IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
ENDURO RESOURCE PARTNERS LLC, *et al.*,	Case No. 18-11174 (___)
Debtors.[1]	(Joint Administration Requested)

MOTION OF DEBTORS
FOR INTERIM AND FINAL ORDERS AUTHORIZING PAYMENT OF
(A) ROYALTY PAYMENTS, (B) WORKING INTEREST DISBURSEMENTS,
AND (C) OTHER OBLIGATIONS IN THE ORDINARY COURSE OF BUSINESS

The debtors in possession in the above-captioned cases (collectively, the "***Debtors***") hereby move (this "***Motion***") and respectfully state as follows:

RELIEF REQUESTED

1. By this Motion, the Debtors seek entry of interim and final orders, substantially in the form attached hereto as **Exhibit A** (the "***Proposed Interim Order***") and **Exhibit B** (the "***Proposed Final Order***," and together with the Proposed Interim Order, the "***Proposed Orders***"), respectively, authorizing, but not directing, the Debtors to pay in the ordinary course of business, whether such obligations were incurred prepetition or will be incurred postpetition, (a) Royalty Payments, (b) Working Interest Disbursements, and (c) Other Obligations (each as defined herein).

JURISDICTION

2. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the

[1] The debtors in the chapter 11 cases, along with the last four digits of each debtor's United States federal tax identification number, if applicable, or other applicable identification number, are: Enduro Resource Partners LLC (6288); Enduro Resource Holdings LLC (5571); Enduro Operating LLC (7513); Enduro Management Company LLC (5932); Washakie Midstream Services LLC (7562); and Washakie Pipeline Company LLC (7798). The debtors' mailing address is 777 Main Street, Suite 800, Fort Worth, Texas 76102.

District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and, under Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "***Local Rules***"), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue of these cases and this Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested herein are sections 105(a), 363(b), 541, 1107(a), and 1108 of the Bankruptcy Code and rule 6003 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***").

BACKGROUND

3. On the date hereof (the "***Petition Date***"), the Debtors filed voluntary petitions in this Court commencing cases (the "***Chapter 11 Cases***") for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "***Bankruptcy Code***"). The Debtors continue to manage and operate their businesses as debtors in possession under sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been requested in the Chapter 11 Cases, and no committees have been appointed.

4. The factual background regarding the Debtors, including their business operations, their capital and debt structures, and the events leading to the filing of the Chapter 11 Cases, is set forth in detail in the *Declaration of Kimberly A. Weimer, Vice President and Chief Financial Officer of Enduro Resource Partners LLC, in Support of Chapter 11 Petitions and First Day Motions* (the "***First Day Declaration***") filed contemporaneously herewith, which is fully incorporated herein by reference.

THE DEBTORS' OIL AND GAS BUSINESS

5. The Debtors are a privately-held oil and natural gas company engaged in the acquisition, exploration, exploitation, development, and operation of onshore oil and gas properties, with headquarters in Fort Worth, Texas. As further described below, in the ordinary course of their business, the Debtors operate certain wells for the production and sale of oil and natural gas on their own behalf and on behalf of certain Royalty Interest Owners, Working Interest Owners, and other parties pursuant to Oil and Gas Leases and/or Joint Operating Agreements (each as defined herein).

6. Where the Debtors are the Operator (as defined below) on a well, the Debtors are obligated, pursuant to the terms of the applicable Oil and Gas Leases, Joint Operating Agreements, or other agreements, to make certain payments to Royalty Interest Owners, Working Interest Owners, and other parties. Under applicable state law and the Bankruptcy Code, certain of the Royalty Interests (as defined herein) and Working Interests (as defined herein) may not be considered property of the Debtors' estates.[2] Where that is the case, the Debtors may hold amounts arising from such interests in trust for the benefit of Royalty Interest Owners and Working Interest Owners, meaning those amounts may not be distributable to the Debtors' creditors. For the same reasons, it is unclear whether the automatic stay would prevent Royalty Interest Owners and Working Interest Owners from bringing actions against the Debtors or asserting liens against the Debtors' assets to recover or protect amounts owed on account of such owners' interests. The Debtors believe that the relief sought herein will avoid unnecessary litigation relating to the foregoing issues, will allow the Debtors to continue their operations in

[2] Nothing in this Motion shall constitute an admission or acknowledgment by the Debtors that any Royalty Interest or Working Interest, or any cash or assets relating thereto, do not constitute property of the Debtors' estates under section 541 of the Bankruptcy Code.

the ordinary course of business without interruption, and is in the best interests of the Debtors' estates.

I. ROYALTY PAYMENTS

7. The key property right underlying the oil and gas industry is the mineral interest. A mineral interest generally consists of an interest in the oil and gas in place under a parcel of property and the exclusive right to explore, drill, produce, and otherwise capture such oil and gas from the land. Through a written agreement (an "***Oil and Gas Lease***"),[3] owners of mineral interests ("***Mineral Interest Owners***") lease or otherwise convey the exclusive right to capture oil and gas (a "***Working Interest***") to a third party (a "***Working Interest Owner***") in exchange for either a share of production or payments in lieu of a share of production.

8. The nature of the interest retained by the Mineral Interest Owner creating a Royalty Payment obligation can take many forms, including royalty interests,[4] overriding royalty interests,[5] net profits interests,[6] non-participating royalty interests,[7] production payments,[8] and

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[3] Nothing in this Motion shall constitute an admission or acknowledgment by the Debtors that any Oil and Gas Lease (as defined below) constitutes a transferred real property interest or an executory contract or unexpired lease under section 365 of the Bankruptcy Code.

[4] "Landowner's royalty interests" are a landowner's share of the gross production of minerals free of the costs of production. Patrick H. Martin & Bruce M. Kramer, Williams & Meyers Manual of Oil and Gas Terms, 540 (15th ed. 2012) ("***Williams & Meyers***").

[5] "Overriding royalty interests" are non-possessory interests in oil and gas produced at the surface, free of the expense of production. Williams & Meyers, at 726.

