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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)**

**SURETIES' PROPOSED POST-HEARING FINDINGS OF FACT  
ON MOTION TO TRANSFER JOINTLY ADMINISTERED CASES TO  
SOUTHERN DISTRICT OF WEST VIRGINIA**

Argonaut Insurance Company, Indemnity National Insurance Company, US Specialty Insurance, and Westchester Fire Insurance Company (together, "Sureties"), through counsel and as directed by the Court, submit these Proposed Findings of Fact related to the (i) Motion of the United Mine Workers of America to Transfer the Case to the Southern District of West Virginia, (ii) Sureties' Motion to Transfer Jointly Administered Cases to Southern District of West Virginia, and (iii) Motion of the United States Trustee to Transfer in the Interest of Justice.

1. Debtors state they have approximately \$3.6 billion dollars in total assets. (Declaration of Mark. N Schroeder Pursuant to Local Bankruptcy Rule 1007-2 [Doc. No. 4], hereinafter “Schroeder First Day Declaration,” at page 8, Schedule 3).
2. Of Debtors’ \$3.6 billion in total assets, \$2.9 billion consist of “Land and coal interests.”  
Id.
3. Debtors hold a total of 1,931,966,501 tons of coal reserves. (Schroeder First Day Declaration, at page 71, Schedule 6).
4. Of Debtors’ total 1.9 billion tons of coal reserves, 1.2 billion are leased, approximately 919 million of which are leased in West Virginia. (Schroeder First Day Declaration, pages 67 – 71, Schedule 6).
5. The Debtors conduct mining operations in at least twelve active mining complexes. At least nine of those complexes are located in West Virginia, and three are located in Kentucky. (Sureties’ Motion to Transfer Jointly Administered Cases to Southern District of West Virginia [Doc. No. 287], Exhibit A [Doc. No. 287-1], Excerpt of Amended 10-K/A filed on May 8, 2012, hereinafter “10-K/A,” at pages 10 - 14).
6. Debtors refer to their operations in West Virginia as their operations in “Appalachia.” (10-K/A, page 10).
7. Of the over 31 million tons of coal sold by Debtors in 2011, over 77% (23.9 million tons) of those sold came from Debtors’ Appalachian operations in West Virginia, and 71% (22.3 million tons) were produced from Debtors’ Appalachia operations in West Virginia. (10-K/A, page 11).

8. The West Virginia Department of Environmental Protection (“WVDEP”) has issued approximately 264 mining permits for which Debtors are the permittee or operator in West Virginia. (Sureties’ Reply Memorandum in Further Support of Motion to Transfer Jointly Administered Cases to Southern District of West Virginia [Doc. No. 502], Exhibit A, Declaration of Roland B. Doss, [Doc. No. 502-1], (hereinafter “Doss Declaration”), at ¶ 6).

9. The Paint Creek complex is one of Debtors’ West Virginia mining complexes. (10-K/A, page 13).

10. Debtors hold or operate approximately 57 permits in the vicinity of the Paint Creek complex. (Doss Declaration, ¶ 8).

11. The Paint Creek complex is typical of West Virginia consolidated mining complexes. It contains surface and underground mining operations, drainage control structures, on-bench and instream sediment ponds, valley fills, highwalls, active pits, reclamation areas, haulage and access roads, preparation plants, conveyor belts, refuse disposal area, a slurry impoundment and a railroad trans-loading facility. (Doss Declaration, ¶9).

12. The Paint Creek complex includes approximately 28 surface mining permits, 10 underground mining permits, and 19 haulroad, refuse facility, or “other” permits. Located within these permitted areas are approximately 30 valley fills that are constructed or permitted for construction, two preparation plants, two refuse disposal areas including one slurry impoundment, one railroad loadout facility, and numerous miles of haulage and access road. (Doss Declaration, ¶ 10).

13. The permits in the vicinity of the Paint Creek complex authorize disturbance of more than 15,100 acres. (Doss Declaration, ¶ 11).

14. Surface mining operations typically remove coal by exposing single or multiple coal seams through the process of using explosives and heavy machinery to remove the rock layers above and separating the coal seams (“overburden”). Overburden removal activities can generate millions of cubic yards of loose overburden, as well as form vertical walls of rock (“highwalls”). These highwalls may be from tens of feet to hundreds of feet tall and progress across the operation as mining advances. As mining nears conclusion, all highwalls must be eliminated by either further excavation or by backfilling and reclamation. As part of the final highwall reclamation process, overburden must be hauled or pushed back against the highwalls to achieve an approximate original contour or slope. Once a surface mine permit is reclaimed, it must be monitored and maintained for a minimum of five years - including documentation that water quality from the site meets applicable state standards - until all reclamation bonds can be released. (Doss Declaration, ¶ 4).

