

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

In re:

WALTER ENERGY, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 15-02741-TOM11

Jointly Administered

DEBTORS’ MOTION FOR EXPEDITED HEARING ON DEBTORS’ MOTION FOR (A) AN ORDER (I) ESTABLISHING BIDDING PROCEDURES FOR THE SALE(S) OF ALL, OR SUBSTANTIALLY ALL, OF THE DEBTORS’ ASSETS; (II) APPROVING BID PROTECTIONS; (III) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (IV) APPROVING FORM AND MANNER OF THE SALE, CURE AND OTHER NOTICES; AND (V) SCHEDULING AN AUCTION AND A HEARING TO CONSIDER THE APPROVAL OF THE SALE(S); (B) ORDER(S) (I) APPROVING THE SALE(S) OF THE DEBTORS’ ASSETS FREE AND CLEAR OF CLAIMS, LIENS AND ENCUMBRANCES; AND (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (C) CERTAIN RELATED RELIEF

Walter Energy, Inc. and its affiliated debtors and debtors-in-possession (each a “Debtor” and, collectively, the “Debtors”) hereby move (the “Motion”), pursuant to section 105 of title 11 of the U.S. Code (the “Bankruptcy Code”) and Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of an order, substantially in the form annexed hereto as Exhibit A (the “Proposed Order”), setting an expedited hearing on the *Debtors’ Motion for (A) an Order (I) Establishing Bidding Procedures for the Sale(s) of All, or Substantially All, of the*

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Walter Energy, Inc. (9953); Atlantic Development and Capital, LLC (8121); Atlantic Leaseco, LLC (5308); Blue Creek Coal Sales, Inc. (6986); Blue Creek Energy, Inc. (0986); J.W. Walter, Inc. (0648); Jefferson Warrior Railroad Company, Inc. (3200); Jim Walter Homes, LLC (4589); Jim Walter Resources, Inc. (1186); Maple Coal Co., LLC (6791); Sloss-Sheffield Steel & Iron Company (4884); SP Machine, Inc. (9945); Taft Coal Sales & Associates, Inc. (8731); Tuscaloosa Resources, Inc. (4869); V Manufacturing Company (9790); Walter Black Warrior Basin LLC (5973); Walter Coke, Inc. (9791); Walter Energy Holdings, LLC (1596); Walter Exploration & Production LLC (5786); Walter Home Improvement, Inc. (1633); Walter Land Company (7709); Walter Minerals, Inc. (9714); and Walter Natural Gas, LLC (1198). The location of the Debtors’ corporate headquarters is 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244-2359.



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Debtors' Assets; (II) Approving Bid Protections; (III) Establishing Procedures Relating to the Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Approving Form and Manner of the Sale, Cure and Other Notices; and (V) Scheduling an Auction and a Hearing to Consider the Approval of the Sale(s); (B) Order(s) (I) Approving the Sale(s) of the Debtors' Assets Free and Clear of Claims, Liens and Encumbrances; and (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (C) Certain Related Relief (solely as to the relief requested in (A)(I) through (V), the "Bidding Procedures Motion")² [Docket No. 993]. In support of the Motion, the Debtors respectfully state as follows:

JURISDICTION

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of the Chapter 11 Cases and the Motion is proper before the Court under 28 U.S.C. §§ 1408 and 1409.

2. The statutory and legal predicates for the relief sought herein are section 105 of the Bankruptcy Code and Bankruptcy Rule 9006(c).

BACKGROUND

3. On July 15, 2015 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, thereby commencing the above-captioned cases (collectively, the "Chapter 11 Cases"). The Debtors have continued in possession of their respective properties and to operate and maintain their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

4. Information regarding the Debtors' businesses, their capital and debt structure and the events leading to the filing of the Chapter 11 Cases is contained in the First Day Declaration.

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

5. On the Petition Date, this Court entered an order consolidating the Chapter 11 Cases for procedural purposes only.

6. The Bankruptcy Administrator for the Northern District of Alabama (the “Bankruptcy Administrator”) has appointed two official committees in the Chapter 11 Cases: a statutory committee of unsecured creditors (the “Creditors’ Committee”); and a committee of retired employees pursuant to Bankruptcy Code sections 1114(c)(2) and 1114(d) (the “Section 1114 Committee”).

