

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

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**In re:** )  
 )  
 ) **Chapter 11**  
**PATRIOT COAL CORPORATION, et al.,** ) **Case No. 12-51502-659**  
 ) **(Jointly Administered)**  
 )  
 **Debtors.** )  
 ) **Re: Docket Nos. 3423 and 3498**  
 )  
 ) **Hearing Date:**  
 ) **April 23, 2013 (10:00 a.m. CT)**  
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**LIMITED OBJECTION OF U.S. BANK NATIONAL ASSOCIATION,  
AS INDENTURE TRUSTEE, TO (I) MOTION FOR THE  
APPOINTMENT OF A CHAPTER 11 TRUSTEE AND (II) DEBTORS'  
SECOND MOTION TO EXTEND THE DEBTORS' EXCLUSIVE  
PERIODS WITHIN WHICH TO FILE A PLAN OF  
REORGANIZATION AND SOLICIT VOTES THEREON**

U.S. Bank National Association, as indenture trustee (the “**Trustee**”) with respect to the 3.25% Convertible Senior Notes due 2013 in the aggregate principal amount of \$200,000,000 (the “**Notes**”), issued pursuant to that certain Indenture, dated as of May 28, 2008, between Patriot Coal Corporation and the Trustee, in response to the (i) Motion for Entry of an Order, Pursuant to 11 U.S.C. §§ 105(a) and 1104(a), Directing the Appointment of a Chapter 11 Trustee (the “**Chapter 11 Trustee Motion**,” ECF No. 3423) and (ii) Notice and Debtors’ Second Motion for an Order Extending Debtors’ Exclusive Periods Within Which to File a Plan of Reorganization and Solicit Votes Thereon (the “**Exclusivity Motion**,” ECF No. 3498, and together with the Chapter 11 Trustee Motion, collectively, the “**Motions**”), respectfully states as follows:

## ARGUMENT

1. The Chapter 11 Trustee Motion requests an order appointing a chapter 11 trustee to control the estates of the 86 Debtors (the “**Non-Obligor Estates**”) that are not obligated to the United Mine Workers of America (*see* Chapter 11 Trustee Motion at pg. 2), leaving the remaining 13 Debtors (the “**Obligor Estates**”) to operate as debtors-in-possession. The Exclusivity Motion requests an order extending all of the 99 Debtors’ exclusive periods within which to file and solicit acceptances of a plan of reorganization by 120 days, from May 5, 2013 and July 4, 2013, respectively, to September 2, 2013 and November 1, 2013, respectively. (*See* Exclusivity Motion at pg. 1.)

2. Section 1121(c) of the Bankruptcy Code provides as follows:

(c) Any party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may file a plan if and only if—

(1) a trustee has been appointed under this chapter;

(2) the debtor has not filed a plan before 120 days after the date of the order for relief under this chapter; or

(3) the debtor has not filed a plan that has been accepted, before 180 days after the date of the order for relief under this chapter, by each class of claims or interests that is impaired under the plan.

Under section 1121(c)(1), exclusivity with respect to the Non-Obligor Estates automatically terminates if the Court grants the Chapter 11 Trustee Motion. If the Court appoints a chapter 11 trustee over the Non-Obligor Estates and grants exclusivity to the Obligor Estates, the debtors-in-possession of the Obligor Estates become the only parties that can propose a plan of reorganization providing for substantive consolidation of all 99 Debtors. The reason for this is that all creditors and parties in interest of the Non-Obligor Estates (including the chapter 11 trustee) would be prohibited from filing any plans in the bankruptcy cases for the Obligor Estates

since exclusivity would have been extended for the Obligor Estates under section 1121(d) of the Bankruptcy Code.

3. Granting both Motions would skew the plan process toward non-consolidation of the 99 Debtors' estates because countless parties could file non-consolidating plans for the Non-Obligor Estates, but in contrast only the debtors-in-possession of the Obligor Estates could file a plan consolidating all 99 Debtors' estates. Therefore, the Trustee respectfully submits that, in the event the Court grants the Chapter 11 Trustee Motion, the Court also terminate exclusivity with respect to both the Obligor Estates and the Non-Obligor Estates. To do otherwise creates the risk of a chaotic and skewed process that may favor one outcome with respect to consolidation versus non-consolidation.

Dated: April 16, 2013

/s/ Eric Lopez Schnabel  
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**CERTIFICATE OF SERVICE**

I certify that on April 16, 2013, I caused a copy of the foregoing pleading to be served through the Court's CM/ECF system on those parties receiving ECF notices in these proceedings.

/s/ Eric Lopez Schnabel

Eric Lopez Schnabel  
(Admitted Pro Hac Vice)