[6] "Net profits interests" are shares of gross production from a property, measured by net profits from operation of a property. Williams & Meyers, at 640.

[7] "Non-participating royalty interests" are non-possessory interests created directly out of the mineral estate that include a right to share in a percentage of production, free of the production costs, but affords no rights to develop or participate in any bonuses or rentals received by the landowner or Mineral Interest Owner. Williams & Meyers, at 670.

[8] "Production payments" are shares of the minerals, up to a specified quantum of production or dollar amount, produced from the described premises, free of the costs of production at the surface. Williams & Meyers, at 827.

non-executive interests[9] (collectively, the "***Royalty Interests***"). Each of the Royalty Interests represents a share of the oil and gas produced from the property, or the revenue derived from the sale of such production, subject to the corresponding Oil and Gas Lease. Through the Oil and Gas Lease, the Mineral Interest Owner typically receives an upfront payment per acre ("***Lease Bonus***"), and also reserves either a share of production or payments in lieu of a share of production ("***Royalty Payments***"). In addition to Royalty Payments and Lease Bonuses, Oil and Gas Leases often provide for the payment of delay rental payments, shut-in payments, lease extension payments, minimum royalty payments, and similar payments, all as described further below. In each case, owners of Royalty Interests ("***Royalty Interest Owners***") typically are not obligated to pay any of the costs associated with exploration or production of oil and gas. Royalty Interest Owners are only entitled to receive Royalty Payments, either in cash or in kind, on account of their Royalty Interests, after the production of oil, gas, or both has begun. The Royalty Interest Owner may, however, be entitled to Lease Bonus payments or other payments prior to the production of oil or gas.

9. Royalty Payments are commonly governed by state and federal statutory frameworks that set strict payment deadlines and contain enforcement mechanisms, including interest, fines, liens, recovery of costs, and attorneys' fees and treble damages. Failure to make such payments can also result in actions seeking the forfeiture, cancellation, or termination of the Oil and Gas Leases under the terms thereof.

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[9] "Non-executive interests" are non-possessory interests created directly out of the mineral estate that include a right to share in a percentage of production, free of the production costs, but affords no rights to develop or participate in any bonuses or rentals received by the landowner or Mineral Interest Owner. However, unlike non-participating royalty interests, owners of non-executive interests may share in bonus and delay rentals as well as royalties under existing and future leases, while owners in non-participating royalty interests may share in royalties only. Williams & Meyers, at 669.

10. The Debtors are parties to approximately 4,996 Oil and Gas Leases located in Texas, Louisiana, New Mexico, North Dakota, Montana, and Wyoming, each of which is subject to one or more Royalty Interests. The Debtors primarily make Royalty Payments on account of Oil and Gas Leases in which the Debtors serve as the Operator. For Oil and Gas Leases where the Debtors hold a Non-Operating Working Interest (as defined herein), Royalty Payments generally are paid by a third-party Operator before the Debtors receive their periodic *pro rata* Working Interest Disbursements.[10]

11. Although the monthly amount of the Debtors' Royalty Payments varies based on actual production, over the last twelve (12) months, the Debtors made an average of approximately 935 Royalty Payments each month in an average monthly amount of approximately $992,000.[11] The Debtors make Royalty Payments to Royalty Interest Owners by the end of the second month following the month of production with respect to oil production.[12] With respect to natural gas and natural gas liquids ("***NGLs***"), the Debtors generally make Royalty Payments to Royalty Interest Owners during the second month following the month of production.

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[10] In certain instances, the Debtors as Non-Operating Working Interest Owners do not elect to have the Operator of the well market the Debtors' production, opting instead to receive payment "in-kind" (i.e., in the form of oil or gas). In such instances, the Debtors market the oil and gas for their own account and make the appropriate Royalty Payments to the Royalty Interest Owners.

[11] This amount does not account for amounts relating to the Debtors' unleased mineral interests (e.g., disputed amounts) (the "***Unleased Mineral Interests***"). The Unleased Mineral Interests represent amounts that may be due and owing to certain Mineral Interest Owners but are otherwise unpayable for a variety of reasons, including on-going disputes over ownership of the underlying interest, incorrect contact information, and the delay that accompanies entry of newly drilled wells into the Debtors' accounting system. Further, certain Royalty Interest Owners perform regular audits ("***Royalty Audits***") to determine whether the amounts owed by the Debtors should be recalculated based upon the production from the relevant Oil and Gas Leases. In the ordinary course of business, the Debtors provide additional payments to Royalty Interest Owners if a Royalty Audit determines that the Debtors have underpaid a Royalty Interest Owner.

[12] For example, when oil is produced and sold in January, the first purchaser would make payment to the Operator for the oil sold by the 20th day of March, and the Operator would distribute the revenues to Royalty Interest Owners by the end of February. The Debtors typically make Royalty Interest Payments on the last day of the month following the second month of production.

12. The Debtors estimate that, as of the Petition Date, there are approximately $3,691,000 in unpaid prepetition Royalty Payments. Failure to pay Royalty Payments could result in actions seeking the forfeiture, cancellation, or termination of the Oil and Gas Leases under the terms thereof, or the assertion of liens or other interests under applicable state law. Accordingly, the Debtors request authority to (a) remit up to $1,287,000 of such prepetition Royalty Payments under the Proposed Interim Order, and any and all prepetition Royalty Payments upon entry of the Proposed Final Order, and (b) continue making such Royalty Payments in the ordinary course of business on a postpetition basis, irrespective of when accrued.

13. In addition, the Debtors have working interests in properties in Texas, Louisiana, and New Mexico that are subject to an eighty percent (80%) net profits interest held by Enduro Royalty Trust. The Debtors receive all of the revenues from these properties, including the portion attributable to Enduro Royalty Trust's net profits interest, and then they remit payment to Enduro Royalty Trust every month ("***Trust NPI Payments***") for its share. The Debtors estimate that, as of the Petition Date, there are approximately $7,671,000 in unpaid prepetition Trust NPI Payments. Accordingly, the Debtors request authority to remit up to $1,300,000 of such prepetition Trust NPI Payments under the Proposed Interim Order.

