

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:
September 17, 2013 at 4:00
P.M. (prevailing Central Time)**

**Hearing Date (if necessary):
September 24, 2013 at 10:00
A.M. (prevailing Central Time)**

**Hearing Location:
Courtroom 7 North**

**NOTICE AND MOTION OF THE DEBTORS AND THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS FOR LEAVE TO CONDUCT
DISCOVERY OF ARCH COAL, INC. PURSUANT TO RULE 2004**

PLEASE TAKE NOTICE THAT this motion is scheduled for hearing on September 24, 2013, at 10:00 A.M. (prevailing Central Time), in Bankruptcy Courtroom Seventh Floor North, in the Thomas F. Eagleton U.S. Courthouse, 111 South Tenth Street, St. Louis, Missouri 63102.

WARNING: ANY RESPONSE OR OBJECTION TO THIS MOTION MUST BE FILED WITH THE COURT BY 4:00 P.M. (PREVAILING CENTRAL TIME) ON SEPTEMBER 17, 2013. A COPY MUST BE PROMPTLY SERVED UPON THE UNDERSIGNED. FAILURE TO FILE A TIMELY RESPONSE MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE HEARING DATE.

¹ The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

**MOTION OF THE DEBTORS AND THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS FOR LEAVE TO CONDUCT
DISCOVERY OF ARCH COAL, INC. PURSUANT TO RULE 2004**

Investigation of the assets and liabilities of the Debtors' estates would remain incomplete without discovery from Arch Coal, Inc. ("**Arch**") and its subsidiaries. While Patriot is a creation of Peabody Energy Corporation ("**Peabody**"), a portion of its current assets and liabilities originated with Arch and came to Patriot through Patriot's 2008 acquisition of Magnum Coal Company (the "**Merger**"). Understanding Arch's role in the creation of Magnum, and Arch's process of selecting the assets and liabilities the Debtors later acquired in the Merger, is essential to an understanding of the Debtors' estates and potential causes of action, whether arising from Peabody's 2007 spinoff of Patriot (the "**Spinoff**") or from the Merger.

The debtors and debtors in possession in these proceedings (collectively, the "**Debtors**") and the Official Committee of Unsecured Creditors of Patriot Coal Corporation (the "**Committee**" and, together with the Debtors, the "**Movants**") are therefore investigating the formation and sale of Magnum and the Merger to determine, *inter alia*, the impact of the assets and liabilities acquired in the Merger on Patriot's financial condition. The Movants hereby submit this motion (the "**Motion**") pursuant to section 105 of title 11 of the United States Code (the "**Bankruptcy Code**"), Rule 2004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and this Court's Order Establishing Certain Notice, Case Management and Administrative Procedures entered on March 22, 2013 [ECF No. 3361 ¶ 21] (the "**Case Management Order**") for entry of an order granting the Movants leave to propound requests for documents, substantially in the form attached hereto as Appendix A. In support of the Motion, the Movants respectfully represent as follows:

BACKGROUND AND JURISDICTION

A. The Chapter 11 Cases

1. On July 9, 2012, each Debtor commenced with the United States Bankruptcy Court for the Southern District of New York (the “**SDNY Bankruptcy Court**”) a voluntary case under chapter 11 of the Bankruptcy Code. On December 19, 2012, the SDNY Bankruptcy Court entered an order transferring the cases to this Court [ECF No. 1789]. 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. The cases are being jointly administered pursuant to Rule 1015(b) of the Bankruptcy Rules and the SDNY Bankruptcy Court’s Joint Administration Order entered on July 10, 2012 [ECF No. 30].

2. On July 18, 2012, the United States Trustee for the Southern District of New York, pursuant to section 1102 of the Bankruptcy Code, appointed the Committee to represent the interests of all unsecured creditors in these chapter 11 cases. The members of the Committee are: (i) Wilmington Trust Company; (ii) U.S. Bank National Association; (iii) the United Mine Workers of America (the “**UMWA**”); (iv) the United Mine Workers of America 1974 Pension Plan and Trust; and (v) American Electric Power.

3. On April 23, 2013, this Court granted, in part, the Motion of the Debtors and the Official Committee of Unsecured Creditors for Leave to Conduct Discovery of Peabody Pursuant to Rule 2004 [ECF No. 3494] (the “**Peabody Rule 2004 Motion**”). On June 7, 2013, the Court entered the Order granting, in part, the Peabody Rule 2004 Motion [ECF No. 4114] (the “**Peabody Rule 2004 Order**”).

4. On May 22, 2013, this Court entered the Stipulated Order Authorizing the Debtors to Issue a Subpoena Compelling the Production of Documents by Duff & Phelps Corp. Pursuant to Rule 2004 [ECF No. 4044] (the “**Duff & Phelps Rule 2004 Order**”) and the

Stipulated Order Authorizing the Issuance of a Subpoena Duces Tecum to Morgan Stanley Pursuant to Rule 2004 [ECF No. 4043] (the “**Morgan Stanley Rule 2004 Order**”) authorizing the Debtors to take Rule 2004 Discovery of Duff & Phelps Corp. and Morgan Stanley & Co. LLC relating to, inter alia, their role in the Spinoff.

