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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

In re:	§	**Chapter 11**
	§	
VISTA PROPPANTS AND LOGISTICS, LLC, ET AL.,[1]	§	**Case No. 20-42002-ELM-11**
	§	**(Jointly Administered)**
Debtors.	§	
	§	
	§	
MAALT, LP,	§	
Plaintiff,	§	
	§	
v.	§	
	§	
SEQUITUR PERMIAN, LLC,	§	**ADV. PROC. NO. 20-04064**
Defendant.	§	

MOTION FOR SETTING AND REQUEST FOR EXPEDITED HEARING

[1] The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Vista Proppants and Logistics, LLC (7817) ("Vista HoldCo"); VPROP Operating, LLC (0269) ("VPROP"); Lonestar Prospects Management, L.L.C. (8451) ("Lonestar Management"); MAALT Specialized Bulk, LLC (2001) ("Bulk"); Denetz Logistics, LLC (8177) ("Denetz"); Lonestar Prospects, Ltd. (4483) ("Lonestar Ltd."); and MAALT, LP (5198) ("MAALT"). The location of the Debtors' service address is 4413 Carey Street, Fort Worth, TX 76119-4219.

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1. Defendant, Counter-Plaintiff, and Third-Party Plaintiff, Sequitur Permian, LLC ("Sequitur"), hereby requests that an expedited hearing be set on its *Motion to Stay Pending Direct Appeal* (the "Motion for Stay)[2] [Docket No. 135] **at the Court's convenience between May 19, 2021 and May 21, 2021**, or at the Court's earliest convenience thereafter. The Motion for Stay is opposed, and Sequitur believes it will require approximately thirty (30) minutes of the Court's time.

2. In the Motion for Stay, Sequitur requests that the Court stay the proceedings, including the to be scheduled trial date, pending a direct appeal to the Fifth Circuit pursuant to pursuant to 28 U.S.C. § 158(d)(2)(A) should the Court grant Sequitur's *Motion for Certification to Court of Appeals* (the "Motion to Certify Appeal") [Docket No. 133].

3. As set forth in more detail in the Motion for Stay, Sequitur asserts that a stay pending appeal is warranted in this case (particularly if the Court grants Sequitur's Motion to Certify Appeal). First, Sequitur's appeal presents a substantial case on the merits because it involves a question of law as to which there is no controlling decision of the Fifth Circuit or Supreme Court regarding a conflict between (ii) a line of Texas Supreme Court cases holding that unambiguous contracts should be enforced as written, and (ii) certain Texas appellate court cases that rely on the Restatement (First) of Contracts, which has not been approved by the Texas Supreme Court, to find that the failure of a condition precedent may be waived if its requirement will involve an extreme forfeiture or penalty. Second, Sequitur will suffer irreparable injury absent a stay because, if the Court certifies a direct appeal but does not stay the case, the time and expense of a potentially unnecessary trial will have been wasted for both parties. Furthermore, although the issues could still be appealed after a final judgment, the efficiencies behind 28 U.S.C. § 158(d)(2) would be thwarted. Third, any delay resulting from a stay would not harm Maalt as Maalt would also benefit from the stay to the extent it would also potentially avoid the costs associated with an unnecessary trial. In addition, delaying the case while Sequitur pursues a direct appeal will not delay the case any longer than it was already delayed by Maalt when it filed for bankruptcy and removed the case to this Court. Finally, a stay would serve the public interest because the subject matter of the issues in the motion for direct appeal involve important and fundamental questions about Texas contract law.

4. Expedited consideration of the Motion for Stay Continuance is needed because the current trial docket call is June 7, 2021. The parties should not be forced to incur the expense and time associated with preparing for a trial in one month's time if Sequitur is granted a direct appeal on two legal issues that may render a trial completely (or at least partially) unnecessary. Consequently, Sequitur respectfully requests that a hearing on the Motion for Stay be set **at the Court's convenience between May 19, 2021 and May 21, 2021**, or at the Court's earliest convenience thereafter, so that the Court may consider the issues raised in the Motion for Stay before the parties incur a tremendous amount of time and expense preparing for a trial that may be rendered unnecessary if a direct appeal to the Fifth Circuit results in a reversal of the Court's rulings on the motions for summary judgment.

[2] Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Motion to Certify Direct Appeal.

5. As indicated in the Certificate of Conference below, counsel for plaintiff, Maalt, LP, **DOES NOT OPPOSE** expedited consideration of the Motion for Stay, so long as the hearing takes place on May 19, 20, or 21.

Dated: May 4, 2021.

Respectfully Submitted,

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LOCAL COUNSEL FOR DEFENDANT, SEQUITUR PERMIAN, LLC

CERTIFICATE OF CONFERENCE

I hereby certify that on May 4, 2021, I contained James Lanter, Esq., counsel for plaintiff, Maalt, LP, via email regarding Sequitur's request for an expedited hearing on its Motion to Certify Direct Appeal. Mr. Lanter indicated that Maalt, LP does not oppose expedited consideration of the Motion to Certify Direct Appeal, so long as the hearing takes place on May 19, 20, or 21.

/s/ *Dylan B. Russell*
Dylan B. Russell

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2021 a copy of the foregoing document was served through the Court's ECF system on those parties receiving ECF notice, and as indicated below on the parties reflected below.

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/s/ Matthew A. Kornhauser
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