



**IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.**

**Dated: April 26, 2016.**

**TONY M. DAVIS**  
**UNITED STATES BANKRUPTCY JUDGE**  
**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE WESTERN DISTRICT OF TEXAS**  
**AUSTIN DIVISION**

<b>In re:</b>	)	<b>Chapter 11</b>
	)	
<b>Trinity River Resources, LP</b>	)	<b>Case No. 16-10472 (TMD)</b>
	)	
<b>Debtor.</b>	)	

**INTERIM ORDER (I) AUTHORIZING THE USE OF CASH COLLATERAL PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE, (II) GRANTING ADEQUATE PROTECTION TO THE LENDERS PURSUANT TO SECTIONS 361, 362, AND 363 OF THE BANKRUPTCY CODE, (III) GRANTING LIENS AND SUPERPRIORITY CLAIMS, (IV) MODIFYING AUTOMATIC STAY, AND (V) SCHEDULING A FINAL HEARING**

Having considered the Debtor's emergency motion for an order (i) authorizing the Debtor's use of cash collateral of existing secured lenders, (ii) granting adequate protection for use thereof, and (iii) scheduling a final hearing (the "Motion"), the objections, evidence and arguments presented at the hearing (the "Interim Hearing") and **BASED ON THE STIPULATION OF THE PARTIES, THE COURT HEREBY FINDS AS FOLLOWS:**

**Jurisdiction**

A. This Court has core jurisdiction over this case (this "Chapter 11 Case" or this "Case"), the Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. The Debtor consents to entry of a final judgment or order with respect to the

Motion if it is determined that this Court would seek Article III jurisdiction to enter such final judgment absent consent of the parties.

### **Venue**

B. Venue for this Case and proceedings on the Motion is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Core Proceeding**

C. This matter is a “core proceeding” as defined in 28 U.S.C. §§ 157(b)(2)(A)(D) and (M). The statutory predicates for the relief sought herein are Sections 105, 361, 362, 363, 507 and 552 of the Bankruptcy Code and Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the local rules of this Court (the “Local Rules”).

### **Petition Date**

D. On April 21, 2016 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Western District of Texas, Austin Division (this “Court”). The Debtor has continued in the management and operation of its business and properties as debtor in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

### **Committee**

E. To date, the Office of the United States Trustee (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors (a “Committee”), equity interest holders, or other parties-in-interest in this Case.

### **Notice**

F. On April 22, 2016, pursuant to Bankruptcy Rules 2002, 4001, and 9014 the Debtor served copies of the Motion and notice of the Interim Hearing to all creditors and parties-

in-interest entitled to such notice, including: (a) the United States Trustee, (b) those creditors holding the twenty (20) largest unsecured claims against the Debtor's estate, (c) counsel to the Lenders, (d) any party that has requested notice pursuant to Bankruptcy Rule 2002, and (e) any other secured parties of record. Under the circumstances, such notice of the Motion, the relief requested therein and the Interim Hearing complies with Bankruptcy Rule 4001(b), (c) and (d) and the Local Rules, and no other notice needs to be provided for entry of this Interim Order.

#### **Opportunity to Object**

G. Except pursuant to Bankruptcy Rule 4001(d)(2), any objection to this Interim Order, except for the stipulations regarding the Lenders' claims, documentation and existence of the Lenders' debt and existence and perfection of the Lenders' liens, must be filed within fifteen (15) days after the date of mailing hereof to those parties required under Bankruptcy Rule 4001(d)(1). Objections to the stipulations regarding the Lenders' claims, documentation, and existence of the Lenders' indebtedness and existence and perfection of the Lenders' liens must be filed by the Challenge Period (as set forth in Paragraph 24 below). The mailing of a copy of this Interim Order by first class mail, postage prepaid, on those entities required under Bankruptcy Rule 4001(d)(1) shall be deemed to constitute compliance with the applicable notice provisions of Bankruptcy Rule 4001 regarding agreements for use of cash collateral and relief from the automatic stay.

#### **Lenders' Claim and Liens**

H. Subject to prior and unavoidable liens and security interests, if any, and the Challenge Rights in the Challenge Period (as set forth in Paragraph 24 below), the Debtor, on its behalf and on behalf of its estate, admits, stipulates, acknowledges, and agrees that (a) the Lenders hold valid, enforceable and allowable claims as defined in Section 101 of the Bankruptcy Code as of the Petition Date, (b) this Interim Order shall constitute proof of the

amount and nature of each of the Lenders' claims (as set forth below) in these Cases and the Lenders may, but shall not be obligated to, amend or supplement this proof by filing a proof of claim in this Case, and (c) the Debtor acknowledges and stipulates that:

(1) Pre-Petition Loan Documents. As of the Petition Date, the Debtor was justly and lawfully indebted and liable, without defense, counterclaim, or offset of any kind, with respect to all obligations (the "Pre-Petition Obligations") owing pursuant to (a) the First Amended and Restated Credit Agreement dated as of March 26, 2014 among the Debtor, GE Capital EFS Financing, Inc., as Administrative Agent and Collateral Agent ("Agent") as LC Issuer for such lenders (the "Lenders"), as amended by Bridge Agreement dated December 31, 2015, Letter Agreement dated February 2, 2016, and Supplement to Bridge Agreement dated February 2, 2016 (as so amended and as the same may be further amended, restated, supplemented or otherwise modified from time to time, the "Pre-Petition Credit Agreement"); and (b) the other documents executed in connection therewith, including, without limitation, any note, mortgages, letter of credit documents, security agreements, guaranty agreements, deposit account control agreements, security interests, hedge contracts, or any other agreements or instruments executed by the Debtor, any guarantor of the Debtor, or any subsidiary of the Debtor (collectively, the "Pre-Petition Security Documents").

(2) Pursuant to the Pre-Petition Credit Agreement and the Pre-Petition Security Documents (collectively, the "Pre-Petition Loan Documents"), the Agent and the Lenders made certain loans, advances, and other financial accommodations and provided letters of credit to the Debtor to fund, among other things, the Debtor's operations.