B. The Formation and Acquisition of Magnum

5. Arch is one of the nation’s largest coal producers. Prior to the December 31, 2005 sale of Magnum, Arch owned a number of mining operations in southern West Virginia. On October 7, 2005, Arch, Timothy Elliott (“**Elliott**”), and affiliates of ArcLight Capital Partners, LLC (“**ArcLight**”) agreed that Arch would contribute certain mining properties to Magnum, a newly formed corporation, in exchange for a minority interest in Magnum. Later, in December 2005, this transaction was restructured so that Arch sold 100% of the stock of the Hobet, Apogee, Catenary, Samples, and Campbell’s Creek mining operations to Magnum for \$15 million and the assumption of certain liabilities. Magnum also entered into certain sales contracts under which Magnum was required to supply coal to various Arch customers at prices previously agreed to by Arch. As a result of these transactions, Arch substantially reduced its legacy liabilities, including liabilities associated with post-retiree healthcare, workers’ compensation, and reclamation obligations.

6. On October 31, 2007, Patriot and its subsidiaries were spun off from Peabody through a distribution of all outstanding Patriot shares. Consequently, Patriot became a separate public company listed on the New York Stock Exchange.

7. On April 2, 2008, Patriot entered into an Agreement and Plan of Merger (“**Merger Agreement**”) with Magnum, ArcLight Energy Partners Fund I, L.P., and ArcLight Energy Partners Fund II, L.P., whereby Patriot would acquire Magnum for approximately

\$740 million, principally in the form of Patriot stock, but including the assumption of \$147.3 million of long-term debt.

C. Jurisdiction

8. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408, 1409, and 1412.

BASIS FOR RELIEF

The Movants Are Entitled to Discovery of Arch Under Rule 2004

A. The Movants Are Obligated to Investigate Potential Estate Causes of Action

9. As this Court has recognized in granting the Peabody Rule 2004 Order, the Morgan Stanley Rule 2004 Order, and the Duff & Phelps Rule 2004 Order, the Movants' duties to the Debtors' estates and creditors demand a thorough investigation into potential causes of action arising out of the transactions that created Patriot. As debtors in possession, the Debtors bear fiduciary duties to maximize the value of their estates for the benefit of all estate creditors. Lange v. Schropp (In re Brook Valley IV, Joint Venture), 347 B.R. 662, 673 (B.A.P. 8th Cir. 2006) (“[A] debtor-in-possession[] is obligated to use best efforts to so maximize the value of the debtor’s estate.”); see In re Apex Oil Co., 92 B.R. 847, 867 (Bankr. E.D. Mo. 1988). This duty includes investigating and determining the value of potential estate causes of action, and, if warranted, instituting litigation or entering into settlements with regard to such causes of action. See In re Apex Oil Co., 92 B.R. at 867; Smart World Techs., LLC v. Juno Online Servs., Inc. (In re Smart World Techs., LLC), 423 F.3d 166, 175 (2d Cir. 2005) (“[T]he Code not only authorizes the chapter 11 debtor to manage the estate’s legal claims, but in fact requires the debtor to do so in a way that maximizes the estate’s value.”).

10. Likewise, the Committee bears a statutory duty to “investigate the acts, conduct, assets, liabilities, and financial condition of the debtor . . . and any other matter relevant to the case or to the formulation of a plan.” 11 U.S.C. § 1103(c)(2); see Advisory Comm. of Major Funding Corp. v. Sommers (In re Advisory Comm. of Major Funding Corp.), 109 F.3d 219, 224-25 (5th Cir. 1997) (recognizing the duty of a creditors’ committee to investigate); see also Loop Corp. v. United States Trustee, 379 F.3d 511, 519 (8th Cir. 2004) (recognizing the duty of a creditors’ committee to advance creditors’ interests).

11. In light of these duties, the Movants have an obligation to consider potential causes of action relating to the Spinoff and the formation of Magnum. By transferring certain of its operations to Magnum, Arch distanced itself from the extensive legacy liabilities associated with the Magnum assets. The UMWA and certain Magnum retirees have alleged that Arch implemented a scheme to dispose of its largest liabilities, including retiree, pension, and health and welfare benefits through the sale of Magnum, which would inevitably fail. See 2nd Am. Compl., Lowe v. Peabody Holding Co. LLC, No. 12-cv-06925 (the “**West Virginia Action**”), at ¶¶ 3-4, 62-65 (S.D. W. Va.) [ECF No. 39]. And the creation of Magnum and the Debtors’ acquisition of Magnum in 2008 may bear upon the Debtors’ potential causes of action relating to the Spinoff. Therefore, the Movants are obligated to use their best efforts to maximize the value of the Debtor’s estate by investigating the creation of Magnum.

B. The Terms of the Request Fall Well Within the Broad Discovery Authorized by Rule 2004

12. It is plain that the Movants must employ Rule 2004 to obtain the discovery necessary to carry out their investigation. See Motor Coach Indus., Inc. v. Drewes (In re Rosenberg), 303 B.R. 172, 175-76 (8th Cir. B.A.P. 2004) (noting that a trustee has a duty to investigate potential estate claims, and commenting that “Rule 2004 provides the mechanism for

a trustee to fulfill this obligation”); 11 U.S.C. § 1107(a) (“[A] debtor in possession shall have all the rights . . . and powers, and shall perform all the functions and duties . . . of a trustee”); see also In re Recoton Corp., 307 B.R. 751, 755 (Bankr. S.D.N.Y. 2004) (discovery under Rule 2004 is intended to “assist a party in interest in determining the nature and extent of the bankruptcy estate” and to examine “transactions and assess[] whether wrongdoing has occurred”). The circumstances of the Debtors’ cases further require that discovery be completed expeditiously to allow the Movants the necessary time to evaluate the materials produced.

