

**Objection Deadline: July 26, 2012 at 4:00 pm (prevailing Eastern Time)**  
**Hearing Date (if necessary): August 2, 2012 at 2:00 pm (prevailing Eastern Time)**

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*Proposed Counsel to the Debtors  
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:**

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

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 12-12900 (SCC)**

**(Jointly Administered)**

**DEBTORS' MOTION FOR APPROVAL OF PROCEDURES FOR THE  
REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND  
FOR THE ABANDONMENT OF PERSONAL PROPERTY**

Patriot Coal Corporation and its subsidiaries that are debtors and debtors  
in possession in these proceedings (collectively, the "**Debtors**") respectfully represent:

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<sup>1</sup> 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.

**Relief Requested**

1. By this motion (the “**Motion**”), the Debtors seek an order in the form attached hereto as Exhibit A establishing procedures (the “**Procedures**”) pursuant to (a) sections 105(a) and 365(a) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 6006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for the rejection of executory contracts (the “**Contracts**”) and unexpired leases and subleases (the “**Leases**”) and (b) sections 105(a) and 554(a) of the Bankruptcy Code for the abandonment of personal property associated with rejected Leases (the “**Expendable Property**”).

2. On July 16, 2012, this Court entered an Order Establishing Certain Notice, Case Management and Administrative Procedures [ECF No. 84] (the “**Case Management Order**”). If the Procedures conflict with the Case Management Order, the Procedures shall control with respect to the rejection of executory contracts and unexpired leases and the abandonment of Expendable Property. In all other circumstances, except as otherwise provided by separate order, the Case Management Order shall govern.

3. In addition, the Debtors request that this Court order that (a) if any Debtor has deposited monies as a security deposit or pursuant to another similar arrangement with a counterparty (a “**Counterparty**”) or lessor or sublessor (a “**Lessor**”) to a Contract or Lease, that such Counterparty or Lessor not be permitted to set off or otherwise use the monies from such deposit or other arrangement without prior order of the Court and (b) the holder of any claim for damages arising from the rejection of any Contract or Lease or abandonment of Expendable Property pursuant to these Procedures be required to file a proof of claim on account of such claim against the Debtors in accordance with

any order pursuant to Bankruptcy Rule 3003(c) establishing a deadline by which claims arising before the Petition Date (as defined below) must be filed (the “**Bar Date**”), on or before the later of (i) the Bar Date and (ii) 30 days after the effective date of the rejection or abandonment to which the claim relates, and that absent a timely filing, such claim will be irrevocably barred.

### **Background and Jurisdiction**

4. On July 9, 2012 (the “**Petition Date**”), each Debtor commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code. 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.

5. These chapter 11 cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and the Court’s Joint Administration Order entered on July 10, 2012 [ECF No. 30].

6. Additional information about the Debtors’ businesses and the events leading up to the Petition Date can be found in the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed on July 9, 2012 [ECF No. 4], which is incorporated herein by reference.

7. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and may be determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Basis for Relief**

8. The Debtors are party to a number of Contracts and Leases, including leases for equipment, office space, personal property, real property and coal reserves as

well as contracts to sell coal and to purchase coal. In addition, the Debtors are party to a number of Contracts to purchase, among other things, roof control products and other materials that support their operations. Each of these Contracts and Leases represents a liability for the Debtors. Some of these liabilities far outweigh the benefit they provide to the Debtors' estates, while others are balanced by their attendant benefit.

9. With the commencement of these chapter 11 cases, the Debtors' personnel and professionals will be focusing substantial attention on furthering the bankruptcy process and formulating a business plan and a plan of reorganization. In doing so, as an ongoing component of the chapter 11 process, the Debtors will be actively evaluating the economic value of each Contract and Lease. Where appropriate, the Debtors will (and, indeed, have already begun to) work diligently with their Counterparties and Lessors to negotiate new agreements that are more compatible with the Debtors' current needs and resources. However, with respect to some Contracts and Leases, the Debtors will inevitably not be able to structure a suitable arrangement, and, for these Contracts and Leases, rejection will be the only appropriate option.