(3) Pre-Petition Indebtedness. Pursuant to the Pre-Petition Loan Documents, the aggregate amount of not less than \$118,508,719.42 was due and owing by the Debtor to the Agent and the Lenders, consisting of unpaid principal in the amount of not less than \$116,598,358.99 accrued but unpaid interest and fees in the amount of not less than \$1,910,360.43, plus all other fees, expenses, charges, and other amounts due under the Pre-Petition Credit Agreement (collectively, the “Pre-Petition Indebtedness”) as of the Petition Date. For purposes of this Interim Order, Pre-Petition Indebtedness shall mean and include, without duplication, any and all amounts owing or outstanding under the Pre-Petition Loan Documents, interest on, fees and other costs, expenses and charges owing in respect of, such amounts (including, without limitation, any reasonable attorneys’ fees, accountants’, financial advisors’, or other fees and expenses) that are chargeable or reimbursable pursuant to the Pre-Petition Loan Documents, and any and all obligations liabilities, contingent or otherwise, owed in respect of the letters of credit or other Pre-Petition Obligations outstanding thereunder.

(4) Pre-Petition Liens. The Pre-Petition Indebtedness is secured by valid, binding, perfected and enforceable liens and security interests (the “Pre-Petition Liens”) granted by the Debtor to the Agent for the benefit of the Lenders, under the recorded Pre-Petition Loan Documents, upon and in property of the Debtor as described in the recorded Pre-Petition Loan Documents whether then owned or thereafter acquired or arising, all proceeds and products thereof (collectively, the “Pre-Petition Collateral”). For the avoidance of doubt, Pre-Petition Collateral shall mean and include (a) collateral in or upon which a lien or other security interest has been granted in favor or for the benefit of the Agent or the Lenders in connection with, pursuant to or under the Pre-

Petition Loan Documents; and (b) any Pre-Petition Collateral provided under any of the Pre-Petition Loan Documents, including that described in this subparagraph, that existed as of the Petition Date and all pre-petition and, subject to Section 552 of the Bankruptcy Code, post-petition proceeds, products, offspring, rents, and profits.

(5) Validity and Priority of Pre-Petition Liens. The Pre-Petition Liens constitute valid, binding, enforceable and perfected first priority liens encumbering the Pre-Petition Collateral, including Cash Collateral (as defined below), that are not subject to avoidance or subordination (except insofar as such liens are subordinate to (a) any liens existing on the Petition Date that are valid, properly perfected, unavoidable, and senior to the Pre-Petition Liens, and except as otherwise set forth in this Interim Order and/or the Pre-Petition Loan Documents, (b) the Replacement Liens (as defined below), in accordance with the provisions of this Interim Order) pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

(6) The Pre-Petition Indebtedness (a) constitutes the Debtor's legal, valid and binding obligation, enforceable in accordance with its terms; and (b) is not subject to avoidance, subordination, recharacterization, recovery, attack, offset, counterclaim, defense, or Claim (as such term is defined in the Bankruptcy Code) of any kind pursuant to the Bankruptcy Code or applicable non-bankruptcy law. Any amounts previously paid to the Agent or any of the Lenders on account thereof or with respect thereto, are not subject to avoidance, reduction, disallowance, impairment, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

(7) The Agent (on its behalf and on behalf of the Lenders) holds properly perfected security interests and Pre-Petition Liens in and on the Pre-Petition Collateral by

the filing of UCC-1 financing statements, mortgages, and other required documents against the Debtor and such Pre-Petition Collateral with the proper federal, state, and county offices for perfection of such security interests and Pre-Petition Liens.

### **Binding Agreement**

I. The terms and conditions set forth in this Interim Order are fair, just and reasonable under the circumstances, are ordinary and appropriate, reflect the Debtor's exercise of its prudent business judgment consistent with its fiduciary duties, and are supported by reasonably equivalent value and fair consideration. Any agreements and arrangements authorized in this Interim Order have been negotiated at arms' length with all parties represented by experienced counsel, have been entered into in good faith (including, without limitation, as that term is used in Section 363 of the Bankruptcy Code) and are enforceable in accordance with their terms.

### **Cash Collateral**

J. For purposes of this Interim Order, cash collateral consists of all the Debtor's property that constitute cash collateral in which the Agent and the Lenders have an interest as provided in Section 363(a) of the Bankruptcy Code. Accordingly, "Cash Collateral" shall mean all cash, cash equivalents, negotiable instruments, refunds, documents of title, securities, deposit accounts or other cash equivalents, in which the Agent and the Lenders have an interest as provided in Section 363(a) of the Bankruptcy Code. "Cash Collateral" shall also consist of all of the Debtor's property that constitutes cash collateral in which the Debtor has an interest as provided in Section 363(a) of the Bankruptcy Code and shall include, without limitation:

(1) All cash proceeds from the collection, sale, lease or other disposition used or conversion of any property upon which the Lenders hold liens or replacement liens, whether as a part of the Pre-Petition Collateral or pursuant to the Bankruptcy Code, and order of this Court, applicable law or otherwise and whether such property has been converted to cash or existed as of the Petition Date;

(2) all of the respective deposits and refund claims of the Debtor upon which the Lenders have liens or replacement liens, whether as part of the Pre-Petition Collateral of pursuant to the Bankruptcy Code, and order of this Court or applicable law or otherwise and the Debtor's cash on hand as of the Petition Date;

(3) all Post-Petition accounts, accounts receivable, and cash proceeds generated by the Pre-Petition Collateral.

K. Without limiting the foregoing, as of the Petition Date, all cash and cash equivalents received by the Debtor, including collections and proceeds of any Pre-Petition Collateral or services provided by the Debtor, which shall at any time come into the possession, custody, or control of the Debtor, or to which the Debtor is now or shall become entitled at any time held in any banking, checking, or other deposit account with any financial institution constitute the Cash Collateral of the Agent and the Lenders.