II. WORKING INTEREST DISBURSEMENTS AND JOINT INTEREST BILLINGS

14. As discussed above, Working Interests are created when a Mineral Interest Owner conveys its rights to extract minerals from its land to a third party. Unlike Royalty Interest Owners, Working Interest Owners pay the costs of exploration, development, and operation of a mineral interest. To govern the relationship between them, the Working Interest Owners in an oil and gas site often enter into joint operating agreements ("***Joint Operating Agreements***").

Joint Operating Agreements memorialize the terms under which the revenues and costs from the Oil and Gas Leases covered by the Joint Operating Agreement will be split. Typically, a Joint Operating Agreement will designate one Working Interest Owner as the operator (an "***Operator***") for the Oil and Gas Leases covered by the Joint Operating Agreement. The Operator conducts the day-to-day business of producing oil and gas at the site. The Operator also covers the expenses incurred in the drilling and operation of the wells (the "***Operating Expenses***") on behalf of itself and the other parties to the Joint Operating Agreement holding non-operating Working Interests (each a "***Non-Operating Working Interest***" and, the owners thereof, "***Non-Operating Working Interest Owners***").

15. The Operator is often responsible for marketing and selling the oil and gas produced on a well governed by a Joint Operating Agreement to a "first purchaser." After selling the oil and gas, the Operator typically distributes the proceeds (the "***Working Interest Disbursements***") from the oil and gas to the corresponding Non-Operating Working Interest Owners in accordance with each party's interest therein.[13] Timely paying the Non-Operating Working Interest Owners is one of the Operator's most important obligations. To be sure, failure to timely pay Working Interest Disbursements to such Non-Operating Working Interest Owners would likely result in the perfection of liens on the Operator's interest in the applicable Oil and Gas Lease, as well as other consequences, including removal of the Operator.

16. The Operator subsequently seeks reimbursement for each party's *pro rata* share of the Operating Expenses as provided in the Joint Operating Agreements (the "***Joint Interest Billings***"). The Operating Expenses often include payments to third parties that perform labor or furnish or transport materials, equipment, or supplies used in the drilling, operating, or

[13] Working Interest Disbursements typically are made in cash; however, Working Interest Owners may also take their share of production in kind.

maintaining of an oil and gas property (the "***Mineral Contractors***"). The primary obligation of the Non-Operating Working Interest Owners with respect to a well subject to a Joint Operating Agreement is to pay the Joint Interest Billings to the Operator under the terms of the applicable Joint Operating Agreement.

17. Thus, where the Debtors are the Operator, they make Working Interest Disbursements and generally receive payment for Joint Interest Billings from Non-Operating Working Interest Owners after paying the Operating Expenses.[14] Pursuant to applicable state law, the Working Interest Disbursements held by the Debtors prior to remittance to the appropriate Working Interest Owners may not be property of the Debtors' estates. Moreover, failure to make Working Interest Disbursements could expose the Debtors to the statutory enforcement mechanisms discussed above. Additionally, Non-Operating Working Interest Owners often have contractual remedies under the applicable Joint Operating Agreements, including the grant of a security interest in production, the right to remove the Debtor as Operator, and the right to interest payments on the amount owed.[15]

18. As with Royalty Payments, the Debtors make Working Interest Disbursements to Non-Operating Working Interest Owners by the end of the month in which the Debtors receive production receipts for oil production, and by the end of the following month with respect to natural gas and NGLs production. Over the last twelve (12) months, the Debtors generated approximately, on average, $6,000,000 in revenue each month from operations on Oil and Gas Leases for which the Debtors serve as the Operator. These revenues were then divided among

[14] Where the Debtors hold Non-Operating Working Interests, they are responsible for paying to the Operators the Joint Interest Billings in accordance with their Joint Operating Agreements.

[15] The Debtors express no opinion as to whether any failure to pay any particular Working Interest Disbursement would constitute grounds for removal of the Operator under the terms of any particular Joint Operating Agreement.

the Debtors and the other Working Interest Owners of the underlying Oil and Gas Leases through the payment of Working Interest Disbursements. In the twelve (12) months preceding the Petition Date, the Debtors remitted approximately $7,091,118 in Working Interest Disbursements.

19. The Operating Expenses vary according to the work performed on a given well, and, accordingly, Working Interest Disbursements are not uniform or entirely predictable on a month-to-month basis.[16] Regardless of when the Debtors may receive reimbursements from the Non-Operating Working Interest Owners, the Debtors are typically required to pay Operating Expenses within 30 to 60 days of receiving an invoice from the Mineral Contractors and other third-party providers. In turn, at the end of each calendar month, the Debtors generate, and promptly mail or post on a web-based billing system, a Joint Interest Billing invoice (the "***JIB Statement***") for each holder of a Non-Operating Working Interest. Non-Operating Working Interest Owners typically remit payment to the Debtors within 30 to 60 days following the receipt of their JIB Statement. In the twelve (12) months preceding the Petition Date, the Debtors paid in the aggregate approximately $27.4 million in Operating Expenses. Of that amount, the Non-Operating Working Interest Owners reimbursed the Debtors for approximately $3.4 million on account of Joint Interest Billings.

20. The Debtors request authority from the Court to remit undisputed, prepetition Working Interest Disbursements in the ordinary course of business. As of the Petition Date, the Debtors estimate that they have generated and currently hold prepetition Working Interest Disbursements owed to Working Interest Owners in the approximate amount of $2,033,000. The

[16] For example, maintenance, repair, or replacement of well equipment, expenses arising from severe weather, and similar expenses vary from month to month. Such expenses are treated as Operating Expenses and shared among all Working Interest Owners of an Oil and Gas Lease.

Debtors request authority to (a) remit up to $634,000 of such prepetition Working Interest Disbursements on an interim basis and (b) subject to entry of the Proposed Final Order, continue making all Working Interest Disbursements in the ordinary course of business, regardless of when accrued.

