IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
EXTRACTION OIL & GAS, INC., *et al.*,[1]	Case No. 20-11548 (CSS)
Debtors.	(Jointly Administered)
EXTRACTION OIL & GAS, INC.,	
Plaintiff,	Adversary Proceeding
v.	Adv. Proc. No. 20-50833 (CSS)
	Re: Docket No. 53
PLATTE RIVER MIDSTREAM, LLC AND DJ SOUTH GATHERING, LLC,	
Defendants.	

NOTICE OF FILING OF PROPOSED REDACTED VERSION PLAINTIFF'S ANSWER TO DEFENDANTS' COUNTERCLAIMS

PLEASE TAKE NOTICE that, on October 14, 2020, the above-captioned debtors and debtors-in-possession (the "Debtors") filed the *Plaintiff's Answer to Defendants' Counterclaims* [Docket No. 53] (the "Motion to Seal"),[2] seeking, *inter alia*, authority to file *Plaintiff's Answer to Defendants' Counterclaims* under seal.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Extraction Oil & Gas, Inc. (3923); 7N, LLC (4912); 8 North, LLC (0904); Axis Exploration, LLC (8170); Extraction Finance Corp. (7117); Mountaintop Minerals, LLC (7256); Northwest Corridor Holdings, LLC (9353); Table Mountain Resources, LLC (5070); XOG Services, LLC (6915); and XTR Midstream, LLC (5624). The location of the Debtors' principal place of business is 370 17th Street, Suite 5300, Denver, Colorado 80202.

[2] Capitalized terms not defined herein shall have the meaning ascribed to them in the Motion to Seal.

PLEASE TAKE FURTHER NOTICE, that, consistent with the relief requested in the Motion to Seal, and pursuant to rule 9018-1(d)(ii) of the Local Rules of Bankruptcy Practice and Procedures of the United States Bankruptcy Court for the District of Delaware, the Debtors hereby file the attached proposed redacted version of the *Plaintiff's Answer to Defendants' Counterclaims* as **Exhibit 1**.

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Dated: October 19, 2020
Wilmington, Delaware

/s/ *Stephen B. Gerald*

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[3] Whiteford, Taylor & Preston LLC operates as Whiteford Taylor & Preston L.L.P. in jurisdictions outside of Delaware.

Exhibit 1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
EXTRACTION OIL & GAS, INC., *et al.*,[1]	Case No. 20-11548 (CSS)
Debtors.	(Jointly Administered)
EXTRACTION OIL & GAS, INC.,	
Plaintiff,	Adversary Proceeding
v.	
PLATTE RIVER MIDSTREAM, LLC AND DJ SOUTH GATHERING, LLC,	Adv. Proc. No. 20-50833 (CSS)
Defendants.	**Re: Docket No. 24**

PLAINTIFF'S ANSWER TO DEFENDANTS' COUNTERCLAIMS

Plaintiff Extraction Oil & Gas, Inc. ("Extraction") submits the following Answer to the Counterclaims filed by Defendants DJ South Gathering, LLC ("DJ South") and Platte River Midstream, LLC ("Platte River," and collectively with DJ South "Defendants") [A. D.I. 24].

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Extraction Oil & Gas, Inc. (3923); 7N, LLC (4912); 8 North, LLC (0904); Axis Exploration, LLC (8170); Extraction Finance Corp. (7117); Mountaintop Minerals, LLC (7256); Northwest Corridor Holdings, LLC (9353); Table Mountain Resources, LLC (5070); XOG Services, LLC (6915); and XTR Midstream, LLC (5624). The location of the Debtors' principal place of business is 370 17th Street, Suite 5300, Denver, Colorado 80202.