#### **Cause Shown**

L. The Debtor has an immediate and critical need to use the Lenders' Cash Collateral to continue the Debtor's ordinary course business operation and to maintain the value of the Debtor's bankruptcy estate. The Agent and the Lenders have agreed to permit the Debtor to use the Pre-Petition Collateral including Cash Collateral, on an interim basis, on the terms and conditions provided for herein, including the approval and payment of the Adequate Protection Payment and the granting of the Adequate Protection Replacement Liens (as defined below). The adequate protection provided herein to the Agent and the Lenders and other benefits and privileges contained herein are consistent with and authorized by the Bankruptcy Code and are necessary to obtain the consent or non-objection of such parties.

M. Neither the Agent nor the Lenders consent to the Debtor's use of Cash Collateral or the Budget (as defined below) except in accordance with the terms and conditions contained in this Interim Order commencing on the Petition Date and expiring at 5:00 p.m. (prevailing



Central time) on the date of the Final Hearing (as defined below) (the “Interim Period”). The Interim Period may be extended from time to time as provided in paragraph 3.

N. The Debtor has requested that the Lenders permit the use of Cash Collateral to provide funds to be used solely for such purposes set forth in the Interim Budget (as defined in paragraph 2) to avoid immediate and irreparable harm to the Debtor’s bankruptcy estate, which will occur if this Interim Order is not immediately approved.

O. Good, adequate, and sufficient cause has been shown to justify the granting of the relief requested herein. The Debtor’s interim use of Cash Collateral is necessary to preserve the bankruptcy estate, and will avoid immediate and irreparable harm to the Debtor, its bankruptcy estate and assets, before the expiration of the Interim Period.

P. Good, adequate, and sufficient cause has been shown to justify the immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(b) and (c).

Q. Pursuant to Section 363(c)(2) and (e) of the Bankruptcy Code, the relief requested in the Motion is hereby **APPROVED AND GRANTED** as described herein.

### **ORDER**

Accordingly, it is hereby **ORDERED**:

1. The Motion is hereby **GRANTED** in accordance with the terms and conditions set forth in this Interim Order and with the consent of the Agent (on behalf of the Lenders), to the form and entry of this Interim Order. Any objections to the relief requested in the Motion that have not been previously resolved or withdrawn are hereby **OVERRULED** on their merits, or to the extent applicable, deferred to the Final Hearing (as defined herein). This Interim Order shall be a valid, binding obligation on all parties-in-interest and fully effective immediately upon its entry.

### **Budget and Expenditures**

2. The Debtor shall be permitted to use Cash Collateral solely to pay the expenses to the extent accrued and as incurred and described in the expenditures contained in the interim budget attached as **Exhibit A** (the “Interim Budget”) as the same may be extended in accordance herewith, in an amount not to exceed those amounts set forth in the Interim Budget; provided, however, (a) the Debtor is allowed a variance of less than or equal to a eight percentage (8%) in the aggregate of the expense line items set forth on the Interim Budget (the “Variance”); (b) and access to the Cash Collateral shall be made only in conformance with the expense line items in the Interim Budget (subject to only the Variance).

### **Restriction on Use of Cash Collateral Proceeds**

3. Notwithstanding anything herein to the contrary and except as permitted by Paragraph 24 below, for so long as the Debtor is authorized to use the Lenders’ Cash Collateral, no proceeds from the Cash Collateral (including any retainer held by any court-employed professional (the “Professionals”) or Pre-Petition Collateral, may be used by the Debtor, any committee or trustee or other estate representative appointed in this Case or any case that is converted to a case under chapter 7 (a “Successor Case”), or any other person, party, or entity (or to pay any fees and disbursements of any Professional incurred in connection therewith) (a) to investigate or prosecute any litigation or other action in connection with the value of the Pre-Petition Collateral at any time; and (b) to request authorization to obtain post-petition loans or other financial accommodations pursuant to Bankruptcy Code Section 364(c); (c) to investigate, assert, join, commence, support, or prosecute any action for any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination, or similar relief against, or adverse to the interests of, in any capacity, the Agent or any of the Lenders, and their respective officers, directors, employees, agents,

attorneys, affiliates, assigns, or successors, with respect to any transaction, occurrence, omission, action, or other matter (including formal or informal discovery proceedings in anticipation thereof), including, without limitation,

- i. any Challenges (as defined below) and any avoidance actions or other actions arising under Chapter 5 of the Bankruptcy Code or any equivalent or similar action arising under state law;
- ii. any action with respect to the validity, enforceability, priority, and extent of the Pre-Petition Indebtedness, or the validity, extent, and priority of the Pre-Petition Liens, or the Adequate Protection Replacement Liens (as defined below);
- iii. any action seeking to invalidate, set aside, avoid, or subordinate, in whole or in part, the Pre-Petition Liens, the Adequate Protection Replacement Liens, or the other Lenders' Adequate Protection;
- iv. any action seeking to modify any of the rights, remedies, priorities, privileges, protections, and benefits granted to any or all of the Lenders hereunder the Pre-Petition Loan Documents, as applicable.

#### **Termination Date**

4. The term of this Interim Order and the Debtor's authority to use Cash Collateral hereunder shall expire at 5:00 p.m. (prevailing Central time) on date of the Final Hearing (the "Termination Date"). The Debtor and the Agent (on behalf of the Lenders) may extend the Termination Date, without further notice to creditors or order of this Court, provided that a stipulation extending this Interim Order (an "Extension Stipulation") signed by the Debtor's counsel and the Agent's counsel is filed together with a copy of a new budget (a "New Budget") approved by the Agent and Lenders. If the Agent and Lenders do not consent to the extension of the Termination Date within five (5) days after its receipt of a New Budget, then the Agent and the Lenders shall be deemed to consent to an expedited hearing on the Debtor's request to extend the Termination Date, provided that the Lenders receive at least five (5) business days' notice of the expedited hearing.

