

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

In re:

**PATRIOT COAL CORPORATION, *et al.*,
Debtors.¹**

**Chapter 11
Case No. 12-51502-659
(Jointly Administered)**

**Objection Deadline:
March 25, 2013 at 11:59 p.m.
(prevailing Central Time)**

**Reply Deadline:
April 8, 2013 at 11:59 p.m.
(prevailing Central Time)**

**Hearing Date:
April 23, 2013 at 10:00 a.m.
(prevailing Central Time)**

**Hearing Location:
Courtroom 7 North**

ROBIN LAND COMPANY, LLC,

Plaintiff,

v.

STB VENTURES, INC.,

Defendant,

**ARCH COAL, INC., ARK LAND COMPANY,
and ARK LAND KH, INC.,**

Intervenor-Defendants.

Adv. Pro. No. 12-04355-659

¹ The Debtors are the entities listed on Schedule 1 attached to the Debtors' Motion for Approval of Procedures for the Rejection of Executory Contracts and Unexpired Leases and for the Abandonment of Personal Property [ECF No. 136 under Case No. 12-51502-659]. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

**NOTICE OF HEARING AND MOTION FOR JUDGMENT ON THE PLEADINGS
AND TO DISMISS DEFENDANTS' COUNTERCLAIMS**

PLEASE TAKE NOTICE that, upon the accompanying Plaintiff's Memorandum of Law in Support of Its Motion for Judgment on Pleadings and to Dismiss Defendants' Counterclaims ("**Plaintiff's Memorandum of Law**"),² and all prior pleadings and proceedings in this action, Plaintiff/Debtor Robin Land Company, LLC, by its undersigned counsel, hereby moves this Court before the Honorable Kathy A. Surratt-States of the United States Bankruptcy Court for the Eastern District of Missouri, Thomas F. Eagleton U.S. Courthouse, 111 S. 10th Street, St. Louis, MO 63102, for an Order pursuant to Rules 12(b)(6) and 12(c) of the Federal Rules of Civil Procedure, as incorporated by Rule 7012 of the Federal Rules of Bankruptcy Procedure, granting judgment on the pleadings, dismissing Defendants' counterclaims in their entirety for failure to state a claim, and declaring (1) that the STB Override is a non-executory contract for purposes of section 365 of the Bankruptcy Code, and (2) that the STB Override is not integrated with or is severable from the 1994 Asset Purchase Agreement, the Leases, the Assignments, the Magnum PSA, and/or any other agreement.

PLEASE TAKE FURTHER NOTICE that any Objection shall be served on (a) the chambers of the Honorable Kathy A. Surratt-States of the United States Bankruptcy Court for the Eastern District of Missouri, Thomas F. Eagleton U.S. Courthouse, 111 S. 10th Street, St. Louis, Missouri 63102; (b) counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick; (c) conflicts counsel to the Debtors, Curtis, Mallet-Prevost, Colt & Mosle LLP, 101 Park

² All capitalized terms used herein and not otherwise defined have the meanings ascribed to such terms in Plaintiff's Memorandum of Law or the Order of the Court signed on October 18, 2012 Establishing Certain Notice, Case Management and Administrative Procedures.

Avenue, New York, New York 10178, Attn: Steven J. Reisman and Michael A. Cohen; (d) local counsel to the Debtors, Bryan Cave LLP, 211 North Broadway, Suite 3600, St. Louis, Missouri, Attn: Lloyd A. Palans and Brian C. Walsh; (e) the Office of the United States Trustee for the Eastern District of Missouri, 111 South 10th Street, Suite 6.353, St. Louis, Missouri 63102, Attn: Leonora S. Long and Paul A. Randolph (the “**U.S. Trustee**”); (f) Kramer, Levin, Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, Attn: Thomas Moers Mayer, Adam C. Rogoff and Gregory G. Plotko, counsel to the Official Committee of Unsecured Creditors in these bankruptcy cases (the “**Committee**”); (g) local counsel to the Committee, Carmody MacDonald P.C., 120 South Central Avenue, St. Louis, Missouri, 63105-1705, Attn: Gregory D. Willard and Angela L. Schisler; (h) the Debtors’ authorized claims and noticing agent, Patriot Coal Corporation, c/o GCG, Inc., P.O. Box 9898, Dublin, Ohio 43017-5798; (i) the attorneys for the administrative agents for the Debtors’ postpetition lenders: (1) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky and (2) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso; (j) counsel for Defendant STB Ventures, Inc.: (1) Shook, Hardy & Bacon L.L.P., 2555 Grand Blvd, Kansas City, Missouri 64108-2613, Attn: Mark Moedritzer and (2) Jones & Associates, 13 Kanawha Blvd. West, Suite 200, Charleston, West Virginia 25302, Attn: Joseph G. Bunn; and (j) counsel for Intervenor-Defendants Arch Coal, Inc., Ark Land Company and Ark Land KH, Inc.: (1) Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York 10006, Attn: Sean A. O’Neal and Avram E. Luft, and (2) Lewis, Rice & Fingersh, L.C., 600 Washington Avenue, Suite 2500, St. Louis, Missouri 63101, Attn: Joseph J. Trad and John J. Hall.

PLEASE TAKE FURTHER NOTICE that the relief requested in this Motion may be granted without a hearing if no Objection is filed and served in accordance with all applicable rules and procedures by the Objection Deadline.

Dated: New York, New York
March 4, 2013

Respectfully Submitted,

DAVIS POLK & WARDWELL LLP

By: /s/ Jonathan D. Martin

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