7. At the beginning of this year, the Debtors were facing the prospect of running out of cash by early 2016 if the met coal market did not improve. In response, the Debtors’ advisors began negotiating with advisors to an ad hoc committee (the “Steering Committee”) of certain unaffiliated lenders and noteholders (the “First Lien Creditors”) holding a majority in amount of first lien senior secured obligations (the “First Lien Obligations”). The First Lien Obligations are secured by first priority liens (the “First Priority Liens”) on substantially all of the Debtors’ assets. The negotiations between the Debtors and the Steering Committee culminated in a Restructuring Support Agreement (the “RSA”) and the terms of an agreed order approving the Debtors’ use of cash collateral. Together, these documents provided for the consensual use of cash collateral for seven months to enable the Debtors to pursue confirmation of a pre-negotiated chapter 11 plan, while simultaneously pursuing a sale of substantially all of the Debtors’ assets, if one or more of the Triggering Events (as defined in the RSA) occurred.

8. On the Petition Date, the Debtors filed motions to approve the assumption of the RSA [Docket No. 44] (the “RSA Motion”) and the consensual use of cash collateral [Docket No. 42] (the “Cash Collateral Motion”). Several parties-in-interest objected to the relief requested in the RSA Motion and Cash Collateral Motion.

9. The Court conducted hearings on the RSA Motion and final approval of the Cash Collateral Motion on September 2-3, 2015, and thereafter entered orders approving each motion but with modifications unacceptable to the Steering Committee. *See* Docket Nos. 723 & 724. As a result, the Steering Committee filed an Emergency Motion requesting that the Court (a) confirm that the RSA was terminated, (b) terminate the Debtors' use of cash collateral on a nonconsensual basis, and (c) authorize the Debtors' use of cash collateral through October 21, 2015 pursuant to an amended final cash collateral order acceptable to the Steering Committee (the "Cash Collateral Order") [Docket No. 746] (the "Emergency Motion"). The Court held a hearing on the Emergency Motion on September 24, 2015 and, on September 28, 2015, entered (i) an order granting the Emergency Motion and (ii) the Cash Collateral Order. *See* Docket Nos. 796 & 797. Pursuant to the Cash Collateral Order, the Debtors were granted the right to use cash collateral until October 21, 2015, which right was extended by agreement with the Steering Committee to November 20, 2015 [Docket No. 857].

10. The Debtors' financial condition is continuing to deteriorate and unexpected operational difficulties have exacerbated the situation. Thus, the Debtors have determined, in the exercise of their business judgment, that the best way to maximize the value of substantially all of their assets is to sell those assets through a sale(s) (the "Sale(s)") pursuant to Bankruptcy Code section 363. To this end, the Debtors have executed the Stalking Horse Agreement with the Stalking Horse Purchaser to provide for the sale of certain assets to the Stalking Horse Purchaser (subject to higher or otherwise better bids) for, among other things, cash and a credit bid of a material portion of the First Lien Obligations and first lien adequate protection obligations, all as set forth in the Stalking Horse Agreement and as further described in the Bidding Procedures Motion. In addition, as described in the Bidding Procedures Motion, the Debtors propose to sell

one or more Lots, or any combination thereof, comprising the Debtors' non-core assets pursuant to the contemplated auction and bidding process.

11. The Sale(s) are intended to preserve the jobs of a substantial portion of the Debtors' employees, relieve the estates of substantial obligations relating to such assets (including certain reclamation obligations), reduce the estates' liabilities through the assumption and assignment of the relevant executed contracts and/or unexpired leases and avoid the further deterioration in the value of the Debtors' estates – all through the prompt sale of the various assets. Moreover, the Sale(s) should provide the estates with the liquidity necessary to wind down the estates in a responsible fashion, including the establishment of certain trusts at closing for designated purposes, including the wind down of the Debtors' West Virginia and Walter Coke operations if neither is sold to a Successful Bidder.

RELIEF REQUESTED

12. By this Motion, the Debtors seek the entry of an order, substantially in the form of Exhibit A, pursuant to section 105 of the Bankruptcy Code and Bankruptcy Rule 9006(c), setting the Bidding Procedures Motion for Expedited Hearing.

BASIS FOR RELIEF REQUESTED

13. Bankruptcy Rule 9006(c) provides that the Court, for cause shown, may in its discretion with or without notice reduce the notice period normally required for motions.

14. Cause exists for setting the Bidding Procedures Motion on an expedited basis. It is crucial that the sale and bidding process commence as quickly as possible. As noted, the Debtors' financial condition continues to deteriorate, and the Debtors will soon run out of cash. A prompt sale of the Debtors' assets will preserve jobs, relieve the Debtors' estates of substantial obligations relating to such assets, and reduce the Debtors' estates' liabilities through the assumption and

assignment of certain executory contracts and unexpired leases, and avoid the further deterioration in the value of the Debtors' estates.

