IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	Chapter 11
	§	
BLACK ELK ENERGY OFFSHORE OPERATIONS, LLC	§	Case No.: 15-34287 (MI)
	§	
	§	

FINAL ORDER UNDER 11 U.S.C. §§ 105, 361, 362, 363(c), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) AND 507 AND BANKRUPTCY RULES 2002, 4001 AND 9014 AUTHORIZING THE DEBTOR TO OBTAIN POST-PETITION FINANCING ON A FINAL BASIS

Upon the motion, dated March 4, 2016 (the "Motion"), of Black Elk Energy Offshore Operations, LLC ("Black Elk") as debtor and debtor-in-possession (collectively, the "Debtor") in the above-captioned case (the "Case") for a final order under sections 105, 361, 362, 363(c), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e) and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as amended, the "Bankruptcy Code"), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the "Bankruptcy Rules") seeking:

(1) authorization for Black Elk to obtain post-petition financing in the aggregate principal amount of $15,000,000.00 consisting of (a) $7,000,000.00 of New Money DIP Loans (b) $7,000,000.00 of Roll Up Operating DIP Loans, (c) $500,000.00 of Investigation Loans, and (d) $500,000.00 of Roll Up Investigation Loans, on a final basis on the terms and conditions set forth in this final order

(this "Final Order")[1] and the DIP Credit Agreement by and between Black Elk and (a) the following Lenders: (1) all subscribing Noteholders under that certain Indenture, dated as of November 23, 2010, among Black Elk Energy Offshore Operations, LLC and Black Elk Energy Finance Corporation as issuers, and The Bank of New York Mellon Trust Company, N.A. or such funds designated by such subscribing Noteholders (the "Note Holder DIP Lenders") and backstopped by such funds as may be designated by AQR Capital Management, LLC and Phoenix Investment Adviser LLC or their respective affiliates that subscribe to the Note Holder DIP Loan (as defined below) (referred to herein collectively as the "Ad Hoc Noteholders" or the "Backstop Lenders") and (2) Argonaut Insurance Company ("Argonaut" and together with the Note Holder DIP Lenders, the "DIP Lenders") and (b) Wilmington Trust, National Association, as administrative agent and collateral agent for the DIP Lenders (the "DIP Agent").

(2) authorization for the Debtor to execute and deliver the DIP Credit Agreement, together with all agreements, documents and instruments executed and delivered in connection therewith (as hereafter amended, supplemented or otherwise modified from time to time, the "DIP Documents"), and to perform such other and further acts as may be necessary or appropriate in connection therewith;

(3) authorization for the DIP Agent, on behalf of the DIP Lenders, to exercise remedies under the DIP Documents upon the occurrence and during the continuance of an Event of Default;

[1] Unless otherwise specified, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the DIP Credit Agreement (which such DIP Credit Agreement is attached to the Motion as Exhibit A thereto).

(4) authorization to grant liens to the DIP Agent, on behalf of the DIP Lenders, on the proceeds of the Debtor's claims and causes of action (but not on the actual claims and causes of action) arising under Bankruptcy Code sections 544, 545, 547, 548, 549 and 550 (collectively, the "Avoidance Actions"); and

(5) the waiver by the Debtor of any right to seek to surcharge against the DIP Collateral (as defined below) pursuant to Bankruptcy Code section 506(c).

Due and proper notice of the Final Hearing on the Motion having been given by the Debtor and upon the record made by the Debtor at the hearing, including the *Declaration of Lance Gurley, of Blackhill Partners* (the Debtor's financial advisor), and all objections to the entry of this Final Order having been overruled, withdrawn or resolved pursuant to the terms of this Final Order, and after due deliberation and consideration and sufficient cause appearing therefor;

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Jurisdiction.* This Court has core jurisdiction over the Case, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. *Notice.* Notice of the Motion and the relief requested therein was served by the Debtor on (a) counsel for the Committee; (b) the U.S. Trustee; (c) all parties who have requested notice in this Case; (d) all parties who have asserted liens against the Debtor's assets as part of this Case, (e) all parties reflected in the Debtor's books and records as having and/or asserting a lien against the Debtor's assets; and (f) all registered ECF users appearing in the Case as of March 4, 2016. The notice given by the Debtor of the Motion, the relief requested therein, and the Final Hearing constitutes due and sufficient notice thereof and complies with Bankruptcy

Rules 4001(b) and (c), and the Local Rules, and no further notice of the relief sought at the Final Hearing is necessary or required.

3. *Approval of Motion.* The relief requested is approved as described herein. Except as otherwise expressly provided in this Final Order, any objection to the entry of this Final Order that has not been withdrawn, waived, resolved or settled, is hereby denied and overruled on the merits.

4. *Debtor's Stipulations.* The Debtor admits, stipulates, and agrees as follows;:

(a) as of the Conversion Date, the Debtor was truly and justly indebted to Delaware Trust Company as successor to the Bank of New York as Indenture Trustee, without defense, counterclaim or offset of any kind, in the aggregate principal amount of approximately $68,567,000.00 in respect of 13.75% Senior Secured Notes due 2015 issued pursuant to the Indenture (the "Senior Notes"), plus accrued and unpaid interest thereon, plus additional amounts owed under the Indenture, including defaulted interest, fees, expenses, costs, and all other amounts due and owing under and in connection with the Indenture (collectively, the "Pre-petition Obligations");

(b) the Pre-petition Obligations constitute the legal, valid and binding obligations of the Loan Parties, enforceable in accordance with their terms;

(c) the liens and security interests granted by the Debtor to the Indenture Trustee (for the ratable benefit of holders of Senior Notes under the Indenture) to secure the Pre-petition Obligations (the "Pre-petition Liens") are (i) valid, binding, perfected, enforceable, first priority (subject to permitted exceptions under the Indenture) liens on and security interests in the personal and real property of such Debtor constituting "Collateral" under, and as defined in, the Indenture (together with cash collateral, the "Pre-petition Collateral"), (for avoidance of doubt, the terms "Pre-Petition Liens", "Collateral" and "Pre-petition Collateral" do not include any Avoidance Actions) (ii) with respect to the Lenders, are not subject to objection, defense, contest, avoidance, reduction, disallowance or subordination (whether equitable, contractual or otherwise provided, however, nothing in this Section shall waive any of the Debtor's or its estates right to seek any equitable subordination or other similar relief as against Platinum Partners Value Arbitrage Fund, LP, and its affiliates

(collectively "Platinum"[2])) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law by any person or entity and (iii) subject and subordinate only to (A) after giving effect to this Final Order, the Carve-Out (as defined in paragraph 7 below), the P&A Escrows as set out in paragraph 36, the liens granted pursuant to the 9019 Order and the liens and security interests granted to secure the DIP Loans and the Adequate Protection Obligations (as defined below-) and (B) other valid and unavoidable liens perfected prior to the Conversion Date (or perfected after the Conversion Date to the extent permitted by Bankruptcy Code section 546(b)) which are permitted under the Indenture to the extent such permitted liens are senior to the liens securing the Pre-petition Obligations, including all Cash Collateral collateralizing surety bonds and for plugging and abandonment operations.

(d) no portion of the Pre-petition Obligations and no amounts paid at any time to the Indenture Trustee or any DIP Lenders on account thereof or with respect thereto shall be subject to objection, defense, counterclaim, claim (as such term is defined in the Bankruptcy Code), offset, contest, avoidance, recharacterization, reduction, disallowance, recharacterization, recovery or subordination pursuant to the Bankruptcy Code or applicable nonbankruptcy law; and

(e) no claims, objections, challenges, counterclaims, causes of action and/or choses in action, defenses or setoff rights of the Debtor exist against any of the DIP Lenders or the Indenture Trustee and their respective Pre-petition Obligations and Pre-petition Liens under any contract or tort (including, without limitation, lender liability) theories of recovery, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to Bankruptcy Code section 105 or chapter 5 (including, without limitation, Bankruptcy Code sections 510, 544, 547, 548, 549 or 550) or under any other similar provisions of applicable state or federal law, and to the extent any claims, objections, challenges, counterclaims, causes of action and/or choses in action, defense or setoff rights are deemed to have existed as to any of the foregoing, the Debtor hereby forever waives, discharges and releases any right that it may have to challenge any of the Pre-petition Obligations and the Pre-petition Liens, and to assert any setoff rights, defenses, claims, objections, challenges, counterclaims, causes of action and/or choses of action whether arising under the Bankruptcy Code or applicable nonbankruptcy law, against the Indenture Trustee and the DIP Lenders, and as to each of the foregoing, their respective affiliates, subsidiaries, agents, officers, directors, employees, attorneys and advisors, in each case in connection with any matter related to the Pre-petition Obligations, the Pre-petition Liens, the Indenture and transactions

[2] For purposes of the definition of "Platinum," the Debtor and its subsidiaries shall not be deemed affiliates of Platinum.

contemplated thereby, or the Pre-petition Collateral (except as to any equitable subordination or similar claims against Platinum).

(f) The Debtor, as indemnitor, is truly and justly obligated and indebted to Argonaut, without defense, counterclaim, or offset of any kind, pursuant to all obligations ("Pre-petition Argo Obligations") arising under or related to that certain General Indemnity Agreement dated December 11, 2009 ("Indemnity Agreement") and all additional pre-petition agreements related to same, including, but not limited to, Collateral Security Agreements dated May 14, 2015 and that certain Letter Agreement Regarding Cross Collateralization dated May 15, 2015 amongst Platinum Partners Value Arbitrage Fund, LP, TKN Petroleum Offshore LLC, and Black Elk Energy Offshore Operations, LLC (collectively, "Pre-petition Argo Indemnity and Collateral Documents"). In addition, such Pre-petition Argo Obligations include, but, are not limited to, any and all "Losses" arising under any and all bonds issued by Argonaut as well as any reasonable expenses incurred by Argonaut in connection with the bonds (including attorneys' fees), all as expressly set forth in the Pre-petition Argo Indemnity and Collateral Documents.

This Paragraph 4 shall not impair any party's rights against Platinum except as to the Pre-petition Obligations and Pre-petition Liens, including without limitation, the right to seek equitable subordination.

5. *Findings Regarding the DIP Loan.*

(a) Good cause has been shown for the entry of this Final Order.

(b) The Debtor requires the DIP Loan to, among other things, permit the orderly continuation of its business, provide financing for that certain Montco Services Agreement, approved by Order Authorizing the Debtor to Enter into the Montco Services Agreement and Granting Related Relief ECF No. 682 (the "Montco Services Order"), as may be amended (the "Montco Services Agreement"), provide for the investigation and prosecution of litigation, and to allow for a successful liquidation pursuant to a chapter 11 plan.

(c) The Debtor could not obtain financing on more favorable terms from sources other than the DIP Lenders pursuant to, and for the purposes set forth in, the DIP Documents and is unable to obtain adequate unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtor could not obtain secured credit allowable under Bankruptcy Code sections 364(c)(1), 364(c)(2) and 364(c)(3) without granting priming liens under Bankruptcy Code section 364(d)(1) and the Superpriority Claims (as defined below) on the terms and conditions set forth in this Final Order and the DIP Documents.

