

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
ENDURO RESOURCE PARTNERS LLC, <i>et al.</i> ,	)	Case No. 18-11174 (KG)
Debtors. <sup>1</sup>	)	(Jointly Administered)
	)	Ref. Docket No. 9

**INTERIM ORDER**

**(A) AUTHORIZING CONTINUED USE OF EXISTING CASH MANAGEMENT SYSTEM, INCLUDING MAINTENANCE OF EXISTING BANK ACCOUNTS, CHECKS, AND BUSINESS FORMS, (B) AUTHORIZING CONTINUATION OF EXISTING DEPOSIT PRACTICES, (C) WAIVING CERTAIN U.S. TRUSTEE GUIDELINES, (D) AUTHORIZING CONTINUATION OF INTERCOMPANY TRANSACTIONS, AND (E) GRANTING PRIORITY STATUS TO POSTPETITION INTERCOMPANY CLAIMS**

Upon the motion (the "*Motion*")<sup>2</sup> of the Debtors for entry of an interim order (a) authorizing, but not directing, the Debtors to continue to maintain and use their existing cash management system, including maintenance of existing bank accounts, checks, and business forms; (b) authorizing, but not directing, the Debtors to continue to maintain and use their existing deposit practices; (c) granting the Debtors a waiver of certain bank account and related guidelines of the Office of the United States Trustee for the District of Delaware (the "*U.S. Trustee Guidelines*") to the extent that the requirements are inconsistent with the Debtors' practices under their existing cash management system or other actions described herein, including the waiver of section 345(b) of the Bankruptcy Code (as defined below);

<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.



(d) authorizing, but not directing, the Debtors to continue certain ordinary course intercompany transactions; and (e) granting priority status to postpetition intercompany claims arising from certain of these transactions (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 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 to maintain and continue to use their existing Cash Management System, except as modified by this Interim Order. In connection with the ongoing utilization of the Cash Management System, the Debtors shall continue to maintain records with respect to all transfers of cash so that all transactions may be readily ascertained, traced, and recorded properly.
3. Any existing deposit agreements between the Debtors and the Banks shall continue to govern the postpetition cash management relationship between the Debtors and the

Banks, and all of the provisions of these agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect unless otherwise ordered by the Court, and the Debtors and the Banks may, without further order of this Court, agree to and implement changes to the Cash Management System and cash management procedures in the ordinary course of business, including, without limitation, the Bank Transition and the opening and closing of Bank Accounts, subject to the terms and conditions of this Interim Order; *provided, however*, that the Debtors shall give notice within fifteen (15) days after opening or closing a Bank Account to the United States Trustee for the District of Delaware (the “*U.S. Trustee*”) and any statutory committee appointed in the Chapter 11 Cases; *provided, further*, that the Debtors shall open any new bank accounts only at banks that have executed a Uniform Depository Agreement with the U.S. Trustee, or other banks willing to execute immediately a Uniform Depository Agreement in a form prescribed by the Office of the U.S. Trustee.

4. The Debtors are authorized to (a) continue to use any and all of the Bank Accounts in existence as of the Petition Date, including, but not limited to, the Bank Accounts identified in the Motion, in the same manner and with the same account numbers, styles, and document forms as are currently employed; (b) deposit funds in and withdraw funds from the Bank Accounts in the ordinary course by all usual means, including checks, wire transfers, drafts, ACH transfers, and electronic fund transfers or other items presented, issued, or drawn on the Bank Accounts; (c) pay ordinary course bank fees in connection with the Bank Accounts, including any fees arising prior to the Petition Date; (d) perform their obligations under the documents and agreements governing the Bank Accounts; and (e) for all purposes, treat the Bank Accounts as accounts of the Debtors in their capacities as debtors in possession.

5. The Banks and the Debtors' financial institutions shall be, and hereby are, authorized, when requested by the Debtors in their sole discretion, (a) to process, honor, pay, and, if necessary, reissue any and all checks, including prepetition checks that the Debtors reissue postpetition, and electronic fund transfers drawn on the Debtors' bank accounts relating to payments permitted by an order of this Court, whether the checks were presented or funds transfer requests were submitted prior to or subsequent to the Petition Date, *provided* that sufficient funds are available in the applicable accounts to make the payments, and *provided, further*, that the Debtors shall not make any such request on account of a claim against the Debtors arising prior to the Petition Date, unless otherwise ordered by the Court; and (b) to debit the Debtors' accounts in the ordinary course of business for all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to the Banks as service charges for the maintenance of the Cash Management System.

6. Pursuant to Local Rule 2015-2(a), the Debtors are authorized to continue to use their existing checks, correspondence, and other Business Forms without alteration or change and without the designation "Debtor in Possession" or a bankruptcy case number imprinted upon them. Notwithstanding the foregoing, once the Debtors' existing checks have been used, the Debtors shall, when reordering checks, require the designation "Debtor in Possession" and the corresponding bankruptcy case number on all checks; *provided further*, within fourteen (14) days of entry of this Interim Order, the Debtors will update any electronically produced checks to reflect their status as debtors-in-possession.

