

**Objection Deadline: To be determined**  
**Hearing Date (if necessary): To be determined**

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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)**

**DEBTORS' THIRD OMNIBUS MOTION  
FOR AN ORDER APPROVING  
THE REJECTION OF CERTAIN AGREEMENTS**

Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**") respectfully represent:

**Relief Requested**

1. By this motion (the "**Motion**"), the Debtors seek an order in the form attached hereto as Exhibit A (the "**Order**") approving the rejection, pursuant to section 365(a) of title 11 of the United States Code (the "**Bankruptcy Code**") and Rule 6006 of the Federal Rules

of Bankruptcy Procedure (the “**Bankruptcy Rules**”), of the RoyaltyCo Override Agreements, the Henderson Conveyance, and the STB Override Agreement (each as defined below and as listed in the schedule attached hereto as Exhibit B) (collectively, the “**Agreements**”) to the extent any such agreement is an executory contract,<sup>1</sup> effective as of the filing date of this Motion.

### **Background and Jurisdiction**

2. On July 9, 2012 (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtors’ cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the Court’s Joint Administration Order entered on July 10, 2012 [ECF No. 30].

4. Additional information about the Debtors’ businesses and the events leading up to the Petition Date can be found in the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, which is incorporated herein by reference.

5. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

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<sup>1</sup> Contemporaneously herewith, the Debtors that are parties to the Agreements instituted adversary proceedings in this Court through the filing of complaints seeking declaratory judgments that the Agreements are non-executory contracts for purposes of section 365 of the Bankruptcy Code and that the Agreements are not integrated with or are severable from any other agreement.

**Basis for Relief**

6. The Debtors hereby seek to reject the following agreements, to the extent that any such agreement is an executory contract:

7. **The RoyaltyCo Override Agreements.** The (1) Second Amended and Restated Purchase Option Agreement executed on December 30, 2003 by and among Christopher Cline (“**Cline**”), Trout Coal Holdings, LLC (“**Trout**”), Trout Coal Holdings II, LLC (“**Trout II**”) and Panther LLC (“**Panther**”), as amended on March 21, 2005; (2) Wildcat Adjacent Reserves and Royalty Payment Agreement executed on December 30, 2003 by and between Cline and Trout, as amended on March 21, 2005; and (3) Clarification of Royalty Agreements executed on March 4, 2008 by and among Magnum Coal Company LLC (“**Magnum**”), a Debtor entity, and RoyaltyCo, LLC (“**RoyaltyCo**”), among others, as amended on March 26, 2008 (collectively, the “**RoyaltyCo Override Agreements**”) provide that Magnum will make ongoing overriding royalty payments to RoyaltyCo for the mining and sale of coal from certain coal reserves specified in the RoyaltyCo Override Agreements. The Debtors have determined, in the sound exercise of their business judgment, that (i) the RoyaltyCo Override Agreements provide no ongoing benefit to the Debtors’ estates and (ii) rejecting the RoyaltyCo Override Agreements (to the extent that such agreements are executory contracts) would benefit the Debtors’ estates by terminating ongoing payment obligations under the RoyaltyCo Override Agreements. While the actual savings to the Debtors’ estates from terminating the RoyaltyCo Override Agreements will ultimately depend on, among other things, the amount of coal mined and changes in price over time, the savings could be as much as \$5.5 million or more over the next five years with additional savings thereafter.

8. **The Henderson Conveyance.** The Henderson Conveyance executed on July 8, 1983 (the “**Henderson Conveyance**”) between Peabody Coal Company (“**PCC**”) (now known as Heritage Coal Company, a Debtor entity) and Tampa Electric Company (“**Tampa**”) provides that PCC will make ongoing “overriding royalty” payments to Tampa for the mining and sale of coal from certain coal reserves specified in the Henderson Conveyance. Payments under the Henderson Conveyance have been made since 2002 by Highland Mining Company, LLC (“**Highland**”), another Debtor entity, after PCC assigned its obligations under the Henderson Conveyance to Highland. The Debtors have determined, in the sound exercise of their business judgment, that (i) the Henderson Conveyance provides no ongoing benefit to the Debtors’ estates and (ii) rejecting the Henderson Conveyance (to the extent such agreement is an executory contract) would benefit the Debtors’ estates by terminating ongoing payment obligations under the Henderson Conveyance. While the actual savings to the Debtors’ estates from rejecting the Henderson Conveyance will ultimately depend on, among other things, the amount of coal mined and changes in price over time, the savings could be as much as \$2.0 million or more over the next five years with additional savings thereafter.

9. **The STB Override Agreement.** The Overriding Royalty Agreement executed on October 31, 1994 (the “**STB Override Agreement**”) between Ark Land Company (“**Ark**”) and STB Ventures Inc. (“**STB**”) provides that Ark will make ongoing “overriding royalty” payments to STB for the mining and sale of coal from certain coal reserves specified in the STB Override Agreement. Payments under the STB Override Agreement have been made since December 30, 2005 by Robin Land Company, LLC (“**RLC**”), a Debtor entity, after Ark assigned its obligations under the STB Override Agreement to RLC. The Debtors have determined, in the sound exercise of their business judgment, that (i) the STB Override

Agreement provides no ongoing benefit to the Debtors' estates and (ii) rejecting the STB Override Agreement (to the extent such agreement is an executory contract) would benefit the Debtors' estates by terminating ongoing payment obligations under the STB Override Agreement. While the actual savings to the Debtors' estates from terminating the STB Override Agreement will ultimately depend on, among other things, the amount of coal mined and changes in price over time, the savings could be as much as \$3.7 million or more over the next five years with additional savings thereafter.