(d) The Debtor represents that the terms of the DIP Loan, DIP Documents, pursuant to this Final Order are fair and reasonable.

(e) The DIP Documents have been the subject of extensive negotiations conducted in good faith and at arm's length between the Debtor, the DIP Lenders and the DIP Agent, and all of the Debtor's obligations and indebtedness arising under or in connection with the DIP Documents, this Final Order and the DIP Loan (collectively, the "DIP Obligations") shall be deemed to have been extended by the DIP Lenders in "good faith" as such term is used in Bankruptcy Code sections 363(m) and 364(e), and in express reliance upon the protections set forth therein, and shall be entitled to the full protection of Bankruptcy Code sections 363(m) and 364(e) in the event that this Final Order or any provision hereof is vacated, reversed or modified on appeal or otherwise.

(f) The entry into the DIP Obligations is necessary for the Debtor to provide for payment under the Montco Services Agreement in order to satisfy those certain plugging and abandonment obligations and liabilities of the Debtor and/or its subsidiaries, in connection with the plugging and abandonment of wells and decommissioning oil and gas platforms, pipelines, other facilities and site clearances (the "P&A Obligations") and cooperate fully with local, state and federal laws that require it to decommission certain oil and gas installations.

(g) Absent granting the final relief set forth in this Final Order, the Debtor's estate and business operations will be immediately and irreparably harmed. In particular, the Debtor requires immediate post-petition financing in order to, among other things, permit the orderly continuation of its business, fulfill its P&A Obligations, and to allow for a successful liquidation and/or sale of the Debtor's assets on a going concern basis. The borrowing of the DIP Loan, in accordance with this Final Order, and the DIP Documents are, therefore, in the best interest of the Debtor's estate.

6. *Authorization of the DIP Loan and the DIP Documents.*

(a) The Debtor is hereby authorized to enter into and perform under the DIP Documents and to borrow, on a final basis and subject to the terms of the DIP Credit Agreement, an aggregate principal amount of an aggregate of $15,000,000.00 consisting of (a) $7,000,000.00 of New Money DIP Loans (as defined below); (b) $7,000,000.00 of Roll Up Operating DIP Loans; (c) $500,000.00 of Investigation Loans; and (d) $500,000.00 of Roll Up Investigation Loans all as set forth in Section 2.1 of the DIP Credit Agreement (the "DIP Loan").

(b) In furtherance of the foregoing and without further approval of this Court, the Debtor is authorized and directed to perform all acts (and to the extent

such acts have already occurred, such acts are hereby ratified) and to execute and deliver all instruments and documents that the DIP Agent or the DIP Lenders determine to be reasonably required or necessary for the Debtor's performance of its obligations under the DIP Documents, including without limitation:

i. the execution, delivery and performance of the DIP Documents;

ii. the execution, delivery and performance of one or more amendments, waivers, consents or other modifications to and under the DIP Documents, in each case in accordance with the terms of the DIP Documents and in such form as the Debtor, the DIP Agent, and the DIP Lenders may agree, and no further approval of this Court shall be required for any amendment, waiver, consent or other modification to and under the DIP Documents (and any fees paid in connection therewith, including without limitation, the Origination Fee and the fees and expenses set forth in the Fee Letter) that do not materially and adversely affect the Debtor or which do not (A) shorten the maturity of the DIP Loan, (B) increase the principal amount of, or the rate of interest payable on, the DIP Loan, or (C) change any Event of Default (as such term is defined in Section 6.1 of the DIP Credit Agreement, an "Event of Default"), add any covenants or amend the covenants therein, in any such case to be materially more restrictive;

iii. the non-refundable payment to the DIP Lenders and the DIP Agent, as the case may be, of the fees set forth in the DIP Documents, including without limitation, the Origination Fee, the fees and expenses set forth in the Fee Letter and reasonable attorneys' fees and other professional fees and disbursements as provided in the DIP Documents as may be due from time to time as provided in this Final Order;

iv. the performance of all other acts required under or in connection with the DIP Documents.

(c) The DIP Documents constitute valid and binding obligations of the Debtor, enforceable against the Debtor in accordance with the terms of this Final Order and the DIP Documents. No obligation, payment, transfer or grant of security by the Debtor under the DIP Documents or this Final Order shall be voidable, avoidable or recoverable under the Bankruptcy Code or under any applicable nonbankruptcy law (including without limitation, under Bankruptcy Code sections 502(d) or 548 or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law), or subject to any defense, reduction, setoff, recoupment or counterclaim.

7. *DIP Budget*. Attached as **Exhibit A** hereto and incorporated by reference herein is the 13-week budget (which has been approved by the DIP Lenders) setting forth the Debtor's projected receipts and disbursements (the "DIP Budget"). The Debtor shall deliver (a) the DIP Budget consisting of weekly Thirteen Week Forecasts delivered to the DIP Lenders commencing on the Effective Date and each week thereafter, detailing the Debtor's weekly cash flow forecasts on a rolling 13-week basis, in form and substance satisfactory to the Lenders and in accordance with the DIP Credit Agreement; (b) weekly budget-to-actual variance reports, including a line item for all cash disbursed for P&A Obligations, in form and substance satisfactory to the DIP Lenders in their sole discretion, delivered no later than each Wednesday for the preceding week's activity and (c) detailed explanations in form and substance satisfactory to the DIP Lenders in their sole discretion for unfavorable budget-to-actual variances on a line item basis exceeding the lesser of (i) 5% of the budgeted line item, on a cumulative basis and (ii) $50,000. The Debtor's use of the DIP Loan shall be consistent with the types of expenses set forth in the DIP Budget. The DIP Lenders and the DIP Agent shall have no obligation with respect to the Debtor's use of the DIP Loan and shall not be obligated to ensure or monitor the Debtor's compliance with the DIP Budget or to pay any expenses incurred or authorized to be incurred pursuant to the DIP Budget. Notwithstanding anything to the contrary contained herein, no payment shall be made pursuant to this Final Order to any professional retained pursuant to an order of the Court (each, a "Professional") to the extent that it would cause the aggregate amount paid to such Professional to exceed the aggregate amount of fees and expenses set forth in the DIP Budget with respect to such Professional through the end of the applicable period for which payment is being requested (the "Budgeted Fees and Expenses"), it being understood that amounts unpaid as a result of the preceding limitation may be accrued and, subject to the Court's

approval and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any other applicable procedures and orders of this Court, paid in any subsequent period(s) to the extent that actual fees and expenses incurred in such subsequent period(s) are less than the Budgeted Fees and Expenses in such subsequent period(s); provided, however, that nothing in this Final Order shall limit any Professional's right to request, or the Court's power to authorize, the allowance of fees and expenses pursuant to Bankruptcy Code sections 330 and 331.

8. *Funding of DIP Lenders.* On or as soon as practicable after the entry of this Final Order, the DIP Lenders shall fund the principal amount of the DIP Loan (less any amounts previously funded), as indicated in the DIP Budget upon satisfaction of the following conditions: (a) Debtor is not otherwise in default and no Event of Default as described below exists; (b) there is no material impairment of the DIP Agent's and DIP Lenders' liens and superpriority administrative treatment; and (c) administrative expense claims are consistent with schedules prepared by the Debtor. The DIP Obligations are as follows:

(a) Mechanics of New Money DIP Loan. Argonaut and the Note Holder DIP Lenders shall each fund 50% of each draw of the DIP Loan up to a collective total of $7,000,000 (the "Argonaut DIP Loan" and "Note Holder DIP Loan" individually, and collectively, the "New Money DIP Loan". With respect to the Note Holder DIP Loan, the Back Stop Lenders will backstop the full funding of the Note Holder DIP Loan up to $3,500,000 exclusive of the Investigation Loan (defined below). With respect to the Argonaut DIP Loan, Argonaut shall fund the Argonaut DIP Loan from its collateral account with the Debtor (account # xxxxx1329) at Texas Capital Bank. For the avoidance of doubt, the New Money DIP Loan shall shall not be secured by the Causes of Action.

(b) Roll Up Operating DIP Loan. The Note Holder DIP Lenders shall receive a roll up of two dollars for each dollar funded under the Note Holder DIP Loan up to $7,000,000 on the Note Holder DIP Collateral (the "Roll Up Operating DIP Loan").[3] For the avoidance of doubt, the Roll Up

[3] The Roll Up Operating DIP Loan may be affected through a mandatory partial redemption of the notes held by the Note Holder DIP Lenders.

Operating DIP Loan shall only be payable from collections related to the Note Holder DIP Collateral (as defined below).

(c) Investigation Loan. The Note Holder DIP Lenders will fund a separate $500,000 (the "Investigation Loan") of litigation funding for purposes of the pre-confirmation investigation and potential prosecution of any and all estate claims and causes of action (the "Causes of Action"). The term Causes of Action excludes any claim or cause related to the Northstar Collateral, the Argonaut/Northstar Collateral, the P&A Recovery (as defined in the Credit Agreement) or any claims or causes related to the 2012 accident at Grand Isle (the "Grand Isle Litigation"). The use of the Investigation Loan shall be pursuant to a budget that is acceptable to the Back Stop Lenders. The Investigation Loan shall be payable from the Note Holder DIP Collateral (not including the residual interest in the Argonaut/Northstar Collateral) or recoveries on the Causes of Action.

(d) Roll Up Investigation Loan. The Noteholder DIP Lenders shall receive a dollar for dollar roll up for each dollar funded under the Investigation Loan (the "Roll Up Investigation Loan") which Roll Up Investigation Loan shall only be paid from Insider Causes of Action. The term "Insider Causes of Action" shall include all Causes of Action except for actions pursuant to Bankruptcy Code Section 547 against non-insider trade vendors.

9. *Repayment of Montco DIP*. On the Closing Date, the Debtor shall use funds from the DIP Loan to repay all outstanding amounts due and owing under that certain Debtor-In-Possession Credit Agreement between the Debtor and OW DIP, LLC (the "Interim DIP Lender") dated on or about February 16, 2016 (the "Montco DIP Agreement"), including, but not limited to, (a) the Montco Interim DIP Loan in an amount no less than $750,000 plus accrued interest, (b) the Origination Fee (as that term is used in the Interim DIP Order Dkt. No. 651, and (c) after the Closing Date but no later than ten (10) days following receipt of invoices therefor, all reasonable and documented fees and expenses incurred through the Closing Date by the Interim DIP Lender or Montco Oilfield Contractors, LLC (collectively, "Montco") pursuant to Paragraph 8 of the Interim DIP Order (together, the "Montco DIP Obligations"). Upon payment by the Debtor to Montco of the Montco DIP Obligations, the Debtor's obligations under the Montco DIP Agreement shall be terminated.