10. The Procedures expedite the rejection process by eliminating the necessity for a hearing on uncontested rejections of Contracts and Leases and abandonment of Expendable Property. However, the Procedures fully protect and preserve the rights of Counterparties and Lessors to receive sufficient notice of the Debtors' intentions and to have an opportunity to object and be heard on the rejections proposed.

**The Procedures**

11. The Debtors submit that the following Procedures should be implemented in connection with the rejection of Contracts and Leases and the abandonment of Expendable Property.

**A. Notice of Rejection and Abandonment**

12. Once the Debtors have determined to reject a Contract or Lease or abandon Expendable Property, the Debtors may prepare a written notice (the “**Notice**”) of the Debtors’ intent to reject such Contract or Lease or abandon such Expendable Property. The Notice, substantially in the form attached hereto as Exhibit B, will include the following information: (i) the identity of the Debtor parties to each of the Contracts and Leases proposed to be rejected, (ii) the identity of the known counterparties to each such Contract and Lease, (iii) for any Leases of nonresidential real property proposed to be rejected, the location of the real property at issue, (iv) for Expendable Property proposed to be abandoned, a description and the location of the Expendable Property and to whom such property will be abandoned and (v) the date the rejection of each Contract or Lease will become effective.

13. The Debtors will file the Notice with the Court and serve the Notice, along with a copy of the order approving this Motion on (a) the known counterparties to the Contracts and Leases to be rejected, (b) any additional parties entitled to notice pursuant to the terms of the rejected Contracts and Leases, (c) for Expendable Property, all parties known to the Debtors as having a direct interest in any Expendable Property proposed to be abandoned, (d) the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”), (e) attorneys for the administrative agents for the

Debtors' postpetition lenders and (f) attorneys for any official committee of unsecured creditors then appointed in these cases. The Debtors submit that, pursuant to Bankruptcy Rules 6006, 6007, and 9014, notice of rejection of Contracts or Leases and abandonment of Expendable Property to the foregoing parties shall be sufficient.

**B. Objections**

14. The deadline to file an objection (“**Objection**”) to the proposed rejection of a Contract or Lease or the abandonment of any Expendable Property will be 4:00 p.m. (prevailing Eastern Time) on the date that is 10 days from the date the Notice is filed and served (the “**Objection Deadline**”). The Objection Deadline may be extended with the written consent of the Debtors. The Debtors submit that the foregoing satisfies Local Bankruptcy Rules 6006-1(a).

15. An Objection will be considered timely only if, on or prior to the Objection Deadline, it is (a) filed with the Court and (b) served upon and actually received by (i) the U.S. Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Elisabetta G. Gasparini and Paul K. Schwartzberg, (ii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick, (iii) attorneys for the administrative agents for the Debtors' postpetition lenders, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso and (iv) the attorneys for any official committee of unsecured creditors then appointed in these cases.

16. Unless otherwise ordered by the Court, a reply to an Objection may be filed with the Court and served in accordance with these Procedures on or before 12:00 p.m. (prevailing Eastern Time) on the day that is two days before the date of the applicable hearing.

**C. Process for Entry of an Order and Effectiveness of Rejection**

17. As soon as practicable after the passage of the Objection Deadline, the Debtors will submit to the Court a proposed order (the “**Proposed Order**”), which Proposed Order may be entered with no further notice or opportunity to be heard afforded to any party. The Proposed Order will include the following, as applicable: (i) for rejection of Contracts and Leases where no Objection is filed and the applicable deadline to file an Objection has passed, the Proposed Order will provide that the Contracts and Leases are rejected as of the date set forth in the applicable Notice for each Contract or Lease or as otherwise agreed by the Debtors and the applicable counterparty to such Contract or Lease, (ii) for the abandonment of Expendable Property, where no Objection is filed and the applicable deadline to file an Objection has passed, the Proposed Order will provide that the abandonment of Expendable Property is effective as of the effective date of the rejection of the Lease associated with the abandoned Expendable Property and that, unless otherwise specified, the Expendable Property will be abandoned to the Lessor under the Lease associated with such Expendable Property and (iii) for the rejection of Contracts and Leases and abandonment of Expendable Property where an Objection has been filed and resolved by the parties, the Proposed Order will provide for the rejection of the Contracts and Leases and the abandonment of the Expendable Property in accordance with the agreement of the parties.