15. The Debtors request that the Bidding Procedures Motion be set for hearing on November 24, 2015. An omnibus hearing is already scheduled for November 24, 2015, and creditors and other stakeholders already have notice of this hearing date. Scheduling the hearing on November 24, 2015 would only require a 2-day shortening of the 21-day notice period set forth in the *Order Pursuant to 11 U.S.C. §§ 1002 and 105(A) and Bankruptcy Rule 2002(M) and 9007 Implementing Certain Notice and Case Management Procedures* (the "Case Management Procedures"). Moreover, the matters to be considered at the hearing on the Bidding Procedures Motion are strictly procedural—the Bidding Procedures. There will be a separate hearing, with notice to all parties in interest, to consider approval of any Sale proposed as a result of the Bidding Procedures Motion. As set forth in the Bidding Procedures Motion, all interested parties will have more than 21 days' notice of any Sale, as required by Bankruptcy Rule 2002(a)(2).

16. Setting the Bidding Procedures Motion for an expedited hearing will allow for the prompt commencement of a sale process that is in the best interest of the Debtors, their estates, and their creditors.

17. Therefore, cause exists to set a hearing on the Bidding Procedures Motion on an expedited basis.

NOTICE

18. Notice of this Motion will be provided to: (i) the Bankruptcy Administrator; (ii) counsel to the agent for the Debtors' prepetition secured credit facility; (iii) counsel for the indenture trustee for each of the Debtors' outstanding bond issuances; (vi) counsel to the Steering Committee; (v) counsel to the Creditors' Committee; (vi) counsel to the Section 1114 Committee;

and (vii) all persons and entities that have filed a request for service of filings in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002.

CONCLUSION

WHEREFORE, the Debtors respectfully request entry of the Proposed Order attached as Exhibit A granting the relief requested herein and such other and further relief as is just and proper.

Dated: November 5, 2015
Birmingham, Alabama

BRADLEY ARANT BOULT CUMMINGS LLP

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Counsel to the Debtors and Debtors-in-Possession

EXHIBIT A
PROPOSED ORDER

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

WALTER ENERGY, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 15-02741-TOM11

Jointly Administered

ORDER SETTING EXPEDITED HEARING ON DEBTORS' MOTION FOR (A) AN ORDER (I) ESTABLISHING BIDDING PROCEDURES FOR THE SALE(S) OF ALL, OR SUBSTANTIALLY ALL, OF THE DEBTORS' ASSETS; (II) APPROVING BID PROTECTIONS; (III) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (IV) APPROVING FORM AND MANNER OF THE SALE, CURE AND OTHER NOTICES; AND (V) SCHEDULING AN AUCTION AND A HEARING TO CONSIDER THE APPROVAL OF THE SALE(S); (B) ORDER(S) (I) APPROVING THE SALE(S) OF THE DEBTORS' ASSETS FREE AND CLEAR OF CLAIMS, LIENS AND ENCUMBRANCES; AND (II) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (C) CERTAIN RELATED RELIEF

Upon consideration of the motion (the "Motion")² of Walter Energy, Inc. and its affiliated debtors and debtors-in-possession in the above captioned cases (each a "Debtor" and collectively, the "Debtors") for entry of an order, pursuant to section 105 of title 11 of the U.S. Code (the "Bankruptcy Code") and rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the

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“Bankruptcy Rules”), setting for expedited hearing the *Debtors’ Motion for (A) an Order (I) Establishing Bidding Procedures for the Sale(s) of All, or Substantially All, of the Debtors’ Assets; (II) Approving Bid Protections; (III) Establishing Procedures Relating to the Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Approving Form and Manner of the Sale, Cure and Other Notices; and (V) Scheduling an Auction and a Hearing to Consider the Approval of the Sale(s); (B) Order(s) (I) Approving the Sale(s) of the Debtors’ Assets Free and Clear of Claims, Liens and Encumbrances; and (II) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (C) Certain Related Relief* (solely as to the relief requested in (A)(I) through (V), the “Bidding Procedures Motion”)³; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that adequate and proper notice of the Motion has been given and that no other or further notice need be given; and the legal and factual bases set forth in the Motion having established just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor; it is hereby ORDERED that:

1. The Motion is GRANTED.

2. The Bidding Procedures Motion is hereby set for hearing on **November 24, 2015** at **10:00 a.m. (prevailing Central Time)** in Courtroom 3 located at the United States Bankruptcy Court for the Northern District of Alabama, Robert S. Vance Federal Building, 1800 Fifth Avenue

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North Birmingham, Alabama 35203, and the notice periods for the hearing on the foregoing motion are reduced accordingly.

3. The Debtors shall provide notice of such hearing by serving a copy of this Order on the service list identified in the Bidding Procedures Motion.

4. Any objection to the Bidding Procedures Motion shall be filed and served on the Debtors on or before **November 17, 2015 at 4 p.m. (prevailing Central Time)**.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: November ____, 2015

TAMARA O. MITCHELL
UNITED STATES BANKRUPTCY JUDGE