10. *DIP Lenders Claims and Payment.* Repayment of the DIP Loan shall be as follows: (a) to Argonaut - $3,500,000 in principal payments, plus interest which shall solely be payable from the Argonaut DIP Collateral (as defined below) (the "Argonaut DIP Repayment"); (b) to the Note Holder DIP Lenders - $3,500,000, in principal payments on the Note Holder DIP Loan, $500,000 in principal payments on the Investigation Loan, $7,000,000 in principal payments on the Roll Up Operating DIP Loan, plus interest, the Origination Fee (defined below) and costs and expenses of the Note Holder DIP Lenders, including reasonable attorneys' fees, up to a cap of $450,000.00 from the Note Holder DIP Collateral (the "Note Holder DIP Repayment"). For the avoidance of doubt, and as clarified elsewhere herein, the residual interest in the Argonaut/Northstar collateral shall not be security for, or be used as a source of repayment for, the Investigation Loan or the Roll-Up Investigation Loan. The Note Holder DIP Repayment shall be payable out of the Note Holder DIP Collateral and shall be non-recourse to Argonaut and non-recourse to any non- Argonaut/Northstar Collateral pledged as collateral for Argonaut's bonds presently issued and to be issued pursuant to this Final Order, except for the P&A Recovery. Immediately upon receipt, the Debtor shall pay the proceeds of the Argonaut/Northstar Collateral to make the Argonaut DIP Repayment and the Note Holder DIP Repayment, and the Roll Up Operating DIP Loan, as applicable.

11. *DIP Lenders Fees and Expenses.* Consistent with the DIP Credit Agreement, the Debtor shall pay to the Lenders the Origination Fee, which such Origination Fee shall be in an amount equal to $200,000.00 and all reasonable and documented fees and expenses related to the Debtor incurred by the DIP Lenders, in their capacity as DIP Lenders including, without limitation, the reasonable and documented fees and disbursements of counsel, incurred in connection with (a) the negotiation and documentation of the DIP Documents, including the DIP

Credit Agreement, this Order, and any and all associated documents; and (b) any and all other matters and issues that arise during the course of the Case associated therewith, in an aggregate amount not to exceed $450,000.00 incurred solely in connection with their status as Note Holders or DIP Lenders which shall not be reduced by amounts paid to the Note Holders under prior orders of this Court. None of the fees and expenses payable pursuant to this paragraph shall be subject to separate approval by this Court (but this Court shall resolve any dispute as to the reasonableness of any such fees and expenses). No recipient of any such payment shall be required to file any interim or final fee application with respect thereto.

12. *Superpriority Claims*. Subject to the Plan Exit Conversion, the Note Holder DIP Repayment and the Investigation Loan (as defined in the DIP Credit Agreement) shall receive the following protections:

(a) Except to the extent expressly set forth in this Final Order in respect of the Carve-Out and the lien granted pursuant to the 9019 Order and priority administrative claims granted under the 9019 Order, pursuant to Bankruptcy Code section 364(c)(1), the Note Holder DIP Repayment and the Investigation Loan, to the extent loaned, shall constitute allowed senior administrative expense claims (the "Superpriority Claims") against the Debtor with priority over any and all administrative expenses, adequate protection claims and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses of the kind specified in Bankruptcy Code sections 503(b) and 507(b), and over any and all administrative expenses or other claims arising under Bankruptcy Code sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 726, 1113 or 1114, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided, however the Noteholder DIP Repaymant shall not be chargeable against the Avoidance Actions.

13. *DIP Liens for Note Holder DIP Repayments and Investigation Loan.* As security for the Note Holder DIP Repayments and the Investigation Loan approved under this Final Order, effective and perfected upon the date of this Final Order and without the necessity of the execution by the Debtor (or recordation or other filing) of security agreements, control

agreements, pledge agreements, financing statements, mortgages or other similar documents, or the possession or control by the Note Holder DIP Lenders of any property, the following security interests and liens are hereby granted by the Debtor to the Note Holder DIP Lenders (all property of the Debtor identified in clauses (a), (b), (c) and (d) below being collectively referred to as the "Note Holder DIP Collateral"), subject and subordinate only to the Carve-Out and as provided herein (all such liens and security interests granted to the DIP Agent, for benefit of the Note Holder DIP Lenders, pursuant to this Final Order, the "Note Holder DIP Liens"):

(a) First Lien on Unencumbered Property. Pursuant to Bankruptcy Code section 364(c)(2), a valid, binding, continuing, enforceable, fully-perfected first priority lien on, and security interest in, all tangible and intangible pre-petition and post-petition property of the Debtor that is not subject to either (i) valid, perfected, non-avoidable and enforceable liens in existence on or as of the Petition Date, or (ii) a valid lien perfected subsequent to the Petition Date as permitted by Bankruptcy Code section 546(b) (collectively, the "Unencumbered Property"); such lien shall include, but not be limited to, the P&A Recovery, the residual interest in the Argonaut/Northstar Collateral (shared pari passu with Argonaut until the Argonaut DIP Repayment is paid in full) and any recovery related to the Grand Isle Litigation. For the avoidance of doubt, the Causes of Action shall not secure the New Money DIP Loan.

(b) Liens Junior to Certain Existing Liens. Pursuant to Bankruptcy Code section 364(c)(3), a valid, binding, continuing, enforceable, fully-perfected junior lien on, and security interest in all tangible and intangible prepetition and post-petition property of the Debtor (other than the property described in paragraph 13(c) below, as to which the liens granted to the Note Holder DIP Lenders will have the priority as described in such paragraph 13(c)), whether now existing or hereafter acquired, that is subject to valid, perfected and unavoidable liens in existence immediately prior to the Petition Date or to valid and unavoidable liens in existence immediately prior to the Petition Date that are perfected after the Petition Date as permitted by Bankruptcy Code section 546(b) (collectively, the "Non-Primed Liens"), which security interests and liens in favor of the Note Holder DIP Lenders, shall be junior to the liens in existence on the Petition Date.

(c) Liens Priming the Pre-petition Liens. Pursuant to Bankruptcy Code section 364(d)(1), valid, binding, continuing, enforceable, fully- perfected first priority, senior priming liens (the "DIP Priming Liens") on, and security interest in, the P&A Recovery, the residual interest in the

Argonaut/Northstar Collateral (shared pari passu with Argonaut until the Argonaut DIP Repayment is paid in full) to the extent any other liens exist encumbering or purporting to encumber these specific assets. The DIP Priming Liens on the specific collateral described herein shall be senior in all respects to the pre-petition liens. For the avoidance of doubt, all predecessors and surety escrows and collateral shall remain first priority security for the predecessors and sureties, specifically including first priority security in favor of Argonaut in the P&A Plan Bond Escrow Account and the Argonaut/Northstar Collateral. For the avoidance of doubt, the Causes of Action shall not secure the New Money DIP Loan.

(d) Liens Senior to Certain Other Liens. The Note Holder DIP Liens shall not be (i) subject or subordinate to (A) any lien or security interest that is avoided and preserved for the benefit of the Debtor and its estate under Bankruptcy Code section 551 or (B) any liens arising after the Petition Date or (ii) subordinated to or made pari passu with any other lien or security interest under Bankruptcy Code sections 363 or 364 or otherwise. In the Bankruptcy Case, the Note Holder DIP Lenders shall be granted a superpriority administrative claim under Bankruptcy Code section 364(c)(1) for the payment of the obligations under the DIP Loan with priority above all other administrative claims, subject to the Carve- Out. For the avoidance of doubt, the Causes of Action shall not secure the New Money DIP Loan.

14. *Superpriority Claims for Roll Up Operating DIP Loan.* Subject to the Plan Exit Conversion, the Roll Up Operating DIP Loan (as defined in the DIP Credit Agreement) shall receive the following protections:

(a) Except to the extent expressly set forth in this Final Order in respect of the Carve-Out and the lien granted pursuant to the 9019 Order and priority administrative claims granted under the 9019 Order, pursuant to Bankruptcy Code section 364(c)(1), the Roll Up Operating DIP Loan, in an amount equal to two times the amount loaned in the Operating DIP Loan, shall constitute allowed senior administrative expense claims (the "Superpriority Claims") against the Debtor with priority over any and all administrative expenses, adequate protection claims and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses of the kind specified in Bankruptcy Code sections 503(b) and 507(b), and over any and all administrative expenses or other claims arising under Bankruptcy Code sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 726, 1113 or 1114, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided, however, such superpriority claim shall not be

applicable to any recoveries from the Causes of Action (as defined in the DIP Credit Agreement).

15. *DIP Liens for Roll Up Operating DIP Loan.* As security for the Roll Up Operating DIP Loans approved under this Final Order, effective and perfected upon the date of this Final Order and without the necessity of the execution by the Debtor (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages or other similar documents, or the possession or control by the Note Holder DIP Lenders of any property, the DIP Agent, for benefit of the Note Holder DIP Lenders, is hereby granted security interests and liens in the Note Holder DIP Collateral with the same priority as the Note Holder DIP Liens, except the liens granted in this section shall not include any liens on the Causes of Action.

16. Subject and subordinate only to the Carve-Out, the Roll Up Investigation Loan shall be paid solely from recoveries on account of the Insider Causes of Action (the "Roll Up Investigation Loan Repayment"). The Roll Up Investigation Loan Repayment shall be collateralized by a valid, binding, continuing, enforceable, fully-perfected first priority lien on, and security in all Insider Causes of Action. In addition, pursuant to section 364(c)(1), the Roll Up Investigation Loan Repayment shall constitute an allowed senior administrative expense claim against the Debtor with priority over any and all administrative expenses, adequate protection claims and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses of the kind specified in Bankruptcy Code sections 503(b) and 507(b), and over any and all administrative expenses or other claims arising under Bankruptcy Code sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 726, 1113 or 1114, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided, however,

such superpriority claim shall only be enforceable against recoveries related to Insider Causes of Action. For the avoidance of doubt, and as clarified elsewhere herein, the residual interest in the Argonaut/Northstar collateral shall not be security for, or be used as a source of repayment for the Roll Up Investigation Loan.

17. *Argonaut DIP Repayment*. The Argonaut DIP Repayment shall only be payable from the Argonaut/Northstar Collateral when released through replacement of the Argonaut/Northstar Bonds by a non-Argonaut replacement surety. Pursuant to Bankruptcy Code section 364(d)(1), the DIP Agent, for benefit of Argonaut, is granted a valid, binding, continuing, enforceable, fully-perfected first priority, senior priming lien on, and security interest in, to the extent applicable, the residual interest in the Argonaut/Northstar Collateral (shared pari passu with the Note Holder DIP Lenders), to the extent any other liens exist encumbering or purporting to encumber these specific assets. In addition, pursuant to section 364(c)(1), the Argonaut DIP Repayment shall constitute an allowed senior administrative expense claim against the Debtor with priority over any and all administrative expenses, adequate protection claims and all other claims against the Debtor, now existing or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses of the kind specified in Bankruptcy Code sections 503(b) and 507(b), and over any and all administrative expenses or other claims arising under Bankruptcy Code sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), 726, 1113 or 1114, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment; provided, however, such superpriority claim shall only be enforceable against recoveries related to the Argonaut/Northstar Collateral.