13. As the basic discovery device in bankruptcy cases, Rule 2004 permits a debtor or official committee to examine “any entity” that has a relationship with, or has engaged in a transaction with, the debtor. See In re Recoton Corp., 307 B.R. at 755 (authorizing an official committee of unsecured creditors to investigate potential causes of action against third parties through a Rule 2004 examination; “[a]ny third party who has a relationship with a debtor may be made subject to a Rule 2004 investigation”) (emphasis added); In re Fearn, 96 B.R. 135, 138 (Bankr. S.D. Ohio 1989) (Rule 2004 examination “may properly extend to creditors and third parties who have had dealings with the debtor”). There can be no question that the discovery sought from Arch is within the purview of Rule 2004. The discovery that the Movants seek in connection with their investigation of potential estate causes of action is “*prima facie* consistent with [Rule 2004’s] stated purposes.” In re Recoton Corp., 307 B.R. at 756. But Rule 2004 is certainly not confined to investigation of particular causes of action. The broad scope of discovery permitted under Rule 2004 exceeds the claim- and defense-based discovery permitted under Rule 26 of the Federal Rules of Civil Procedure. See In re Apex Oil Co., 101 B.R. 92, 102 (Bankr. E.D. Mo. 1989) (citing In re Vantage Petrol. Corp., 34 B.R. 650, 651 (Bankr. E.D.N.Y. 1983)). Rule 2004 accordingly authorizes even an “exploratory and groping”

investigation—commonly characterized as a “fishing expedition”—of matters concerning the debtor’s estate far broader than the focused discovery the Movants seek. In re Apex Oil Co., 101 B.R. at 102; see also In re Hentz, No. 12-30114, 2012 Bankr. LEXIS 2772, at *4 (Bankr. D.N.D. June 18, 2012); In re GHR Energy Corp., 33 B.R. 451, 453-54 (Bankr. D. Mass. 1983); 9 Collier on Bankruptcy ¶ 2004.02[1] (16th ed. 2012).

14. The proposed subpoena of Arch falls well within the bounds of discovery authorized by Rule 2004. Notwithstanding the sweeping authority provided by the rule, the Movants’ discovery requests target the information necessary to their investigation of the formation and sale of Magnum and evaluation of potential estate claims. Upon information and belief, essential documents and communications regarding, among other things, Arch’s evaluation of assets and liabilities to be included in Magnum, Arch’s internal assessment of Magnum’s prospects, and Arch’s purposes in designing and executing the sale of the Magnum assets are not available from any other source. Internal Arch documents may quantify the impact upon Magnum of certain agreements under which Magnum was required to supply coal to Arch. The Movants will only be able to shed light on these and other essential questions, such as the extent to which the assets and liabilities acquired in the Merger contributed to Patriot’s financial condition, by obtaining discovery from Arch. Further, the requested documents will assist the Movants in assessing the nature and extent of the Debtors’ estates and allow the Movants to examine the Merger in more careful detail to determine the impact, if any, of the Merger on potential causes of action relating to the Spinoff.

* * *

15. In light of foregoing, the discovery sought from Arch falls well within the purview of Rule 2004, and the Debtors respectfully request the Court's leave to serve the requests set forth in Appendix A.

NOTICE

16. Consistent with the Case Management Order, the Debtors will serve notice of this Motion on the Core Parties (as defined in the Case Management Order) and on Arch. 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). A copy of the Proposed Order will be provided to the Core Parties and to Arch, and will be available at www.patriotcaseinfo.com/orders.php (the "**Patriot Orders Website**"). The Proposed Order may be modified or withdrawn at any time without further notice. If any significant modifications are made to the Proposed Order, an amended Proposed Order will be made available on the Patriot Orders Website, and no further notice will be provided. In light of the relief requested, the Debtors submit that no further notice is necessary. Pursuant to paragraph 14 of the Case Management Order, if no objections are timely filed and served in accordance therewith, the relief requested herein may be entered without a hearing.

NO PREVIOUS REQUEST

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

WHEREFORE the Movants respectfully request that the Court (i) issue an Order authorizing the Movants to propound on Arch a subpoena substantially in the form of Appendix A attached hereto; and (ii) grant such other and further relief as is just and proper.

Dated: New York, New York
September 3, 2013

Respectfully Submitted,

DAVIS POLK & WARDWELL LLP

By: /s/ Michael J. Russano
Marshall S. Huebner
Elliot Moskowitz
Michael J. Russano