### **Termination Events**

5. The Debtor's right to use Cash Collateral under this Interim Order shall immediately and automatically terminate (unless otherwise indicated) upon occurrence of any of the following events (each a "Termination Event"):

- (a) 5:00 p.m. (prevailing Central time) on May 16, 2016 or such later date as may be agreed to by the Debtor and the Agent (on behalf of the Lenders);
- (b) upon the Agent's written notice to the Debtor that Cash Collateral has been expended by the Debtor other than in accordance with provisions of this Interim Order or the Interim Budget;
- (c) entry of an order without prior consent of the Lenders, (i) converting this Chapter 11 Case to a case under Chapter 7 of the Bankruptcy Code; (ii) dismissing this Chapter 11 Case; (iii) appointing a trustee under Chapter 7 or Chapter 11 of the Bankruptcy Code or appointing an examiner with expanded powers (powers beyond those set forth in Section 1106(a)(3) and (a)(4) in this Case; (iv) reversing, vacating or otherwise amending, supplementing or modifying this Interim Order; or (v) granting relief from the automatic stay to any creditor (other than the Lenders) holding or asserting a lien in collateral of the Lenders or reclamation claim;
- (d) upon three (3) business days' written notice by the Agent to the Debtor of entry of an order for (i) the invalidation, subordination or other challenge of the Superpriority Claim (as defined below) or Adequate Protection Replacement Liens (as defined below); or (ii) relief under Section 506 of the Bankruptcy Code with respect to the Pre-Petition Collateral other than per the Challenge Rights (as defined below);
- (e) upon three (3) business days' written notice by the Agent to the Debtor of the Debtor's filing of any application for entry of an order approving use of Cash Collateral (other than the application related to this Interim Order or any final cash collateral order (a "Final Order") as same may be extended from time to time);
- (f) the closing of a sale pursuant to entry of an order approving the sale of substantially all of the assets whether done pursuant to one transaction or a series of transactions;
- (g) the filing by the Debtor of a motion in this Chapter 11 Case without the Lenders' prior written consent (i) to obtain financing under Section 364 of the Bankruptcy Code from any person or entity other than the Lenders;

(ii) to grant any lien or offering any collateral; (iii) to recover any portion of the Pre-Petition Collateral; and

- (h) upon three business days' notice, the Agent's written notice to the Debtor that the Debtor has failed to comply with any other terms of this Interim Order.

#### **Termination Remedies**

6. If the Debtor's right to use Cash Collateral has not been previously terminated pursuant to the provisions of this Interim Order, such right may be extended only upon the Agent's written consent or further order of this Court. The Agent and Lenders shall have no obligation to agree to such extension under any circumstances and may elect or not elect to agree to such extension as they determine in their sole and absolute discretion, provided that the Debtor shall have the right to seek authority from this Court to use Cash Collateral on an expedited basis in the event that the Lenders do not consent to such extension.

#### **Enforcement Notice**

7. Upon (a) the occurrence and continuation of a Termination Event and (b) subject to three (3) days' written notice (if applicable), the Agent, on behalf of the Lenders, shall file a notice of termination of the automatic stay of Section 362 of the Bankruptcy Code. All parties-in-interest shall have seven (7) days to have an opportunity to be heard before the termination is effective. The Debtor and/or U.S. Trustee shall have the burden of proof at any hearing on any request by them to reimpose or continue the automatic stay of Section 362(a) of the Bankruptcy Code or to obtain any injunctive relief and the sole issue at the hearing to reimpose the automatic stay shall be limited to whether a Termination Event occurred. Termination of the Debtor's right to use Cash Collateral or termination of the automatic stay pursuant to the provisions of this paragraph shall in no way affect the validity, enforceability, or priority of adequate protection

replacement liens, superpriority claims, or other protections afforded to the Agent and the Lenders pursuant to the provisions of this Interim Order.

### **Adequate Protection**

8. Subject to the Challenge Period (as set forth in Paragraph 24 below), for the use of its Cash Collateral, each of the Lenders is entitled, pursuant to Sections 361, 362, and 363 of the Bankruptcy Code, to adequate protection of its interests in the Pre-Petition Collateral on account of the Debtor's use, sale, or lease of the Pre-Petition Collateral (including Cash Collateral) from and after the Petition Date, the subordination of the Pre-Petition Liens to the Carve-Out (as defined in paragraph 13), and the imposition of the automatic stay per Section 362 of the Bankruptcy Code, and any other decrease in value of such interests on account of Section 362 or 363 of the Bankruptcy Code (the "Diminution in Value"). In consideration for the use of Cash Collateral and as adequate protection for, and to secure payment for the aggregate Diminution in Value, the Agent, on behalf of each of the Lenders, shall be and is granted (effective upon the Petition Date and without the necessity of the execution or filing by the Debtor, the Agent, or any of the Lenders of mortgage, security agreement, pledge agreement, financing statement, or otherwise), the following: (a) Adequate Protection Replacement Liens (as defined below), and (b) Superpriority Claim (as defined below) (collectively, "Adequate Protection") as set forth herein.

### **Adequate Protection Replacement Liens**

9. Subject to the Challenge Period (as set forth in Paragraph 24 below), to the extent of any Diminution in Value, the Agent for the benefit of the Lenders, is hereby granted, pursuant to Sections 361 and 363 of the Bankruptcy Code, valid, automatically perfected and enforceable additional first priority adequate protection replacement liens, (the "Adequate Protection")

Replacement Liens”) upon all of the Debtor’s right, title and interest in, to, and under (a) all of the Debtor’s property which, in the absence of bankruptcy, would have been subject to the Pre-Petition Liens including, without limitation, the Debtor’s post-petition accounts receivable and post-petition gross receipts resulting from the Debtor’s ordinary course business operations to the extent of the Debtor’s use of Cash Collateral; (b) all of the Debtor’s now-owned and after-acquired real and personal property, assets and rights, of any kind or nature, wherever located, including, without limitation, contracts, property, plant, equipment, general intangibles, documents, instruments, interests in leaseholds, patents, copyrights, trademarks, trade names, and all other intellectual property, capital stock of subsidiaries, cash and cash collateral of the Debtor (whether maintained with the Lenders or other financial institutions), any investment of such cash and cash collateral, inventory, accounts receivable, any cause of action excluding avoidance or other actions arising under Chapter 5 of the Bankruptcy Code, and the proceeds thereof (whether recorded by judgment, settlement or otherwise, but not including any cause of action brought against the Lenders); and (c) any right to payment whether arising before or after the Petition Date, and the proceeds, products, rents and profits (collectively, the “Adequate Protection Collateral”).

