

United States Courts  
Southern District of Texas  
FILED

JAN 25 2021

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

Nathan Ochsner, Clerk of Court

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<p>In re:</p> <p>HI-CRUSH PERMIAN SAND LLC, <i>et al</i>,</p> <p style="padding-left: 100px;">Reorganized Debtors</p>	<p>Chapter 11</p> <p>Case No. 20-33505 (DRJ) (Jointly Administered) (Formerly Jointly Administered) Under Lead Case: Hi-Crush Inc., Case No. 20-33495)</p>
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**Objection to Debtors' Reply in Support of Their Omnibus Objections To Equity Claim**

That Debtors' Argument is Irrelevant to the Primary Issue - Their Proposed Taking Is A Clear Violation of the United States Constitution.

Let us allow that shareholders equity interests cannot constitute a "Claim" where they can "assert a right to direct payment " as Creditors (from 21 B.R. 478, 489 (Bankr. S.D.N.Y. 1982), which case Debtors' partially rely on). The lack of a right to direct payment in lieu of common stock, as Creditors, does not obviate shareholders' private property interests in that common stock.

That shareholders cannot file a Claim as the term is restricted in bankruptcy practice, does not remove their inherent rights in that private property.

2. That Debtors would have the Court destroy all such private property interests in wiping out all value in such common stock.

3. That again, such a Taking of private property without just compensation - much less for a private interest - would be a clear violation of the Takings Clause of the Fifth Amendment.



## **Conclusion**

- That this is not an involuntary bankruptcy where assets of High Crush are being liquidated, with the interests of common shareholders falling into last place.
- This is a voluntary bankruptcy where Debtors seek to unilaterally destroy all shareholder value in complete breach of their fundamental fiduciary duty to these shareholders.
- That the Constitution controls over any bankruptcy regulation or practice.
- That shareholders' holding of equity interests constitutes a private property interest.
- That shareholders' lack of status as Creditors does not cancel that interest.
- That Debtors' lack of obligation to any direct payment to shareholders as Creditors does not equate to the removal of the Constitutional safeguards against the proposed complete taking of shareholders' private property.

Without just compensation given the Taking proposed, the Court as a government agency would be in violation of the Fifth Amendment of the Constitution. Grounds for Appeal would then be clear.

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United States Courts  
Southern District of Texas  
FILED

January 22, 2021

JAN 25 2021

Nathan Ochsner, Clerk of Court

David,

Please find enclosed a rather hurried Objection to Debtors recent Reply in this case.

This is being sent two day mail, again involving a three hour drive to get this off tomorrow.

Copies have been sent via certified mail to Debtors' attorneys.

Thank you for your consideration.

Sincerely,

John F. Eppling

Cove, Oregon