450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 701-5800

*Counsel to the Debtors
and Debtors in Possession*

KRAMER LEVIN NAFTALIS & FRANKEL LLP

By: /s/ P. Bradley O'Neill
Thomas Moers Mayer
P. Bradley O'Neill

1177 Avenue of the Americas
New York, New York 10036
Telephone (212) 715-9100
Facsimile: (212) 715-8000

*Counsel for the Official Committee of
Unsecured Creditors*

SCHEDULE 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
17. Coal Reserve Holding Limited Liability Company No. 2
18. Colony Bay Coal Company
19. Cook Mountain Coal Company, LLC
20. Corydon Resources LLC
21. Coventry Mining Services, LLC
22. Coyote Coal Company LLC
23. Cub Branch Coal Company LLC
24. Dakota LLC
25. Day LLC
26. Dixon Mining Company, LLC
27. Dodge Hill Holding JV, LLC
28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. PCX Enterprises, Inc.
75. Pine Ridge Coal Company, LLC
76. Pond Creek Land Resources, LLC
77. Pond Fork Processing LLC
78. Remington Holdings LLC
79. Remington II LLC
80. Remington LLC
81. Rivers Edge Mining, Inc.
82. Robin Land Company, LLC
83. Sentry Mining, LLC
84. Snowberry Land Company
85. Speed Mining LLC
86. Sterling Smokeless Coal Company, LLC
87. TC Sales Company, LLC
88. The Presidents Energy Company LLC
89. Thunderhill Coal LLC
90. Trout Coal Holdings, LLC
91. Union County Coal Co., LLC
92. Viper LLC
93. Weatherby Processing LLC
94. Wildcat Energy LLC
95. Wildcat, LLC
96. Will Scarlet Properties LLC
97. Winchester LLC
98. Winifrede Dock Limited Liability Company
99. Yankeetown Dock, LLC

APPENDIX A
Proposed Rule 2004 Subpoena

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

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

DOCUMENT REQUESTS PURSUANT TO RULE 2004

Pursuant to Federal Rule of Bankruptcy Procedure 2004, Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “Debtors”) and the Official Committee of Unsecured Creditors of Patriot Coal Corporation (the “Committee,” and together with the Debtors, the “Estate Fiduciaries”) propound the following request upon Arch Coal, Inc. for production of the documents described herein within 30 days to the offices of Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017, and to the offices of Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, NY 10036. Each of the following document requests is to be read and produced in accordance with the definitions and instructions set forth below.

DEFINITIONS

1. “Patriot” means Patriot Coal Corporation and each and any of its subsidiaries, including the Debtors in the above-captioned cases, and including any predecessor entities of Patriot Coal Corporation and/or any of its subsidiaries.

¹ The Debtors are the entities listed on Schedule 1 attached to the Motion of the Debtors and the Official Committee of Unsecured Creditors for Leave to Conduct Discovery of Arch Coal, Inc. Pursuant to Rule 2004. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

2. “Arch” means each of Arch Coal, Inc., its present and former parents, subsidiaries, predecessors, members, affiliated entities, joint ventures, agents, representatives, officers, executives, partners, directors, employees, advisors, accountants, attorneys, and all other persons acting, or who have acted, on its behalf or who are under its control.

3. “Magnum” means Magnum Coal Company LLC, each and any of its current or former subsidiaries, and any predecessor entities of Magnum Coal Company LLC and/or any of its subsidiaries.

4. “You” means “Arch” and “your” means “Arch’s.”

5. “Document” shall be used in the broadest sense and includes, but is not limited to, the following items, whether printed or recorded or reproduced by any other mechanical process, or written or produced by hand, and whether sent or received or neither, and further includes any and every manner of information recordation, storage, transmission, or retrieval, including, but not limited to (a) typing, handwriting, printing, or any other form of writing or marking on paper or other material; (b) tape recordings, microfilms, microfiche, and photocopies; and (c) any electronic, magnetic, or electromagnetic means of information storage and/or retrieval, including, but not limited to, electronic mail, optical storage media, computer memory chips, computer tapes, hard disks, compact discs, floppy disks, and any other storage medium used in connection with electronic data processing (together with the programming instructions and all other material necessary to understand or to use such tapes, disks, or other storage materials), namely: contracts; agreements and understandings; communications, including intracompany communications; memos; statements; handwritten or other types of notes; correspondence; telegrams; memoranda; notices; records; books; summaries, notes, or records of telephone conversations; summaries, notes or records of personal conversations or interviews; diaries;

forecasts; statistical statements; accountants' work papers; graphs; charts; ledgers; journals; books or records of account; summaries of accounts; balance sheets; income statements; minutes or records of meetings or conferences; desk calendars; appointment books (including pocket appointment books); reports and/or summaries of interviews; reports and/or summaries of investigations; rough or scratch-pad notes; records, reports, or summaries of negotiations; studies; brochures; pamphlets; circulars; press releases; contracts; projections; drafts of any documents; working papers; marginal notations; photographs; drawings; checks (front and back); invoices, bills of lading, and other commercial papers; tape or video recordings; computer printouts; data processing input and output; microfilms; check stubs or receipts; and any other document or writing of whatever description. As used herein, "document" means the original and any nonidentical copy. Handwritten notations of any kind on the original or any copy of a document render same nonidentical.

6. "Communication" means any transmittal of information (in the form of facts, ideas, inquiries, photographs, drawings, or otherwise), and a document request for "communications" includes correspondence, telexes, facsimile transmissions, telecopies, electronic mail ("email"), all attachments and enclosures thereto, recordings in any medium of oral communications, telephone logs, message logs, and notes and memoranda concerning written or oral communications, and any translations thereof.

7. The terms "concerning" and "relating to" shall mean concerning, relating to, referring to, reflecting, describing, involving, evidencing, constituting, or touching upon in any way, in whole or in part.

8. "All," "each," and "any" shall be construed to mean all, each, every, and any, so as to be expansive as possible.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of each document request all documents that might otherwise be construed to be outside of its scope.

10. The term “include,” or any derivative thereof, means including without limitation.

11. “1992 Benefit Fund” means the UMWA 1992 Benefit Fund.