18. If an Objection has been timely filed to the proposed rejection of a Contract or Lease or abandonment of Expendable Property, and such Objection has not been resolved by the parties, the Debtors may schedule the matter for an omnibus hearing; *provided, however*, that the filing of any such Objection will not delay the entry of an order authorizing the rejection of any Contract or Lease or the abandonment of any Expendable Property set forth in a Notice for which no Objection has timely been filed. If, after a hearing, the disputed rejection or abandonment is approved by the Court, the Contract or Lease subject to the Objection will be deemed rejected as of the date set forth in the applicable Notice for any such disputed Contract or Lease (or as otherwise agreed to by the parties), and the abandonment of Expendable Property subject to the Objection will be deemed effective as of the effective date of the rejection of the Lease associated with the abandoned Expendable Property.

**D. Set Off**

19. Consistent with the limitations imposed by section 362 of the Bankruptcy Code, if any Debtor has deposited monies with a Counterparty or Lessor to a Contract or Lease as a security deposit or pursuant to another similar arrangement, such Counterparty or Lessor will not be permitted to set off or otherwise use the monies from such deposit or other arrangement without prior order of the Court.

**E. Filing Proofs of Claim**

20. The holder of any claim for damages arising from the rejection of any Contract or Lease or abandonment of Expendable Property must timely file a proof of claim on account of such claim against the Debtors in accordance with any order pursuant to Bankruptcy Rule 3003(c) establishing a Bar Date, on or before the later of (i) the Bar

Date or (ii) 30 days after the effective date of the rejection or the abandonment to which the claim relates, and, absent a timely filing, such claims will be irrevocably barred.

**F. Actions in Furtherance of the Procedures and Alternatives to the Procedures**

21. The Debtors seek authorization to execute and deliver all instruments and documents and take such other actions as may be necessary or appropriate to implement and effectuate the Procedures as approved by this Court. The Debtors also seek confirmation that entry of the Proposed Order shall be without prejudice to the Debtors' rights to seek further, other, or different relief regarding the Contracts and Leases or abandonment of Expendable Property.

**Approval of the Procedures is in the Best  
Interests of the Debtors and their Estates and Creditors**

22. Section 365(a) of the Bankruptcy Code provides in relevant part that a debtor in possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." The standard applied to determine whether the rejection of an executory contract or unexpired lease should be authorized is the "business judgment" standard. *See Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.)*, 4 F.3d 1095, 1099 (2d Cir. 1993), *cert. dismissed*, 511 U.S. 1026 (1994); *see also Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1311 (5th Cir. 1985) ("More exacting scrutiny would slow the administration of the debtor's estate and increase its cost, interfere with the Bankruptcy Code's provision for private control of administration of the estate, and threaten the court's ability to control a case impartially."); *In re Helm*, 335 B.R. 528, 538 (Bankr. S.D.N.Y. 2006) ("The decision to assume or reject an executory contract is within the sound business judgment of the debtor-in-possession . . ."); *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 520 (1984); *In*

*re Roman Crest Fruit, Inc.*, 35 B.R. 939, 949 (S.D.N.Y. 1983). The business judgment standard is satisfied when a debtor determines that rejection will benefit the estate. *See In re Child World, Inc.*, 142 B.R. 87, 89 (Bankr. S.D.N.Y. 1992); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 673 (Bankr. S.D.N.Y. 1989); *In re TS Indus., Inc.*, 117 B.R. 682, 685 (Bankr. D. Utah 1990); *In re Del Grosso*, 115 B.R. 136, 138 (Bankr. N.D. Ill. 1990).

23. The Debtors are seeking approval of the Procedures to facilitate the rejection of Contracts and Leases that are not benefiting the estates and cannot profitably be assumed and assigned to a third party. This streamlined rejection process will allow the Debtors to reduce their costs as soon as practicable after determining that certain Contracts and Leases are not providing value to their estates. The Debtors submit that the immediate reduction in the estates' administrative costs that will result from the implementation of the Procedures reflects the Debtors' exercise of sound business judgment.

