

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

IN RE:	§	
	§	Chapter 11
	§	
AZURE MIDSTREAM PARTNERS, LP, ET AL,	§	Case No. 17-30461
	§	
<i>Debtors.</i>	§	(Jointly Administered)
	§	

OBJECTION OF ANGELINA COUNTY, BECKVILLE ISD, DALLAS COUNTY, GALVESTON COUNTY, GREGG COUNTY, HARRIS COUNTY, MONTGOMERY COUNTY, MORRIS CAD, RUSK COUNTY, SHELBY COUNTY, AND TYLER CAD TO EMERGENCY MOTION OF DEBTORS (I) AUTHORIZING DEBTORS’ LIMITED USE OF CASH COLLATERAL, (II) GRANTING ADEQUATE PROTECTION TO PREPETITION SECURED PARTIES, (III) MODIFYING THE AUTOMATIC STAY, AND (IV) SCHEDULING A FINAL HEARING PURSUANT TO SECTIONS 105, 361, 362, 363, AND 507 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 2002, 4001, 6003, 6004, AND 9014 AND BANKRUPTCY LOCAL RULE 4001-1 (Ref. Docket #5, 46)

**To the Honorable David R Jones,
Chief United States Bankruptcy Judge:**

NOW COME, Angelina County, Beckville ISD, Dallas County, Galveston County, Gregg County, Harris County, Montgomery County, Morris CAD, Rusk County, Shelby County, and Tyler County (the “Taxing Authorities”), secured creditors in the above-numbered and styled bankruptcy case, and file this *Objection to Emergency Motion of Debtors (I) Authorizing Debtors’ Limited Use of Cash Collateral, (II) Granting Adequate Protection to Prepetition Secured Parties, (III) Modifying the Automatic Stay, and (IV) Scheduling a Final Hearing Pursuant to Sections 105, 361, 362, 363, and 507 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, 6003, and 9014 and Bankruptcy Local Rule 4001-1* (the “Motion”), and respectfully represent:



Background Information

1. The Taxing Authorities have filed pre-petition secured proofs of claim herein for *ad valorem* property taxes assessed against the Debtors' property in the estimated amount of \$84,826.19 for tax year 2017.

2. The Taxing Authorities are fully secured *ad valorem* tax creditors of Debtors, holding prior perfected liens against property of the Estate. The Taxing Authorities' claims are secured by a first priority lien pursuant to the Texas Tax Code § 32.01, *et seq.*

3. Section 32.01 provides:

(a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or not the taxes are imposed in the year the lien attaches. The lien exists in favor of each taxing unit having power to tax the property.

(b) A tax lien on inventory, furniture, equipment and other personal property is a lien in solido and attaches to inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires.

(d) The lien under this section is perfected on attachment and...perfection requires no further action by the taxing unit.

TEX TAX CODE § 32.01(a)-(b), (d).

4. Further, pursuant to section 32.05 (b) of the Texas Property Tax Code, The Taxing Authorities' liens are superior to the claims of creditors of the property's owners and to claims of persons holding liens on the property. Section 32.05(b) provides that:

[A] tax lien provided by this chapter **takes priority over the claims of any creditor of a person whose property is encumbered by the lien and over the claim of any holder of a lien on property encumbered by the tax lien**, whether or not the debt or lien existed before the attachment of the tax lien.

TEX. PROP. TAX CODE § 32.05(b)(emphasis added); *See also Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc.*, 894 S.W.2d 841 (Tex. App. – Eastland 1995, no writ) (bank’s foreclosure of its purchase money lien on personal property did not defeat or destroy the taxing unit’s statutory tax lien). The tax lien is also unavoidable. *See In re: Winns*, 177 B.R. 253 (Bankr. W.D. Tex. 1995).

Objection

6. The Taxing Authorities specifically object to paragraph 9(c) of the Motion in that any proceeds derived from the sale of the Prepetition Collateral¹ shall be applied to reduce the Prepetition Indebtedness. The Taxing Authorities hold senior secured liens on the real and personal property of the Debtors and would require payment of their tax claims before payment to any other creditor or, in the alternative, a tax carve out from the sale proceeds on collateral in which the Taxing Authorities hold liens against.

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¹ Any capitalized term not defined herein shall have the meaning originally ascribed to it in the Interim Cash Collateral Order at docket no. 46.

WHEREFORE, PREMISES CONSIDERED, the Taxing Authorities request the Court deny the Motion unless and until all issues raised herein are resolved, and grant the Taxing Authorities such other and further relief, at law or in equity, as is just.

Dated: February 17, 2017

Respectfully submitted,

**LINEBARGER GOGGAN
BLAIR & SAMPSON, LLP**

/s/ Tara L. Grundemeier

JOHN P. DILLMAN

Texas State Bar No. 05874400

TARA L. GRUNDEMEIER

Texas State Bar No. 24036691

Post Office Box 3064

Houston, Texas 77253-3064

(713) 844-3478 *Telephone*

(713) 844-3503 *Facsimile*

john.dillman@lgbs.com

tara.grundemeier@lgbs.com

Counsel for the Taxing Authorities

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing was served upon the entities listed below by either electronic court filing or by placing same, in the United States mail, first class, postage fully prepaid on February 17, 2017:

Debtor

Azure Midstream Partners, LP, et al.

12377 Merit Drive, Suite 300

Dallas, TX 75251

Counsel for Debtors

Christopher M. López, Esq.

Weil, Gotshal & Manges LLP

700 Louisiana Street, Suite 1700

Houston, Texas 77002

United States Trustee

Hector Duran, Esq.

U.S. Trustee

515 Rusk, Suite 3516

Houston, TX 77002

Courtney E. Giles, Esq.

Baker & McKenzie LLP

700 Louisiana, Suite 3000

Houston, Texas 77002

/s/ Tara L. Grundemeier

Tara L. Grundemeier