12. “1993 Benefit Fund” means the UMWA 1993 Benefit Fund established under Section 9702(a) of the Coal Industry Retiree Health Benefit Act of 1992, 26 U.S.C. § 9702(a).

13. “2002 NBCWA” refers to the National Bituminous Coal Wage Agreement of 2002 and any amendments thereto.

14. “Analysis” and “analyses” means any analysis whatsoever, including financial, economic, industry, investment, performance, risk, or other analyses whether in the form of narratives, models, or in any other form.

15. “Apogee” means Apogee Coal Company, LLC and its predecessor, Apogee Coal Company, Inc.

16. “ArcLight” means ArcLight Energy Partners Fund I L.P., ArcLight Energy Partners Fund II, L.P, and ArcLight Capital Partners, LLC and each and any of its present and former parents, subsidiaries, predecessors, partners, members, managed entities, affiliated entities, and joint ventures.

17. “Combined Fund” means the UMWA Combined Benefit Fund established under Section 9702(a) of the Coal Industry Retiree Health Benefit Act of 1992, 26 U.S.C. 9702(a).

18. “Contribution Agreement” means the Master Contribution Agreement entered into by Arch, ArcLight, Elliot, and Magnum, dated October 7, 2005.

19. “Eastern Operations” shall mean (i) any operations, reserves, or assets of Arch or Magnum in Appalachia or the Illinois Basin, or (ii) any asset of Arch or any Arch subsidiary that was actually distributed, or considered for distribution, as part of Magnum in the Sale.

20. “Elliott” means Mr. Timothy Elliott.

21. “Hobet” means Hobet Mining, LLC and its predecessor, Hobet Mining, Inc.

22. “Peabody” means each of Peabody Energy Corporation, its present and former parents, subsidiaries, predecessors, members, affiliated entities, and joint ventures.

23. “Petition Date” means July 9, 2012.

24. “Potential Eastern Spin-Off” means any potential transaction studied, analyzed, proposed, or considered by any person at Arch involving the spinoff, divestiture, or other disposition of subsidiaries or assets of Arch that included some or all of the Eastern Operations.

25. “PSA” means the Purchase and Sale Agreement entered into by Arch and Magnum, dated December 31, 2005, and any amendments thereto, including those dated April 27, 2006, and August 29, 2007.

26. “Rating Agency” means Moody’s Investors Service, Inc. and its affiliates, Standard & Poor’s Ratings Services and its affiliates, Fitch Ratings and its affiliates, or any other nationally recognized statistical rating organizations.

27. “Sale” refers to the Sale Preparation and the transaction or series of transactions implemented through the Contribution Agreement, the PSA, and other agreements, whereby Arch sold 100% of the membership interests of each of Robin Land, TC Sales, Catenary, Apogee, and Hobet as those terms are defined in Section 1.1 of the PSA.

28. “Sale Preparation” refers to the reorganization steps contemplated by the recitals of the Contribution Agreement and the PSA, including but not limited to the Arch

Reorganization Transactions and Trout Reorganization Transactions as defined in the Contribution Agreement, and other transactions taken by Arch for the purpose of preparing to spin-off or sell material assets.

29. "UMWA" means the United Mine Workers of America, including its locals, districts, and other affiliated entities.

INSTRUCTIONS

1. Each request shall be construed independently and not with reference to any other request for documents or communications.

2. Each document or communication is to be produced in its entirety, without abbreviation, redaction, or limitation.

3. These requests for documents or communications are intended to encompass each and every nonidentical copy and draft of the documents requested, as well as all documents which are in your actual or constructive possession, custody, or control, or are available upon your request.

4. These requests for production shall be deemed to be continuing in character. If, after making an initial response to these requests, you obtain or discover any further information, documents, or communications responsive to these requests, or become aware that a response is inaccurate, incomplete, or misleading, you are required to seasonably supplement or amend your response.

5. In producing documents, all documents that are physically attached to each other shall be produced in that form. If a document responsive to any request cannot be produced in full, it shall be produced to the extent possible with an explanation stating why production of the remainder is not possible. Documents that are segregated or separated from other documents,

whether by inclusion in binders, files, or sub-files or by the use of dividers, tabs, or any other method, shall be produced in that form. Documents shall be produced either in the manner and order in which they are maintained in the ordinary and usual course of business, or segregated and identified by the request to which they are primarily responsive.

6. You should produce documents or communications not otherwise responsive to this request if such documents or communications refer to, relate to, reflect, concern, or explain the documents or communications called for by the document request, or if such documents or communications are attached to documents or communications called for by the request.

7. If there are no documents or communications responsive to a particular request, you shall so state in writing.

8. If you object to any particular portion of any request herein, you are nevertheless required to produce documents in response to all other portions of such request as to which there is no objection.

9. If you assert a claim of attorney-client privilege, work product doctrine, or any other privilege or immunity with respect to any document request or portion thereof, the objection shall identify the nature of the privilege or immunity being claimed, and describe the nature of the documents not produced in a manner that will enable the Estate Fiduciaries to assess the claim of privilege or immunity, including: (a) the type of document (e.g., letter, memorandum, report); (b) the general subject matter of the document; (c) the date of the document; (d) the author(s) or sender(s) of the document; (e) the addressee(s) of the document; (f) each person who received a copy of the document; and (g) such other information as is necessary to identify the document.