DEFENDANTS' COUNTERCLAIM

To the extent Defendants intended to make allegations in the headings contained in the Counterclaims, those allegations are denied. To the extent Defendants intended to make allegations in the unnumbered introductory paragraph of the Counterclaim, Extraction admits that Defendants filed their Counterclaim and that Defendants purport to do so under the authority cited by Defendants in the unnumbered introductory paragraph of the Counterclaim. Extraction denies all other aspects of the unnumbered introductory paragraph of the Counterclaim.

1. Extraction admits that Defendants seek judicial declarations concerning Extraction's obligations under the parties' contracts to transport all crude oil produced within the dedication areas on Defendants' pipeline transportation systems. Extraction admits that Defendants seek a declaration that Extraction is obligated to deliver all of its crude oil produced within the contractually-defined dedication areas for transportation in Defendants' pipelines. Extraction admits that Defendants seek a declaration that Extraction's obligations extend to Extraction's crude oil produced from well pads that Defendants identify as Rinn Valley East and Rinn Valley West. Extraction denies all remaining allegations in paragraph 1.

GENERAL ALLEGATIONS

2. Admitted.

3. Admitted.

4. Paragraph 4 calls for a legal conclusion based on the interpretation of written contracts, which speak for themselves, and no response is required. To the extent a response is required, Extraction admits that the Platte River Contract, section 3.1, states: [redacted]

[redacted]

[redacted]’ Extraction admits that the DJ South Contract, section 4.1, states: ‘[redacted]’ Extraction denies all remaining allegations in paragraph 4.

5. Paragraph 5 calls for a legal conclusion based on, and purports to summarize the contents of, a written contract, which speaks for itself. To the extent a response is required, Extraction denies that paragraph 5 accurately or completely summarizes the relevant language of the written contract. Extraction denies all remaining allegations in paragraph 5.

6. Paragraph 6 calls for a legal conclusion based on, and purports to summarize the contents of, a written contract, which speaks for itself. To the extent a response is required,

Extraction denies that paragraph 6 accurately or completely summarizes the relevant language of the written contract. Extraction denies all remaining allegations in paragraph 6.

7. Paragraph 7 calls for a legal conclusion based on the interpretation of the relevant written contracts, which speak for themselves. To the extent a response is required, Extraction admits that the Platte River Contract, section 2.1 states: '[redacted]' Extraction admits that the DJ South Contract, section 2.1, states: '[redacted]' Extraction admits that the DJ South Contract, section 2.4, states: '[redacted]' Extraction denies all remaining allegations in paragraph 7.

8. Paragraph 8 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the Platte River Contract, section 11.3, states, in part: '[redacted]'

[redacted] Extraction denies all remaining allegations in paragraph 8.

9. Paragraph 9 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the Platte River Contract, section 11.1, states, in part: '[redacted]' Extraction denies all remaining allegations in paragraph 9.

10. Paragraph 10 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the Platte River Contract, section 11.2, states: '[redacted]' Extraction denies all remaining allegations in paragraph 10.

11. Paragraph 11 calls for a legal conclusion based on the interpretation of the relevant written contract, which speak for itself. To the extent a response is required, Extraction denies the allegations in paragraph 11.

12. Paragraph 12 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the Platte River

Contract, section 11.4, states: '[redacted]' Extraction denies all remaining allegations in paragraph 12.

13. Paragraph 13 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction states that the DJ South Contract, section 12.3, states, in part: '[redacted]

[redacted]

[redacted]' Extraction denies all remaining allegations in paragraph 13.

14. Paragraph 14 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the DJ South Contract, section 12.1, states, in part: '[redacted]

[redacted]' Extraction denies all remaining allegations in paragraph 14.

15. Paragraph 15 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the DJ South Contract, section 12.2, states: '[redacted]

[redacted]' Extraction denies all remaining allegations in paragraph 15.

16. Paragraph 16 calls for a legal conclusion based on the interpretation of the relevant written contract, which speak for itself. To the extent a response is required, Extraction denies the allegations in paragraph 16.

17. Paragraph 17 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the DJ South Contract,

section 12.4, states: '[redacted]' Extraction denies all remaining allegations in paragraph 17.

