERVATION	\$0.00
LMS2183	RIVERS EDGE MINING, INC.	PENN VIRGINIA OPERATING CO LLC	2/23/2003	RIVERS EDGE; 0793-000008-00 : POWERLINE EASEMENT	\$0.00
LMS2189	GRAND EAGLE MINING, LLC	PENN VIRGINIA OPERATING CO LLC	10/25/2010	PATRIOT SURFACE; 2440-000016-00 : EASEMENT	\$0.00
LMS2209	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	10/25/2010	HENDERSON COUNTY AREA; EASEMENT	\$0.00
LND 1262	KANAWHA EAGLE COAL, LLC	PENN VIRGINIA OPERATING CO LLC	4/1/2009	EAGLE JOINT; 2951-000009-00 : LEASE; COAL LABORATORY LEASE	\$300.00
LND 3301	COLONY BAY COAL COMPANY	PENN VIRGINIA OPERATING CO LLC	11/5/1981	COLONY BAY ; 0630-000006-00 : LAND USE LICENSE	\$0.00
LMS2221	EASTERN ASSOCIATED COAL, LLC	PENN VIRGINIA RESOURCE PARTNERS,	1/1/2001	WHARTON RESERVE AREA; 0866-000043-00 : SURFACE LEASE; NOVATION AND RESTATEMENT OF LEASE OF LAND- 1/1/01-BETWEEN PENN VIRGINIA AND EACC- EXTINGUISHING THE ORIGINAL LEASE DATED 12/1/00.	\$0.00
LND 045	EASTERN ASSOCIATED COAL, LLC	SUNCREST RESOURCES LLC	12/19/2002	FEDERAL NO. 2 RESERVE AREA; 0878-000078-00 : COAL LEASE; NOTICE AND MEMORANDUM OF COAL LEASE-12/19/02	\$218,190.44

Schedule B—Rejected Leases

Debtors' Contract ID	Debtor Parties to the Contracts and Leases to be Rejected	Counterparties to the Contracts and Leases to be Rejected	Date of Contract or Lease	Location and Description of Real Property that is the Subject of a Lease to be Rejected	Rejection Effective Date
LMS2191	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	9/28/1984	PATRIOT - GENERAL; 2430-000001-00 : LEASE	1/29/2013
LMS2195	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	9/28/1984	PATRIOT - GENERAL; 2430-000001-03 : LEASE	1/29/2013
LMS2196	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	5/1/2000	PATRIOT - GENERAL; 2430-000007-00 : LEASE	1/29/2013
LMS2184	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	1/1/1989	PATRIOT - GENERAL; 2430-000001-04 : EASEMENT	1/29/2013
LMS2186	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	5/1/2000	PATRIOT - GENERAL; 2430-000007-01 : AGREEMENT	1/29/2013
LMS2187	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	5/1/2000	PATRIOT - GENERAL; 2430-000007-02 : EASEMENT	1/29/2013
LMS2188	PATRIOT COAL COMPANY, L.P.	PENN VIRGINIA OPERATING CO LLC	12/9/2004	PATRIOT - GENERAL; 2430-000007-03 : AGREEMENT	1/29/2013