

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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In re: : Chapter 11  
: :  
HI-CRUSH INC., *et al.*,<sup>1</sup> : Case No. 20-33495 (DRJ)  
: :  
Debtors. : (Joint Administration Requested)  
: :  
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**DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN ORDER EXTENDING TIME TO FILE SCHEDULES OF ASSETS AND LIABILITIES, SCHEDULES OF CURRENT INCOME AND EXPENDITURES, SCHEDULES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES, STATEMENTS OF FINANCIAL AFFAIRS, AND RULE 2015.3 FINANCIAL REPORTS**

**EMERGENCY RELIEF HAS BEEN REQUESTED. A HEARING WILL BE CONDUCTED ON THIS MATTER ON JULY 13, 2020 AT 3:30 P.M. IN COURTROOM 400, 4th FLOOR, UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS, 515 RUSK STREET, HOUSTON, TEXAS 77002. IF YOU OBJECT TO THE RELIEF REQUESTED OR YOU BELIEVE THAT EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU MUST EITHER APPEAR AT THE HEARING OR FILE A WRITTEN RESPONSE PRIOR TO THE HEARING. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.**

**RELIEF IS REQUESTED NOT LATER THAN JULY 13, 2020.**

**Please note that on March 24, 2020, through the entry of General Order 2020-10, the Court invoked the Protocol for Emergency Public Health or Safety Conditions.**

**It is anticipated that all persons will appear telephonically and also may appear via video at this hearing.**

**Audio communication will be by use of the Court's regular dial-in number. The dial-in number is +1 (832) 917-1510. You will be responsible for your own long-distance charges. You will be asked to key in the conference room number. Judge Jones' conference room number is 205691.**

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Hi-Crush Inc. (0530), OnCore Processing LLC (9403), Hi-Crush Augusta LLC (0668), Hi-Crush Whitehall LLC (5562), PDQ Properties LLC (9169), Hi-Crush Wyeville Operating LLC (5797), D & I Silica, LLC (9957), Hi-Crush Blair LLC (7094), Hi-Crush LMS LLC, Hi-Crush Investments Inc. (6547), Hi-Crush Permian Sand LLC, Hi-Crush Proppants LLC (0770), Hi-Crush PODS LLC, Hi-Crush Canada Inc. (9195), Hi-Crush Holdings LLC, Hi-Crush Services LLC (6206), BulkTracer Holdings LLC (4085), Pronghorn Logistics Holdings, LLC (5223), FB Industries USA Inc. (8208), PropDispatch LLC, Pronghorn Logistics, LLC (4547), and FB Logistics, LLC (8641). The Debtors' address is 1330 Post Oak Blvd, Suite 600, Houston, Texas 77056.



Parties may participate in electronic hearings by use of an internet connection. The internet site is [www.join.me](http://www.join.me). Persons connecting by mobile device will need to download the free [join.me](http://www.join.me) application.

Once connected to [www.join.me](http://www.join.me), a participant must select “join a meeting”. The code for joining this hearing before Judge Jones is “judgejones”. The next screen will have a place for the participant’s name in the lower left corner. Please complete the name and click “Notify”.

Hearing appearances should be made electronically and in advance of the hearing. You may make your electronic appearance by:

- 1) Going to the Southern District of Texas website;
- 2) Selecting “Bankruptcy Court” from the top menu;
- 3) Selecting “Judges’ Procedures & Schedules;”
- 4) Selecting “view home page” for Judge David R. Jones;
- 5) Under “Electronic Appearance,” select “Click here to submit Electronic Appearance;”
- 6) Select “Hi-Crush Inc., et al.” from the list of Electronic Appearance Links; and
- 7) After selecting “Hi-Crush Inc., et al.” from the list, complete the required fields and hit the “Submit” button at the bottom of the page.

Submitting your appearance electronically in advance of the hearing will negate the need to make an appearance on the record at the hearing.

