

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|-----------------------------------|---|-----------------------------------|
| In Re: |) | |
| |) | |
| PATRIOT COAL CORPORATION, et. al. |) | Case No. 12-51502-659 |
| |) | Judge Kathy A. Surratt-States |
| |) | Chapter 11 |
| Debtors. |) | |
| |) | |
| EASTERN ROYALTY LLC, F/K/A |) | Adversary No. 12-4353--659 |
| EASTERN ROYALTY CORP., |) | |
| |) | PUBLISHED |
| Plaintiff, |) | |
| |) | |
| -v- |) | |
| |) | |
| BOONE EAST DEVELOPMENT CO., |) | |
| PERFORMANCE COAL CO., AND NEW |) | |
| RIVER ENERGY CORP., et. al. |) | |
| |) | |
| Defendants. |) | |

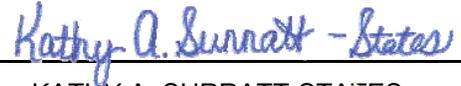
ORDER

Upon consideration of the record as a whole, consistent with the Findings of Fact and Conclusions of Law entered separately in this matter,

IT IS ORDERED THAT Plaintiff's Motion for Judgment on the Pleadings is **GRANTED** and the judgement on Plaintiff's Complaint is entered in favor of Plaintiff and against Defendants in that the Payment Agreement is not an executory contract for purposes of Section 365 of the Bankruptcy Code, and the Payment Agreement is not integrated with or is severable from the Settlement Agreement and the attached agreements, the Partial Assignments and the Boone-ERC Lease; and

IT IS FURTHER ORDERED THAT Defendants' Counterclaim for Post-Petition Breach of Contract is **DISMISSED** for failure to state a claim upon which relief can be granted in that any claim

that arises under the Payment Agreement is a pre-petition claim and is not allowable as an administrative expense; and all other requests of Defendants are **DENIED**; and this is the final judgment and Order of the Bankruptcy Court in this case.



KATHY A. SURRATT-STATES
Chief United States Bankruptcy Judge

DATED: November 13, 2013
St. Louis, Missouri

Copies to:

Office of the United States Trustee
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Suite 6.353
St. Louis, MO 63102

Darren S. Klein
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

Brian M. Resnick
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

David A. Sosne
Summers Compton Wells LLC
8909 Ladue Rd.
St. Louis, MO 63124

Timothy E. Graulich
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

Michelle M. McGreal
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

James L. Bromley
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006

Marshall Huebner
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

Eastern Royalty LLC F/K/A Eastern Royalt,
Plaintiff
Boone East Development Co., Performance,
Defendant

Adv. Proc. No. 12-04353-kss

CERTIFICATE OF NOTICE

District/off: 0865-4 User: pott Page 1 of 1 Date Rcvd: Nov 14, 2013
Form ID: pdfol Total Noticed: 9

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 16, 2013.

aty +Brian M. Resnick, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017-3982
aty +Darren S. Klein, Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, NY 10017-3982
aty +James L. Bromley, Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza,
New York, NY 10006-1470
aty +Jeffrey S. Stein, GCG, Inc., 1985 Marcus Avenue, Suite 200, Lake Success, NY 11042-2029
aty +Timothy E. Graulich, Davis Polk & Wardwell LLP, 450 Lexington Avenue,
New York, NY 10017-3982
ust +Office of U.S. Trustee, 111 South Tenth Street, Suite 6.353, St. Louis, MO 63102-1127
ust +Paul A. Randolph, Office of U.S. Trustee, 111 S. 10th St., Ste. 6353,
St. Louis, MO 63102-1125
op +GCG, Inc. aka The Garden City Group, Inc., 1985 Marcus Ave, Lake Success, NY 11042-2008
9285558 +James L. Bromley, Esq., LUKE A. BAREFOOT, ESQ., CLEARY GOTTLIEB STEEN & HAMILTON LLP,
ONE LIBERTY PLAZA, NEW YORK, NY 10006-1470

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

pla Eastern Royalty LLC F/K/A Eastern Royalty Corp., 450 LEXINGTON AVENUE, NEW YORK
cd Eastern Royalty LLC F/K/A Eastern Royalty Corp., 450 LEXINGTON AVENUE, NEW YORK
TOTALS: 2, * 0, ## 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Nov 16, 2013

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 14, 2013 at the address(es) listed below:

Angela Ferrante on behalf of Other Professional GCG, Inc. aka The Garden City Group, Inc.
angela.ferrante@gcginc.com,
pacerteam@gcginc.com;elizabeth.vrato@gcginc.com;jeffrey.demma@gcginc.com;ryan.nadick@gcginc.com
David A. Sosne on behalf of Defendant Boone East Development Co., Performance Coal Co., And
New River Energy Corp. dasattymo@summerscomptonwells.com
David A. Sosne on behalf of Defendant Boone East Development Co.
dasattymo@summerscomptonwells.com
David A. Sosne on behalf of Defendant Performance Coal Co. dasattymo@summerscomptonwells.com
David A. Sosne on behalf of Counter-Claimant Boone East Development Co., Performance Coal Co.,
And New River Energy Corp. dasattymo@summerscomptonwells.com
David A. Sosne on behalf of Defendant New River Energy Corp. dasattymo@summerscomptonwells.com
Michelle M. McGreal on behalf of Plaintiff Eastern Royalty LLC F/K/A Eastern Royalty Corp.
bankruptcy.routing@davispolk.com

TOTAL: 7