

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

Chapter 11

Case No. 12-51502-659

(Jointly Administered)

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

**ANSWER TO INTERVENOR-
DEFENDANTS'
COUNTERCLAIMS**

Re: ECF No. 33

Plaintiff and Counterclaim-Defendant Robin Land Company, LLC (“**Robin Land**”), one of the affiliated debtor entities in the above-captioned chapter 11 case, by and through its undersigned attorneys, submits this answer (the “**Answer**”) to the Counterclaims dated February 19, 2013 (the “**Arch Counterclaims**”) of Intervenor-Defendants Arch Coal, Inc., Ark Land Company, and Ark Land KH, Inc. (“**Arch**,” “**Ark Land**,” and “**Ark Land KH**,” respectively, and together the “**Arch Intervenors**”).

NATURE OF COUNTERCLAIMS

1. Paragraph 32 of the Arch Counterclaims is a characterization of the Arch Intervenor's claims and purports to state legal conclusions as to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 32 of the Arch Counterclaims and refers to the Arch Counterclaims for a description of the relief that they purport to seek.

2. Robin Land denies the allegations set forth in paragraph 33 of the Arch Counterclaims, except admits that an Asset Purchase Agreement dated October 31, 1994 (the "**Asset Purchase Agreement**") was executed by and among STB, Eagle Minerals Company ("**Eagle**"), Guyan Mining Company, and Guyan Equipment Company (collectively, the "**Sellers**"), and Apogee Coal Company, LLC ("**Apogee**") and Ark Land (together with Apogee, the "**Purchasers**"), and refers to that agreement for its terms.

3. Paragraph 34 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 34 of the Arch Counterclaims, except admits that an Assignment and Assumption of Leases dated October 31, 1994 (the "**Guyan Lease Assignment**") was executed by and among STB, Eagle, and Ark Land; that a Liabilities Undertaking Agreement dated October 31, 1994 (the "**Liabilities Undertaking Agreement**") was executed by and among the Sellers and Ark Land; that a Combined, Amended and Restated Coal Lease dated October 31, 1994 (the "**Lawson Heirs Lease**") was executed by and among Lawson Heirs, Inc. (the "**Lawson Heirs**") and Ark Land; that a Combined, Amended and Restated Coal Lease dated October 31, 1994 (the "**Kelly-Hatfield Lease**," and together with the Lawson Heirs Lease, the "**Leases**") was executed by and among Kelly-Hatfield Land Company

(“**Kelly-Hatfield**”) and Ark Land; and that an Overriding Royalty Agreement dated October 31, 1994 (the “**STB Override**”) was executed by and among Ark Land and STB, and refers to those agreements and to the Asset Purchase Agreement for their terms.

4. Paragraph 35 of the Arch Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 35 of the Arch Counterclaims, except refers to the Asset Purchase Agreement, the STB Override, the Guyan Lease Assignment, and the Leases for their terms.

5. Robin Land denies the allegations set forth in paragraph 36 of the Arch Counterclaims except admits that an Assignment and Assumption Agreement dated December 30, 2005 (the “**Ark Assignment Agreement**”) was executed by and among Ark Land and Robin Land, that a Partial Assignment and Assumption of Lease dated December 31, 2005 (though executed December 30, 2005) (the “**Initial Partial Assignment**”) was executed by and among Ark Land and Robin Land, and that an Amended and Restated Partial Assignment and Assumption of Lease dated May 22, 2007 (the “**Amended Partial Assignment**”) was executed by and among Ark Land, Robin Land, and Ark Land KH, and refers to the agreements for their terms.

6. Robin Land denies the allegations set forth in paragraph 37 of the Arch Counterclaims.

7. Paragraph 38 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 38 of the Arch Counterclaims.

8. Paragraph 39 of the Arch Counterclaims purports to characterize the nature of the claims asserted and the relief sought, and accordingly no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 39 of the Arch Counterclaims and refers to the Arch Counterclaims for a description of the relief that they purport to seek.

JURISDICTION AND VENUE

9. Paragraph 40 of the Arch Counterclaims purports to state a legal conclusion to which no response is required.

10. Paragraph 41 of the Arch Counterclaims purports to state a legal conclusion to which no response is required.

PARTIES

11. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 42 of the Arch Counterclaims, except admits that a Purchase and Sale Agreement dated December 31, 2005 (the “**Magnum PSA**”) was executed by and among Arch Coal, Inc., and Magnum Coal Company, and refers to that agreement for its terms.

12. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in the first sentence of paragraph 43 of the Arch Counterclaims. Robin Land denies the allegations set forth in the second sentence of paragraph 43 of the Arch Counterclaims and refers to the Initial Partial Assignment, the Amended Partial Assignment, the Ark Assignment Agreement, and the Leases for their terms.

13. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in the first sentence of paragraph 44 of the Arch Counterclaims. Robin Land denies the allegations set forth in the second sentence of paragraph 44, except admits that Ark

Land KH is the current lessor under the Kelly-Hatfield Lease and refers to the Amended Partial Assignment and the Kelly-Hatfield Lease for their terms.