18. For purposes of the Final Order, the "Carve-Out" shall mean (i) any fees payable to the Clerk of the Bankruptcy Court and to the Office of the U.S. Trustee pursuant to

section 1930(a) of title 28 of the United States Code, (ii) up to $50,000 of allowed and unpaid fees and expenses, (regardless of when such fees and expenses become allowed by order of the Bankruptcy Court but consistent with the DIP Budget) of professionals retained by order of the Bankruptcy Court, incurred after the occurrence of a Carve-Out Event (as defined below), (iii) allowed, accrued and unpaid fees and out-of-pocket expenses (regardless of when such fees and expenses become allowed by order of the Bankruptcy Court) of professionals retained by order of the Bankruptcy Court (or whose application for retention is then pending provided such application is ultimately approved), incurred on or prior to the occurrence of a Carve-Out Event and are consistent with the DIP Budget and (iv) any and all reasonable fees and expenses incurred by a trustee under Bankruptcy Code section 726(b) not to exceed $50,000. For the purposes hereof, a "Carve-Out Event" shall occur upon the occurrence and during the continuance of an Event of Default and upon delivery of a written notice thereof to the Debtor (a "Carve-Out Notice"). So long as no Carve-Out Event shall have occurred and be continuing, the Carve-Out shall not be reduced by the payment of fees, expenses and disbursements of professionals retained by order of this Court allowed by this Court and payable under Bankruptcy Code sections 328, 330 and 331, which allowed fees, expenses and disbursements shall be paid in accordance with and subject to the DIP Budget. Notwithstanding anything herein to the contrary, the Debtor shall first direct all professionals subject to the Carve-Out to be paid from the DIP Loans and then to fully utilize the retainers held by such professionals and fully utilize unrestricted cash and cash equivalents held at Black Elk and its subsidiaries to pay allowed fees and expenses comprising the Carve-Out prior to utilizing any DIP Collateral (as defined in paragraph 10 below) or proceeds of either that secure the obligations arising under the DIP Documents. Provided, however, all professionals shall refund any unused retainers to the

estate and such refunds shall be deemed Noteholder DIP Collateral. Upon the delivery of a Carve-Out Notice, the right of the Debtor to pay professional fees incurred under clause (ii) above without reduction of the Carve-Out in clause (ii) above shall terminate and upon receipt of such notice, the Debtor shall provide immediate notice by facsimile and email to all retained professionals informing them that a Carve-Out Event has occurred and that the Debtor's ability to pay professionals is subject to the Carve-Out; provided that the Carve-Out shall not be available to pay any professional fees and expenses incurred in connection with the initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the DIP Lenders. A waiver of an Event of Default triggering a Carve-Out Event shall constitute the cancellation of such Carve-Out Event allowing the Debtor to pay compensation and reimbursement of expenses authorized to be paid under Bankruptcy Code sections 330 and 331 or otherwise pursuant to an order of the Bankruptcy Court, as the same may be due and payable, without reducing the Carve-Out.

19. Fees and Expenses. The Debtor is authorized and directed topay, as adequate protection to the Indenture Trustee all reasonable and documented unpaid fees and expenses incurred under the Indenture. .

20. Sale Proceeds Limitations. The Debtor shall not sell, lease, transfer or otherwise dispose of its interest in the Pre-petition Collateral or the DIP Collateral outside the ordinary course of business, or seek authority of this Court to do any of the foregoing, without the prior written consent of the DIP Agent and the Lenders. In the event of any sale, lease, transfer, license, or other disposition of property of the Debtor that constitutes Pre-petition Collateral or DIP Collateral outside the ordinary course of business (to the extent permitted by this Final Order), the Debtor is authorized and directed, without further notice or order of this Court, to

promptly pay 100% of the net proceeds (including cash or other forms of consideration) resulting therefrom to the DIP Agent for the benefit of the Lenders or the Indenture Trustee for the benefit of the holders of Senior Notes in accordance with the DIP Agreement. Except to the extent expressly set forth in this Final Order, the Indenture Trustee and the holders of Senior Notes shall not receive or retain any payments, property or other amounts pursuant to this paragraph (5)20 unless and until all DIP Obligations shall have indefeasibly been paid in full in cash.

21. Information and Other Covenants. The Debtor shall comply with the reporting requirements set forth in the DIP Agreement, including those set forth in Section 8.01 and 8.02 of the DIP Agreement, together with such additional information as the Lenders may reasonably request from time to time. The Debtor shall maintain its cash management arrangements in a manner consistent with its currently established practices, including continuing to maintain, service, and administer its bank accounts in the ordinary course. The Debtor shall provide at least seven (7) days' notice to the Lenders before opening or closing any existing bank or other account held at any financial institution.

22. No prior adequate protection granted (the "Adequate Protection Liens") to the Indenture Trustee and Holders of Senior Notes by this Court is altered by this Final Order except as modified in paragraph 39 hereof.

23. As additional adequate protection to the Holders of Senior Notes who are not Note Holder DIP Lenders (the "Non-Participating Holders"), the Note Holder DIP Lenders agree that with regard to the first $3,150,000.00 distributable to Note Holders under the Indenture (the "Reserved Distribution"), the Note Holder DIP Lenders will not receive their pro rata distribution of such amount, but rather the Note Holder DIP Lenders' pro rata share shall be distributable to Platinum. The Note Holder DIP Lenders shall provide acceptable notice to the

Indenture Trustee and/or such other parties as is reasonably necessary to facilitate the foregoing. Any portion of the Reserved Distribution that is payable to Platinum (as defined in this Final Order, including its affiliates, successors and assigns), shall be held until the later of: (a) six months from the entry of this Final Order; or (b) if an action is filed by the Note Holder DIP Lenders against Platinum to subordinate their claims in this bankruptcy case, or another court of competent jurisdiction, to the Note Holder DIP Lenders within six months of the entry of this Final Order, upon the conclusion of such subordination action through entry of a final order or judgment which is not subject to further appeal. If a final order or judgment is entered in such subordination action, the portion of the Reserved Distribution payable to Platinum shall be distributed pursuant to a further order of this Court, which may include, but shall not be limited to, a confirmation order.

24. *Holders of Senior Notes' Reservation of Rights.* A majority of the non-insider holders of Senior Notes consent to the adequate protection provided herein. Except as expressly provided herein, nothing contained in this Final Order (including without limitation, authorization to use cash collateral) shall impair or modify any rights, claims or defenses available in law or equity to the Indenture Trustee or any holder of Senior Notes. The consent of the majority of the non-insider holders of Senior Notes and the lack of objection by the Indenture Trustee to the priming of the Pre-petition Liens by the DIP Liens and the Carve-Out (a) is limited to the DIP Loans and the Carve-Out and (b) does not constitute, and shall not be construed as constituting, an acknowledgement or stipulation by the Indenture Trustee or the holders of Senior Notes that, absent such consent, their interests in the Pre-petition Collateral would be adequately protected pursuant to this Final Order.

25. *Milestones*. In accordance with Section 8.18 of the DIP Credit Agreement in accordance with and subject to the Debtor's fiduciary obligations, the failure of the Debtor to comply with the following milestones (unless extended or waived by the DIP Lenders) shall be an Event of Default:

(a) on or prior to April 4, 2016, the Debtor shall file a chapter 11 liquidation plan (the "Plan") and accompanying disclosure statement in form and substance satisfactory to the Committee and DIP Lenders in their respective sole discretion;

(b) on or prior to May 31, 2016, the Bankruptcy Court shall have entered the order confirming a chapter 11 liquidation Plan (the "Confirmation Order"), in form and substance satisfactory to the Committee and the DIP Lenders in their respective sole discretion; and

(c) in no event later than May 31, 2016, the effective date of the chapter 11 liquidation Plan in form and substance satisfactory to the Committee and the DIP Lenders in their respective sole discretion shall have occurred.

26. *Events of Default*. In accordance with Section 10.1 of the DIP Credit Agreement, one or more of the events shall constitute an Event of Default:[4]

(a) the Debtor shall fail to pay any interest on or principal of the DIP Loan or any fee or other amount when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof, by acceleration or otherwise;

(b) any representation or warranty made or deemed made by or on behalf of the Debtor in or in connection with any Transaction Document or any amendment or modification of any Transaction Document or waiver under such Transaction Document, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with any Transaction Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect when made or deemed made in any material respect;

(c) the Debtor shall fail to observe or perform any material covenant, condition or agreement contained in the DIP Credit Agreement or the Montco Services Agreement, after such opportunity to cure has gone unremedied as respectively provided therein;

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[4] Solely for purposes of this paragraph 13, capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the DIP Credit Agreement.

(d) subject to the Plan Exit Conversion, the Debtor shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Indebtedness, when and as the same shall become due and payable, if the effect of such event is to cause, or (with the giving of any notice or the lapse of time or both) to permit the holder or holders of such debt (or a trustee or agent on behalf of such holder or holders) to cause such debt to become due prior to its stated maturity which is not stayed by the filing of the Case;

(e) the Transaction Documents after delivery thereof shall for any reason, except to the extent permitted by the terms thereof, cease to be in full force and effect and valid, binding and enforceable in accordance with their terms against the Debtor or shall be repudiated, or cease to create a valid and perfected Lien of the priority required thereby on any of the collateral purported to be covered thereby, except to the extent permitted by the terms of the DIP Credit Agreement, or the Debtor shall so state in writing;

(f) a Material Adverse Effect has occurred or is occurring;

(g) the Case concerning the Debtor shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code or Debtor shall file a motion or other pleading or support a motion or other pleading filed by any other Person seeking the dismissal or conversion of the Case under Bankruptcy Code section 1112 or otherwise; a trustee under chapter 7 or chapter 11 of the Bankruptcy Code, a responsible officer or an examiner with enlarged powers relating to the operation of the business (powers beyond those set forth in Bankruptcy Code section 1106(a)(3) and (4)) under Bankruptcy Code section 1106(b) shall be appointed in the Case; or Debtor shall file a motion or other pleading or shall consent to a motion or other pleading filed by any other Person seeking any of the foregoing;

(h) an order of the Bankruptcy Court shall be entered granting any superpriority claim (other than the Carve-Out) in any of the Chapter 11 Case which is pari passu with or senior to the claims of Lenders against Debtor hereunder or any Lien or security interest that is pari passu with or senior to the Liens and security interest securing the DIP Loan, or Debtor takes any action seeking or supporting the grant of any such claim, Lien or security interest, in each case except as expressly permitted hereunder;

(i) the Bankruptcy Court shall enter an order or orders granting relief from the automatic stay applicable under Bankruptcy Code section 362 to the holder or holders of any security interest to proceed against, including foreclosure (or the granting of a deed in lieu of foreclosure or the like) on, any assets of the Debtor that have a value in excess of $50,000 in the aggregate;

(j) an order of the Bankruptcy Court (or any other court of competent jurisdiction) shall be entered (i) reversing, staying for a period in excess of 10 days or vacating either of the DIP Orders, or (ii) without the written consent of the DIP Lenders, amending, supplementing or modifying either of the DIP Orders;

(k) a final non-appealable order of the Bankruptcy Court shall be entered that provides for the recovery from any portions of the DIP Collateral of any costs or expenses of preserving or disposing of such DIP Collateral under Bankruptcy Code section 506(c); or Borrower shall bring a motion in the Case seeking, or otherwise consent to, authority from the Bankruptcy Court (i) to recover from any portions of the DIP Collateral any costs or expenses of preserving or disposing of such DIP Collateral under Bankruptcy Code section 506(c) or (ii) to effectuate any other action or actions materially adverse to the DIP Lenders or their rights and remedies hereunder inconsistent with the Transaction Documents;