24. The Procedures provide that rejection will be effective as of the date set forth in the applicable Notice for each Contract or Lease unless otherwise agreed, in writing, by the Debtors and the counterparty to the Contract or Lease. Abandonment of the Expendable Property will be effective as of the effective date of rejection of the associated Lease. This formula is fair and equitable and is consistent with decisions in this and other circuits. *See, e.g., In re KP Fashion Co.*, No. 10 Civ. 8429 (NRB), 2011 WL 3806116, at \*3 n.7 (S.D.N.Y. Aug. 29, 2011) (retroactive rejection is valid when the balance of equities favor such treatment) (citing *BP Energy Co. v. Bethlehem Steel Corp.*, No. 02 Civ. 6419, 2002 WL 31548723, at \*3 (S.D.N.Y. Nov. 15, 2002)); *In re Jamesway Corp.*, 179 B.R. 33, 38 (S.D.N.Y. 1995) (court may approve retroactive rejection);

*accord In re At Home Corp.*, 392 F.3d 1064, 1071 (9th Cir. 2004), *cert. denied*, 546 U.S. 814 (2005) (court may approve the retroactive rejection of a nonresidential lease when necessary and appropriate to carry out the provisions of section 365(d)); *In re Thinking Mach. Corp. v. Mellon Fin. Servs.*, 67 F.3d 1021, 1028 (1st Cir. 1995) (approving retroactive orders of rejection where the balance of the equities favors such relief).

25. The counterparties to the Contracts and Leases will not be unduly prejudiced by the Procedures, because they will receive notice of the Debtors' intent to reject and the proposed effective date of the rejection. *See, e.g., In re Pinnacle Airlines Corp.*, No. 12-11343 (REG) (Bankr. S.D.N.Y. May 8, 2012) (approving similar procedures for rejection of contracts and abandonment of property and authorizing retroactive rejection); *In re Great Atl. & Pac. Tea Co.*, No. 10-24549 (RDD) (Bankr. S.D.N.Y. December 15, 2010) (same); *In re Lehman Brothers Holdings, Inc.*, No. 08-13555 (Bankr. S.D.N.Y. October 3, 2008) (approving similar procedures); *In re Frontier Airlines Holdings, Inc.*, No. 08-11298 (Bankr. S.D.N.Y. June 3, 2008) (same); *In re G+G Retail, Inc.*, No. 06-10152 (Bankr. S.D.N.Y. March 17, 2006) (Drain, J.) (same); *In re Delta Air Lines, Inc.*, No. 05-17923 (Bankr. S.D.N.Y. November 10, 2005) (approving similar procedures, including authorizing rejection to be effective as set forth herein); *In re WorldCom, Inc.*, No. 02-13533 (Bankr. S.D.N.Y. Sept. 25, 2002) (same); *In re Enron Corp.*, No. 01-16034 (Bankr. S.D.N.Y. Jan. 9, 2002) (same); *In re Mid Region Petroleum, Inc.*, 111 B.R. 968, 970 (Bankr. N.D. Okla. 1990), *aff'd*, 1 F.3d 1130 (10th Cir. 1993) (effective date of rejection of leases was the date the trustee gave notice to lessor of intent to reject); *In re Carlisle Homes, Inc.*, 103 B.R. 524, 535 (Bankr. D.N.J.

1988) (debtor may reject executory contract by clearly communicating intention to reject).

26. In addition, the notice requirements under the Procedures satisfy Bankruptcy Rules 6006 and 9006 by providing the affected counterparties with notice and an opportunity to object and be heard at a hearing. *See, e.g., In re Drexel Burnham Lambert*, 160 B.R. 729, 733 (S.D.N.Y. 1993) (providing interested parties an opportunity to present objections satisfies due process); *In re Colo. Mountain Cellars, Inc.*, 226 B.R. 244, 246 (D. Colo. 1998) (hearing is not required to satisfy Bankruptcy Rule 9014). In light of the foregoing, the Debtors submit that the Procedures balance the Debtors' need for expeditious reduction of burdensome costs with providing due notice of the proposed rejection and abandonment to the affected counterparties.