14. Robin Land denies the allegations set forth in paragraph 45 of the Arch Counterclaims, except admits that it is a Delaware limited liability company and that Robin Land and its affiliated debtor entities commenced voluntary cases under chapter 11 of the Bankruptcy Code that are being jointly administered in this Court under case no. 12-51502-659, and refers to the terms of the Ark Assignment Agreement, the Initial Partial Assignment, the Amended Partial Assignment, and the Leases for their terms.

15. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 46 of the Arch Counterclaims.

FACTUAL BACKGROUND

16. Robin Land denies the allegations set forth in paragraph 47 of the Arch Counterclaims and refers to the STB Override, the Ark Assignment Agreement, the Initial Partial Assignment, and the Amended Partial Assignment for their terms.

17. Paragraph 48 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 48 of the Arch Counterclaims and refers to the STB Override for its terms.

18. Paragraph 49 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 49 of the Arch Counterclaims.

19. Robin Land denies the allegations set forth in paragraph 50 of the Arch Counterclaims and refers to the Asset Purchase Agreement for its terms.

20. Robin Land denies the allegations set forth in paragraph 51 of the Arch Counterclaims, except admits that the language within the quotation marks is an excerpt from the Asset Purchase Agreement and refers to the Asset Purchase Agreement for its complete terms.

21. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in the first sentence of paragraph 52 of the Arch Counterclaims, except admits that the STB Override, the Guyan Lease Assignment, the Liabilities Undertaking Agreement, and the Leases were all dated October 31, 1994. The second sentence of paragraph 52 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in the second sentence of paragraph 52 of the Arch Counterclaims and refers to the STB Override for its terms.

22. Paragraph 53 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 53 of the Arch Counterclaims, except admits that the language within the quotation marks is an excerpt from the STB Override and refers to the STB Override for its complete terms.

23. Paragraph 54 of the Arch Counterclaims purports to state legal conclusions to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 54 of the Arch Counterclaims and refers to the STB Override for its terms.

24. Paragraph 55 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the

allegations set forth in paragraph 55 of the Arch Counterclaims and refers to the Asset Purchase Agreement and the STB Override for their terms.

25. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in footnote 7 to paragraph 56. Robin Land otherwise denies the allegations set forth in paragraph 56 of the Arch Counterclaims and refers to the STB Override for its terms.

26. Paragraph 57 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 57 of the Arch Counterclaims and refers to the STB Override for its terms.

27. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 58 of the Arch Counterclaims.

28. Robin Land denies the allegations set forth in paragraph 59 of the Arch Counterclaims and refers to the Magnum PSA for its terms.

29. Paragraph 60 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 60 and refers to the Ark Assignment Agreement for its terms.

30. Robin Land denies the allegations set forth in paragraph 61 of the Arch Counterclaims, except admits that the language within the quotation marks is an excerpt from the Initial Partial Assignment and refers to the Initial Partial Assignment for its complete terms.

31. Paragraph 62 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 62 of the Arch Counterclaims and refers to the Ark Assignment Agreement and the Initial Partial Assignment for their terms.

32. Robin Land denies the allegations set forth in paragraph 63 of the Arch Counterclaims, except admits that it complied with the terms of the STB Override prior to the filing of its bankruptcy petition.

33. Robin Land denies the allegations set forth in paragraph 64 of the Arch Counterclaims, except admits that Ark Land assigned an additional portion of the Kelly-Hatfield Lease to Robin Land pursuant to the Amended Partial Assignment and refers to the Amended Partial Assignment for its complete terms.

34. Robin Land denies the allegations set forth in paragraph 65 of the Arch Counterclaims and refers to the Amended Partial Assignment for its terms.

35. Paragraph 66 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 66 of the Arch Counterclaims and refers to the Amended Partial Assignment for its terms.

36. Paragraph 67 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 67 of the Arch Counterclaims and refers to the Amended Partial Assignment for its terms.

37. Robin Land lacks knowledge or information sufficient to admit or deny the allegations set forth in the first sentence of paragraph 68 of the Arch Counterclaims. The second sentence purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in the second sentence of paragraph 68 of the Arch Counterclaims and refers to the STB Override for its terms.

38. Robin Land denies the allegations set forth in paragraph 69 of the Arch Counterclaims, except admits that it complied with the terms of the STB Override prior to the filing of its bankruptcy petition.

39. Paragraph 70 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 70 of the Arch Counterclaims.

40. Paragraph 71 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 71 of the Arch Counterclaims and refers to the Leases, the Ark Assignment Agreement, the Amended Partial Assignment, the Magnum PSA and the Asset Purchase Agreement for their terms.

41. Paragraph 72 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 72 of the Arch Counterclaims and refers to the Leases for their terms, except admits that on January 15, 2013, Robin Land and its affiliated debtors filed a Motion for Authorization to (i) Assume or (ii) Reject Unexpired Leases of Nonresidential Real Property (the “**Motion for Authorization**”) and refers to the Motion for Authorization for its terms.