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) respectfully state as follows in support of this emergency motion (this “**Motion**”):

### RELIEF REQUESTED

1. The Debtors request entry of an order, substantially in the form attached hereto (the “**Order**”):

- (a) extending the deadline by which the Debtors must file their schedules of assets and liabilities, schedules of current income and current expenditures, schedules of executory contracts and unexpired leases, and statements of financial affairs (collectively, the “**Schedules and Statements**”), an additional 16 days, for a total of 30 days from the Petition Date (defined herein), through and including August 11, 2020, without prejudice to the Debtors’ ability to request additional extensions for cause shown;
- (b) extending the deadline by which the Debtors must file their initial reports of financial information with respect to entities in which the Debtors hold a controlling or substantial interest as set forth in Federal Rule of Bankruptcy

Procedure 2015.3 (the “**2015.3 Reports**”) to and including the later of (i) 15 days after the initial meeting of creditors to be held pursuant to section 341 of the Bankruptcy Code (the “**341 Meeting**”) or (ii) 45 days from and after the Petition Date (i.e., August 26, 2020), or to file a motion with the Court seeking a modification of such reporting requirements for cause, without prejudice to the Debtors’ ability to request additional extensions for cause shown; and

- (c) granting related relief.

### **JURISDICTION AND VENUE**

2. The United States Bankruptcy Court for the Southern District of Texas has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157, and this Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a) and 521 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”), rules 1007(c), 2015.3, 6003, and 9006(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), rules 2015-3 and 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “**Bankruptcy Local Rules**”), and the Procedures for Complex Chapter 11 Cases in the Southern District of Texas (the “**Complex Case Procedures**”).

### **BACKGROUND**

4. On the date hereof (the “**Petition Date**”), the Debtors filed voluntary petitions in this Court commencing cases for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”). The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the *Declaration of J. Philip McCormick, Jr., Chief Financial Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings* (the “**First Day**

**Declaration**”),<sup>2</sup> which is filed with the Court concurrently herewith and is fully incorporated herein by reference.

5. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been requested in these Chapter 11 Cases, and no committees have been appointed.

6. Simultaneously with the filing of this Motion, the Debtors have filed a motion with this Court pursuant to Bankruptcy Rule 1015(b) seeking joint administration of the Chapter 11 Cases.

### **BASIS FOR RELIEF**

#### **A. Causes Exists to Extend the Time to File the Schedules and Statements**

7. The requirements of section 521 of the Bankruptcy Code and Bankruptcy Rule 1007(c) ordinarily require a debtor to file its Schedules and Statements within 14 days after the petition date. Pursuant to Bankruptcy Rules 1007(c) and 9006(b), the Court has authority to extend the time required for filing of the Schedules and Statements “for cause.” Fed. R. Bankr. P. 1007(c) and 9006(b).

8. The Debtors submit that ample cause exists to grant the relief requested herein. To prepare their Schedules and Statements, the Debtors will have to compile information from books, records, and documents relating to claims, assets, and contracts from each Debtor entity. Accordingly, the collection of the necessary information will require a significant expenditure of time and effort on the part of the Debtors and their employees. Additionally, the Debtors may lack access to certain information necessary to complete the Schedules and Statements because invoices

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration.

related to prepetition expenditures have not yet been received and entered into the Debtors' accounting system, among other reasons.

9. Given the size and complexity of the Debtors' business and financial affairs and the critical matters that the Debtors' management and professionals were required to address prior to the commencement of these Chapter 11 Cases, the Debtors were not in a position to complete the Schedules and Statements as of the Petition Date. Rather, in the days leading up to the Petition Date, the Debtors' primary focus has been negotiating with creditors and preparing for these Chapter 11 Cases to ensure a smooth transition into chapter 11, thereby maximizing value for their estates, their creditors, and other parties in interest. Moreover, an extension will not harm creditors or other parties in interest because, even under the extended deadline, the Debtors will file the Schedules and Statements in advance of any deadline for filing proofs of claim in these Chapter 11 Cases. Accordingly, the Debtors submit that their request for a 16-day extension of time to file the Schedules and Statements, without prejudice to the Debtors' ability to request additional extensions for cause shown, is appropriate and warranted under the circumstances.

**B. Cause Exists to Extend the Time to File the 2015.3 Reports**

10. Pursuant to Bankruptcy Rule 2015.3, a chapter 11 debtor must file, no later than seven days before the date set for the 341 Meeting and no less than every six months thereafter, periodic financial reports of the value, operations, and profitability of each entity that is not a publicly-traded corporation or a debtor in the Chapter 11 Cases, and in which the estate holds a substantial or controlling interest. See Fed. R. Bankr. P. 2015.3(a)–(c). Additionally, Bankruptcy Local Rule 2015-3 requires that a debtor file the 2015.3 Reports monthly. Bankruptcy Rule 9006(b)(1) provides the Court with authority to extend the period of time to file the 2015.3 Reports “for cause.” Additionally, Bankruptcy Rule 2015.3(d) provides the Court with the ability, after

notice and a hearing, to modify the reporting requirements for cause, including that the debtor is “not able, after a good faith effort, to comply with those reporting requirements, or that the information . . . is publicly available.” Fed. R. Bankr. P. 2015.3(d).

