

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN THE MATTER OF:

CASE NO. 19-10702

SOUTHCROSS ENERGY
PARTNERS, L.P., *et al*

DEBTORS

CHAPTER 11

THE COUNTY OF CALHOUN CENTRAL APPRAISAL DISTRICT, TEXAS, AND THE COUNTY OF WHARTON, TEXAS' OBJECTION TO DEBTORS' INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, AND 507 (I) AUTHORIZING THE DEBTORS TO OBTAIN SENIOR SECURED SUPERPRIORITY POST-PETITION FINANCING, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) AUTHORIZING THE USE OF CASH COLLATERAL, (IV) GRANTING ADEQUATE PROTECTION, (V) MODIFYING THE AUTOMATIC STAY, (VI) SCHEDULING FINAL HEARING, AND (VII) GRANTING RELATED RELIEF

TO THE HONORABLE BANKRUPTCY JUDGE:

NOW COMES The County of Calhoun Central Appraisal District, Texas and The County of Wharton, Texas, whom are secured creditors in the above bankruptcy case, and file their Objection to Interim Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, 506, and 507, (I) Authorizing the Debtors to Obtain Senior Secured Superpriority Post-Petition Financing, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Authorizing the Use of Cash Collateral, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, (VI) Scheduling Final Hearing, and (VII) Granting Related Relief [**Docket No. 59**], on the following grounds:

1. The County of Calhoun Central Appraisal District, Texas and The County of Wharton, Texas, (hereinafter referred to as "The Texas Taxing Jurisdictions") are political subdivisions of the State of Texas authorized to assess and collect ad valorem taxes pursuant to the laws of the State. The Texas Taxing Jurisdictions have filed secured claims for 2017-2019 ad valorem taxes totaling approximately \$47,963.94



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2. These taxes are secured with a security interest that is superior to that of any other secured claim under the Texas Constitution, Article VIII, Section 15, and the Texas Property Tax Code, Section 32.01 and Section 32.05(b). *Stanford v. Butler*, 826 F.2d 353 (5th Cir. 1987), 11 USC § 506; *Universal Seismic Associates, Inc.*, 288 F.3d 205 (5th Cir. 2002); *In Re Winn's Stores, Inc.*; 177 B.R. 253 (Bkcty W.D. Tex 1995). In addition, the lien is a lien in solido and attaches to all personal property of the debtors. Texas Property Tax Code Section 32.01(b).
3. The Texas Taxing Jurisdictions object to The Motion to the extent that the pre-petition liens are being primed by the DIP Parties. The Texas Taxing Jurisdictions object to the entry of any interim or final order that purports the superior lien position of The Texas Taxing Jurisdictions. The tax liens arise on January 1 of each tax year and “floats” to after acquired property. See *City of Dallas v Cornerstone Bank*, 879 S. W. 2d 264 (Tex. App. –Dallas 1994). The tax lien is also unavoidable. See *In re: Winns Store*, 177 B.R. 253 (Bankr. W.D. Tex. 1995)
4. The Cash Collateral Motion does not adequately protect the tax liens and claims as required by 11 U.S.C. § 363 (e). The proceeds from the sale of The Texas Taxing Jurisdictions collateral constitutes their cash collateral, and they object to the use of the collateral to pay any other creditors of this estate. Pursuant to 11 U.S.C. § 363(c) (4), absent consent by The Texas Taxing Jurisdictions or an order of the Court permitting use of the cash collateral, the Debtor “shall segregate and account for any cash collateral” in its possession. Accordingly, absent consent, a segregated account must be established from the sale proceeds to comply with the requirement of § 363(c) (4), These proceeds from the sale of the Texas Taxing Jurisdictions’ collateral should not be distributed to any other party unless and until its claims, including any interest thereon as allowed under 11 U.S.C. §§ 506(b), 511 and 1129, are paid in full.

WHEREFORE, The Texas Taxing Jurisdictions object to The Interim Order and requests this Court to order appropriate provisions to assure the protection of the position of their secured tax claim and further request other such relief as is just and proper.

Dated: April 8, 2019

Respectfully submitted,
MCCREARY, VESELKA, BRAGG & ALLEN, P.C.

/s/Tara LeDay

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CERTIFICATE OF SERVICE

I hereby certify that the above Objection to The Interim Order has been served upon the following parties as well as all parties receiving the Court's ECF service on April 8, 2019, by Electronic Notification.

/s/Tara LeDay

Tara LeDay