27. The Procedures also reduce the Debtors' obligations with respect to Expendable Property that is of inconsequential value to the Debtors' estates. The Debtors submit that the abandonment of the Expendable Property satisfies the standard set forth in section 554(a) of the Bankruptcy Code. Section 554(a) provides that a debtor in possession may abandon, subject to Court approval, "property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." By the plain terms of the statute, therefore, before authorizing abandonment of property, the Court must find either that the property is burdensome to the estate or the property is both of inconsequential value and inconsequential benefit to the estate. *See, e.g., Midlantic Nat'l Bank v. N.J. Dep't of Env'tl. Prot.*, 474 U.S. 494, 497, *reh'g denied*, 475 U.S. 1091 (1986). Here, the Expendable Property proposed to be abandoned most likely will consist of fixtures, packing materials, packing systems, transportation equipment, tools

and service equipment. To the extent the Debtors decide to abandon any materials, such materials will be of no value or benefit to the Debtors' estates or burdensome because the costs of removal and storage of the property is likely to exceed the net proceeds realizable from their sale. The Debtors will not abandon Expendable Property where the abandonment would pose an imminent and identifiable harm to the public health or safety.

28. Bankruptcy Rule 6007 allows the Court discretion to limit notice and the time for filing objections to any abandonment of property. The Debtors submit that requiring notice of abandonment of Expendable Property be given to all creditors and indenture trustees would be unnecessarily expensive, time consuming, and would not provide any useful purpose. Furthermore, the Debtors submit that any reduction of time to file an objection to abandonment will not prejudice the rights of any party in interest. Accordingly, the Debtors request the Court limit notice under Bankruptcy Rule 6007 to the parties in interest set forth herein and limit the time for filing objections as set forth herein.

29. Local Bankruptcy Rule 6007-1 requires that a notice of a proposed abandonment describe the property to be abandoned, state the reason for the proposed abandonment, and identify the entity to whom the property is proposed to be abandoned. The Debtors submit that the description herein of the Expendable Property, coupled with the information to be provided on Schedule A to each Notice, satisfy such requirements.

30. Finally, section 105 of the Bankruptcy Code provides in relevant part that "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." The Debtors submit that implementation of the

Procedures is appropriate in the chapter 11 cases and well within the Court's equitable powers under section 105 of the Bankruptcy Code. Similar procedures have been approved in other complex chapter 11 cases. *See, e.g., In re Pinnacle Airlines Corp.*, No. 12-11343 (REG) (Bankr. S.D.N.Y. May 8, 2012); *In re Great Atl. & Pac. Tea Co.*, No. 10-24549 (RDD) (Bankr. S.D.N.Y. December 15, 2010); *In re Mesa Air Group, Inc.*, No. 10-10018 (MG) (Bankr. S.D.N.Y. January 25, 2010); *In re Lehman Brothers Holdings, Inc.*, No. 08-13555 (Bankr. S.D.N.Y. October 3, 2008); *In re Frontier Airlines Holdings, Inc.*, No. 08-11298 (Bankr. S.D.N.Y. June 3, 2008); *In re Delta Air Lines, Inc.*, No. 05-17923 (Bankr. S.D.N.Y. November 10, 2005); *In re WorldCom, Inc., et al.*, Case No. 02-13533 (Bankr. S.D.N.Y. July 21, 2002); *In re Enron Corp.*, Case No. 01-16034 (Bankr. S.D.N.Y. Dec. 2, 2001); *In re UAL Corp., et al.*, Case No. 02 -48191 (Bankr. N.D. Ill. Dec. 9, 2002); *In re U.S. Airways Group, Inc., et al.*, Case No. 02-83984 (Bankr. E.D. Va. Aug. 11, 2002).

31. In light of the foregoing, the Debtors submit it is in the best interests of the Debtors' estates and their creditors for the Court to authorize the Debtors to implement the Procedures, including the process to abandon Expendable Property.

#### **Notice**

32. Consistent with the Case Management Order, the Debtors will serve notice of this Motion on (a) the Core Parties and (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order). 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). In light of the relief requested, the Debtors submit that no further notice is necessary. Pursuant to paragraph 21 of the Case Management Order, if no objections are timely filed and served in accordance therewith, an order granting the relief requested herein may be entered without a hearing.

