

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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In re: : Chapter 11  
: :  
EMERGE ENERGY SERVICES LP, *et al.*,<sup>1</sup> : Case No. 19-11563 (KBO)  
: :  
Reorganized Debtors. : Jointly Administered  
: :  
: Obj. Deadline: April 22, 2020 at 4:00 p.m. (ET)  
: Hearing Date: June 4, 2020 at 10:00 a.m. (ET)  
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**MOTION OF THE REORGANIZED DEBTORS FOR AN ORDER EXTENDING  
THE DEADLINE FOR THE REORGANIZED DEBTORS TO OBJECT TO  
ADMINISTRATIVE CLAIMS AND GRANTING RELATED RELIEF**

The reorganized debtors in the above-captioned cases (collectively, the “**Reorganized Debtors**”),<sup>2</sup> by and through their undersigned counsel, respectfully represent as follows:

**JURISDICTION**

1. This Court has jurisdiction to consider this motion (the “**Motion**”) under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of the Chapter 11 Cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

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<sup>1</sup> The Reorganized Debtors in these cases, along with the last four digits of each Reorganized Debtor’s federal tax identification number, are: Emerge Energy Services LP (2937), Emerge Energy Services GP LLC (4683), Emerge Energy Services Operating LLC (2511), Superior Silica Sands LLC (9889), and Emerge Energy Services Finance Corporation (9875). The Reorganized Debtors’ address is 6500 West Freeway, Suite 800, Fort Worth, Texas 76116.

<sup>2</sup> Prior to the occurrence of the Effective Date (as defined below), the Reorganized Debtors were debtors and debtors-in-possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”).



## BACKGROUND

2. On July 15, 2019 (the “**Petition Date**”), the Debtors filed voluntary petitions in this Court commencing the Chapter 11 Cases.

3. On December 18, 2019, the Court entered an order [Docket No. 721] (the “**Confirmation Order**”) confirming the *Modified Second Amended Joint Plan of Reorganization for Emerge Energy Services LP and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code*, which was attached to the Confirmation Order as Exhibit 1 thereto (the “**Plan**”).<sup>3</sup> The Plan became effective, and was substantially consummated, on December 20, 2019 (the “**Effective Date**”). See Docket No. 733.

## ADMINISTRATIVE CLAIMS OBJECTION DEADLINE

4. Pursuant to the Confirmation Order and Plan, “[e]xcept as otherwise provided [in the Confirmation Order], in the Plan, or under section 503(b)(1)(D) of the Bankruptcy Code, unless previously Filed or paid, requests for payment of Administrative Claims must be Filed with this Court and served on the Reorganized Debtors . . . by no later than the Business Day which is thirty (30) days after service of notice of the Effective Date.” See Confirmation Order ¶ 27; see also Plan Article II.A.1. The Notice of Effective Date set January 20, 2020 at 5:00 p.m. (ET) as the deadline to file and serve such Administrative Claims. See Docket No. 733.

5. Further, pursuant to the Confirmation Order and the Plan, the deadline to object to such requests is “the later of (a) 120 days after the Effective Date and (b) 60 days after the Filing of the applicable request for payment of Administrative Claims, if applicable, as the same may be modified or extended from time to time by Final Order of the Bankruptcy Court.”

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<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Confirmation Order or the Plan, as applicable.

See Confirmation Order ¶ 27; *see also* Plan Article II.A.1.<sup>4</sup> Accordingly, the current deadline to file objections to Administrative Claims subject to the Administrative Claims Bar Date (the “**Administrative Claims Objection Deadline**”) is Monday, April 20, 2020.<sup>5</sup>

### RELIEF REQUESTED

6. By this Motion, the Reorganized Debtors seek entry of an order, substantially in the form attached hereto as Exhibit A (the “**Proposed Order**”), extending the initial Administrative Claims Objection Deadline by 120 days, from April 20, 2020, through and including August 18, 2020,<sup>6</sup> without prejudice to the ability of the Reorganized Debtors to request further extensions.

### BASIS FOR RELIEF

7. Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105. *See, e.g., Adelphia Bus. Solutions, Inc. v. Abnos*, 482 F.3d 602, 609 (2d Cir. 2007) (“Section 105(a) grants broad equitable power to the bankruptcy courts to carry out the provisions of the Bankruptcy Code so long as that power is exercised within the confines of the Bankruptcy Code”). Further, the Administrative Claims Objection Deadline “may be

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<sup>4</sup> The Plan also separately sets a deadline to object to Claims, which is “the latest of (a) one hundred eighty (180) days after the Effective Date; (b) ninety (90) days after the Filing of an applicable Proof of Claim, or (c) such other date as may be specifically fixed by Final Order of the Bankruptcy Court for objecting to such Claim.” *See* Plan Article I.C. (definition of “Claims Objection Deadline”). By this Motion, the Reorganized Debtors are not seeking an extension of the Claims Objection Deadline but reserve the right to do so at a future time.

<sup>5</sup> Although the current Administrative Claims Objection Deadline is set to expire on Saturday, April 18, 2020, Rule 9006(a)(1)(C) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) automatically extends such deadline to Monday, April 20, 2020.

<sup>6</sup> Pursuant to Rule 9006-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the filing of this Motion prior to the expiration of the current Administrative Claims Objection Deadline automatically extends such deadline until such time as the Court rules on this Motion.

modified or extended from time to time by Final Order of the Bankruptcy Court.” *See* Confirmation Order ¶ 27; Plan Article II.A.1. Accordingly, this Court has authority to extend the Administrative Claims Objection Deadline.