10. The Adequate Protection Replacement Liens shall at all times be senior to any security interest, assignment, or lien of any creditor or other party-in-interest in this Case. The Adequate Protection Replacement Liens granted shall not be subordinated to, or made *pari passu* with, any other lien, claim or security interest, however and whenever arising, in this Case or any Successor Case. The Adequate Protection Replacement Liens shall be, and hereby are, deemed duly perfected and recorded under all applicable federal, state and other laws as of the commencement of this Case, and no notice, filing, mortgage recordation, possession, further

order or other act shall be required to effect such perfection. The Adequate Protection Replacement Liens shall survive and shall not be adversely modified, altered or impaired in any manner by (a) any other financing or extension of credit or incurrence of debt by the Debtor (under Section 364 of the Bankruptcy Code or otherwise), (b) the entry of an order confirming any plan or plans of reorganization, or (c) the entry of an order converting this Chapter 11 Case to Chapter 7 or dismissing this Chapter 11 Case or by any act or omission whatsoever.

### **Superpriority Claim**

11. As further adequate protection, for the Debtor's use of the Cash Collateral, and to protect against Diminution in Value of the Lenders' interest in such Cash Collateral to the extent of any such diminution resulting from the Debtor's use of the Cash Collateral, the Agent and the Lenders are hereby further granted an allowed administrative superpriority expense claim (the "Superpriority Claim"), as provided and to the full extent allowed by Sections 503(b) and 507(b) of the Bankruptcy Code, with priority over all administrative expense claims and unsecured claims against the Debtor and its estate, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kind specified in or ordered pursuant to Sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 546(d), 726 (to the extent permitted by law), 1113, and 1114 and any other provision of the Bankruptcy Code, and payable from and having recourse to all Pre-Petition and Post-Petition property of the Debtor and all proceeds thereof.

### **Right to Seek Additional Adequate Protection**

12. The Agent, on behalf of the Lenders, may request Court approval for additional or alternative adequate protection, without prejudice to any objection of the Debtor or any other party-in-interest to the grant of any additional or alternative adequate protection Order.



13. The Adequate Protection Replacement Liens and the Superpriority Claim (a) shall not be subject to Sections 510, 549, 550, or 551 of the Bankruptcy Code or, subject to entry of the Final Order, Section 506(c) of the Bankruptcy Code or the “equities of the case” exception of Section 552 of the Bankruptcy Code, (b) shall not be subordinate to, or *pari passu* with, (x) any lien that is avoided and preserved for the benefit of the Debtor and its estates under Section 551 of the Bankruptcy Code or otherwise or (y) any intercompany or affiliate liens or claims of the Debtor, and (c) shall be valid and enforceable against any trustee or any other estate representative appointed in this Case or any Successor Case, and/or upon the dismissal of this Case.

#### **Ad Valorem Taxes**

14. Notwithstanding anything contained herein, all Adequate Protection Replacement Liens and the Superpriority Claim are subject to the payment of any outstanding *ad valorem* property taxes and nothing contained herein shall impact the validity and priority of liens granted to *ad valorem* taxing authorities under applicable statutes. All Adequate Protection Replacement Liens and the Superpriority Claim are subject to other liens, if any, that have priority over the Pre-Petition Liens of the Lenders. For avoidance of doubt, the Adequate Protection Replacement Liens and the Superpriority Claim shall not extend to cash held by the Debtor for the benefit of a third party, such as any royalty claimant.

#### **Carve-Out**

15. Subject to the terms and conditions contained in this paragraph, the Adequate Protection Replacement Liens and the Superpriority Claim shall be subject and subordinate to payment of a carve-out (the “Carve-Out”). As used in this Interim Order, the term “Carve-Out” shall mean (a) quarterly fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court (the “Statutory Fees”); and (b) the aggregate

amount of any fees and expenses of any Professional included in the Interim Budget, which are actually incurred, but unpaid as of the termination of the Debtor's right to use Cash Collateral under this Interim Order, but only to the extent incurred and unpaid, such fees and expenses have been previously or subsequently are approved by this Court and only to the extent such incurred and unpaid fees and expenses exceed any retainer held by any such Professional at the time of such termination; and (c) after a Termination Event, the payment of the reasonable fees and expenses of the Professionals (as accrued and regardless of whether approved and unpaid or pending approval by this Court) that are incurred and are ultimately allowed by this Court pursuant to Bankruptcy Code § 330, in an aggregate amount not to exceed \$75,000. The Carve-Out may only be used for the payment of fees and expenses of Professionals to the extent allowed by order of this Court. Prior to a Termination Event, subject to the entry of an appropriate order of this Court (in form and substance reasonably acceptable to the Agent), the Debtor shall be permitted to use Cash Collateral to pay compensation and reimbursement of budgeted expenses allowed and payable to Professionals under Section 330 and 331 of the Bankruptcy Code in accordance with the Interim Budget, and the portion of the Carve-Out set forth in clause (c) above shall not be reduced by the amount of any compensation or reimbursement of costs and expenses accrued, incurred, awarded or paid before the occurrence of the Termination Date. Notwithstanding the foregoing, following the occurrence of the Termination Date, any amounts paid to the Professionals by any means will reduce the Carve-Out on a dollar-for-dollar basis. Nothing herein shall be construed to impair the ability of any party-in-interest to object any fees, expenses, reimbursement, or compensation sought by the Professionals. Nothing herein shall be construed to affect the rights of any party-in-interest to file an application for the allowance of fees and expenses.