10. If you maintain that any document or communication or any portion thereof responsive to any request herein has been discarded or destroyed in whole or in part, you shall produce the following information: (a) the date the document was discarded or destroyed; (b) the reason(s) the document was discarded or destroyed; (c) the person(s) who discarded or destroyed the documents; and (d) where the document was maintained prior to it being discarded or destroyed.

11. Whenever necessary to bring within the scope of any document request that which might otherwise be construed to be outside the scope: (a) the use of any verb in any tense shall be construed as the use of that verb in all other tenses, and (b) the use of a word in its singular form shall be deemed to include within its use the plural form and vice versa.

12. For documents kept in paper format, the following specifications should be used for their production:

- a. Scanned images should be produced as single-page black-and-white TIFF files in group IV format imaged at 300 dpi.
- b. Each filename must be unique and match the Bates number of the page. The filename should not contain any blank spaces and should be zero padded (for example ABC00000001).
- c. Media may be delivered on CDs, DVDs, USB drives, or External USB hard drives. Each media volume should have its own unique name and a consistent naming convention (for example ZZZ001 or SMITH001).
- d. Each delivery should be accompanied by an Opticon image link file (.OPT).
- e. A delimited text file (.DAT) that contains available fielded data should also be included, and at a minimum include Beginning Bates Number, Ending Bates Number, Number of Pages, Custodian, Document Location, and, where a document is maintained as part of an identified collection of documents (e.g., a named file, binder, drawer, or other repository), Name of Collection. The delimiters for that file should be the standard Concordance delimiters.
- f. To the extent that documents have been run through an Optical Character Recognition (OCR) software in the course of reviewing the documents for production, full text should also be delivered for each document. Text should

be delivered on a document level and may be included in an appropriately formatted text file (.TXT) that is named to match the first Bates number of the document.

13. For documents that originated in electronic format, the following specifications should be used for their production:
- a. Electronic documents should be produced in such fashion as to identify the location (i.e., the network file folder, hard drive, backup tape, or other location) where the documents are stored and, where applicable, the natural person in whose possession they were found, or on whose hardware device they reside or are stored. If the storage location was a file share or work group folder, that should be specified as well.
 - b. Attachments, enclosures, and/or exhibits to any parent documents should also be produced and proximately referenced to the respective parent documents containing the attachments, enclosures, and/or exhibits.
 - c. For standard documents, emails, and presentations originating in electronic form, documents should be produced as TIFF images using the same specifications as set forth in Instruction 12 above, with the following additional terms: Provide a delimited text file (using the delimiters detailed in Instruction 12 above) containing the following extracted metadata fields: (i) Beginning Production Number; (ii) Ending Production Number; (iii) Beginning Attachment Range; (iv) Ending Attachment Range; (v) Custodian; (vi) Original Location Path; (vii) Email Folder Path; (viii) Document Type; (ix) Author; (x) File Name; (xi) File Size; (xii) MD5 Hash; (xiii) Date Last Modified; (xiv) Date Created; (xv) Date Last Accessed; (xvi) Date Sent; (xvii) Date Received; (xviii) Recipients; (xix) Copyees; (xx) Blind Copyees; (xxi) Email Subject; (xxii) Path to Native File. Extracted Text (not OCR Text) should be produced as separate .TXT files.

14. When converting electronically stored information from its native format into its production format: (a) all tracked changes shall be retained in the manner in which they existed when the file was collected; (b) OLE Embedded files shall not be extracted as separate documents; (c) author comments shall be retained in the manner in which they existed when the file was collected; (d) hidden columns and rows shall be retained in the manner in which they existed when the file was collected; (e) presenter notes shall be retained in the manner in which they existed when the file was collected; (f) auto-populated fields, with the exception of auto-

populating “page number” fields, shall be replaced with text indicating the field name. For example, auto-populating “date” fields shall be replaced with the text “DATE,” and auto-populating “file path” fields shall be replaced with the text “Path” (or other similar text).

15. To the extent documents in a foreign language are produced, processing of such documents shall be Unicode-compliant.

16. With respect to documents containing redacted text, no text will be provided for the redacted portion of the documents. OCR will be provided for the unredacted portions of the documents.

17. Additional special processing of certain electronic documents will be as follows: Microsoft Excel spreadsheet files will not be converted to TIFF files and will be produced in native format and in the order that they were stored in the ordinary course of business. A placeholder TIFF image will be created, Bates numbered, and the produced Excel file will be renamed to match the Bates number on its corresponding placeholder page. The exception will be for redacted spreadsheets which will be produced in TIFF format as specified above. Images for the redacted spreadsheets will display the content in the same manner as if it were printed. The extractable metadata and text should be produced in the same manner as other documents that originated in electronic form.

18. Upon review, the Estate Fiduciaries may ask for certain other documents and/or databases that were initially produced in their petrified (TIFF or PDF) format to be produced in their native format in the event that the petrified version is not reasonably usable. The Estate Fiduciaries will identify any such documents by Bates numbers. The documents should be produced in their unaltered native format with an accompanying text delimited text file (using the delimiters described in Instruction 12 above) that contains the following fields: (a) Beginning

Production Number; (b) Ending Production Number; (c) Beginning Attachment Range; (d) Ending Attachment Range; (e) Path to Native File; (f) MD5 Hash Value.

19. Unless otherwise indicated, these requests cover the time period from January 1, 2003 to July 1, 2006.

20. The Estate Fiduciaries hereby reserve all rights to expand or supplement all requests for information and the documents and communications set forth herein.