**No Previous Request**

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

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as is just and proper.

Dated: New York, New York  
July 19, 2012

By: /s/ Damian S. Schaible  
Marshall S. Huebner  
Damian S. Schaible  
Brian M. Resnick  
Michelle M. McGreal

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*Proposed Counsel to the Debtors  
and Debtors in Possession*

**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

## **Exhibit A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:**

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

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 12-12900 (SCC)**

**(Jointly Administered)**

**ORDER ESTABLISHING PROCEDURES FOR THE REJECTION OF  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND  
FOR THE ABANDONMENT OF PERSONAL PROPERTY**

Upon the motion (the “**Motion**”)<sup>2</sup> of Patriot Coal Corporation and its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) for authorization to establish Procedures pursuant to (i) sections 105(a) and 365(a) of the Bankruptcy Code and Bankruptcy Rule 6006, for the ongoing rejection of Contracts and Leases and (ii) sections 105(a) and 554(a) of the Bankruptcy Code, for the abandonment of Expendable Property, as more fully described in the Motion; and upon consideration of the Declaration of Mark N. Schroeder, Patriot Coal Corporation’s Senior Vice President and Chief Financial Officer, filed in support of the Debtors’ first-day pleadings; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All

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<sup>1</sup> The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

<sup>2</sup> Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to such term in the Motion.

Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.) as amended by Standing Order M-431, dated February 1, 2012 (Preska, C.J.); and consideration of the Motion and the requested relief being a core proceeding the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Motion having been provided in accordance with the Case Management Order; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors and their estates and creditors; and the Court having reviewed the Motion [and having held a hearing with appearances of parties in interest noted in the transcript thereof (the “**Hearing**”)]; and the Court having determined that the legal and factual bases set forth in the Motion [and at the Hearing] establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the relief requested in the Motion is hereby granted; and it is further

ORDERED that if the Procedures conflict with the Case Management Order, the Procedures shall control with respect to the rejection of executory contracts and unexpired leases and the abandonment of Expendable Property. In all other circumstances, except as otherwise provided by separate order, the Case Management Order shall govern; and it is further

ORDERED that the following procedures (the “**Procedures**”) are hereby approved as set forth in this Order and may be implemented in the Debtors’ chapter 11 cases:

### **The Procedures**

1. Once the Debtors have determined to reject a Contract or Lease or abandon Expendable Property, the Debtors may prepare a written notice (the “**Notice**”) of the Debtors’ intent to reject such Contract or Lease or abandon such Expendable Property. The Notice, substantially in the form attached to the Motion as Exhibit B, shall include the following information: (i) the identity of the Debtor parties to each of the Contracts and Leases proposed to be rejected, (ii) the identity of the known counterparties to each such Contract and Lease, (iii) for any Leases of nonresidential real property proposed to be rejected, the location of the real property at issue, (iv) for Expendable Property proposed to be abandoned, a description and location of the Expendable Property and to whom such property shall be abandoned and (v) the date the rejection of each Contract or Lease will become effective.

2. The Debtors shall file the Notice with the Court and serve the Notice, along with a copy of this Order, on (i) the known counterparties to the Contracts and Leases to be rejected, (ii) any additional parties entitled to notice pursuant to the terms of the rejected Contracts and Leases, (iii) for Expendable Property, all parties known to the Debtors as having a direct interest in any Expendable Property proposed to be abandoned, (iv) the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) and (v) the attorneys for any official committee of unsecured creditors then appointed in these cases.

3. The deadline for the filing of an objection (“**Objection**”) to the proposed rejection of a Contract or Lease or the abandonment of any Expendable Property shall be

4:00 p.m. (prevailing Eastern Time) on the date that is 10 days from the date the Notice is filed and served (the “**Objection Deadline**”). The Objection Deadline may be extended with the written consent of the Debtors.

