

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

EMERGE ENERGY SERVICES LP, *et al.*,

Debtors.¹

Chapter 11

Case No. 19-11563 (KBO)

(Jointly Administered)

Related to Docket Nos. 20 and 64

**LIMITED OBJECTION OF POWNALL SERVICES LLC TO DEBTORS’
MOTION (I) PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363 AND 364
AUTHORIZING THE DEBTORS TO (A) OBTAIN SENIOR SECURED PRIMING
SUPERPRIORITY POSTPETITION FINANCING, (B) GRANT LIENS AND
SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (C) USE CASH
COLLATERAL OF PREPETITION SECURED PARTIES AND (D) GRANT
ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES;
(II) SCHEDULING A FINAL HEARING PURSUANT TO BANKRUPTCY RULES
4001(b) AND 4001(c); AND (III) GRANTING RELATED RELIEF**

Pownall Services LLC (“Pownall Services”), by and through its undersigned counsel, hereby files this limited objection and reservation of rights (the “Limited Objection”) to *Debtors’ Motion (I) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 Authorizing the Debtors to (A) Obtain Senior Secured Priming Superpriority Postpetition Financing, (B) Grant Liens and Superpriority Administrative Expense Status, (C) Use Cash Collateral of Prepetition Secured Parties and (D) Grant Adequate Protection to Prepetition Secured Parties; (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(B) and 4001(C); and (III) Granting Related Relief [D.I. 20] (the “Financing Motion”)*, as follows:

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Debtors’ address is 5600 Clearfork Main Street, Suite 400, Fort Worth, Texas 76109.



BACKGROUND

1. Pownall Services furnished materials and services to Debtor Superior Silica Sands, LLC (“Superior Silica”), in connection with a facility owned by Superior Silica located at 3014 LCR 704 in Kosse, Texas (the “Kosse Premises”).

2. On February 15, 2019, Pownall Services recorded a mechanics’ lien against the Kosse Premises in the amount of \$380,054.73 (the “Kosse Lien”).

3. Pownall Services furnished materials and services to Superior Silica, in connection with a facility located at E0690 Road, Dover, Oklahoma 73734, Kingfisher, Oklahoma (the “Kingfisher Premises,” together with the Kosse Premises, collectively, the “Liened Premises”).

4. On April 5, 2019, Pownall Services recorded a mechanics’ lien against the Kingfisher Premises in the amount of \$1,598,738.31 (the “Kingfisher Lien,” together with the Kosse Lien, the “Mechanics’ Liens”).

5. On July 17, 2019, the Court entered an interim order granting the Financing Motions [D.I. 64] (the “Interim Order”). As of the time of filing this Limited Objection, the Debtors have not filed a proposed final order.

LIMITED OBJECTION / RESERVATION OF RIGHTS

6. The Mechanics’ Liens constitute valid and perfected liens on the Liened Premises as of the Debtors’ petition date. See 11 U.S.C. § 506(a)(1). Further, Pownall Services believes that one or both of its Mechanics’ Liens are “Senior Liens,”² such that the DIP Liens proposed to be granted in the Liened Premises in connection with the Financing Motion are junior to the

² Capitalized terms not otherwise defined herein shall have the same meaning as those ascribed to them in the Interim Order.

Mechanic's Liens. See, e.g., Interim Order ¶ 13(a)(iii) (granting DIP Liens to secure DIP Obligations that are junior to Senior Liens). Under the Interim Order, the Debtors' stipulations as to, among other things, the priority and validity of the Prepetition Liens in the Prepetition Collateral (namely, the Liened Premises), see, e.g., Interim Order ¶¶ 6, 7, are subject to the rights of Pownall Services and other parties in asserting or prosecuting a Challenge, see Interim Order ¶ 26.

7. As long as the foregoing provisions contained in the Interim Order are included in the proposed final order granting the Financing Motion, Pownall Services has no objection to the Debtors' request for financing or the use of cash collateral in the Financing Motion. Otherwise, Pownall Services reserves any and all rights to object to the Financing Motion.

WHEREFORE, Pownall Services requests that the Court condition approval of the Financing Motion consistent with this Objection, and that the Court otherwise reserve Pownall Services' rights to object to the Financing Motion.

Dated: August 7, 2019

SAUL EWING ARNSTEIN & LEHR LLP

/s/ Lucian Murley
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CERTIFICATE OF SERVICE

I, Lucian Murley, Esquire, hereby certify that on August 7, 2019, a copy of the foregoing *Limited Objection to Debtors' Motion (I) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363 and 364 Authorizing the Debtors to (A) Obtain Senior Secured Priming Superpriority Postpetition Financing, (B) Grant Liens and Superpriority Administrative Expense Status, (C) Use Cash Collateral of Prepetition Secured Parties and (D) Grant Adequate Protection to Prepetition Secured Parties; (II) Scheduling A Final Hearing Pursuant to Bankruptcy Rules 4001(B) and 4001(C); And (III) Granting Related Relief* was served through the Court's CM/ECF system upon all registered electronic filers appearing in this case who consented to electronic service and I caused a copy to be served via Electronic Mail on the parties on the attached service list.

SAUL EWING ARNSTEIN & LEHR LLP

By: /s/ Lucian Murley

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Dated: August 7, 2019

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