(l) the Bankruptcy Court shall terminate or reduce the period pursuant to Bankruptcy Code section 1121 during which the Debtor has the exclusive right to file a chapter 11 liquidation Plan and solicit acceptances thereof;

(m) the Debtor shall obtain court authorization to commence, or shall commence, join in, assist or otherwise participate as an adverse party in any suit or other proceeding against the DIP Lenders or the DIP Agent relating to the DIP Loan or any Transaction Document, unless such suit or other proceeding is stayed pursuant to Bankruptcy Code section 362 or an order of the Bankruptcy Court and is released upon the "Effective Date" of a chapter 11 liquidation Plan, as defined therein, and the order confirming such chapter 11 liquidation Plan provides that any such suit or proceeding shall be dismissed with prejudice;

(n) a chapter 11 liquidation Plan that is not in form and substance satisfactory to the DIP Lenders (and which shall conform with other plan support provisions as provided herein) shall be confirmed in the Case, or any order shall be entered which dismisses the Case and which order does not provide for the payment in full in cash of the Obligations under the Transaction Documents or the Debtor shall seek confirmation of any such plan of reorganization or entry of any such order;

(o) after the Confirmation Order shall have been entered by the Bankruptcy Court, the Debtor shall fail to satisfy in full all Obligations under the Transaction Documents on or after the effective date of such plan of liquidation or fail to comply in any material respect with the Confirmation Order, or the Confirmation Order shall have been revoked, remanded, vacated, reversed, rescinded, modified or amended in any manner that is materially adverse to the DIP Lenders' interests or inconsistent with the Transaction Documents;

(p) the Debtor's financial advisor is no longer serving as the chief restructuring officer of the Debtor and the Debtor fails to retain a replacement chief restructuring officer satisfactory to the DIP Lenders in their sole discretion within 20 days; or

(q) any other Default or Event of Default that has occurred or is occurring under the Transaction Documents.

27. *Remedies After an Event of Default.* Upon an Event of Default (as defined in the DIP Credit Agreement):

(a) the automatic stay under Bankruptcy Code section 362 shall be vacated and modified to the extent necessary to permit the DIP Agent and the DIP Lenders to exercise all rights and remedies under the DIP Documents;

(b) at any time thereafter during the continuance of such Event of Default, the DIP Agent (following the written direction of the requisite DIP Lenders) may, by notice to the Debtor, take either or both of the following actions, at the same or different times: (i) terminate the DIP Loan, and thereupon the DIP Loan shall terminate immediately, and (ii) declare the DIP Loan then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the DIP Loan so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Debtor accrued hereunder and under the DIP Documents, shall become due and payable immediately, without presentment, demand, protest, notice of intent to accelerate, notice of acceleration or other notice of any kind, all of which are hereby waived by the Debtor; and in the case of an Event of Default described in Sections 10.1(b)(i), (iv), (v), (vii), (viii), (ix), (x), (xi) (xii), (xiii), (xvi), (xix), (xx), (xxi) and (xxii) of the DIP Credit Agreement, the DIP Loan shall automatically terminate and the principal of the DIP Loan then outstanding, together with accrued interest thereon and all fees and the other obligations of the Debtor accrued under the Transaction Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Debtor;

(c) the DIP Lenders and the DIP Agent will have all other rights and remedies available at law and equity; and

(d) all proceeds realized from the liquidation or other disposition of collateral or otherwise received after maturity of the DIP Loan, whether by acceleration or otherwise, shall be applied: first, to reimbursement of expenses and indemnities provided for in the DIP Credit Agreement;

second, to accrued interest on the DIP Loan; third, to fees; fourth, to any other DIP Obligations; and any excess shall be paid to the Debtor.

Nothing herein shall alter the burden of proof set forth in the applicable provisions of the Bankruptcy Code at any hearing on any request by the Debtor or other party in interest to re-impose or continue the automatic stay under Bankruptcy Code section 362(a) or to obtain any other injunctive relief. In no event shall the DIP Lenders or the DIP Agent be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the DIP Collateral. The DIP Lenders' or the DIP Agent's delay or failure to exercise rights and remedies under the DIP Documents or this Final Order shall not constitute a waiver of the DIP Lenders' or the DIP Agent's rights hereunder, thereunder or otherwise, unless any such waiver is pursuant to a written instrument executed in accordance with the terms of the DIP Credit Agreement.

28. *Application of DIP Collateral Proceeds.* As used in this Final Order the term "DIP Collateral" shall mean the Note Holder DIP Collateral and/or the Argonaut DIP Collateral, as applicable. To the extent required by this Final Order and the DIP Documents, the Debtor is hereby authorized and directed to pay to the DIP Agent, for the benefit of the DIP Lenders, one hundred percent (100%) of all collections on, and proceeds of, the DIP Collateral, which shall at any time on or after the Petition Date come into the possession or control of the Debtor, or to which the Debtor shall become entitled at any time, and the automatic stay provisions of Bankruptcy Code section 362 are hereby modified to permit the DIP Agent, on behalf of the DIP Lenders, to retain and apply all collections, remittances, and proceeds of the DIP Collateral subject to and in accordance with this Final Order and the DIP Documents to the DIP Obligations (including the Carve-Out); provided, however, the DIP Obligations shall not include obligations of the Debtor or otherwise arising under the Montco Services Agreement. The Debtors shall be authorized and directed to pay Montco as provided in the Montco Service

Agreement subject to the Montco Services Order and the DIP Lenders and Indenture Trustee hereby consent to such payments.

29. *Payments Free and Clear.* Any and all payments or proceeds remitted to the DIP Lenders and the DIP Agent pursuant to the provisions of this Final Order or any subsequent order of this Court shall be received free and clear of any claim, charge, assessment or other liability.

30. *Perfection of the DIP Liens.*

(a) The DIP Lenders and/or the DIP Agent are hereby authorized, but not required, to file or record financing statements, intellectual property filings, mortgages, notices of lien or similar instruments in any jurisdiction, take possession of or control over, or take any other action to validate and perfect the DIP Liens granted to them under this Final Order. Whether or not the DIP Lenders shall, in their sole discretion, choose to file such financing statements, intellectual property filings, mortgages, notices of lien or similar instruments, take possession of or control over, or otherwise confirm perfection of the DIP Liens, such DIP Liens shall be deemed valid, perfected, allowed, enforceable, non-avoidable and not subject to challenge, dispute or subordination as of the date of entry of this Final Order.

(b) A certified copy of this Final Order may, in the discretion of the DIP Lenders and/or the DIP Agent, as the case may be, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Final Order for filing and recording.

(c) The Debtor shall execute and deliver to the DIP Lenders and/or the DIP Agent, all such agreements, financing statements, instruments and other documents as the DIP Lenders and/or the DIP Agent, as the case may be, may reasonably request to evidence, confirm, validate or perfect the DIP Liens.

(d) Any provision of any lease or other license, contract or other agreement that requires (i) the consent or approval of one or more landlords or other parties or (ii) the payment of any fees or obligations to any governmental entity, in order for the Debtor to pledge, grant, sell, assign, or otherwise transfer any such leasehold interest, or the proceeds thereof, or other DIP Collateral related thereto, is hereby deemed to be inconsistent with the applicable provisions of the Bankruptcy Code, and any such provision

shall have no force and effect with respect to the granting of the DIP Liens on such leasehold interest or the proceeds of any assignment and/or sale thereof by any Debtor in favor of the Lenders in accordance with the terms of the DIP Documents or this Final Order.

31. *Preservation of Rights Granted Under the Final Order.*

(a) No claim or lien (other than the DIP Liens or the lien granted pursuant to the 9019 Order) having a priority senior to or *pari passu* with those granted by this Final Order to the DIP Agent, for the benefit of the DIP Lenders, shall be granted or allowed while any portion of the DIP Obligations remains outstanding, and the DIP Liens shall not be subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under Bankruptcy Code section 551 or subordinated to or made *pari passu* with any other lien or security interest, whether under Bankruptcy Code section 364(d) or otherwise.

(b) Unless all DIP Obligations shall have been indefeasibly paid in full in cash, in the case of clause (i) below, the Debtor shall not seek, and in the case of clauses (i) and (ii) below, it shall constitute an Event of Default under the DIP Credit Agreement if there is entered, (i) any modification of this Final Order without the prior written consent of the DIP Lenders and the DIP Agent, and no such consent shall be implied by any other action, inaction or acquiescence by the DIP Lenders, or (ii) an order converting or dismissing the Case.

(c) If any or all of the provisions of this Final Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacatur shall, to the extent provided in Bankruptcy Code sections 363(m) and 364(e), not affect (i) the validity, priority or enforceability of any DIP Obligations incurred prior to the effective date of such reversal, stay, modification or vacatur or (ii) the validity, priority or enforceability of the DIP Liens. Notwithstanding any such reversal, stay, modification or vacatur, any use of the DIP Obligations incurred by the Debtor to the DIP Lenders or the DIP Agent, prior to the effective date of such reversal, stay, modification or vacatur shall, to the extent provided in Bankruptcy Code sections 363(m) and 364(e), be governed in all respects by the original provisions of this Final Order, and the DIP Lenders and the DIP Agent shall be entitled to all of the rights, remedies, privileges and benefits granted in Bankruptcy Code section 364(e), this Final Order and the DIP Documents.

(d) Except as expressly provided in this Final Order or in the DIP Documents, the DIP Liens, the Superpriority Claims, the other administrative claims granted pursuant to this Final Order, and all other rights and remedies of the DIP Lenders and the DIP Agent granted by this Final Order and the DIP Documents shall survive, and shall not be modified, impaired or

discharged by (i) the entry of an order converting the Case to a case under chapter 7 of the Bankruptcy Code or dismissing the Case, or (ii) the entry of an order confirming a plan of reorganization in the Case and, pursuant to Bankruptcy Code section 1141(d)(4), the Debtor has waived any discharge as to any remaining DIP Obligations. The terms and provisions of this Final Order and the DIP Documents shall continue in the Case, in any successor case(s), or in any superseding chapter 7 case under the Bankruptcy Code, and the DIP Liens, the DIP Obligations, the Superpriority Claims, the other administrative claims granted pursuant to this Final Order, and all other rights and remedies of the DIP Lenders and the DIP Agent granted by this Final Order and the DIP Documents shall continue in full force and effect until all DIP Obligations are indefeasibly paid in full in cash or otherwise as provided in this Final Order.

32. *Limitation on Use of the DIP Loan and the DIP Collateral.* The Debtor shall use the DIP Loan solely as provided in this Final Order, the DIP Budget and the DIP Documents. The Debtor may not vary the budget by more than five percent (5%) on a cumulative basis without the prior, written, express approval of the DIP Lenders. Notwithstanding anything herein or in any other order of this Court to the contrary, neither the DIP Loan, the DIP Collateral, the Carve-Out nor any cash or cash equivalents may be used to (a) object, contest or raise any defense to, the validity, perfection, priority, extent or enforceability of any amount due under the DIP Documents, or the liens or claims granted under this Final Order or the DIP Documents, (b) assert any claims and defenses or any other causes of action against the DIP Lenders, Montco, or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors, (c) prevent, hinder or otherwise delay the DIP Lenders' or the DIP Agent's assertion, enforcement or realization on the DIP Collateral in accordance with the DIP Documents or this Final Order, (d) seek to modify any of the rights granted to the DIP Lenders or the DIP Agent hereunder or under the DIP Documents, in the case of each of the foregoing clauses (a) through (d), without such party's prior written consent or (e) pay any amount on account of any claims arising prior to the Conversion Date unless such payments are

(i) approved by an order of this Court and (ii) permitted under the DIP Documents and the DIP Budget.