4. An Objection shall be considered timely only if, on or prior to the Objection Deadline, it is (a) filed with the Court and (b) served upon and actually received by (i) the U.S. Trustee, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attn: Elisabetta G. Gasparini and Paul K. Schwartzberg, (ii) proposed counsel to the Debtors, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Marshall S. Huebner and Brian M. Resnick, (iii) attorneys for the administrative agents for the Debtors’ postpetition lenders, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, Attn: Marcia Goldstein and Joseph Smolinsky, and Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019, Attn: Margot B. Schonholtz and Ana Alfonso and (iv) the attorneys for any official committee of unsecured creditors then appointed in these cases.

5. A reply to an Objection may be filed with the Court and served in accordance with these Procedures on or before 12:00 p.m. (prevailing Eastern Time) on the day that is two days before the date of the applicable hearing.

6. As soon as practicable after the passage of the Objection Deadline, the Debtors shall submit to the Court a proposed order (the “**Proposed Order**”), which Proposed Order shall be entered with no further notice or opportunity to be heard afforded to any party. The Proposed Order shall include the following, as applicable:  
(i) for rejection of Contracts and Leases where no Objection is filed and the applicable

deadline to file an Objection has passed, the Proposed Order shall provide that the Contracts and Leases are rejected as of the date set forth in the applicable Notice for each Contract or Lease or as otherwise agreed by the Debtors and the applicable counterparty to such Contract or Lease, (ii) for the abandonment of Expendable Property, where no Objection is filed and the applicable deadline to file an Objection has passed, the Proposed Order shall provide that the abandonment of Expendable Property is effective as of the effective date of the rejection of the Lease associated with the abandoned Expendable Property and that, unless otherwise specified, the Expendable Property shall be abandoned to the lessor or sublessor party to the Lease associated with such Expendable Property and (iii) for the rejection of Contracts and Leases and abandonment of Expendable Property where an Objection has been filed and resolved by the parties, the Proposed Order shall provide for the rejection of the Contracts and Leases and the abandonment of the Expendable Property in accordance with the agreement of the parties.

7. If an Objection has been timely and properly filed to the proposed rejection of a Contract or Lease or abandonment of Expendable Property, and such Objection has not been resolved by the parties, the Debtors may schedule the matter for an omnibus hearing; *provided, however*, that the filing of any such Objection shall not delay the entry of an order authorizing the rejection of any Contract or Lease or the abandonment of any Expendable Property set forth in a Notice for which no Objection has timely been filed.

8. If the disputed rejection or abandonment is approved, the Contract or Lease subject to the Objection shall be deemed rejected as of the date set forth in the applicable Notice for any such disputed Contract or Lease (or as otherwise agreed to by the parties), and the abandonment of Expendable Property subject to the Objection shall be deemed effective as of the effective date of the rejection of the Lease associated with the abandoned Expendable Property.

9. Without further order of this Court, all counterparties to any Contract or Lease are prohibited from setting off or otherwise utilizing any monies deposited by the Debtors with such counterparty as a security deposit or pursuant to another similar arrangement.

10. The holder of any claim for damages arising from the rejection of any Contract or Lease or abandonment of Expendable Property is required to timely file a proof of claim on account of such claim against the Debtors in accordance with any order pursuant to Bankruptcy Rule 3003(c) establishing a deadline for filing prepetition claims (the “**Bar Date**”), on or before the later of (i) the Bar Date or (ii) 30 days after the effective date of the rejection or abandonment to which the claim relates. Any claim not so filed shall be irrevocably barred; and it is further

ORDERED that the Debtors shall be authorized to execute and deliver all instruments and documents, and take such other actions as may be necessary or appropriate to implement and effectuate the Procedures; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the interim or final order approving the proposed debtor in possession

financing, if and when entered, and this Order, the terms of the interim or final order approving the proposed debtor in possession financing, as applicable, shall govern; and it is further

ORDERED that this Court retains jurisdiction to hear and determine all matters arising from or related to the implementation and/or interpretation of this Order; and it is further

ORDERED that entry of this Order shall be without prejudice to the Debtors' rights to seek further, other or different relief regarding the Contracts and Leases or abandonment of Expendable Property; and it is further

ORDERED that nothing herein shall relieve the Debtors of any of their obligations under the Debtors' postpetition lending facility or enlarge the Debtors' rights with respect thereto; and it is further

ORDERED that any period of time prescribed or allowed by these Procedures shall be computed in accordance with Bankruptcy Rule 9006; and it is further

ORDERED that the Procedures satisfy Bankruptcy Rules 6006 and 6007 and Local Bankruptcy Rules 6006-1(a) and 9006-1; and it is further

ORDERED that the notice procedures set forth in the Motion are good and sufficient notice and satisfy Bankruptcy Rule 9014 by providing parties with notice and an opportunity to object and be heard at a hearing; and it is further

ORDERED that the description of Expendable Property in the Motion, coupled with the information to be provided on Schedule A to each Notice, satisfy Local Bankruptcy Rule 6007-1.