III. ADDITIONAL OBLIGATIONS

21. As described herein, when the Debtors receive revenues from first purchasers and remit and distribute revenues, the Debtors are required to pay certain taxes and make certain payments on behalf of Royalty Interest Owners and Working Interest Owners. The Debtors may also be required to make payments to Oil and Gas Lease lessors in addition to Royalty Payments, including, but not limited to, non-royalty lease payments such as delay rental payments,[17] lease extension payments,[18] shut-in royalty payments,[19] and minimum royalty payments[20] (the "***Lease Obligations***", and the Lease Obligations, together with the Escheat Obligations and Gas Purchasing Obligations (each as defined below), the "***Other Obligations***").

22. The payment of the Delay Rentals effectively postpones the Working Interest Owner's obligation to explore and develop the leased property for the period for which the Delay Rentals are paid. Thus, if the Delay Rentals are paid on or before the anniversary date for each year during the primary term of a particular Oil and Gas Lease, then such Oil and Gas Lease will

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[17] Some Oil and Gas Leases require the Working Interest Owner to make an annual payment where a well is not drilled on the leased property (a "***Delay Rental***") to perpetuate the Oil and Gas Lease.

[18] Some Oil and Gas Leases require the Working Interest Owner to make a payment to the Mineral Interest Owner to extend a lease where a well is not drilled on the leased property in the primary term (a "***Lease Extension***"). Lease Extensions are usually optional and simply extend the expiration of the primary term of the applicable Oil and Gas Lease.

[19] Some Oil and Gas Leases require the Working Interest Owner to make monthly payments as a substitute for Royalty Payments to hold a lease in the secondary term where a well has been drilled on the leased property and is capable of production, but is not actually producing (a "***Shut-In Payment***").

[20] Some Oil and Gas Leases require the Working Interest Owner to make a minimum royalty payment where the value of the royalty revenue is below a certain level.

remain in full force and effect, and the Working Interest Owner will not be required to engage in exploration and development. If the Delay Rentals are not paid, and the Working Interest Owner does not engage in initial exploration and development, the Oil and Gas Lease may terminate. Accordingly, failure to pay the Delay Rentals could similarly have a material adverse effect upon all Working Interest Owners, including, inter alia, the loss of the underlying Oil and Gas Lease.

23. Likewise, failure to make Shut-In Payments could cause an Oil and Gas Lease to terminate. The term of an Oil and Gas Lease is typically for a period of years (the primary term), and as long thereafter as oil and/or gas are produced. Where a well in a unit is capable of producing oil or gas, but an Operator does not actually produce oil or gas from the unit, the Oil and Gas Lease terminates in accordance with its terms. By making a Shut-In Payment, a Working Interest Owner can fulfill production obligations under the Oil and Gas Lease and avoid termination. Accordingly, failure to pay the Shut-In Payments could have a material adverse effect upon all Working Interest Owners, including, inter alia, the loss of the underlying Oil and Gas Lease.

24. In addition, the Debtors may be required to make payments to state authorities in connection with unclaimed mineral payments under the Oil and Gas Leases, including, escheat payments[21] (the "***Escheat Obligations***").

25. Finally, the Debtors, in connection with certain of their properties, purchase gas production from third parties for processing and further sale. These purchases are made under agreements with the third parties and are paid in arrears, generally on a monthly basis (the "***Gas Purchasing Obligations***", and the Gas Purchasing Obligations, collectively with the Lease

[21] The Debtors are required to report to certain states payments owed to a mineral interest owner if all payments in a series of mineral proceeds payments were unclaimed during a specified dormancy period defined by statute. After the expiration of the dormancy period, the state escheats the proceeds of an underlying mineral interest through the current payment date. *See, e.g.*, Tex. Property Code Chapter 75.

Obligations, the Escheat Obligations, the Royalty Payments, and the Working Interest Disbursements, the "***Obligations***").

26. As of the Petition Date, the Debtors estimate that they owe approximately $107,500 on account of prepetition Other Obligations. Accordingly, the Debtors request authority to remit (a) up to $58,800 of prepetition Other Obligations under the Proposed Interim Order and (b) any and all prepetition Other Obligations upon entry of the Proposed Final Order, and to continue making such Other Obligation payments in the ordinary course of business on a postpetition basis.

BASIS FOR RELIEF

I. FUNDS RELATED TO ROYALTY INTERESTS OR WORKING INTEREST DISBURSEMENTS MAY NOT BE PROPERTY OF THE DEBTORS' ESTATES

27. With certain exceptions, section 541 of the Bankruptcy Code provides that all property to which a debtor has a legal or equitable interest becomes property of the estate upon the commencement of a chapter 11 case. *See* 11 U.S.C. § 541(a)(1). This includes any interest in property that the estate acquires after commencement of the chapter 11 case. See 11 U.S.C. § 541(a)(7). However, section 541 does not by itself create new legal or equitable interests in property; instead, "[p]roperty interests are created and defined by state law." *Butner v. United States*, 440 U.S. 48, 54–55 (1979) (noting that "Congress has generally left the determination of property rights in the assets of a bankrupt's estate to state law"). Further, Congress was clear that section 541(a)(1) "is not intended to expand the debtor's rights against others more than they existed at the commencement of the case." H.R. Rep. No. 95-595, 95th Cong., 1st Sess. 367–68 (1977); *see also Moody v. Amoco Oil Co.*, 734 F.2d 1200, 1213 (7th Cir. 1984) (holding that the "rights a debtor has in property at the commencement of the case continue in bankruptcy—no more, no less").

28. Thus, if a debtor holds no legal or equitable interest in property as of the commencement of the case, such property does not become property of the debtor's estate under section 541 of the Bankruptcy Code, and the debtor is prohibited from distributing such property to its creditors. *See Pearlman v. Reliance Ins. Co.*, 371 U.S. 132, 135–36 (1962) ("The Bankruptcy Act simply does not authorize a [debtor] to distribute other people's property among a bankrupt's creditors. . . . [S]uch property rights existing before bankruptcy in persons other than the bankrupt must be recognized and respected in bankruptcy."); *see also Boyd v. Martin Exploration Co. (In re Martin Exploration Co.)*, 56 B.R. 776, 779 (E.D. La. 1986) (holding that debtor had neither legal nor equitable title to the royalty interests it had conveyed).