### **Carve-Out Limitation**

16. Neither the Carve-Out nor Cash Collateral may be used to challenge the amount, validity, perfection, priority of enforceability of or assert any defense, counterclaim or offset to the Pre-Petition Loan Documents or claims, security interests and liens of the Agent and the Lenders with respect thereto otherwise to litigate (including, without limitation, commencing adversary proceedings, motions, contested matters, arbitrations, mediations, or other similar proceedings) against the Agent or any of the Lenders.

17. Notwithstanding the foregoing, if appointed, the Committee, may spend up to an aggregate amount not to exceed \$30,000 of the Carve-Out to investigate the claims, liens and security interests of Lenders.

### **Reporting Requirements**

18. In addition to all reporting requirements under the Pre-Petition Loan Documents, the Debtor will provide the Agent and Lenders with reasonable reporting information regarding, among other things, prospective asset sales, business plans, updated cash flow forecasts and budgets. Such information shall be of a nature, quality, and frequency to enable the Agent and the Lenders to reasonably monitor their interests in the Pre-Petition Collateral and Cash Collateral. Reporting of financial information is also a sufficient form of adequate protection.

19. Following entry of this Interim Order, the Debtor shall deliver weekly to the Agent and Lenders and their counsel, a written budget to actual reconciliation for all line items in the budget in a form satisfactory to the Administrative Agent. Upon reasonable request, the Debtor shall make available to the Agent and Lenders or any of their agents (including professionals) supporting documentation for all receipts and expenditures, including, but not limited to, bank statements, contracts, invoices, copies of checks, and general ledgers. Failure to provide these documents shall be a Termination Event as defined in Paragraph 5.

**Access to Premises**

20. Within twenty-four (24) hours of entry of this Interim Order, the Debtor shall (and shall continue to so) provide the Agent and Lenders and any professional retained by the Agent and Lenders, with reasonable access during normal business hours to (a) the Debtor's premises, management and financial advisors, (b) any and all books, records, engineering reports, documents and information relevant to the Debtor's business operations, and (c) and other information or report regarding the Debtor or this Chapter 11 Case that the Agent or Lenders may from time to time reasonably request.

**No Direct Obligation to Pay Professional Fees; No Waiver of Right to Object to Fees**

21. Nothing in this Interim Order or otherwise shall be construed to obligate the Agent or any Lender in any way to pay compensation to, or to reimburse expenses of any Professional, or to guarantee that the Debtor has sufficient funds to pay such compensation or reimbursement. Nothing herein shall be construed as consent to the allowance of any professional fees or expenses of the Debtor, any other official or unofficial committee in this Case, or of any other person or entity, or shall affect the right of the Agent or any Lender to object to the allowance and payment of such fees and expenses.

**Challenge Rights**

22. The Debtor's stipulations herein shall be binding upon the Debtor upon entry of this Interim Order. The Agent and Lenders shall have valid, binding, enforceable, and perfected first priority security interests and liens in all of the Debtor's assets except to the extent an action to challenge the Pre-Petition Indebtedness or the Pre-Petition Liens (collectively, the "Challenges" and, each individually, a "Challenge"), including but not limited to: (a) a contested matter, adversary proceeding, or other action or "claim" (as defined in the Bankruptcy Code) challenging or otherwise objecting to the admissions, stipulations, findings, or releases included

in the Debtor's stipulations herein; or (b) a contested matter, adversary proceeding, or other action against the Agent, any individual Lender, or the Lenders, in connection with or related to the Pre-Petition Indebtedness, the Pre-Petition Collateral, or the actions or inactions of the Agent or any of the Lenders arising out of or related to the Pre-Petition Indebtedness, or the Pre-Petition Liens, or otherwise, including, without limitation, any claim against any or all of the Lenders or the Agent in the nature of a "lender liability" cause of action, setoff, counterclaim, or defense to the Pre-Petition Indebtedness or the Pre-Petition Liens (including, but not limited to, those under Sections 506, 544, 547, 548, 549, 550, and/or 552 of the Bankruptcy Code or by way of suit against any the Agent or of the Lenders) has been timely and properly commenced in a contested matter, adversary proceeding, or other appropriate action within the applicable Challenge Period (defined herein) and a final, non-appealable order in favor of such party timely commencing such Challenge in any such timely-filed contested matter, adversary proceeding, or other appropriate action has been entered by the Court. A third party must exercise its rights (the "Challenge Rights") as set forth in this paragraph by the applicable time periods (collectively, the "Challenge Period");

(x) General Challenge Period. The Debtor's stipulations shall be binding upon all parties-in-interest unless, within ninety days (90) following the Petition Date (the "General Challenge Period"), or as extended with the Agent's written consent, a party-in-interest commences a Challenge or Challenges and obtains a final, non-appealable order in favor of such party-in-interest sustaining any such Challenge in any such timely-filed contested matter, adversary proceeding, or other action. The General Challenge Period shall not apply to any Committee or trustee appointed in this Case (a "Chapter 11 Trustee") or a chapter 7 trustee (a "Chapter 7 Trustee") in a Successor Case.

(y) Committee and Trustee Challenge Period. The Debtor's stipulations shall be binding upon any Committee appointed in this Case, any Chapter 11 Trustee or Chapter 7 Trustee in a Successor Case and all other parties-in-interest, unless within the earlier of (1) sixty (60) days following its appointment or (2) ninety (90) days following the Petition Date (the "Committee and Trustee Challenge Period"), or as such period may be extended in accordance with the Agent's written consent, the Committee (or a subsequently appointed Chapter 11 Trustee or Chapter 7 Trustee) commences a Challenge or Challenges and obtains a final, non-appealable order in favor of the

Committee sustaining any such Challenge in any such timely-filed contested matter, adversary proceeding, or other appropriate action; provided, however, that if a Chapter 11 Trustee or a Chapter 7 Trustee is appointed during the Challenge Period, the Challenge Period Termination Date (as defined below) with respect to the trustee only shall be the later (1) the last day of the Challenge Period; or (2) the date that is twenty (20) days after the date on which the trustee is appointed.