18. Admitted.

19. Paragraph 19 purports to summarize the contents of a written communication, which speaks for itself. To the extent a response is required, Extraction admits that Extraction sent the e-mail attached as Exhibit C to Defendants' Answer and Counterclaims. Extraction denies that paragraph 19 accurately and completely summarize the contents of the written communication and Extraction denies all remaining allegations in paragraph 19.

20. Extraction admits it began diverting production from the PRM Transportation System on September 1, 2020. Extraction denies all remaining allegations in paragraph 20.

21. Paragraph 21 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction denies that paragraph 21 accurately and completely summarizes the contents of the written contract and Extraction denies all remaining allegations in paragraph 21.

22. Extraction admits that Elevation had not yet completed construction of the Badger CGF in May 2018. The remainder of Paragraph 22 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction admits that the DJ South Contract, section 2.1, states: '[redacted]' Extraction admits that the DJ South Contract, section 1.1(h) states: '[redacted]' Extraction denies all remaining allegations in paragraph 22.

23. Denied.

24. Denied.

25. Extraction lacks information that enables it to confirm or deny when DJ South first learned that Extraction was using tanker trucks to transport crude oil produced from the Rinn

Valley Wells. Extraction admits that the Rinn Valley Wells are located within the Dedication Area. The remaining allegations in paragraph 25 state legal conclusions to which no response is required. To the extent a response is required, Extraction denies the remaining allegations in paragraph 25.

26. Extraction admits that paragraph 26 accurately notes the dates of correspondence between the parties. The remainder of paragraph 26 purports to summarize the contents of a written communication, which speaks for itself. To the extent a response is required, Extraction denies that paragraph 26 accurately or completely summarizes the relevant language of the written communication and Extraction denies all remaining allegations in paragraph 26.

27. Admitted.

28. Denied.

FIRST COUNTERCLAIM FOR RELIEF
(Declaratory Judgment Regarding Extraction's Obligation to Transport Crude Oil Using the Transportation Systems)

29. Extraction incorporates by reference its responses to paragraphs 1 through 28 above.

30. Extraction admits that Extraction and DJ South are parties to the DJ South Contract. Extraction admits that Extraction and Platte River are parties to the Platte River Contract. Extraction denies all remaining allegations in paragraph 30.

31. Admitted.

32. Paragraph 32 contains characterizations of Defendants' claim to which no response is required. To the extent a response is required, Extraction denies all allegations in paragraph 32.

33. Denied.

SECOND COUNTERCLAIM FOR RELIEF
(Declaratory Judgment Regarding Extraction's Obligation to Transport Crude Oil Produced from the Rinn Valley Wells on the DJ South Transportation System)

34. Extraction incorporates by reference its responses to paragraphs 1 through 33 above.

35. Extraction admits that Extraction and DJ South are parties to the DJ South Contract.

36. Paragraph 36 purports to summarize the contents of a written contract, which speaks for itself. To the extent a response is required, Extraction denies that paragraph 36 accurately or completely summarizes the relevant language of the contract and Extraction denies all remaining allegations in paragraph 36.

37. Denied.

38. Extraction admits that since November 11, 2019 it has not delivered to DJ South's crude oil transportation system certain volumes of crude oil produced from the Rinn Valley Wells. Extraction admits that it has transported crude oil produced from the Rinn Valley Wells using tanker trucks. Extraction denies all remaining allegations in paragraph 38.

39. Admitted.

40. Paragraph 40 contains characterizations of Defendants' claim to which no response is required. To the extent a response is required, Extraction denies all allegations in paragraph 40.

41. Denied.

PRAYER FOR RELIEF

Defendants' Prayer for Relief contains a request for relief for which no response is required. Extraction denies that Defendants are entitled to any part of the judgement or relief sought.