29. Further, section 541(d) of the Bankruptcy Code provides that a debtor holding only bare legal title to property, but not an equitable interest in such property, as of the commencement of the case, does not obtain an equitable interest in such property under section 541. Specifically, it provides, in pertinent part:

> Property in which the debtor holds, as of the commencement date of the case, only legal title and not an equitable interest . . . becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

11 U.S.C. § 541(d).

30. Courts in this district have interpreted this section to "expressly" provide that, when a debtor holds only bare legal title in property, such property is not property of the estate. *See In re Lenox Healthcare, Inc.*, 343 B.R. 96, 100 (Bankr. D. Del. 2006). When a debtor holds legal title but not an equitable interest in property, the debtor must turn such property over to the owners of such property. *See In re MCZ, Inc.*, 82 B.R. 40, 42 (Bankr. S.D. Tex. 1987) ("Where Debtor merely holds bare legal title to property as agent or bailee for another, Debtor's bare legal

title is of no value to the estate, and Debtor should convey the property to its rightful owner."). Moreover, a debtor that holds proceeds attributable to real property owned by another holds only bare legal title to such property. *See, e.g., In re Columbia Pac. Mortg., Inc.*, 20 B.R. 259, 262–64 (Bankr. W.D. Wash. 1981) (holder of participation ownership interest brought successful action against bankruptcy trustee for proceeds of a sale of real property because holder was beneficial owner and debtor having only legal title held the proceeds in trust).

31. Under the law of certain states oil and gas leases are considered conveyances of real property, and, working interests and royalty interests, as part of the mineral estate, are classified as interests in real property. *See Lyle v. Jane Guinn Revocable Tr.*, 365 S.W.3d 341, 351 (Tex.App.—Houston [1st Dist.] 2010, pet. denied); *Aery v. Hoskins, Inc.*, 493 S.W.3d 684, 697 (Tex. App. 2016); *Team Bank v. Meridian Oil Inc.*, 118 N.M. 147, 149 (1994); *Kittleson v. Grynberg Petroleum Co.*, 876 N.W.2d 443, 450 (N.D. 2016); *Connaghan v. Eighty-Eight Oil Co.*, 750 P.2d 1321, 1324 (Wyo. 1988).

32. Furthermore, to the extent applicable nonbankruptcy law does not treat Royalty Interests as real property interests owned by the holder thereof, section 541 of the Bankruptcy Code could be argued to expressly exclude such Royalty Interests from property of the estate. Section 541(b)(4)(B)(i) of the Bankruptcy Code provides:

> Property of the estate does not include any interest of the debtor in liquid or gaseous hydrocarbons to the extent that the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred.

11 U.S.C. § 541(b)(4)(B)(i).

33. As the Royalty Interests and Working Interest Disbursements may not be property of the estate, either by application of state law or pursuant to section 541(b) of the Bankruptcy Code, any proceeds or profits that the Debtors may realize during the pendency of the Chapter 11

Cases, earned on account of the Royalty Interests or Working Interest Disbursements, may not be property of the estate under section 541(a)(6) of the Bankruptcy Code. *See* 11 U.S.C. § 541(a)(6) (providing that only proceeds, product, offspring, rents or profits ***of or from property of the estate*** constitutes property of the estate under section 541 of the Bankruptcy Code) (emphasis added).

34. Additionally, to the extent the Debtors have proceeds of the Royalty Interests in their possession, the Debtors may hold only bare legal title to the oil and gas production attributable to the Royalty Interest Owners. Similarly, the Debtors may hold no legal or equitable interests in the funds held by the Debtors on account of the Working Interest Disbursements. The Debtors only take possession of proceeds from the sale of the Royalty Interest Owners' and Working Interest Owners' share of oil and gas production, because they market and sell the oil and gas production on behalf of the Royalty Interest Owners and Working Interest Owners before remitting the Working Interest Disbursements and Royalty Payments to them.

35. This Court has held that in certain situations, a resulting trust may be established on behalf of Royalty Interest Owners. *See Hess Oil Corp. v. SemCrude, L.P. (In re SemCrude, L.P.),* 418 B.R. 98, 106 (Bankr. D. Del. 2009) (holding that funds in debtors' possession held on behalf of royalty interest owners were held in a resulting trust for such parties, debtors held only bare legal title to such property, and thus, such funds were not property of the estate). The Supreme Court has held that property held by debtors for a third party (such as funds held on account of a resulting trust) is not property of the estate. *Begier v. I.R.S.*, 496 U.S. 53, 59 (1990) ("Because the debtor does not own an equitable interest in property he holds in trust for another, that interest is not 'property of the estate.'"); *United States v. Whiting Pools, Inc.*, 462 U.S. 198,

205 n.10 (1983) (noting that "Congress plainly excluded property of others held by the debtor in trust at the time of the filing of the petition" from the bankruptcy estate).

36. Further, because the Royalty Payments and Working Interest Disbursements may not be property of the estate, it is unclear whether the automatic stay would prevent any action by a Royalty Interest Owner or Working Interest Owner to obtain possession or exercise control over the Royalty Payments or Working Interest Disbursements. *See* 11 U.S.C. § 362(a)(3) (providing that the automatic stay is applicable to all entities for "any act to obtain possession of *property of the estate or of property from the estate or to exercise control over property of the estate*") (emphasis added). Failure to grant the relief requested by this Motion could subject the Debtors to unnecessary litigation, either in or outside of this Court, at a time when their resources are already subject to enormous strain. Substantial litigation could even jeopardize the Debtors' marketing and sale process for their oil and gas assets. Accordingly, the Debtors submit that payment of the Royalty Payments and Working Interest Disbursements in the ordinary course of business is in the best interests of the Debtors and their creditors and should be authorized by the Court.