REQUESTS FOR PRODUCTION

1. All documents and communications concerning the development, planning, design, or structure of Magnum or the Sale, or the objectives, purposes, or reasons for the Sale.
2. All documents and communications concerning any Potential Eastern Spin-Off.
3. All documents and communications regarding the creation of new corporate entities, dissolution of existing corporate entities, or conversion of existing corporate entities to other corporate forms in connection with the Sale, and the transfer of land or coal reserves, equity in entities holding land or coal reserves, or other assets included in the Eastern Operations, to or from any Arch subsidiary that was distributed or considered for distribution as part of Magnum in the Sale.
4. All documents and communications concerning the consideration, selection, or allocation of assets and liabilities to be included in Magnum, including any such documents or communications concerning such assets or liabilities that were ultimately retained by Arch.
5. All documents and communications concerning the book value, market value, or fair value of the actual or potential assets or liabilities of Magnum and the calculation thereof, including as calculated under GAAP.

6. All documents and communications regarding any analysis, estimate, evaluation, appraisal, or projection concerning the Eastern Operations (including, but not limited to, those transferred to Magnum). This includes, but is not limited to, analyses of revenue by coal type, revenue streams from coal and non-coal sources, intercompany revenue versus customer revenue, and breakdown of labor and operating costs; analyses of liabilities associated with each facility and each mine's permitted operating period and useful life; analyses or estimates of the value of proven and probable coal reserves and the commercial viability of mining such reserves; engineering reports for mining plans; environmental assessments; analyses of selenium discharges or selenium-related liabilities; analyses of fixed assets or equipment; reports of leases and royalties; analyses or estimates of asset retirement obligations, recorded and unrecorded contingent liabilities, off-balance sheet items, and impairments to or disposal of long-lived assets; and communications with auditors regarding the Eastern Operations.

7. All financial projections or forecasts for Arch (or any Arch subsidiaries) prepared from January 1, 2003 to July 1, 2006 and, in the case of projections or forecasts related to, affected by, or dependent upon contracts or dealings with Magnum, from January 1, 2003 to the present.

8. Documents and communications sufficient to show the historical contracted and spot sales of metallurgical and thermal coal produced at Eastern Operations.

9. All financial projections, forecasts, or business plans concerning Magnum, the Sale, or any Potential Eastern Spin-Off for any period after January 1, 2003, including, but not limited to, projections, forecasts, or business plans concerning the actual or anticipated financial impact of the Sale, the Contribution Agreement, the PSA, or any other agreement concerning the Sale on either Magnum or Arch.

10. All documents and communications concerning or relating to any solvency, capital adequacy, or valuation analysis regarding Magnum, the Sale, or any Potential Eastern Spin-Off, including, but not limited to, financial statements, balance sheets, financial projections, or other financial information referenced in or underlying any solvency or valuation analysis.

11. All documents and communications concerning any proposed or actual leases of coal reserves between Arch and any of its affiliates and Magnum and any of its affiliates.

12. Documents and communications sufficient to show all consolidated or consolidating financial statements, including balance sheets and cash and income statements, periodic reports, interim reports, profit and loss reports, or other financial reports, concerning the Eastern Operations. This includes, but is not limited to, financial statements by mine and entity.

13. With respect to all plans under which retiree medical or life insurance benefits were provided to retirees, or promised to employees, of Arch, Arch's Eastern Operations, or Magnum, all of the following: plan documents, summary plan descriptions, trust agreements for any related trusts, insurance contracts, service contracts with third party administrators, accountants' reports, actuarial reports, valuations for purposes of FAS 106, other cost estimates or projections, collective bargaining agreements covering the provision of such benefits, special communications related to early retirement incentive programs and reductions in force, and any complaints relating to elimination or attempted changes to any such benefits filed in any state or federal court.

14. All documents and communications relating to the evaluation, analysis, or appraisal of the Voluntary Employee Beneficiary Associations formed by Magnum or any of its subsidiaries, including those formed by Hobet and Apogee.

15. With respect to retiree pension benefits provided to retirees, or promised to employees, of Arch, Arch's Eastern Operations, or Magnum, all cost estimates or projections, including both the cost of future contributions and potential withdrawal liability.

16. All documents and communications concerning the employment of, or the compensation, benefits, or any indemnification provided to, Magnum's senior managers, directors, and officers following their hiring by Magnum.

17. All communications with, or documents exchanged with, the Securities and Exchange Commission, the New York Stock Exchange, or the Pension Benefit Guaranty Corporation regarding Magnum or the Sale.

18. All communications with, documents prepared by or for, opinion letters of, or records reflecting due diligence performed by any financial advisor, investment bank, auditor, lender, broker, consultant, or other professional retained by Arch or Magnum in connection with the Sale, any Potential Eastern Spin-Off, or any attempt to market or sell the Eastern Operations or any material portion of the entities, assets, and liabilities that were considered in relation to the Sale, or relating to the financial condition of Magnum, the Eastern Operations, or any material portion of the entities, assets, and liabilities that were considered in relation to the Sale.

19. Any agreements between Arch or Magnum, on the one hand, and any investment bank, financial advisor, auditor, lender, broker, consultant, or other professional, on the other hand, concerning or relating to the Sale.

20. All documents and communications concerning any presentation or roadshow conducted in connection with the Sale or any effort to market or sell the Eastern Operations or any material portion of the entities, assets, and liabilities ultimately included in the Sale.