33. Subject to paragraph 52, In consideration of the DIP Loan and Argonaut's agreement to fund under the P&A Payment Agreement, all Debtor bonds written by sureties other than Argonaut (not including the Northstar Bonds, which are separately discussed below) shall be replaced by Argonaut including the bonds set forth on Exhibit B, and all collateral held by the sureties associated therewith shall be transferred to Argonaut for deposit in a collateral account established by Argonaut for such purposes ("P&A Plan Bond Escrow Account"). Argonaut shall have a first priority lien and security interest in the P&A Plan Bond Escrow Account, and all funds therein shall be cross-collateralized against all Argonaut bonds issued for the Debtor to cover all Losses (as defined in Argonaut's indemnity agreements) under any and all surety bonds Argonaut has issued or will issue. With respect to the surety bonds being replaced by Argonaut made the subject of paragraph 33 and 34, the Bureau of Ocean Energy Management ("BOEM") and other obligees or beneficiaries of non-Argonaut surety bonds subject to the terms of the existing bonds shall cooperate to expedite the release and cancellation of, without residual liability, the non-Argonaut bonds in exchange for replacement surety bonds from Argonaut on the same terms and conditions and the same penal sum as posted by such sureties. In addition, upon receipt of cancellation or release letters, all non-Argonaut sureties affected by this Final Order shall immediately transfer all collateral associated with such bonds, including any collateral over and above the penal sum of such bonds, to the P&A Plan Bond Escrow Account as so directed by Argonaut.

34. *Northstar Bonds and Collateral.* Upon entry of this Final Order, the surety bonds identified on Exhibit C hereto ("Northstar Bonds") shall be replaced with bonds posted by

Argonaut on the same terms and conditions and the same penal sum as posted by such sureties ("Argonaut/Northstar Replacement Bonds") and all collateral associated therewith shall be transferred to a separate collateral account maintained by Argonaut ("Argonaut/Northstar Collateral") as security for the Argonaut/Northstar Replacement Bonds, which shall be cross-collateralized against all bonds posted by Argonaut for the benefit of Debtor. The Debtor shall take all steps reasonably required to assign and transfer the leases made the subject of the Northstar Bonds to a third party qualified to hold leases with BOEM. The DIP Lenders are hereby granted a first priority lien (shared pari passu with Argonaut) in the residual interest in $14,000,000.00 of the Argonaut/Northstar Collateral. Argonaut is hereby granted a first priority lien on the residual interest in any Argonaut/Northstar Collateral in excess of $14,000,000.00 ("Argonaut Excess Northstar Collateral"). Upon release of the Argonaut/Northstar Collateral, it shall be distributed utilized as follows:

(a) $7,700,000.00 shall be distributed to Argonaut and used by Argonaut to repay the amounts of the Argonaut DIP Repayment and the Note Holder DIP Repayment except for the Roll Up Operating DIP Loan and the balance shall be deposited into the P&A Plan Bond Escrow Account; and

(b) The remaining $6,300,000.00 shall be used to pay the Roll Up Operating DIP Loan.

Upon release of the Argonaut Excess Northstar Collateral, it shall be deposited into the P&A Plan Bond Escrow Account. Likewise, the Argonaut Repayment shall be deposited P&A Plan Bond Escrow Account or otherwise used to collateralize Losses (as defined in Argonaut's indemnity agreements).

35. *Cooperation.* Commencing immediately and continuing through confirmation of the Plan, the Debtor agrees to cooperate with the DIP Lenders in due diligence, without limitation, as follows:

(a) the Debtor and its professionals will fully cooperate with the DIP Lenders and their agents and contractors to provide information relevant to the Debtor's operations and P&A liability;

(b) the Debtor and its professionals will fully cooperate with the Creditors' Committee, the Indenture Trustee and others designated by the DIP Lenders to evaluate the Chapter 5 Causes of Action. In that regard, the Debtor will provide requested documents and information, provide information regarding all transfers made in the preference period, provide information regarding transfers to insiders, and respond to such other requests as may be necessary to pursue and evaluate the Chapter 5 Causes of Action;

(c) the Debtor and its professionals will fully cooperate in drafting, filing and providing testimony and evidentiary support for a disclosure statement, the Plan and such other filings as may be necessary to carry out the terms of this Final Order; and

(d) the Debtor will use commercially reasonable best efforts to negotiate the sale of or withdrawal agreements related to its non-operated interests.

36. *P&A Escrows*. Any escrow account established by any predecessor-in-title, including those established by Merit, W&T, and Maritech (the "P&A Escrows"), shall remain in place as long as allowed under the applicable contracts and escrow agreements. Any security rights and other interests in the escrow accounts remain unimpaired except as otherwise agreed to by such predecessor-in-title. The Debtor's rights under all predecessor escrow agreements shall be unimpaired.

37. *Insurance*. The DIP Lenders are deemed to be the loss payee under the Debtor's insurance policies and shall act in that capacity and, subject to the terms of the DIP Documents, distribute any proceeds recovered or received in respect of any such insurance policies to the payment in full of the DIP Obligations.

38. *Proofs of Claim*. None the DIP Lenders, the Indenture Trustee, or the DIP Agent will be required to file proofs of claim in the Case or any successor case(s) on account of the DIP Obligations or the Pre-petition Obligations. Any proof of claim filed by the Indenture Trustee,

the DIP Lenders or the DIP Agent shall be deemed to be in addition and not in lieu of any other proof of claim that may be filed by any of the DIP Lenders.

39. *Effect of Stipulations on Third Parties*. The stipulations and admissions contained in this Final Order, including without limitation, in paragraphs 4 and 5 of this Final Order, shall be binding upon the Debtor under all circumstances. The stipulations and admissions contained in this Final Order, including without limitation, in paragraphs 4 and 5 of this Final Order, shall be binding upon all parties in interest, including, without limitation, the Committee and Platinum, under all circumstances and for all purposes. All Avoidance Actions and any other claims, counterclaims or causes of action, contests or defenses (collectively, the "Claims and Defenses") in any way related to the Debtor against any of the Indenture Trustee, entities holding the Senior Notes, the Backstop Lenders or their respective agents, affiliates, subsidiaries, directors, officers, representatives, attorneys or advisors (which for the avoidance of doubt shall not include Platinum) all such Claims and Defenses are hereby irrevocably waived and relinquished as of the Petition Date, except as provided in this Order. The foregoing stipulations, admissions and release shall not constitute a third party stipulation, admission or release of Argonaut or any other of the Debtor's sureties or bind any third parties regarding Argonaut or any of the Debtor's other sureties. The Pre-petition Obligations shall constitute allowed claims, not subject to counterclaim, setoff, subordination, recharacterization, defense or avoidance, for all purposes in the Case and any subsequent chapter 7 case. The Pre-petition Liens shall be deemed to have been, as of the Petition Date, and to be, legal, valid, binding, perfected and of the priority specified in paragraph 4(b), not subject to defense, counterclaim, recharacterization, subordination or avoidance. Subject to the terms of this Order, the Pre-petition Obligations, the Indenture Trustee, Senior Notes and the Noteholder DIP Lenders (other than Platinum), as the

case may be, and the Pre-petition Liens shall not be subject to any other or further challenge by any party-in-interest (including Platinum, the Committee, and any estate representative or a chapter 7 or 11 trustee appointed or elected for the Debtor); provided, however, nothing herein shall affect any rights of the United States government or any predecessor-in-title with respect to any bond issued by Argonaut.

40. *Plan Support Agreement.* The agreement of the Committee to be bound by the terms of this Final Order, specifically, but not limited to the agreement to waive and relinquish any claims or causes of action as set forth in paragraph 39 above is being provided as consideration for the agreement of the Debtor (which agreement by the Debtor must have been in accordance with the Debtor's fiduciary obligations to be enforceable), DIP Lenders and the Committee (collectively, the "Plan Support Parties") to support the following:

> The Plan Support Parties agree that the Plan will provide for (i) the Plan Exit Conversions, (ii) the payment, settlement, or resolution of all allowed administrative claims and (iii) payment as required by the Bankruptcy Code of allowed priority tax claims.
>
> The Plan will provide for the creation on the Effective Date of a litigation trust (the "Litigation Trust"). On the Effective Date, the following assets (the "Trust Assets") will be assigned to the Litigation Trust free and clear of all liens, claims and encumbrances, other than the Investigation Loan, the Roll Up Investigation Loan and the previously granted Adequate Protection Liens: (i) all causes of action (the "Trust Causes of Action") belonging to the Debtor on the Petition Date, other than any causes related to the Northstar Collateral, the P&A Recovery or the Grand Isle Litigation; and (ii) any amount of the Investigation Loan not consumed prior to the confirmation of the Plan. The operation of the Litigation Trust shall be governed by the Litigation Trust Committee consisting of 2 members selected by the Committee, 2 members selected by the Backstop Lenders and the Trustee of the Litigation Trust. The Trustee of the Litigation Trust shall be jointly selected by the Committee and the Backstop Lenders. After the Effective Date, if a member of the Litigation Trust Committee has its claim paid or sells its claim, that member will resign from the Litigation Trust Committee and will be replaced by vote of the remaining members, provided, however, that the new member must be from the same class as the resigning member.

The Litigation Trust, through the Trustee and with the oversight of the Litigation Trust Committee, shall be responsible for paying the following claims (in the order of priority shown): (i) the Investigation Loan; (ii) the Roll Up Investigation Loan; (iii) the Adequate Protection Liens to the extent they attach to Trust Causes of Action; (iv) allowed priority claims (other than priority tax claims); and (v) allowed unsecured claims. For the avoidance of doubt, all expenses of the Litigation Trust that are directly related to the Trust Causes of Action, shall be taxed against the gross proceeds of the Trust and shall be prior to any liens against the Trust Assets. Other than the enumerated claims, no claims against the Debtor or its estate shall be charged to the Litigation Trust.

On the Effective Date, the Debtor shall continue its existence and shall hereafter be referred to as the "Reorganized Debtor." On the Effective Date, all assets of the Debtor not part of the Trust Assets shall be vested in the Reorganized Debtor. From the Effective Date, the Reorganized Debtor shall be run by the Plan Agent who shall report to a Board of Directors consisting of 3 members.

All claims not being assigned to the Litigation Trust for payment shall be the responsibility of the Reorganized Debtor, including specifically allowed administrative claims and allowed priority tax claims. Objections to claims will be the responsibility of the entity responsible for paying such claim. The Plan will provide that the claims asserted by BOEM and BSEE, whether they are Administrative Claims or general unsecured claims, related to decommissioning on the properties included in the P&A Plan may be discharged once the Debtor receives final site clearance verification from BSEE. To the extent not resolved prior to the Effective Date, it shall be the job of the Plan Agent to work with BOEM and BSEE to seek to resolve any remaining liabilities of the Debtor associated with the Debtor's non-operated properties.

