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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No. 12-12900 (SCC)

(Jointly Administered)

**STATEMENT OF THE DEBTORS REGARDING THE MOTION FOR AN ORDER
(i) CONFIRMING THE MASSEY PAYMENT AGREEMENT IS NOT
AN EXECUTORY CONTRACT OR, ALTERNATIVELY,
(ii) APPROVING REJECTION OF THE MASSEY PAYMENT AGREEMENT**

Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) file this statement with respect to the Motion for an Order (i) Confirming the Massey Payment Agreement is Not an Executory Contract, or Alternatively, (ii) Approving Rejection of the Massey Payment Agreement, dated July 9, 2012 [ECF Doc. 24] (the “**Motion**”).¹

¹ Unless otherwise defined herein, all capitalized terms used herein have the meanings ascribed to such terms in the Motion.

PLEASE TAKE NOTICE that on August 6, 2012, Debtor Eastern Royalty LLC f/k/a Eastern Royalty Corp. (“**ERC**”) commenced in the Court an adversary proceeding (the “**Adversary Proceeding**”) styled *Eastern Royalty LLC f/k/a Eastern Royalty Corp. v. Boone East Development Co.*, Adv. Pro. No. 12-01786, seeking *inter alia* a judicial determination that (i) the Payment Agreement (as defined in ERC’s complaint for declaratory relief, dated August 6, 2012 (the “**Complaint**”)) is a non-executory contract for purposes of section 365 of the Bankruptcy Code and (ii) the Payment Agreement is not integrated with or is severable from the Assignment Agreements, the Boone East Lease or any other agreement (as those terms are defined in the Complaint).

PLEASE TAKE FURTHER NOTICE that, consistent with the commencement of the Adversary Proceeding, the Debtors hereby withdraw, without prejudice, solely that portion of the Motion seeking an order confirming that the Massey Payment Agreement is a not an executory contract for the purposes of section 365 of the Bankruptcy Code. This partial withdrawal shall have no effect upon that balance of the relief requested in the Motion, including, without limitation, the Debtors’ request to reject the Massey Payment Agreement pursuant to section 365 of the Bankruptcy Code, effective *nunc pro tunc* to the Petition Date.

PLEASE TAKE FURTHER NOTICE that the Debtors hereby adjourn the Motion *sine die* and reserve their right to schedule a hearing before the Court with respect to the remaining relief requested in the Motion.

Dated: New York, New York
August 6, 2012

By: /s/ Timothy Graulich
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