37. In light of the foregoing, the Debtors respectfully request authority to make the Royalty Payments and Working Interest Disbursements to the Royalty Interest Owners and Working Interest Owners, respectively, in the ordinary course of business, for obligations incurred both prepetition and postpetition on account of the Royalty Interests and Working Interests.

II. PAYMENT OF THE DEBTORS' OBLIGATIONS IS NECESSARY TO PREVENT THE ASSERTION OF LIENS AGAINST THE DEBTORS' ASSETS

38. Absent payment of the Obligations, the Royalty Interest Owners, Working Interest Owners, and other parties entitled to payment on account of the Obligations may attempt

to perfect liens against the Debtors' assets under applicable state law.[22] For example, Louisiana law provides that, if a lessee fails to pay royalties, a court may award as damages double the amount of royalties due, interest, and attorneys' fees, and such lessor royalties may be secured by a lien and privilege on all property placed on the leased premises. La. Rev. Stat. Ann. §§ 31:140-146 & 31:212.23. Texas law also grants an automatically perfected statutory lien to "interest owners" to secure the obligations of the "first purchaser of oil and gas production, as debtor, to pay the purchase price." Tex. Bus. & Comm. Code § 9.343(a), (r). The Debtors, as an Operator, may qualify as the "first purchaser" under the statute where the "operator . . . receives production proceeds form a third-party purchaser who acts in good faith under a division order or other agreement authenticated by the operator under which the operator collects proceeds of production on behalf of other interest owners." *Id.* § 9.343(r)(3); *see also In re Tri-Union Dev. Corp.*, 253 B.R. 808, 812 (Bankr. S.D. Tex. 2000) (holding that the debtor/operator was the "first purchaser" because it "receive[d] the income attributable to 100% of the production, with the concomitant duty to disburse to its working interest and royalty interest holders").

39. Importantly, under section 362(b)(3) of the Bankruptcy Code, the act of perfecting statutory liens, to the extent consistent with section 546(b) of the Bankruptcy Code, is expressly excluded from the automatic stay. *See* 11 U.S.C. § 362(b)(3). As a result, certain Working Interest Owners, Royalty Interest Owners, or other parties may be able to perfect liens against the Debtors' assets notwithstanding the automatic stay.

40. The Debtors will avoid the potential expense and burden associated with these lien rights by paying the outstanding prepetition Obligations and continuing to pay the

[22] Nothing in this Motion shall constitute an admission or acknowledgment by the Debtors of the validity or potential validity of any such lien.

Obligations on a postpetition basis to the Working Interest Owners, the Royalty Interest Owners, and parties owed Other Obligations in the ordinary course of business.

III. PAYING THE OBLIGATIONS IS A SOUND EXERCISE OF BUSINESS JUDGMENT

41. The Debtors should be authorized to pay the Obligations pursuant to section 363(b) of the Bankruptcy Code. Section 363(b) of the Bankruptcy Code provides, in relevant part, that a debtor "may use, sell, or lease, other than in the ordinary course of business, property of the estate" after notice and a hearing. 11 U.S.C. § 363(b)(1). Generally, the debtor is only required to "show that a sound business purpose" justifies the proposed use of property. *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *see also In re Phx. Steel Corp.*, 82 B.R. 334, 335-36 (Bankr. D. Del. 1987) (requiring "good business reason" for use under section 363(b) of the Bankruptcy Code). This standard generally bars other parties from second-guessing the debtor's business judgment if the debtor has shown that a use of property will benefit the debtor's estate. *See In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) ("Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct."); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) ("Overcoming the presumptions of the business judgment rule on the merits is a near-Herculean task.").

42. Courts have consistently permitted postpetition payment of prepetition obligations where necessary to preserve or enhance the value of a debtor's estate for the benefit of all creditors. *See, e.g., Miltenberger v. Logansport, C&S W.R. Co.*, 106 U.S. 286, 312 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent "stoppage of [crucial] business relations"); *Dudley v. Mealey*, 147 F.2d 268, 271 (2d Cir. 1945) (extending

doctrine for payment of prepetition claims beyond railroad reorganization cases), *cert denied* 325 U.S. 873 (1945); *Mich. Bureau of Workers' Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.),* 80 B.R. 279, 285-86 (S.D.N.Y. 1987) (approving lower court order authorizing payment of prepetition wages, salaries, expenses and benefits).

43. The relief requested herein is appropriate and warranted under section 363(b) of the Bankruptcy Code. If the relationships established by the Debtors with the Royalty Interest Owners and Working Interest Owners are harmed, whether through non-payment or perceived difficulties of working with a debtor in possession, the Debtors' marketing process for the sale of its assets could be impeded and the buyers the Debtors have identified could back out, delaying the Chapter 11 Cases and the orderly sale and liquidation of the Debtors assets. This result would be detrimental to the Debtors, their creditors, and their estates and would create unnecessary risks that far outweigh the cost of paying the applicable prepetition amounts.

44. In light of the aforementioned consequences, the Debtors submit that the relief requested herein represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is, therefore, justified under section 363(b) of the Bankruptcy Code.

IV. PAYMENT SHOULD BE AUTHORIZED BECAUSE IT IS NECESSARY TO THE SUCCESS OF THESE CASES

45. The Debtors should also be authorized to pay the Obligations because doing so is necessary to the success of the Chapter 11 Cases. Section 105(a) of the Bankruptcy Code provides that a bankruptcy court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions" of the Bankruptcy Code. 11 U.S.C. § 105(a). Courts have interpreted this provision to authorize payments on account of prepetition claims where the payments are essential to the success of the debtor's cases under what is known as the "necessity

of payment doctrine." *See In re Lehigh & New Eng. Ry.*, 657 F.2d 570, 581 (3d Cir. 1981) ("Thus, the 'necessity of payment' doctrine…teaches no more than, if a payment of a claim which arose prior to reorganization is essential to the continued operation of the [debtor's business] during reorganization, payment may be authorized…"); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) "provides a statutory basis for payment of pre-petition claims" under necessity of payment doctrine); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) ("The appropriate standard . . . is commonly referred to as 'the necessity of payment doctrine.'").