The provisions of this Section 40 are not binding on any party in any way except the Debtor, the DIP Lenders and the Committee and all parties beside the Debtor, DIP Lenders and Committee reserve all rights to object to such terms.

41. *Order Governs*. In the event of any inconsistency between the provisions of this Final Order and the DIP Documents, the provisions of this Final Order shall govern.

42. *Binding Effect; Successors and Assigns*. The DIP Documents, the DIP Agent, and the provisions of this Final Order, including all findings herein, shall be binding upon all parties-in-interest in the Case, including without limitation, the DIP Lenders and the Debtor and each of their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the Debtor, an examiner with expanded powers appointed

pursuant to Bankruptcy Code section 1104, or any other fiduciary appointed as a legal representative of the Debtor or with respect to the property of the estate of the Debtor) and shall inure to the benefit of the DIP Lenders, the DIP Agent, and the Debtor and their respective successors and assigns; provided that, except to the extent expressly set forth in this Final Order, the DIP Lenders shall have no obligation to permit the use of the DIP Loan, or extend any financing to any chapter 7 trustee or similar responsible person appointed for the estate of the Debtor.

43. *Reservation of Rights of Department of Interior.* Notwithstanding any other provision of this Order or any of its implementing documents including, without limitation, the DIP Credit Agreement and the related summary of proposed terms, nothing in this Final Order shall limit or affect in any way, the rights of the Department of the Interior with respect to the Debtor's decommissioning obligations, including bonding obligations, associated with its interests in all of its federal oil and gas leases and any rights of use and easement on the outercontinental shelf except as may be expressly agreed to by the Department of the Interior. Nothing in this Final Order shall limit or affect in any way the Debtor's ability to meet its decommissioning obligations except as may be expressly agreed to by the Department of the Interior. The issuance of any final order from the Department of the Interior shall not constitute a default under the DIP Loan.

44. *Reservation of Rights of Co-Owners.* Notwithstanding anything contained in this Final Order or the DIP Credit Agreement, the common law or contractual right of recoupment, set-off, or off-set than any operator or co-owner has against the Debtor or any property of the Debtor, whether such right arises prepetition or postpetition, are preserved. The rights of the Debtor, any secured party or the Creditors' Committee to contest such rights are also preserved.

Further, nothing contained in this Final Order or the DIP Credit Agreement shall alter or prime any pre-petition, valid, enforceable, perfected, and non-avoidable liens or security interests of Shell Offshore, Inc. or its affiliates or related entities, Fieldwood Energy LLC or its affiliates or related entities, W&T Offshore Inc., Merit Energy Company, L.L.C., McMoRan Alta Mesa Holdings, LP, Cairn Energy USA, LLC, Energy XXI GOM, LLCand Marubeni Oil & Gas (USA), Inc. (collectively, the "Co-Owners"). Notwithstanding anything contained in this Final Order or DIP Credit Agreement, the Co-Owners shall retain their respective pre-petition security interest in the Debtor's assets on a post-petition basis in the same collateral with the same validity and priority as the pre-petition security interest held by such respective entities.

45. *Limitation of Liability.* The DIP Lenders and the DIP Agent shall not have liability to any third party nor shall the DIP Lenders or the DIP Agent be deemed to be in control of the operations of the Debtor or to be acting as a "controlling person," "responsible person" or "owner or operator" with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the Internal Revenue Code, the United States Comprehensive, Environmental Response, Compensation and Liability Act as amended, or any similar federal or state statute), or owe any fiduciary duty to the Debtor, its creditors or its bankruptcy estates, and the DIP Lenders' and the DIP Agent's relationship with the Debtor shall not constitute nor be deemed to constitute a joint venture or partnership the Debtor. Furthermore, nothing in this Final Order or the DIP Documents shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Lenders or the DIP Agent of any liability for any claims arising from the pre-petition or post-petition activities of the Debtor.

46. *Security and Collateral Interests of Argonaut.* Any and all lien and security interests of Argonaut recognized or created by this Final Order shall be effective and perfected

upon the date of this Final Order and without the necessity of the execution by the Debtor (or recordation or other filing) of security agreements, control agreements, pledge agreements, financing statements, mortgages or other similar documents, or the possession or control of any such security or collateral by Argonaut.

47. *Argonaut Reservation of Rights.* Notwithstanding anything to the contrary contained in this Final Order, nothing herein shall limit the application of Argonaut's rights under the Pre-petition Argo Indemnity and Collateral Documents in relation to the Debtor or any third party.

48. In conjunction with P&A activities by Montco pursuant to the Montco Services Agreement on leases upon which Maritech Resources, LLC ("Maritech") is the predecessor to the Debtor, Maritech and Debtor shall release $1,038,253 ("Maritech P&A Contribution") to the P&A Plan Bond Escrow Account solely from the Capital One escrow collateral account established in conjunction with that certain Purchase and Sale Agreement dated January 22, 2011 by and between Maritech and Debtor ("Maritech's Escrow Account"), and maintained by Maritech and Debtor as security for Debtor's decommissioning obligations for leases upon which Maritech is the predecessor to the Debtor; provided, however, (i) Maritech and Debtor shall only be required to release the Maritech P&A Contribution after all decommissioning obligations identified as line items 4, 5, 9, and 18 on Exhibit A to the Montco Services Agreement are successfully eliminated and all bonds associated therewith, both in favor of Maritech and BOEM, have been released without residual liability and (ii) Maritech may allocate funds in the Maritech Escrow Account following release of the Maritech P&A Contribution among Maritech properties not included in the P&A Plan at its sole discretion. Notwithstanding anything contained to the

contrary in this Final Order, this Final Order shall not modify or amend the terms, conditions, obligations or rights established under the escrow agreement entered into by Maritech and the Debtor in order to establish the Maritech Escrow Account.

49. The Debtor, in cooperation with Merit, shall use best efforts in the exercise of its reasonable business judgement to seek approval by the applicable regulators for the reefing of VR386B. If reefing of VR386B is approved by the applicable regulators, Argonaut shall reimburse Merit for its actual costs of reefing up to $1.1 million. If reefing of VR386B is not approved, Argonaut shall reimburse Merit for its costs related to removal of the VR386B structure up to $1.1 million. In all cases, such reimbursements shall be payable within 30 days of receipt by Argonaut of invoices from Merit evidencing expenses incurred in reefing or decommissioning the structure and facilities on VR 386B and will be paid. Which collateral account it is paid out of is in Argonaut's discretion.

50. McMoRan Oil & Gas ("McMoRan") asserts and expects to file a Motion for Allowance of a post-petition administrative claim related to plugging and abandonment work for East Cameron 33 in the approximate amount of $3,242,445.00. McMoRan and the Debtor will agree to reduce, net and offset a portion of such asserted claim for the Debtor's share of P&A expenses incurred on EC 33 against certain pre- petition joint interest billings of Black Elk to McMoRan up to the amount of $1,786,053.49 (the "Offset Amount") provided that McMoRan agrees not to pursue a claim against the Debtors or Merit Energy for recovery of the Offset Amount and the Debtor reciprocally waives and releases any claim against McMoRan for pre-petition joint interest billings up to the Offset Amount. McMoRan specifically reserves all other rights and defenses with respect to its claims including its right to assert an administrative priority claim for the balance of P&A expense on EC-33, ST 299 and other leases and any and

all other claims arising from its/ operating agreements or contracts with the Debtor. McMoRan and Black Elk reserve all rights and defenses with respect to post-petition joint interest billings issued by Black Elk to McMoRan. Nothing in the Order shall impair or subordinate the rights of McMoRan under its operating agreements and other contracts with the Debtor.

51. *Effectiveness.* This Final Order shall take effect immediately upon entry hereof, and there shall be no stay of effectiveness of this Final Order.

52. *Preservation of Prior Orders.* Notwithstanding any other provision of this Order and for the avoidance of doubt, nothing herein shall modify, alter, amend, vacate, impair, subordinate, or affect the rights, claims, liens, obligations, and other terms of the prior orders in the Bankruptcy Case involving Merit Energy Company, LLC, other co-owners, predecessor owners, and Debtor, including the orders entered on September 29, 2015 (the "JAB-Merit Order") (Doc. 230), October 28, 2015 (the "9019 Order") (Doc. 368), and January 19, 2016 ("Merit Cash Collateral Order") (Doc. 609), and the order dated March 1, 2016, authorizing Debtor to enter into the Montco Services Agreement (Doc. 682).

53. "P&A Recoveries" shall mean the Debtor's reversionary right in any cash collateral held by any surety or predecessor-in-title to the extent such funds are returned to the Debtor's estate. For the avoidance of doubt, the P&A Recoveries do not include any P&A collateral that is to be used to make payments under the Montco Service Agreement or the Argonaut DIP Repayment or subject to the P&A Escrows until such time as the funds are no longer subject to the P&A Escrows. In further addition, all Losses covered by any and all surety bonds shall be paid in full and all surety bonds shall be fully canceled and released without residual liability prior to any reversion rights in the P&A Recoveries are recognized.[5] All of

[5] For the avoidance of doubt, nothing contained in this paragraph 53 shall limit the release of the Northstar Collateral as otherwise set forth herein.

Argonaut's indemnity and collateral rights under all applicable documents with all parties are specifically reserved until all surety bonds shall be fully canceled and released without residual liability.

54. Notwithstanding any other provision of this Order or any of its implementing documents including, without limitation, the DIP Credit Agreement and the related summary of proposed terms, nothing this Order shall limit or affect in any way, the rights of the Department of the Interior with respect to the Debtor's decommissioning obligations or the Debtor's ability to meet its decommissioning obligations, including bonding obligations, associated with its interests in all of its federal oil and gas leases and any rights of use and easement on the Outer-Continental Shelf except as may be expressly agreed to by the Department of the Interior. The issuance of any final order from the Department of the Interior shall not constitute a default under the DIP Loan. For the avoidance of any doubt, the Debtor shall not request that the United States waive any of its allowable administrative or general unsecured claims against the Debtor's estate and any allowable claims that the United States may have against the Debtor's estate, as may be determined by this Court, are expressly preserved. All rights of the Department of the Interior to object to any future sale, transfer, rejection, abandonment or other disposition of any federal oil and gas leases and any rights of use and easement on the Outercontinental Shelf in which the Debtor has an interest, and the properties associated with such leases or rights of use and easement, are expressly preserved. All rights of the United States under 11 U.S.C. § 362(b)(4), 28 U.S.C. § 959(b) or any other applicable laws or regulations are expressly preserved.

March 18, 2016

Marvin Isgur
UNITED STATES BANKRUPTCY JUDGE

Black Elk Energy
Cash Flow Projection

GLOBAL NOTE TO BUDGET: These projections have been prepared solely for the purposes of the Debtor's Motion for Entry of DIP Order and are based exclusively on information provided by the Debtor. There is a need for continuing due diligence which may result in material deviations from these projections. The associated footnotes on the following page are integrated into the budget and should be read in con junction therewith.