23. The Debtor's stipulations shall be binding on the date that is the next calendar day after the termination of the Challenge Period, in the event that (a) no Challenge (as defined below) is raised during the Challenge Period or (b) with respect only to those parties who properly file a timely Challenge, such Challenge is fully and finally adjudicated which, date in each case shall be referred to as the "Challenge Period Termination Date".

24. Except as otherwise expressly provided herein, from and after the Challenge Period Termination Date and for all purposes in this Case and any Successor Case:

(a) all payments made to or for the benefit of the Lenders pursuant to, or otherwise authorized by, this Interim Order or otherwise (whether made prior to, on, or after the Petition Date) shall be indefeasible and not be subject to counterclaim, set-off, subordination, recharacterization, defense, or avoidance,

(b) any and all such Challenges by any party-in-interest shall be deemed to be forever released, waived, and barred;

(c) the Pre-Petition Indebtedness shall be deemed to be a fully allowed claim under the Bankruptcy Code; and

(d) the Debtor's stipulations, including the release provisions therein, shall be binding on all parties-in-interest, including any Committee. Notwithstanding the foregoing, to the extent any Challenge is timely asserted in any such adversary proceeding, contested matter or other action or proceeding, the Debtor's stipulations shall nonetheless remain binding and preclusive on any Committee and on any other party-in-interest from and after the Challenge Period Termination Date, except to the extent that such stipulations were expressly challenged with particularity in such adversary proceeding, contested matter, or other action.

25. The General Challenge Period and the Committee and Trustee Challenge Period may only be extended with the Agent's written consent in the Lenders' sole and absolute discretion. Notwithstanding any provision to the contrary herein, nothing in this Interim Order

shall be construed to grant standing to any party-in-interest, including any Committee, to bring any Challenge on behalf of the Debtor's estate. The failure of any party-in-interest, including any Committee, to obtain an order of this Court before the Challenge Period Termination Date granting standing to bring any Challenge on behalf of the Debtor's estate shall not be a defense to failing to commence a Challenge prior to the Challenge Period Termination Date as required under this Interim Order.

### **Insurance Policies**

26. The Debtor shall maintain, with financially sound and reputable insurance companies, insurance with respect to all of the Pre-Petition Collateral for all the purposes in accordance with the requirements of the Pre-Petition Security Documents (covering such risks and in amounts as shall be satisfactory to the Agent and the Lenders). Without any further action or notice, the Agent or the Lenders shall be deemed to be, named as additional insureds and loss payees, as applicable, on each insurance policy maintained by the Debtor.

### **Release of Claims**

27. Subject to the Challenge Period, each Debtor and its estate shall be deemed to have forever waived, discharged, and released the Agent and each of the Lenders and their respective members, managers, equity holders, affiliates, agents, attorneys, financial advisors, consultants, officers, directors, employees and other representatives (all of the foregoing, collectively, the "Pre-Petition Releases") of any and all "claims" (as defined in the Bankruptcy Code), counterclaims, causes of action (including, without limitation, causes of action in the nature of "lender liability"), defenses, setoff, recoupment, or other offset rights against any and all of the Pre-Petition Releases, whether arising at law or in equity, relating to and/or otherwise in connection with the Pre-Petition Indebtedness, the Pre-Petition Liens, or the debtor-creditor relationship between the Agent and any of the Lenders, on the one hand, the Debtor, on the other

hand, including, without limitation, (a) any recharacterization, subordination, avoidance, or other claim arising under or pursuant to Section 105 or Chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state law, federal law, or municipal law and (b) any right or basis to challenge or object to the amount, validity, or enforceability of the Pre-Petition Indebtedness or any payments made on account of the Pre-Petition Indebtedness, or the validity, enforceability, priority, or non-avoidability of the Pre-Petition Liens securing the Pre-Petition Indebtedness.

### **Proofs of Claim**

28. The Agent and the Lenders will not be required to file proofs of claim in the Case or Successor Case for any claim allowed herein. The Debtor's stipulations shall be deemed to constitute a timely filed proof of claim for the Agent and the Lenders. Notwithstanding any order entered by this Court in relation to the establishment of a proof of claim deadline or bar date in the Case or Successor Case to the contrary, the Agent, for the benefit of itself and the other Pre-Petition Lenders, is hereby authorized and entitled, in its sole discretion, but not required, to file (and amend and/or supplement, as they see fit) a proof of claim and/or aggregate proofs of claim in the Case or Successor Case for any claim allowed herein.

### **Modification of Stay**

29. The automatic stay provided under Section 362 of the Bankruptcy Code is hereby vacated and modified to the extent necessary to permit (a) the Lenders to commit all acts and take all actions necessary to implement this Interim Order and (b) all acts, actions, and transfers contemplated by this Interim Order.

30. The Debtor irrevocably waives any right to seek any amendment, modification, or extension of this Interim Order without the Agent's prior written consent, and no such consent shall be implied by any other action, inaction, or acquiescence of the Lenders.



**Dismissal**

31. If any order dismissing the Case under Section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with Sections 105 and 349 of the Bankruptcy Code), that (a) the Lenders' Adequate Protection shall continue in full force and effect and shall maintain their priorities as provided in this Interim Order until the Pre-Petition Indebtedness have been fully satisfied (and that all the Lenders' Adequate Protection shall, notwithstanding such dismissal, remain binding on all parties-in-interest), and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing Lenders' Adequate Protection.

**Survival of Interim Order**

32. The provisions of this Interim Order, any actions taken pursuant hereto or thereto, the Lenders' Adequate Protection, and all other rights, remedies, liens, priorities, privileges, protections, and benefits granted to the Agent and any or all of the Lenders, respectively, shall survive, and shall not be modified, impaired, or discharged by, the entry of any order confirming any plan of reorganization in any Case, converting any Case to a case under Chapter 7, dismissing the Case, withdrawing of the reference the Case or any Successor Case or providing for abstention from handling or retaining of jurisdiction of the Case in this Court or by any other act or omission. The terms and provisions of this Interim Order, including all of the Lenders' Adequate Protection, and all other rights, remedies, liens, priorities, privileges, protections, and benefits granted to any or all of the Lenders, shall continue in full force and effect notwithstanding the entry of any such order, and such Lenders' Adequate Protection shall continue in this proceeding and in any Successor Case, and shall maintain their respective priorities as provided by this Interim Order.