RESERVATION OF RIGHTS

These allegations are not factual allegations to which a response is required. To the extent a response is required, Extraction denies that Defendants' purported reservation of unidentified rights has any legal effect or is binding on the Court or Extraction.

EXTRACTION'S AFFIRMATIVE DEFENSES ON DEFENDANTS' COUNTERCLAIMS

I. DISCHARGE IN BANKRUPTCY

To the extent Extraction's obligations under the relevant contracts are discharged in the underlying chapter 11 case, Defendants' claims are barred—in whole or in part—by the discharge in bankruptcy. Colorado law considers "discharge in bankruptcy" an affirmative defense. *See In re Crowley's Estate*, 221 P.2d 378, 382 (Colo. 1950) (citing Colo. R. Civ. P. 8(c)). Federal courts consider bankruptcy discharges either affirmative defenses or absolute jurisdictional bars to suit. *See Dalvit v. United Airlines, Inc.*, 359 F. App'x 904, 909 (10th Cir. 2009) ("To begin with, it remains an open question whether such a discharge operates as a jurisdictional bar to suit or is merely an affirmative defense that can be waived.") (collecting cases).

II. PRIOR MATERIAL BREACH

Defendants' claims are barred—in whole or in part—because of Defendants' prior material breach. *Interbank Investments, L.L.C. v. Vail Valley Consol. Water Dist.*, 12 P.3d 1224, 1229 (Colo. App. 2000) (noting a prior material breach is a defense to a contract claim).

III. VOID AS AGAINST PUBLIC POLICY

Defendants' claims are barred—in whole or in part—because they are void as against public policy. *Russell v. Courier Printing & Pub. Co.*, 95 P. 936, 938 (Colo. 1908) ("All contracts contrary to public policy are void.").

IV. UNCONSCIONABILITY

Defendants' claims are barred—in whole or in part—because the obligations are unconscionable. *Ricotta v. Fin. Am., LLC*, No. CIV.A.06CV01502MSKBN, 2007 WL 987854, at *3 (D. Colo. Apr. 2, 2007) (applying Colorado law and holding unconscionability is an affirmative defense).

V. EQUITABLE ESTOPPEL

Defendants' claims are barred—in whole or in part—because of equitable estoppel. *See* Fed. R. Civ. P. 8(c) (noting estoppel is an affirmative defense); Colo. R. Civ. P. 8(c) (same).

VI. WAIVER

Defendants' claims are barred—in whole or in part—because of Defendants' waiver. *See* Fed. R. Civ. P. 8(c) (noting waiver is an affirmative defense); Colo. R. Civ. P. 8(c) (same).

VII. UNCLEAN HANDS

Defendants' claims are barred—in whole or in part—because Defendants have unclean hands. *Premier Farm Credit, PCA v. W-Cattle, LLC*, 155 P.3d 504, 519 (Colo. App. 2006) ("The [unclean hands doctrine] is intended to protect the integrity of the court, and simply means that equity refuses to lend its aid to a party who has been guilty of unconscionable conduct in the subject matter in litigation.") (alteration in original) (citation omitted).

EXTRACTION'S PRAYER FOR RELIEF ON COUNTERCLAIMS

WHEREFORE, Extraction respectfully requests that the Court deny Defendants' counterclaims for relief and enter judgment:

1. Denying Defendants' declaration in connection with their First Counterclaim for Relief;

2. Denying Defendants' declaration in connection with their Second Counterclaim for Relief; and

3. Granting Extraction such other and further relief that the Court deems proper.

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Dated: October 14, 2020
Wilmington, Delaware

/s/ Stephen B. Gerald

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[2] Whiteford, Taylor & Preston LLC operates as Whiteford Taylor & Preston L.L.P. in jurisdictions outside of Delaware.

CERTIFICATE OF SERVICE

I certify that on October 14, 2020, I caused a copy of the foregoing document to be served by the ECF/Pacer filing system and by electronic mail on the parties listed below.

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