46. If any of the above risks were to materialize, they could cause substantial disruptions and expose the Debtors to liabilities significantly greater than the amount of the Obligations to be paid. These consequences could derail the Debtors' restructuring efforts and, therefore, paying the Obligations should be approved under section 105(a) of the Bankruptcy Code and the necessity of payment doctrine.

PROCESSING OF CHECKS AND
ELECTRONIC FUND TRANSFERS SHOULD BE AUTHORIZED

47. The Debtors have sufficient funds to pay any amounts described in this Motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and access to cash collateral. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the Obligations. Accordingly, the Debtors believe there is minimal risk that checks or wire transfer requests that the Court has not authorized will be inadvertently made. Therefore, the Debtors respectfully request that the Court authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this Motion.

BANKRUPTCY RULE 6003 HAS BEEN SATISFIED AND BANKRUPTCY RULE 6004 SHOULD BE WAIVED

48. Certain aspects of the relief requested herein are subject to Bankruptcy Rule 6003, which governs the availability of certain types of relief within 21 days after the Petition Date. Pursuant to Bankruptcy Rule 6003(b), a court may grant this relief on an expedited basis if it is necessary to avoid immediate and irreparable harm. The Debtors submit that the facts set forth herein and in the First Day Declaration demonstrate that the relief requested is necessary to avoid immediate and irreparable harm to the Debtors and, thus, Bankruptcy Rule 6003(b) has been satisfied.

49. Additionally, with respect to any aspect of the relief sought herein that constitutes a use of property under section 363(b) of the Bankruptcy Code, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a), to the extent not satisfied, and of the fourteen-day stay under Bankruptcy Rule 6004(h). As described above, the relief that the Debtors seek in this Motion is immediately necessary in order for the Debtors to be able to continue to operate their businesses and preserve the value of their estates. The Debtors thus submit that the requested waiver of the notice requirements of Bankruptcy Rule 6004(a) and of the fourteen-day stay imposed by Bankruptcy Rule 6004(h) is appropriate.

RESERVATION OF RIGHTS

50. Nothing in this Motion shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to

section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. If the Court enters any order granting the relief sought herein, any payment made pursuant to such order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

NOTICE

51. Notice of this Motion will be given to: (a) the United States Trustee for the District of Delaware; (b) counsel to the agent for the Debtors' prepetition first lien credit facility; (c) counsel to the lenders under the Debtors' prepetition second lien credit facility; (d) counsel to the Debtors' prepetition majority equity owner; (e) the parties included on the Debtors' consolidated list of thirty (30) largest unsecured creditors; (f) the United States Attorney's Office for the District of Delaware; (g) the attorneys general for the states in which the Debtors conduct business; (h) counsel to Enduro Royalty Trust; and (i) all parties entitled to notice pursuant to Local Rule 9013-1(m). The Debtors submit that, under the circumstances, no other or further notice is required.

[*Remainder of page intentionally left blank.*]

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Orders, granting the relief requested in this Motion and such other and further relief as may be just and proper.

Dated: May 15, 2018
Wilmington, Delaware

/s/ Kara Hammond Coyle

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Kara Hammond Coyle (No. 4410)
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Proposed Counsel for Debtors and Debtors in Possession

EXHIBIT A

Proposed Interim Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
ENDURO RESOURCE PARTNERS LLC, *et al.*,	Case No. 18-11174 (___)
Debtors.[1]	(Jointly Administered)
	Ref. Docket No. ___

INTERIM ORDER AUTHORIZING PAYMENT OF (A) ROYALTY PAYMENTS, (B) WORKING INTEREST DISBURSEMENTS, AND (C) OTHER OBLIGATIONS IN THE ORDINARY COURSE OF BUSINESS

Upon the motion (the "***Motion***")[2] of the Debtors for an interim order, authorizing, but not directing, the Debtors to pay in the ordinary course of business, whether such obligations were incurred prepetition or will be incurred postpetition, (a) Royalty Payments, (b) Working Interest Disbursements, and (c) Other Obligations (this "***Interim Order***"); and the Court having reviewed the Motion and the First Day Declaration; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; 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 this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this 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 and that no other or

[1] The debtors in the chapter 11 cases, along with the last four digits of each debtor's United States federal tax identification number, if applicable, or other applicable identification number, are: Enduro Resource Partners LLC (6288); Enduro Resource Holdings LLC (5571); Enduro Operating LLC (7513); Enduro Management Company LLC (5932); Washakie Midstream Services LLC (7562); and Washakie Pipeline Company LLC (7798). The debtors' mailing address is 777 Main Street, Suite 800, Fort Worth, Texas 76102.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

further notice is necessary; and upon the record herein and upon all of the proceedings had before this Court; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.

2. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to pay the Royalty Interest Owners, in the ordinary course of business, the Royalty Payments, and to take and apply such setoff rights as the Debtors are entitled to take against such Royalty Payments prior to paying such amounts; provided that payments on account of prepetition Royalty Payments shall not exceed $1,287,000 pursuant to this Interim Order.

3. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to pay, in the ordinary course of business, the Trust NPI Payments; provided that payments on account of prepetition Trust NPI Payments shall not exceed $1,300,000 pursuant to this Interim Order.

4. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment, to make Working Interest Disbursements to Non-Operating Working Interest Owners in accordance with such parties' respective interests in the Oil and Gas Leases covered by Joint Operating Agreements, and to take and apply such setoff rights as the Debtors are entitled to take against such Working Interest Disbursements prior to paying such amounts; provided that payments on account of prepetition Working Interest Disbursements shall not exceed $634,000 pursuant to this Interim Order.

5. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to make Other Obligation payments, on behalf of each holder of a Non-Operating Working Interest in accordance with such parties' respective interests in the Oil and

Gas Leases covered by Joint Operating Agreements, and to take and apply such setoff rights as the Debtors are entitled to take against such Other Obligations prior to paying such amounts; provided that payments on account of prepetition Other Obligations shall not exceed $58,800 pursuant to this Interim Order.