#### Notice

10. Consistent with the procedures described in the Order Establishing Certain Notice, Case Management and Administrative Procedures entered by the Court on July 16, 2012 [ECF No. 84] (the "**Case Management Order**"), the Debtors will serve notice of this Motion on (a) the Core Parties, (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order), and (c) the counterparties to the Agreements and any other parties requiring notice under the terms of the respective Agreements (the "**Counterparties**"). All parties who have requested electronic notice of filings in these cases through the Court's ECF system will automatically receive notice of this motion through the ECF system no later than the day after its filing with the Court. A copy of this motion and any order approving it will also be made available on the Debtors' Case Information Website (located at [www.PatriotCaseInfo.com](http://www.PatriotCaseInfo.com)). In light of the relief requested, the Debtors submit that no further notice is necessary. Pursuant to paragraph 21 of the Case Management Order, if no objections are timely filed and served in accordance therewith, an order granting the relief requested herein may be entered without a hearing.

**No Previous Request**

11. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as is just and proper.

Dated: New York, New York  
August 10, 2012

By: /s/ Timothy Graulich  
Marshall S. Huebner  
Timothy Graulich  
Brian M. Resnick  
Antonio J. Perez-Marques  
Jonathan D. Martin

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*Counsel to the Debtors  
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**Exhibit A**

**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)**

**THIRD OMNIBUS ORDER APPROVING  
THE REJECTION OF CERTAIN AGREEMENTS**

Upon the third omnibus motion (the “**Motion**”)<sup>1</sup> of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) for an order pursuant to sections 365(a) and 554(a) of the Bankruptcy Code and Bankruptcy Rules 6006, 6007 and 9014, approving the rejection of the Agreements; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334; and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Motion having been provided to (a) the Core Parties, (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order), and (c) the Counterparties consistent with the Case Management Order, and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion and having held a hearing with appearances of parties in interest noted in the transcript thereof (the “**Hearing**”); and the Court having determined that the legal and factual bases set forth in the Motion and at the

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<sup>1</sup> Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Motion.

Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the relief requested in the Motion is hereby granted as set forth herein; and it is further

ORDERED that the Debtors' rejection of the Agreements pursuant to section 365 of the Bankruptcy Code is approved, effective *nunc pro tunc* to the filing date of the Motion; and it is further

ORDERED that any claims arising out of the rejection of the Agreements must be timely filed in accordance with any order pursuant to Bankruptcy Rule 3003(c) establishing a deadline by which prepetition general unsecured claims must be filed. Any claim not timely filed shall be irrevocably barred; and it is further

ORDERED that the notice of the Motion is good and sufficient notice and satisfies Bankruptcy Rule 9014 by providing the counterparties with notice and an opportunity to object and be heard at a hearing.

SO ORDERED, this  
\_\_\_\_ day of \_\_\_\_\_, 2012

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THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

**Schedule 1**

<b>AGREEMENTS</b>				
<b>COUNTERPARTY</b>	<b>DEBTOR</b>	<b>TYPE</b>	<b>DATE OF CONTRACT</b>	<b>REJECTION EFFECTIVE DATE</b>
<b>RoyaltyCo, LLC</b> c/o ArcLight Capital Partners 200 Clarendon Street, 55th Floor Boston, MA 02117	MAGNUM COAL COMPANY LLC  TROUT COAL HOLDINGS, LLC  NEW TROUT COAL HOLDINGS II, LLC  PANTHER LLC	Overriding Royalty Agreement	March 4, 2008, amended March 26, 2008	August 10, 2012
<b>RoyaltyCo, LLC</b> (Successor in Interest) c/o ArcLight Capital Partners 200 Clarendon Street, 55th Floor Boston, MA 02117  <b>Christopher Cline</b> (Original Contracting Party)	MAGNUM COAL COMPANY LLC (Successor in Interest)  Trout Coal Holdings, LLC, Trout Coal Holdings II, LLC and Panther LLC (Original Contracting Parties)	Overriding Royalty Agreement	December 30, 2003, amended March 21, 2005	August 10, 2012
<b>RoyaltyCo, LLC</b> (Successor in Interest) c/o ArcLight Capital Partners 200 Clarendon Street, 55th Floor Boston, MA 02117  <b>Christopher Cline</b> (Original Contracting Party)	MAGNUM COAL COMPANY LLC (Successor in Interest)  Trout Coal Holdings, LLC (Original Contracting Party)	Overriding Royalty Agreement	December 30, 2003, amended March 21, 2005	August 10, 2012
<b>Tampa Electric Company</b> P.O. Box 111 Tampa, FL 33601	HIGHLAND MINING COMPANY, LLC	Overriding Royalty Agreement	July 8, 1983	August 10, 2012
<b>STB Ventures Inc.</b> 148 Bristol East Road Bristol, VA 24202 Attn: G. M. Burke	ROBIN LAND COMPANY, LLC	Overriding Royalty Agreement	October 31, 1994	August 10, 2012