COUNT I

(Declaratory Judgment)

42. Robin Land repeats and re-alleges its responses to paragraphs 32 through 72 of the Arch Counterclaims as if fully set forth in this paragraph.

43. Paragraph 74 of the Arch Counterclaims purports to state a legal conclusion to which no response is required.

44. Paragraph 75 of the Arch Counterclaims purports to characterize the nature of the claim asserted and the relief sought, and accordingly no response is required.

COUNT II

(Declaratory Judgment)

45. Robin Land repeats and re-alleges its responses to paragraphs 32 through 75 of the Arch Counterclaims as if fully set forth in this paragraph.

46. Paragraph 77 of the Arch Counterclaims purports to state a legal conclusion to which no response is required.

47. Paragraph 78 of the Arch Counterclaims purports to characterize the nature of the claim asserted and the relief sought, and accordingly no response is required.

COUNT III

(Alleged Post-Petition Breach of Contract)

48. Robin Land repeats and re-alleges its responses to paragraphs 32 through 78 of the Arch Counterclaims as if fully set forth in this paragraph.

49. Paragraph 80 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 80 of the Arch Counterclaims and refers to the relevant agreements for their terms.

50. Paragraph 81 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 81 of the Arch Counterclaims.

51. Robin Land denies the allegations in the first sentence of paragraph 82 of the Arch Counterclaims, except admits that the STB Override is not an executory contract under 11 U.S.C. § 365 and that Robin Land is not authorized to pay it. The second sentence of the paragraph purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in the second sentence of paragraph 82 of the Arch Counterclaims.

52. Paragraph 83 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 83 of the Arch Counterclaims.

COUNT IV

(Alleged Unjust Enrichment / Constructive Trust)

53. Robin Land repeats and re-alleges its responses to paragraphs 32 through 83 of the Arch Counterclaims as if fully set forth in this paragraph.

54. Paragraph 85 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 85 of the Arch Counterclaims and refers to the relevant agreements for their terms.

55. Robin Land denies the allegations in the first sentence of paragraph 86 of the Arch Counterclaims, except admits that the STB Override is not an executory contract under 11 U.S.C. § 365 and that Robin Land is not authorized to pay it. The second and third sentences of the paragraph purport to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in the second and third sentences of paragraph 86 of the Arch Counterclaims.

56. Paragraph 87 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 87 of the Arch Counterclaims.

57. Paragraph 88 of the Arch Counterclaims purports to state a legal conclusion to which no response is required. To the extent that a response is required, Robin Land denies the allegations set forth in paragraph 88 of the Arch Counterclaims.

GENERAL DENIAL

58. Except as otherwise expressly admitted above, Robin Land denies every allegation contained in paragraphs 32 through 88 of the Arch Counterclaims, including without limitation, the headings, subheadings, and footnotes contained in the Arch Counterclaims. Robin Land expressly reserves the right to amend and/or supplement its Answer.

AFFIRMATIVE DEFENSES

59. Robin Land asserts the following affirmative defenses without waiving any requirement that the Arch Intervenors meet their burden of proof with respect to each and every element of their claims.

First Affirmative Defense

60. The Arch Counterclaims, and each and every claim stated therein, fail to state a claim upon which relief, either legal or equitable, can be granted.

Second Affirmative Defense

61. The Arch Counterclaims are barred by the doctrines of estoppel, laches, ratification, and acquiescence.

Third Affirmative Defense

62. The Arch Counterclaims are barred by waiver.

Fourth Affirmative Defense

63. The Arch Counterclaims are barred by the terms of the agreements.

Fifth Affirmative Defense

64. The Arch Counterclaims are barred because the STB Override is not an executory contract for purposes of 11 U.S.C. § 365.

Sixth Affirmative Defense

65. The Arch Counterclaims are barred because of an absence of damages.

Seventh Affirmative Defense

66. The Arch Counterclaims are barred for failure to mitigate damages.

Eighth Affirmative Defense

67. The Arch Counterclaims are barred by the doctrine of unclean hands.

Ninth Affirmative Defense

68. The Arch Counterclaims are barred because of lack of standing.

Reservation of Rights

69. Robin Land reserves the right to assert additional affirmative defenses that may become available or apparent upon further investigation and reserves the right to amend its Answer to the Arch Counterclaims as appropriate.

Prayer for Relief

WHEREFORE, Robin Land respectfully requests that judgment be entered in its favor
as follows:

- (i) Dismissing the Arch Counterclaims;
- (ii) Entering a declaratory judgment (a) that the STB Override is a non-executory contract for purposes of section 365 of the Bankruptcy Code, and (b) that the STB Override is not integrated with, or is severable from, any other agreement;
- (iii) Awarding costs, expenses, and attorneys' fees to Robin Land; and
- (iv) Granting to Robin Land such other relief as the Court deems just and proper.

Dated: New York, New York
April 2, 2013

ROBIN LAND COMPANY, LLC

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