11. As discussed in the First Day Declaration, certain of the Debtors maintain interests in certain non-Debtor subsidiaries that fall under the ambit of Bankruptcy Rule 2015.3 and, as such, they are required to file 2015.3 Reports. The Debtors cannot complete the initial 2015.3 Reports in the time set forth under Bankruptcy Rule 2015.3 without significant hardship. Cause exists to extend the deadline for filing the 2015.3 Reports as requested herein based on (a) the size, complexity, and geographic scope of the Debtors’ businesses, and (b) the substantial burdens imposed by compliance with Bankruptcy Rule 2015.3 in the early days of these Chapter 11 Cases.

12. Extending the deadline to file the initial 2015.3 Reports will enable the Debtors to work with their financial advisors and the Office of the United States Trustee for Southern District of Texas (the “**U.S. Trustee**”) to determine the appropriate nature and scope of the reports and any proposed modifications to the reporting requirements established by Bankruptcy Rule 2015.3. Accordingly, the Debtors respectfully request that the Court grant an extension of the time by which the Debtors must file their initial 2015.3 Reports to and including the later of (a) 15 days after the initial 341 Meeting or (b) 45 days after the Petition Date pursuant to Bankruptcy Rule 2015.3(d).

13. The Debtors believe that the relief requested herein will not prejudice any party in interest. The Debtors intend to work cooperatively with the U.S. Trustee and any other necessary parties in these Chapter 11 Cases to provide access to relevant information regarding the business and financial affairs of the Debtors and the non-Debtor subsidiaries.

### **RESERVATION OF RIGHTS**

14. Nothing contained herein is or should be construed as: (i) an admission as to the validity of any claim against any Debtor or the existence of any lien against the Debtors' properties; (ii) a waiver of the Debtors' rights to dispute any claim or lien on any grounds; (iii) a promise to pay any claim; (iv) an implication or admission that any particular claim would constitute an allowed claim; (v) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code; or (vi) a limitation on the Debtors' rights under section 365 of the Bankruptcy Code to assume or reject any executory contract with any party subject to the proposed Order once entered. Nothing contained in the Order shall be deemed to increase, decrease, reclassify, elevate to an administrative expense status, or otherwise affect any claim to the extent it is not paid.

### **EMERGENCY CONSIDERATION**

15. Pursuant to Bankruptcy Local Rule 9013-1(i), the Debtors respectfully request emergency consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first twenty-one (21) days after the commencement of a chapter 11 case "to the extent that relief is necessary to avoid immediate and irreparable harm." The Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and the success of the Chapter 11 Cases. As discussed in detail above and in the First Day Declaration, immediate and irreparable harm would result if the relief requested herein is not granted. Moreover, the Motion requests relief from procedural rules and requirements that pertain to matters of immediate significance and involve deadlines sooner than twenty-one (21) days after the Petition Date. Failure to receive the applicable relief during the first twenty-one (21) days of the Chapter 11 Cases would severely disrupt the Company's operations at this critical juncture. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable harm"

standard of Bankruptcy Rule 6003 as well as the requirements of Bankruptcy Local Rule 9013-1(i) and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

**BANKRUPTCY RULE 6004 SHOULD BE WAIVED**

16. To the extent that any aspect of the relief sought herein constitutes a use of property under section 363(b) of the Bankruptcy Code, the Debtors request a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen-day stay under Bankruptcy Rule 6004(h). As described above, the relief that the Debtors request in this Motion is immediately necessary to obtain relief from deadlines sooner than twenty-one (21) days after the Petition Date and in order for the Debtors to be able to continue to operate their businesses and preserve the value of their estates. The Debtors respectfully request that the Court waive the notice requirements imposed by Bankruptcy Rule 6004(a) and the fourteen-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

**NOTICE**

17. Notice of this Motion will be given to: (i) the United States Trustee for the Southern District of Texas; (ii) the parties included on the Debtors' consolidated list of the holders of the 30 largest unsecured claims against the Debtors; (iii) Simpson Thatcher & Bartlett LLP, as counsel to the agent for the Debtors' prepetition secured asset-based revolving credit facility; (iv) U.S. Bank National Association as indenture trustee for the Debtors' prepetition notes; (v) counsel to that certain ad hoc group of holders of prepetition senior notes (the "**Ad Hoc Group**") (a) Paul, Weiss, Rifkind, Wharton & Garrison LLP and (b) Porter Hedges LLP; (vi) counsels to the agents under the Debtors' postpetition credit facilities; (vii) the United States Attorney's Office for the Southern District of Texas; (viii) the Shippers, Lien Claimants, Royalty Interest Owners, and suppliers of



Outstanding Orders; (ix) the Internal Revenue Service; (x) the Securities and Exchange Commission; (xi) the state attorneys general for states in which the Debtors conduct business; and (xii) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Debtors submit that no other or further notice is required or needed under the circumstances.