Dated: New York, New York

\_\_\_\_\_, 2012

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THE HONORABLE SHELLEY C. CHAPMAN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:**

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

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 12-12900 (SCC)**

**(Jointly Administered)**

**NOTICE OF REJECTION OF EXECUTORY CONTRACTS AND  
UNEXPIRED LEASES AND THE ABANDONMENT  
OF PERSONAL PROPERTY**

PLEASE TAKE NOTICE, that on \_\_\_\_\_, 2012, the United States Bankruptcy Court for the Southern District of New York (the “**Court**”) entered the attached order (the “**Order**”)<sup>2</sup> approving Procedures for the rejection of Contracts and Leases and for the abandonment of Expendable Property. The Procedures enable Patriot Coal Corporation and those of its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”) in the chapter 11 cases that are jointly administered under Case No. 12-12900 (SCC) to reject Contracts and Leases and abandon Expendable Property without further notice.

PLEASE TAKE FURTHER NOTICE, that pursuant to the terms of the Order, unless a written Objection is filed with the Court and served by \_\_\_\_\_, 2012 in accordance with the terms of the Order, the Contracts and Leases listed on the attached Schedule A shall be rejected pursuant to section 365(a) of the Bankruptcy Code and Expendable Property shall be abandoned pursuant to section 554(a) of the Bankruptcy Code, in each case effective as of the date set forth on Schedule A.

PLEASE TAKE FURTHER NOTICE, that pursuant to the terms of the Order, (a) no counterparties to any Contract or Lease may set off or otherwise use any monies deposited by the Debtors with such counterparty as a security deposit or pursuant to another similar arrangement without prior order of the Court, and (b) the holder of any claim for damages arising from the rejection of any Contract or Lease or abandonment of

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<sup>1</sup> The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ chapter 11 petitions.

<sup>2</sup> Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Order.

Expendable Property is required to file a proof of claim on account of such claim against the Debtors in accordance with any order pursuant to Rule 3003(c) of the Federal Rules of Bankruptcy Procedure establishing a Bar Date, on or before the later of (i) the Bar Date and (ii) 30 days after the effective date of such rejection or abandonment to which the claim relates, and that absent a timely filing, such claim shall be irrevocably barred.

PLEASE TAKE FURTHER NOTICE, that if an Objection is timely filed and served in accordance with the Order, and such Objection has not been resolved by the parties, the Debtors may schedule the matter for an omnibus hearing. If, after a hearing, the disputed rejection or abandonment is approved by the Court, the Contracts or Leases subject to the Objection will be deemed rejected as of the date set forth on the attached Schedule A, and the abandonment of Expendable Property subject to the Objection will be deemed effective as of the effective date of the rejection of the Lease associated with the abandoned Expendable Property.

Dated: New York, New York  
[ ], 2012

By: \_\_\_\_\_  
Marshall S. Huebner  
Damian S. Schaible  
Brian M. Resnick  
Michelle M. McGreal

DAVIS POLK & WARDWELL LLP  
450 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 450-4000  
Facsimile: (212) 607-7983

*Proposed Counsel to the Debtors  
and Debtors in Possession*

**Schedule A**

Title of Agreement	Contract Type	Debtor Parties to the Contracts and Leases to be Rejected	Counterparties to the Contracts and Leases to be Rejected	Date of Contract or Lease	Location of Real Property that is the subject of a Lease to be Rejected	Description and Location of Expendable Property*	Rejection Effective Date

\* Expendable Property will be abandoned to the lessor or sublessor party to the Lease associated with such Expendable Property unless otherwise specified here.