NOTES		Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
		Week 27	**Week 28**	**Week 29**	**Week 30**	**Week 31**	**Week 32**	**Week 33**	**Week 34**	**Week 35**	**Week 36**	**Week 37**
	Starting:	3/21/2016	3/28/2016	4/4/2016	4/11/2016	4/18/2016	4/25/2016	5/2/2016	5/9/2016	5/16/2016	5/23/2016	5/30/2016
	Ending:	3/27/2016	4/3/2016	4/10/2016	4/17/2016	4/24/2016	5/1/2016	5/8/2016	5/15/2016	5/22/2016	5/29/2016	6/5/2016
	Operating Cash Receipts											
1	Operating Receipts	-	-	-	-	-	-	-	-	-	-	-
1	Non-Operating Receipts	67,791	-	-	-	66,516	-	-	-	-	63,894	-
	Service Receipts	-	-	-	-	-	-	-	-	-	-	-
2	JIB Receipts	-	-	-	-	-	-	-	-	-	-	-
	Other non-recurring proceeds	-	-	-	-	-	-	-	-	-	-	-
	Other Receipts	-	-	-	-	-	-	-	-	-	-	-
	Total Receipts, Gross	67,791	-	-	-	66,516	-	-	-	-	63,894	-
	Royalties & Severance Taxes Paid	(20,949)	-	-	-	(13,665)	-	-	-	-	(10,809)	-
	Total Operating Receipts, Net	**46,842**	-	-	-	**52,851**	-	-	-	-	**53,086**	-
3	Lease Operating Expenses- Non-production related	(6,025)	(25,262)	(7,165)	(4,500)	(4,500)	(18,025)	(2,000)	(2,000)	(2,000)	(14,025)	(3,500)
	Lease Operating Expenses- Maintenance	(1,500)	(21,500)	(1,500)	(1,500)	(1,500)	(21,500)	(1,500)	(1,500)	(1,500)	(3,500)	(1,500)
4	Lease Operating Expenses- HSE & C	(81,928)	(195,836)	(67,615)	(69,360)	(59,070)	(141,810)	(34,118)	(24,931)	(31,796)	(31,931)	(34,118)
	Lease Operating Expenses- Production related	-	-	-	-	-	-	-	-	-	-	-
5	JIB Disbursements	-	-	-	-	-	-	-	-	-	-	-
	Direct Operating Disbursements	**(89,453)**	**(242,599)**	**(76,280)**	**(75,360)**	**(65,070)**	**(181,335)**	**(37,618)**	**(28,431)**	**(35,296)**	**(49,456)**	**(39,118)**
	Salary Payroll	-	(28,138)	-	(28,138)	-	(28,138)	-	(25,538)	-	(25,538)	-
	Payroll Tax	-	(10,130)	-	(10,130)	-	(10,130)	-	(9,194)	-	(9,194)	-
	Payroll Fee	-	(315)	-	(323)	-	(315)	-	(323)	-	(315)	-
	Benefits Expense	-	-	(10,434)	-	-	-	2,353	(12,787)	-	-	-
	Workman's Compensation	-	-	(1,548)	-	-	-	-	(2,179)	-	-	-
	401K Expense	-	-	-	-	-	-	-	-	-	-	-
6	Other Payroll	-	(46,500)	-	-	-	(39,000)	-	-	-	(29,000)	-
	Reimbursable Employee Expenses	-	(644)	-	(644)	-	(644)	-	(766)	-	(766)	-
	Payroll Related Expenses	-	**(85,927)**	**(11,982)**	**(39,435)**	-	**(78,427)**	**2,353**	**(50,788)**	-	**(64,813)**	-
	Rent and Leases	-	(11,008)	-	-	-	(11,008)	-	-	-	-	(11,008)
	Utilities	-	-	-	-	-	-	-	-	-	-	-
7	Insurance	-	-	-	-	-	-	-	(590,000)	-	-	-
8	Surety bond premiums	-	-	-	-	-	-	-	-	-	-	-
	IT & Systems	-	(9,464)	-	(785)	-	(9,464)	-	(600)	(185)	(8,364)	(1,100)
	Independent Director's Fees	-	-	(20,000)	-	-	-	(20,000)	-	-	-	*(20,000)*
	Other G&A	(55,787)	(6,330)	(2,000)	(3,850)	(3,787)	(30,669)	(2,000)	(3,000)	(2,850)	(20,455)	(2,000)
	General and Administrative	(55,787)	(112,729)	(33,982)	(44,071)	(3,787)	(129,567)	(19,647)	(644,388)	(3,035)	(93,632)	(34,108)
	Total Operating Disbursements	(145,240)	(355,327)	(110,262)	(119,431)	(68,856)	(310,903)	(57,265)	(672,819)	(38,332)	(143,088)	(73,226)
	OPERATING CASH FLOW	(98,398)	(355,327)	(110,262)	(119,431)	(16,005)	(310,903)	(57,265)	(672,819)	(38,332)	(90,002)	(73,226)
	Surety bond proceeds	-	-	-	-	-	-	-	-	-	-	-
	Other Non- Operating Proceeds	-	-	-	-	-	-	-	-	-	-	-
	DIP Proceeds	**4,334,267**	-	-	-	-	**2,014,321**	-	-	-	-	**651,413**
	Ad Hoc Litigation Proceeds	-	-	-	-	-	**250,000**	-	-	-	-	**250,000**
9	Debtor Professional Fees	-	(175,000)	-	-	(415,000)	-	(175,000)	-	(415,000)	-	(175,000)
	UCC Professional Fees	-	(70,000)	-	-	(100,000)	-	(70,000)	-	(100,000)	-	(70,000)
	Litigation Budget	-	-	-	-	-	(250,000)	-	-	-	-	(250,000)
	Criminal Case- WD 32	-	(10,000)	-	-	-	(10,000)	-	-	-	-	(200,000)
	Indenture Trustee Professional Fees	-	-	-	-	-	-	-	-	-	-	-
	Ad Hoc Professional Fees	-	-	-	-	-	-	-	-	-	-	-
	Adequate Protection Payments	-	-	-	-	-	-	-	-	-	-	-
	U.S. Trustee Professional Fees	-	-	-	(13,000)	-	-	-	-	-	-	-
	Required Deposits	-	-	-	-	-	-	-	-	-	-	-
	Total Misc. Disbursements	-	**(255,000)**	-	**(13,000)**	**(515,000)**	**(260,000)**	**(245,000)**	-	**(515,000)**	-	**(695,000)**
10	**Accrued Unpaid Expenses**	*(20,355)*	*(500,000)*	*(455,128)*	-	-	-	-	-	-	-	-
11	**P&A Contractor Contingency**	-	(870,000)	-	-	-	-	-	-	-	-	-
12	DIP Principal Payments	(750,000)	-	-	-	-	-	-	-	-	-	-
	DIP Interest Payments & Fees	(255,469)	-	-	-	-	(75,000)	-	-	-	-	(175,000)
	Litigation Principal Payments	-	-	-	-	-	-	-	-	-	-	-
	Litigation Interest Payments & Fees	-	-	-	-	-	-	-	-	-	-	-
13	**Total Debt Service Expenses**	(1,005,469)	-	-	-	-	(75,000)	-	-	-	-	(175,000)
	NET CASH FLOW	3,210,045	(1,980,327)	(565,390)	(132,431)	(531,005)	1,618,418	(302,265)	(672,819)	(553,332)	(90,002)	(41,814)
	Beginning Cash Balance	99,110	3,309,154	1,328,827	763,437	631,005	100,000	1,718,418	1,416,153	743,334	190,002	100,000
	Net Cash Flow	3,210,045	(1,980,327)	(565,390)	(132,431)	(531,005)	1,618,418	*(302,265)*	*(672,819)*	*(553,332)*	*(90,002)*	*(41,814)*
	Ending Cash Balance	3,309,154	1,328,827	763,437	631,005	100,000	1,718,418	1,416,153	743,334	190,002	100,000	58,186
	Week Ending:											

Incorporated Notes to Budget:

1. Oil and Gas Receipts: The Debtor does not plan to produce again. The last operating receipts were received week of 9.21.
2. JIB Receipts: Based on analysis of historical data which is unreliable. JIB receipts are difficult to estimate as it tends to be up to the partners' discretion when and if these are paid.
3. LOE- Non-Production Related: Vendors included in this analysis are those provided by the Debtor's management to date.
4. LOE- HSE&C: The Debtor has commenced the de-inventory process which will increase expenses with certain vendors in the near term, but lead to net cost savings over the forecast period and beyond. The Debtor is paying for and maintaining OSRPs and OSFRs for all operated properties and is currently compliant and up to date with its OSRP. The budget includes $3,000/month for OSRP/OSFRs on a going forward basis following recent successful completion of the annual oil spill drill and BSEE unannounced drill.
5. JIB Disbursements: The Debtor is evaluating payment of joint interest billings on an as required basis. Currently, there are no JIB disbursements being made.
6. Other Payroll: Includes costs for support staff from an independent accounting firm, a CFO and SEMs management and regulatory personnel to support the Company after certain employee terminations.
7. Insurance: Relates primarily to insurance for Black Elk and TKN properties. The current policy is paid off, and the Debtor expects to have a down payment of ~$590k for the renewal of the policy in May.
8. Surety Bond Premiums: Pending confirmation from the Debtor's bonding agent regarding timing of premium payments.
9. Debtor Professional Fees: Includes fees for the Debtor's CRO and Financial Advisor, Blackhill Partners, for $175k per month plus ~$15k per month for expenses. The remainder includes fees for legal counsel to the Debtor, and will be subject to a future procedures order and fee applications.
10. Accrued Unpaid Expenses: Represents fees payable under the compensation procedures order, including prior period earned fees as well as the applicable hold backs under the order.
11. P&A Contractor Contingency: The contingency payment of $870k is the amount agreed to be paid by the Debtor to JAB once the Debtor has sufficient funding.
12. DIP Principal Payments: The payment of $750k is the repayment to Montco for the interim-DIP proceeds received the week of February 15. It is to be repaid with interest. The interest expense is captured in the DIP Interest Payments & Fees line item.

Exhibit B

Bond Nos.	Bond Amounts	Properties
105500951	$3,648,000	SM 23
105500950	$1,872,000	SM 22
105500952	$230,000	SM 34
SU02025	$500,000	ST 9
SU32703	$40,000	SS 198
K08024789	$725,000	EC 178
K08024819	$1,000,000	MC 305
K08024832	$1,121,248	SM 44
K08024856	$90,000	WC 198
K08025058	$9,579,000	EC 160
K08025071	$900,000	GA 190
K08628543	$200,000	WC 173[1]
K08628464	$790,000	ST 179

[1] With regard to Bond No. K08628543, $100,000 of the total penal sum ($200,000) is proportioned to EC 33 CF under the P&A Plan.

Exhibit C

Bond No.	Bond Amount	Properties
105500954	$3,840,000	SM 41
SU02015	$3,255,000	HI A443
22031460	$2,640,000	WC 20
22031469	$2,305,000	HI A442
22031489	$1,455,000	WC 269