**Binding Effect**

33. Subject to Paragraph 24, the provisions of this Interim Order, including all findings herein shall be binding upon all parties-in-interest in this Case, including, without limitation, the Agent and Lenders, any Committee, and the Debtor and their respective successors and assigns (including any Chapter 7 or Chapter 11 trustee hereinafter appointed or elected for the estate of the Debtor, an examiner appointed pursuant to Section 1104 of the Bankruptcy Code, or any other fiduciary or responsible person appointed as a legal representative of the Debtor or with respect to the property of the estate of the Debtor), whether in the Case, in any Successor Case, or upon dismissal of any such Case or Successor Case; provided, however, that the Agent and Lenders shall have no obligation to permit the use of Cash Collateral or to extend any financing to any Chapter 7 or Chapter 11 trustee or other responsible person appointed for the estates of the Debtor in any Case or Successor Case.

**No Third Party Rights**

34. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder, or any direct, indirect, or incidental beneficiary. In determining to permit the use of Cash Collateral or in exercising any rights or remedies as and when permitted pursuant to this Interim Order, the Agent and Lenders shall not (a) be deemed to be in control of the operations of the Debtor or (b) owe any fiduciary duty to the Debtor, its respective creditors, shareholders, or estates.

35. No Marshaling. Subject to Paragraph 24 above, and the occurrence of the Challenge Period Termination Date or entry of a Final Order for such relief, the Agent and the Lenders shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to the Pre-Petition Collateral, as applicable.

**Controlling Person**

36. Neither the Agent nor the Lenders shall (a) have liability to any third party, nor 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, their creditors or their bankruptcy estate, and (b) have a relationship with the Debtor which shall be deemed to constitute a joint venture or partnership with the Debtor.

**Inconsistency**

37. In the event of any inconsistency between the terms and conditions of the Pre-Petition Loan Documents and of this Interim Order, the provisions of this Interim Order shall govern and control.

**Enforceability**

38. This Interim Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon execution hereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9024 or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry, and there shall be no stay of execution or effectiveness of this Interim Order.

39. **Headings.** Paragraph headings used herein are for convenience only and are not to affect the construction of, or to be taken into consideration in, interpreting this Interim Order.

### **Final Hearing**

40. A Final Hearing to consider entry of the final order is scheduled for May 16, 2016, at 1:30 p.m. (prevailing Central time) at the United States Bankruptcy Court for the Western District of Texas, Austin Division.

41. Final Hearing Notice. Within three business days of the entry of this Order, the Debtor shall serve, by United States mail, first-class postage prepaid, (such service constituting adequate notice of the Final Hearing) (a) notice of the entry of this Interim Order and of the Final Hearing (the “Final Hearing Notice”) and (b) a copy of this Interim Order, on the parties having been given notice of the Interim Hearing and to any other party that has filed a request for notices with this Court and to any Committee after the same has been appointed, or Committee counsel, if the same shall have been appointed.

### **Objection Deadline**

42. The Final Hearing Notice shall state that any party-in-interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Bankruptcy Court no later than May 12, 2016, at 5:00 p.m. (prevailing Central Time), which objections shall: (a) conform to the Bankruptcy Rules and the Local Rules; and (b) be served upon the following parties so as to be actually received no later than May 12, 2016, at 5:00 p.m. (prevailing Central Time) (the “Objection Deadline”): counsel for the Debtor; counsel for GE Capital EFS Financing, Inc.; the United States Trustee for the Western District of Texas; counsel for any committee appointed in this case; and any party requesting notice pursuant to Bankruptcy Rule 2002.

### **Retention of Jurisdiction**

43. The Bankruptcy Court has and will retain jurisdiction to enforce this Interim Order according to its terms.

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Submitted by:

**BRACEWELL LLP**

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**PROPOSED COUNSEL FOR THE DEBTOR  
AND DEBTOR IN POSSESSION**

**Exhibit A**  
**Interim Budget**

**TRINITY RIVER RESOURCES, DEBTOR-IN-POSSESSION**

Cash Flow Forecast

(\$ in thousands)

Week #	1	2	3	4
Week Ending	4/29/2016	5/6/2016	5/13/2016	5/20/2016
<b>NET OPERATING RECEIPTS</b>	\$ -	\$ 294.8	\$ -	\$ -
<b>BORROWINGS / (REPAYMENTS) - DIP LOAN</b>	-	-	-	-
<b>DISBURSEMENTS:</b>				
Management Fee	(52.5)	(175.0)	-	-
DIP Interest	-	-	-	-
Lease Renewals	-	-	-	-
Seismic	-	-	-	-
JIB Payable to BBX Operating	-	(78.0)	-	-
Third Party JIBs	-	-	(50.0)	-
Insurance	-	-	-	(103.8)
Revenue Distribution	-	(5.0)	-	-
Third Party Payables	-	-	(50.0)	-
Debtor's Professional Fees	-	-	-	-
Adequate Protection	-	-	-	-
US Trustee Fees / Court Costs	-	-	-	-
Other	-	-	-	(15.0)
<b>Total Disbursements</b>	<b>(52.5)</b>	<b>(258.0)</b>	<b>(100.0)</b>	<b>(118.8)</b>
<b>TOTAL CASH FLOW</b>	<b>\$ (52.5)</b>	<b>\$ 36.8</b>	<b>\$ (100.0)</b>	<b>\$ (118.8)</b>
<b>BEGINNING CASH</b>	<b>\$ 1,057.0</b>	<b>\$ 1,004.5</b>	<b>\$ 1,041.3</b>	<b>\$ 941.3</b>
<b>ENDING CASH</b>	<b>\$ 1,004.5</b>	<b>\$ 1,041.3</b>	<b>\$ 941.3</b>	<b>\$ 822.5</b>