8. The Reorganized Debtors respectfully submit that the proposed extension of the Administrative Claims Objection Deadline is appropriate and reasonable under the circumstances.

9. Initially, since the Effective Date, the Reorganized Debtors have been reviewing and assessing the Administrative Claims filed in the Chapter 11 Cases. Although the Reorganized Debtors have made, and continue to make, progress in the claims reconciliation process, the requested extension is necessary to avoid the Reorganized Debtors from having to file objections which could have been avoided if they were given additional time to review, analyze and consensually resolve any potentially disputed Administrative Claims. Indeed, the Reorganized Debtors submit that it would be a waste of resources to prematurely file objections to Administrative Claims at this stage. Accordingly, for that reason alone, the Motion should be granted.

10. Further, due to state-imposed “shelter-in-place” laws and “work-from-home” mandates resulting from the national and international emergency caused by the novel coronavirus, the Reorganized Debtors’ efforts to resolve and review all Claims, including Administrative Claims, has been significantly slowed. These laws and mandates, while justifiable under the circumstances, have made access to the Debtors’ books and records difficult and placed significant hardship on the personnel necessary for the Reorganized Debtors to perform the required analysis of the Administrative Claims. As a result, for at least the last month and for potentially months more, the Reorganized Debtors had difficulty and expect to

have difficulty reviewing and reconciling Administrative Claims. These facts further support the requested extension of the Administrative Claims Objection Deadline.

11. Accordingly, the requested extension of 120 days is reasonable (especially in light of the fact that this is the first request to extend the Administrative Claims Objection Deadline) and will provide additional time for the Reorganized Debtors to pursue consensual resolutions of any disputed Administrative Claims and/or file objections where such resolutions cannot be reached.

### **CONSENT TO JURISDICTION**

12. Pursuant to Local Rule 9013-1(f), the Reorganized Debtors consent to the entry of a final judgment or order with respect to the Motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

### **NOTICE**

13. Notice of this Motion shall be provided to (a) the U.S. Trustee; and (b) any other party entitled to notice pursuant to Bankruptcy Rule 2002 or order of the Court. The Reorganized Debtors submit that, under the circumstances, no other or further notice is required.

14. A copy of this Motion is available on (i) the Court's website: [www.deb.uscourts.gov](http://www.deb.uscourts.gov), and (ii) the website maintained by the Reorganized Debtors' Claims and Noticing Agent, Kurtzman Carson Consultants LLC, at <https://www.kccllc.net/EmergeEnergy>.

### **NO PRIOR REQUEST**

15. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Reorganized Debtors respectfully request that the Court enter the Proposed Order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: April 8, 2020  
Wilmington, Delaware

/s/ Travis J. Cuomo

**RICHARDS, LAYTON & FINGER, P.A.**

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*Counsel for the Reorganized Debtors*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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|---|---|--|
| In re:  | X |  |
|   | : | Chapter 11   |
|   | : |  |
| EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup> | : | Case No. 19-11563 (KBO)                                |
|   | : |  |
| Reorganized Debtors.                                    | : | Jointly Administered                                   |
|   | : |  |
|   | : | <b>Obj. Deadline: April 22, 2020 at 4:00 p.m. (ET)</b> |
|   | X | <b>Hearing Date: June 4, 2020 at 10:00 a.m. (ET)</b>   |

**NOTICE OF MOTION AND HEARING**

PLEASE TAKE NOTICE that, on April 8, 2020, the reorganized debtors in the above-captioned cases (collectively, the “**Reorganized Debtors**”) filed the *Motion of the Reorganized Debtors for an Order Extending the Deadline for the Reorganized Debtors to Object to Administrative Claims and Granting Related Relief* (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

PLEASE TAKE FURTHER NOTICE that, any responses or objections to the Motion must be in writing and filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **April 22, 2020 at 4:00 p.m. (Prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, the Motion and such objections shall be considered at a hearing before The Honorable Karen B. Owens, United States Bankruptcy Judge for the District of Delaware, at the Court, 824 North Market Street,

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6<sup>th</sup> Floor, Courtroom 3, Wilmington, Delaware 19801 on **June 4, 2020 at 10:00 a.m. (prevailing Eastern Time).**

**PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.**



Dated: April 8, 2020  
Wilmington, Delaware

/s/ Travis J. Cuomo

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Paul N. Heath (No. 3704)  
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*Counsel for the Reorganized Debtors*

**Exhibit A**

**Proposed Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|   |   |                         |
|---|---|-------------------------|
| In re:  | X |                         |
|   | : | Chapter 11              |
|   | : |                         |
| EMERGE ENERGY SERVICES LP, <i>et al.</i> , <sup>1</sup> | : | Case No. 19-11563 (KBO) |
|   | : |                         |
| Reorganized Debtors.                                    | : | Jointly Administered    |
|   | : |                         |
|   | : | <b>Re: Docket No.</b>   |

**ORDER EXTENDING THE DEADLINE FOR THE REORGANIZED DEBTORS TO  
OBJECT TO ADMINISTRATIVE EXPENSE CLAIMS**

Upon the motion (the “**Motion**”)<sup>2</sup> of the Reorganized Debtors for entry of an Order extending the time by which the Reorganized Debtors may object to Administrative Claims; and the Court having reviewed the Motion and having considered the statements of counsel with respect to the Motion at a hearing (if any) before the Court; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and the Court having determined that there is good and sufficient cause for the relief granted in this order, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED as set forth herein.
2. The Administrative Claims Objection Deadline is hereby extended through and including August 18, 2020.
3. This Order is without prejudice to the Reorganized Debtors' right to request additional extensions of the Administrative Claims Objection Deadline.
4. The Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Order.