18. A copy of this Motion is available on (i) the Court's website: [www.txs.uscourts.gov](http://www.txs.uscourts.gov), and (ii) the website maintained by the Debtors' proposed Claims and Noticing Agent, Kurtzman Carson Consultants LLC, at [www.kccllc.net/hicrush](http://www.kccllc.net/hicrush).

*[Remainder of Page Left Blank Intentionally]*

**WHEREFORE**, the Debtors respectfully request that the Court enter the Order, substantially in the form attached hereto, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Signed: July 12, 2020  
Houston, Texas

Respectfully Submitted,

/s/ Timothy A. ("Tad") Davidson II  
Timothy A. ("Tad") Davidson II (TX Bar No. 24012503)  
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*Proposed Counsel for the Debtors and Debtors in Possession*

**CERTIFICATE OF SERVICE**

I certify that on July 12, 2020, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties registered to receive electronic notices.

/s/ Timothy A. ("Tad") Davidson II  
Timothy A. ("Tad") Davidson II

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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In re:	:	Chapter 11
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HI-CRUSH INC., <i>et al.</i> , <sup>1</sup>	:	Case No. 20-33495 (DRJ)
	:	
Debtors.	:	(Joint Administration Requested)
	:	
	X	

**ORDER EXTENDING TIME TO FILE SCHEDULES OF ASSETS AND LIABILITIES,  
SCHEDULES OF CURRENT INCOME AND EXPENDITURES, SCHEDULES OF  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES, STATEMENTS OF  
FINANCIAL AFFAIRS, AND RULE 2015.3 FINANCIAL REPORTS**

**[Relates to Motion at Docket No.     ]**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Debtors for entry of an order (this “**Order**”) extending the time period for the Debtors to file the Schedules and Statements and 2015.3 Reports, all as more fully set forth in the Motion; and the Court having reviewed the Motion and the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and

<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Hi-Crush Inc. (0530), OnCore Processing LLC (9403), Hi-Crush Augusta LLC (0668), Hi-Crush Whitehall LLC (5562), PDQ Properties LLC (9169), Hi-Crush Wyeville Operating LLC (5797), D & I Silica, LLC (9957), Hi-Crush Blair LLC (7094), Hi-Crush LMS LLC, Hi-Crush Investments Inc. (6547), Hi-Crush Permian Sand LLC, Hi-Crush Proppants LLC (0770), Hi-Crush PODS LLC, Hi-Crush Canada Inc. (9195), Hi-Crush Holdings LLC, Hi-Crush Services LLC (6206), BulkTracer Holdings LLC (4085), Pronghorn Logistics Holdings, LLC (5223), FB Industries USA Inc. (8208), PropDispatch LLC, Pronghorn Logistics, LLC (4547), and FB Logistics, LLC (8641). The Debtors’ address is 1330 Post Oak Blvd, Suite 600, Houston, Texas 77056.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to them in the Motion.

all objections, if any, to the entry of this Order having been withdrawn, resolved, or overruled; and upon the record herein; and after due deliberation thereon; and the Court having determined that there is good and sufficient cause for the relief granted in the Order, it is hereby

**ORDERED THAT:**

1. The time within which the Debtors must file the Schedules and Statements is extended through and including August 11, 2020, without prejudice to the Debtors' right to seek additional extensions upon cause shown therefor.

2. The time within which the Debtors must file the 2015.3 Reports is extended to and including the later of (a) 15 days after the initial 341 Meeting or (b) 45 days from and after the Petition Date (i.e., August 26, 2020). The Debtors reserve their rights to file a motion with the Court seeking a modification of such reporting requirements for cause, without prejudice to the Debtors' right to seek additional extensions upon cause shown therefor.

3. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this Order shall be effective and enforceable immediately upon entry hereof.

4. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this Order.

5. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Signed: \_\_\_\_\_, 2020

\_\_\_\_\_  
DAVID R. JONES  
UNITED STATES BANKRUPTCY JUDGE