15. Surface mining operators are required to construct numerous sediment control structures to manage stormwater and runoff from the disturbed area, and to prevent pollution from affecting receiving streams in the vicinity of the mine. Discharges from these drainage control structures are subject to extensive monitoring requirements and must meet applicable state water quality standards under site-specific state-issued NPDES permits. Drainage structures on surface mines in West Virginia often include on-bench sediment ditches, on-bench ponds, instream ponds, and conveyance ditches. (Doss Declaration, ¶ 4).

16. Refuse facilities are portions of the mining complex where refuse or reject from the coal cleaning process is placed for permanent disposal. Coarse refuse material is typically belted or trucked to a dry refuse disposal pile or can be used to construct a refuse dam behind which slurry containing fine refuse will be pumped. These “slurry impoundments” often grow to hundreds of

feet in height as more refuse is added. In addition to the permits issued by WVDEP, these impoundments are subject to the jurisdiction of the federal Mine Safety and Health Administration and the West Virginia Office of Miner's Health and Training and are required to meet stringent engineering and monitoring requirements. (Doss Declaration, ¶ 4).

17. Aerial photographs of operations in the vicinity of Debtors' Paint Creek complex exhibit a variety of surface disturbance associated with mining, including valley fills, sediment ponds, open highwalls, refuse disposal area, and slurry impoundment. (Doss Declaration, ¶¶ 12 – 15 and Exhibits B through F).

18. Activity and disturbance of the Paint Creek complex is similar to that of other consolidated mining complexes in West Virginia. (Doss Declaration, ¶ 16).

19. Debtors report a total of \$737,644,000 in asset retirement obligations associated with reclamation obligations (\$297,611,000) and with selenium water treatment obligations (\$440,033,000). (Debtors' Form 10-Q, filed August 9, 2012, at page 19 (appearing in the record at Doc. No. 416-1)).

20. Debtors have been subject to litigation in West Virginia regarding selenium. (10-Q, at pages 20).

21. Debtors are parties to a court-approved consent decree in the U.S. District Court for the Southern District of West Virginia regarding allegations of selenium pollution from Debtors' operations. (Sureties' Motion to Transfer Jointly Administered Cases to Southern District of West Virginia [Doc. No. 287], Exhibit B [Doc. No. 287-2], Consent Decree in Ohio Valley Environmental Coalition v. Patriot Coal Corp., Case No. 11-CV-00115 (S.D. W.V. Mar 15, 2012).

22. Argonaut Insurance Company (“Argonaut”) has issued approximately \$26,480,455 in reclamation and other surety bonds on behalf of one or more of the Debtor entities. (Schroeder First Day Declaration, pages 13 – 66, Schedule 5).
23. Indemnity National Insurance Company (“Indemnity National”) has issued approximately \$14,304,558 in reclamation and other surety bonds on behalf of one or more of the Debtor entities. (Schroeder First Day Declaration, pages 13 – 66, Schedule 5).
24. US Specialty Insurance (“US Specialty”) has issued approximately \$24,786,440 in reclamation and other surety bonds on behalf of one or more of the Debtor entities. (Schroeder First Day Declaration, pages 13 – 66, Schedule 5).
25. Westchester Fire Insurance Company (“Westchester Fire”) has issued approximately \$4,153,725 in reclamation and other surety bonds on behalf of one or more of the Debtor entities. (Schroeder First Day Declaration, pages 13 – 66, Schedule 5).
26. Bank of America has issued a letter of credit to Argonaut in the amount of approximately \$11,775,000. (Schroeder First Day Declaration, page 12, Schedule 5).
27. Bank of America has issued a letter of credit to Indemnity National in the amount of approximately \$5,778,000. (Schroeder First Day Declaration, page 12, Schedule 5).
28. Bank of America has issued a letter of credit to US Specialty in the amount of approximately \$14,871,864. (Schroeder First Day Declaration, page 12, Schedule 5).

Lexington, Kentucky

Dated: October 5, 2012

By: /s/ William T. Gorton III  
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Westchester Fire Insurance Company*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served on October 5, 2012, electronically in accordance with the method established under this Court's CM/ECF Administrative Procedures.

Dated: October 5, 2012  
Lexington, Kentucky

/s/ Chrisandrea L. Turner  
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