

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

In re:)	Chapter 11
)	
EMERGE ENERGY SERVICES LP, <i>et al.</i> ,)	Case No. 19-11563
)	
Debtors.)	Re: Docket No. 324

**TEXAS TAXING AUTHORITIES’ OBJECTION TO THE FIRST AMENDED JOINT
PLAN OF REORGANIZATION FOR EMERGE ENERGY SERVICES LP AND ITS
AFFILIATE DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

TO THE HONORABLE BANKRUPTCY JUDGE:

NOW COMES Comanche County, Irion County and Limestone County (hereinafter, the “Texas Taxing Authorities”), and file their Objection to the First Amended Joint Plan of Reorganization for Emerge Energy Services LP and Its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code (hereinafter, the “Plan”), and respectively show the Court as follows:

1. Texas Taxing Authorities, duly organized governmental units of the State of Texas, are the holders of claims for pre-petition ad valorem real and business personal property taxes for tax year 2019 with estimated taxes against the property of the Debtors in the aggregate amount of \$250,410.36.

2. Texas Taxing Authorities’ prepetition claims are secured by unavoidable, first priority, perfected liens on all of the Debtor’s real and business personal property pursuant to Texas Tax Code 32.01 and 32.05 and 11 U.S.C. Section 362(b)(18). *In re: Winn’s Stores, Inc.*, 177 B.R. 253 (Bankr. W. d. Tex. 1995); *Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc.*, 894 S.W.2d 841 (Tex. App. – Eastland 1995). These liens arise on January 1 of each tax year along with the property owner’s personal liability for the ad valorem taxes and attach to the property by



operation of law. Tex. Prop. Tax Code 32.01; 11 U.S.C. Sec. 362(b)(18). Texas Tax Code Section 32.01 provides:

- (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or not the taxes are imposed in the year the lien attaches. The lien exists in favor of each taxing unit having power to tax the property;
- (b) A tax lien on inventory, furniture, equipment, or other personal property is a lien *in solido* and attaches to all inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires;

Texas Tax Code Section 32.05 provides:

- (d)... a tax lien provided by this chapter takes priority over the claim of any creditor of a person whose property is encumbered by the lien and over the claim of any holder of a lien on property encumbered by the tax lien, whether or not the debt or lien existed before attachment of the tax lien.

4. Texas Taxing Authorities object to the Plan to the extent that it does not provide that they retain the liens that secure all base tax, penalties and interest that may accrue on their secured claims.

5. The Plan does not express the retention of liens until paid in full. Texas Taxing Authorities object to the exclusion of retaining their secured liens.

WHEREFORE, Texas Taxing Authorities pray this Court enters an order denying confirmation of the Plan and granting them such other and further relief to which they may be justly entitled.

Dated: September 19, 2019

Respectfully submitted,

**MCCREARY, VESELKA, BRAGG &
ALLEN, P.C.**

Attorneys for Texas Taxing Authorities

P. O. Box 1269

Round Rock, TX 78680-1269

Telephone: 512.323.3200

Facsimile: 512.323.3205

By: /s/ Tara LeDay

Tara LeDay (TX 24106701)

Direct: 512.323.3241

tleday@mvalaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 19, 2019, a true and correct copy of the foregoing was served to those parties listed on the Court's Notice of Electronic Filing System for the District of Delaware

/s/ Tara LeDay

Tara LeDay