

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

----- X
In re: : Chapter 11
 :
HI-CRUSH INC., *et al.*,¹ : Case No. 20-33495 (DRJ)
 :
Debtors. : (Jointly Administered)
 :
----- X

**ORDER AUTHORIZING THE DEBTORS
TO (I) REJECT CERTAIN RAILCAR LEASE AGREEMENTS
EFFECTIVE AS OF THE PETITION DATE, AND (II) ENTER INTO PROPOSED
NEW RAILCAR LEASE AGREEMENTS, EFFECTIVE AS OF THE PETITION DATE**

[Relates to Motion at Docket No. 21]

Upon the motion (the “**Motion**”)² of the Debtors for an Order authorizing the Debtors to (i) reject certain railcar lease agreements, including any amendments or modifications thereto, each as set forth on Exhibit 1 to the Motion (collectively, the “**Rejected Railcar Leases**”) effective as of the Petition Date, and (ii) enter into new railcar lease agreements (collectively, the “**New Railcar Leases**”) with certain counterparties on the term set forth in the letter agreements and associated term sheets attached to the Motion as Exhibit 2 under seal, effective as of the Petition Date, all as more fully described in the Motion; and the Court having reviewed the Motion and the First Day Declaration; and the Court having jurisdiction to consider the Motion and the relief

¹ 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.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.



requested therein in accordance with 28 U.S.C. §1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and the 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 all objections, if any, to 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. Pursuant to sections 105(a) and 365(a) of the Bankruptcy Code, the Rejected Railcar Leases are rejected, effective as of the Petition Date.
2. The Debtors are authorized to enter into and perform under the New Railcar Leases, effective as of the Petition Date.
3. Any claims based on the rejection of the Rejected Railcar Leases shall be filed in accordance with the bar date for filing proofs of claims, as set forth in the bar date order entered by the Court on July 13, 2020 [Docket No. 88].
4. Consistent with the limitations of section 362 of the Bankruptcy Code, and any other applicable law, the Go-Forward Lessors are prohibited from setting off or otherwise utilizing any amounts deposited by the Debtors with any of the Go-Forward Lessors as a security deposit or pursuant to another similar arrangement, or owed to the Debtors by any of the Go-Forward Lessors under the Rejected Railcar Leases or other agreements between the same parties, without further order of this Court.

5. Nothing herein shall prejudice the rights of the Debtors to argue that any of the Rejected Railcar Leases were terminated prior to the Petition Date or that any claim for damages arising from the rejection of the Rejected Railcar Leases is limited to the remedies available under any applicable termination provision of such contract or lease, as applicable, or that any such claim is an obligation of a third party and not that of the Debtors or their estates.

6. Nothing in the Motion or this Order shall 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; or (v) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code (other than the Rejected Railcar Leases); 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 this Order. Nothing contained in this 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.

7. Notwithstanding anything to the contrary contained herein, (i) any payment made, or authorization contained hereunder shall be subject to the requirements imposed on the Debtors under any order approving a postpetition financing facility or any order regarding the use of cash collateral approved by this Court in these Chapter 11 Cases (collectively, the "**DIP Orders**"), and (ii) to the extent there is any inconsistency between the terms of the DIP Orders and any action taken or proposed to be taken hereunder, the terms of the DIP Orders shall control. For the avoidance of doubt, the Debtors are not authorized to make any payments pursuant to this Order except as permitted by the Budget (as defined in the DIP Order).

8. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6004(a).

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

10. 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, including but not limited to executing the New Railcar Leases.

11. This 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

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
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EFFECTIVE AS OF THE PETITION DATE, AND (II) ENTER INTO PROPOSED
NEW RAILCAR LEASE AGREEMENTS, EFFECTIVE AS OF THE PETITION DATE
~~DATE AND (III) ENTER INTO PROPOSED STORAGE AGREEMENTS
EFFECTIVE AS OF THE PETITION DATE~~**

[Relates to Motion at Docket No. ~~---~~21]

Upon the motion (the “**Motion**”)² of the Debtors for an Order authorizing the Debtors to (i) reject certain railcar lease agreements, including any amendments or modifications thereto, each as set forth on Exhibit 1 to the Motion (collectively, the “**Rejected Railcar Leases**”) effective as of the Petition Date, and (ii) enter into new railcar lease agreements (collectively, the “**New Railcar Leases**”) with certain counterparties on the term set forth in the letter agreements and associated term sheets attached to the Motion as Exhibit 2 under seal, effective as of the Petition Date, all as more fully described in the Motion; and the Court having reviewed the

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Motion and the First Day Declaration; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and the 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 all objections, if any, to 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. Pursuant to sections 105(a) and 365(a) of the Bankruptcy Code, the Rejected Railcar Leases are rejected, effective as of the Petition Date.

2. The Debtors are authorized to enter into and perform under the New Railcar Leases, effective as of the Petition Date.

3. Any claims based on the rejection of the Rejected Railcar Leases shall be filed in accordance with the bar date for filing proofs of claims, ~~to be established~~ as set forth in the bar date order entered by the Court ~~at a later date~~ on July 13, 2020 [Docket No. 88].

4. Consistent with the limitations of section 362 of the Bankruptcy Code, and any other applicable law, the Go-Forward Lessors are prohibited from setting off or otherwise utilizing any amounts deposited by the Debtors with any of the Go-Forward Lessors as a security deposit or pursuant to another similar arrangement, or owed to the Debtors by any of the

Go-Forward Lessors under the Rejected Railcar Leases or other agreements between the same parties, without further order of this Court.

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6. Nothing in the Motion or this Order shall 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; or (v) an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code (other than the Rejected Railcar Leases); 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 this Order. Nothing contained in this 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.

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Signed: _____, 2020

DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

Summary report:	
Litera® Change-Pro for Word 10.9.2.0 Document comparison done on 8/4/2020 8:05:29 AM	
Style name: L&W without Moves	
Intelligent Table Comparison: Active	
Original DMS: iw://usdocs.lw.com/US-DOCS/117281041/1	
Modified DMS: iw://usdocs.lw.com/US-DOCS/117281041/2	
Changes:	
Add	12
Delete	9
<i>Move From</i>	0
<i>Move To</i>	0
Table Insert	0
Table Delete	0
<i>Table moves to</i>	0
<i>Table moves from</i>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	21