6. The banks and financial institutions on which checks were drawn or electronic payment requests were made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, pay and, if necessary, reissue all such checks and electronic payment requests, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetition, when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order.

7. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to issue new postpetition checks to replace any checks that may nevertheless be dishonored and to reimburse any expenses that holders of claims in connection with the Obligations may incur as a result of any bank's failure to honor a prepetition check, subject to the amounts set forth in this Interim Order.

8. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority,

enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. Any payment made pursuant to this Interim Order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

9. Notwithstanding anything to the contrary in this Interim Order, any payment made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any cash collateral order. In the event of any inconsistency between the terms of this Interim Order and any cash collateral order, the terms of the cash collateral order shall govern.

10. A hearing to consider entry of an order granting the Motion on a final basis (the "***Final Hearing***") shall be held on _____, 2018, at __:____ _.m. (prevailing Eastern time). Any objections or responses to the entry of such an order must be filed on or before 4:00 p.m. (prevailing Eastern time) on _____, 2018, and served on (a) proposed counsel to the Debtors, (i) Latham & Watkins LLP, 330 North Wabash Avenue, Suite 2800, Chicago, Illinois 60611, Attn: Caroline Reckler, Matthew Warren, and Jason Gott (caroline.reckler@lw.com, matthew.warren@lw.com, and jason.gott@lw.com); and (ii) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 King Street, Wilmington, Delaware 19801, Attn: Michael R. Nestor and Kara Hammond Coyle (mnestor@ycst.com and kcoyle@ycst.com); (b) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Linda Casey (linda.casey@usdoj.com); and (c) Davis Polk & Wardwell LLP, 450 Lexington Avenue, New York, New York 10017, Attn: Damian S. Schaible and Aryeh Ethan Falk

(damian.schaible@davispolk.com and aryeh.falk@davispolk.com); and Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, 16th Flr., Wilmington, Delaware 19899-1347, Attn: Robert J. Dehney (rdehney@mnat.com), as counsel to the First Lien Agent.

11. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

12. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

14. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order.

15. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Interim Order.

Dated: _____, 2018
Wilmington, Delaware

_____
United States Bankruptcy Judge

EXHIBIT B

Proposed Final Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
ENDURO RESOURCE PARTNERS LLC, *et al.*,	Case No. 18-11174 (___)
Debtors.[1]	(Jointly Administered)
	Ref. Docket Nos. ___ & ___

FINAL ORDER AUTHORIZING PAYMENT OF (A) ROYALTY PAYMENTS, (B) WORKING INTEREST DISBURSEMENTS, AND (C) OTHER OBLIGATIONS IN THE ORDINARY COURSE OF BUSINESS

Upon the motion (the "***Motion***")[2] of the Debtors for an order, authorizing, but not directing, the Debtors to pay in the ordinary course of business, whether such obligations were incurred prepetition or will be incurred postpetition, (a) Royalty Payments, (b) Working Interest Disbursements, and (c) Other Obligations (this "***Final Order***"); and the Court having reviewed the Motion and the First Day Declaration; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; 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 this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this 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 and that no other or

[1] The debtors in these chapter 11 cases, along with the last four digits of each debtor's United States federal tax identification number, if applicable, or other applicable identification number, are: Enduro Resource Partners LLC (6288); Enduro Resource Holdings LLC (5571); Enduro Operating LLC (7513); Enduro Management Company LLC (5932); Washakie Midstream Services LLC (7562); and Washakie Pipeline Company LLC (7798). The debtors' mailing address is 777 Main Street, Suite 800, Fort Worth, Texas 76102.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

further notice is necessary; and this Court having entered that certain *Interim Order Authorizing Payment of (A) Royalty Payments, (B) Working Interest Disbursements, and (C) Other Obligations in the Ordinary Course of Business* [D.I. ___]; and upon the record herein and upon all of the proceedings had before this Court; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED on a final basis as set forth herein.

2. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to pay the Royalty Interest Owners, in the ordinary course of business, the Royalty Payments, and to take and apply such setoff rights as the Debtors are entitled to take against such Royalty Payments prior to paying such amounts.

3. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to pay, in the ordinary course of business, the Trust NPI Payments.

4. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment, to make Working Interest Disbursements to Non-Operating Working Interest Owners in accordance with such parties' respective interests in the Oil and Gas Leases covered by Joint Operating Agreements, and to take and apply such setoff rights as the Debtors are entitled to take against such Working Interest Disbursements prior to paying such amounts.

5. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to pay Joint Interest Billings in the ordinary course of business.

6. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to make Other Obligations payments, on behalf of each holder of a Non-Operating Working Interest in accordance with such parties' respective interests in the Oil and

Gas Leases covered by Joint Operating Agreements, and to take and apply such setoff rights as the Debtors are entitled to take against such Other Obligations prior to paying such amounts.

7. The banks and financial institutions on which checks were drawn or electronic payment requests were made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, pay and, if necessary, reissue all such checks and electronic payment requests, including prepetition checks and electronic payment and transfer requests that the Debtors reissue or re-request postpetiton, when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order.

8. The Debtors are authorized, but not directed, in the reasonable exercise of their business judgment to issue new postpetition checks to replace any checks that may nevertheless be dishonored and to reimburse any expenses that holders of claims in connection with the Obligations may incur as a result of any bank's failure to honor a prepetition check.

9. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver of any claims or causes of action which may exist against any entity under the Bankruptcy Code or any other applicable law. Any payment made pursuant

to this Final Order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' rights to subsequently dispute such claim.

10. Notwithstanding anything to the contrary in this Final Order, any payment made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under any cash collateral order. In the event of any inconsistency between the terms of this Final Order and any cash collateral order, the terms of the cash collateral order shall govern.

11. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) are satisfied by such notice.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order.

14. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Final Order.

Dated: _____, 2018
Wilmington, Delaware

_____
United States Bankruptcy Judge