21. All documents and communications relating to any evaluation or analysis of whether any of the transfers made or obligations incurred in connection with the Sale could be challenged or avoided as fraudulent conveyances under the Bankruptcy Code or state fraudulent conveyance law, or could otherwise create liability on the part of Arch.

22. All documents and communications reflecting the evaluation, negotiation, drafting, preparation, execution, or post-Sale interpretation of any agreement concerning any aspect of the Sale, including, but not limited to, the Contribution Agreement and the PSA, including a final, executed copy of each such agreement.

23. Documents and communications sufficient to show projections, forecasts, or analyses, prepared or consulted in connection with the Sale or any analysis of any Potential Eastern Spin-Off, of the price of, supply of, or demand for coal (thermal or metallurgical) for the period from January 1, 2003 to the Petition Date, including for coal produced in Northern Appalachia, Central Appalachia, Southern Appalachia, or the Illinois Basin, including any such analyses or projections of the impact of the price of natural gas, the percentage of U.S. electrical generation using coal, the volume of steel production, the volume of coke production, shipping prices or shipping price indices (such as the Baltic Dry Index), production capacity, exports, coal customer inventories, and environmental regulation on the price of, supply of, or demand for such coal.

24. Any and all collective bargaining agreements, retirement plans, pension plans, healthcare plans, insurance plans, or any other document providing for benefits for the employees of Magnum.

25. All documents and communications concerning any analysis, discussion, investigation, or evaluation, including actuarial analyses, present-value analyses, cost estimates

or projections (including the cost of future contributions or potential withdrawal liability), and estimates of the annual current portion, of Magnum's or the Eastern Operations' liabilities

relating to:

- a. postretirement healthcare obligations under the 2002 NBCWA, predecessor agreements, or "me-too" agreements;
- b. pension obligations under the 2002 NBCWA, predecessor agreements including the UMWA 1950 Pension Plan, the UMWA 1974 Pension Plan, or "me-too" agreements;
- c. other obligations under the 2002 NBCWA, predecessor agreements, or "me-too" agreements;
- d. the Coal Industry Retiree Health Benefit Act of 1992;
- e. retiree healthcare and other obligations relating to the Surface Mining Control and Reclamation Act of 1977 as amended, the Combined Fund, the 1992 Benefit Fund, or the 1993 Benefit Fund;
- f. the Federal Black Lung Benefits Act, the Black Lung Benefits Revenue Act of 1977, or the Black Lung Benefits Reform Act of 1977;
- g. workers' compensation;
- h. employees transferred to Magnum;
- i. retirees not covered by the Coal Act;
- j. the UMWA Cash Deferred Savings Plan and the Retiree Bonus Account Plan;
- k. any other plan under which retiree medical, life insurance, or pension benefits were provided to retirees, or promised to employees, of Eastern Operations;
- l. discharges of selenium or other hazardous substances; and
- m. asset retirement obligations, including reclamation obligations under the Surface Mining Control and Reclamation Act of 1977 or any state law and any obligations under the Comprehensive Environmental Response, Compensation, and Liability Act.

26. All documents and communications concerning Magnum's liabilities relating to the reclamation and environmental obligations of the Surface Mining Control and Reclamation Act of 1977 or any state law and any obligations under the Comprehensive Environmental

Response, Compensation and Liability Act, including those relating to enforcement actions, consent decrees, administrative orders on consent, settlement agreements, lawsuits or other inquiries, or administrative or judicial determinations, as well as any communications exchanged with the Environmental Protection Agency or any other governmental agency or the Ohio Valley Environmental Coalition, the West Virginia Highlands Conservancy, or any other environmental group pertaining to such obligations.

27. All documents and communications reflecting or relating to the accounting for, adjustments made on account of, or treatment of intercompany balances or intercompany liabilities in connection with the Sale.

28. All documents and communications reflecting or relating to any guarantee by Arch of any liability of Magnum.

29. All documents and communications concerning or reflecting any analysis, investigation, consideration, or discussion by, or concerning any presentations made to, the board of directors of Magnum or Arch, any committee of the board of directors of Magnum or Arch, or any management committee of Magnum or Arch from January 1, 2003 to the present of:

- a. of the Sale;
- b. the Contribution Agreement or the PSA;
- c. any Potential Eastern Spinoff;
- d. the financial condition of Magnum;
- e. offers or potential offers for the acquisition of any or all of the assets or liabilities comprising the Eastern Operations, including any communications with ArcLight, Elliott or entities formerly owned by Elliott, and Peabody;
- f. any selenium-related liability of Arch or Magnum; and
- g. any solvency analysis or opinion rendered with respect to Magnum.

30. All documents and communications, from January 1, 2003 through the present, concerning or containing information, analysis, or quantification regarding agreements by Magnum to supply coal to Arch or to current or former Arch customers.

Dated: New York, New York
September [●], 2013

DAVIS POLK & WARDWELL
LLP

KRAMER LEVIN NAFTALIS &
FRANKEL LLP

By: _____

Michael J. Russano
450 Lexington Avenue
New York, New York 10017
Tel: (212) 450-4000
Fax: (212) 701-5800

*Counsel for the Debtors and
Debtors in Possession*

By: _____

P. Bradley O'Neill
1177 Avenue of the Americas
New York, New York 10036
Tel: (212) 715-9100
Fax: (212) 715-8000

*Counsel for the Official Committee of
Unsecured Creditors*