7. The Debtors are authorized to continue to utilize all third-party providers necessary for the administration of their Cash Management System, including their payroll processor, as necessary. In addition, the Debtors are authorized, but not directed, to pay all

prepetition or postpetition ordinary course fees and other service charges in accordance with agreements governing the Bank Accounts; *provided, however*, the Debtors shall not pay more than \$2,500 in service fees and charges pursuant to this Interim Order.

8. *Nunc pro tunc* to the Petition Date, and subject to the terms of this Interim Order, all Banks at which the Bank Accounts are maintained are authorized to continue to administer, service, and maintain the Bank Accounts as the accounts were administered, serviced, and maintained prepetition, without interruption and in the ordinary course (including making deductions for Bank Fees and Expenses, as such amounts are due and owing), and to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments, and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, and, when requested by the Debtors in their sole discretion, to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, ACH transfers, electronic fund transfers, or other items presented, issued, or drawn on the Bank Accounts on account of a claim against the Debtors arising on or after the Petition Date.

9. The relief granted in this Interim Order is extended to any new bank account opened by the Debtors at the Banks after the date hereof, provided that such new bank account is in compliance with the terms of this Interim Order.

10. All Banks provided with notice of this Interim Order maintaining any of the Bank Accounts shall not honor or pay any bank payments drawn on the listed Bank Accounts or otherwise issued before the Petition Date for which the Debtors specifically issue stop payment orders in accordance with the documents governing the Bank Accounts.

11. Each Bank shall implement reasonable handling procedures designed to effectuate the terms of this Interim Order. No Bank that implements the handling procedures and then honors a prepetition check or item drawn on any account that is the subject of this Interim Order (a) at the direction of the Debtors to honor the prepetition check or item, (b) in the good faith belief that the Court has authorized the prepetition check or item to be honored, or (c) as a result of a good faith error made despite implementation of the handling procedures, shall be deemed to be liable to the Debtors or their estates on account of the prepetition check or item being honored postpetition or otherwise in violation of this Interim Order.

12. The Debtors are authorized to implement reasonable changes, consistent with this Interim Order, to the Cash Management System as the Debtors may deem necessary or appropriate, including, without limitation, closing any of the Bank Accounts or opening new accounts whenever the Debtors deem that those accounts are needed or appropriate, and to enter into any ancillary agreements related to the foregoing, as they may deem necessary and appropriate, subject to the terms and provisions of the Debtors' agreements with the Banks and this Interim Order. The Banks are authorized to honor the Debtors' requests to open or close (as the case may be) the Bank Account(s) or new account(s) and accept and hold the Debtors' funds in accordance with the Debtors' instructions, subject to the terms and provisions of the Debtors' agreements with the Banks.

13. The Debtors are authorized to deposit funds in accordance with existing practices under the Cash Management System as in effect as of the Petition Date, subject to any reasonable changes, consistent with this Interim Order, to the Cash Management System that the Debtors may implement, and, to the extent these practices are inconsistent with the requirements of section 345(b) of the Bankruptcy Code, the requirements are waived on an interim basis for a

period of thirty (30) days, upon which this provision of this Interim Order shall be set for a final hearing.

14. The Debtors are authorized, but not directed, (a) in their sole discretion to make payments on account of prepetition Intercompany Transactions if the Debtors deem the payment necessary and in the best interests of the Debtors' estates; (b) to set off prepetition obligations on account of Intercompany Transactions; and (c) to continue to engage in Intercompany Transactions, on a postpetition basis, in the ordinary course of business and/or as necessary to execute the Cash Management System. The Debtors shall continue to maintain records with respect to all transfers of cash (including pursuant to these transactions) so that all Intercompany Transactions may be readily ascertained, traced, and recorded properly and distinguished between prepetition and postpetition transactions, and shall make the records available to the U.S. Trustee upon request. All intercompany activity will be reconciled on at least a monthly basis.

15. The Debtors shall not be required to comply with the requirement of the U.S. Trustee Guidelines to establish separate accounts for cash collateral and/or tax payments.

16. For Banks at which the Debtors hold accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, within fifteen (15) days of the date of entry of this Interim Order, the Debtors shall (a) contact the Bank, (b) provide the Bank with each of the Debtors' employer identification numbers and the case number of these Chapter 11 Cases and (c) identify for the Bank each of the Debtors' Bank Accounts held at such Bank as being held by a debtor in possession in a bankruptcy case.

17. For Banks at which the Debtors hold accounts that are not party to a Uniform Depository Agreement with the U.S. Trustee, the Debtors shall either close such accounts and

transfer funds to new accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, or use their good-faith reasonable efforts to cause such Banks to execute a Uniform Depository Agreement in a form prescribed by the Office of the U.S. Trustee within 30 days of the Petition Date. The U.S. Trustee's rights to seek further relief from this Court on notice in the event that the aforementioned banks are unwilling to execute a Uniform Depository Agreement in a form prescribed by the U.S. Trustee are fully reserved.

18. All claims against a Debtor by another Debtor arising from postpetition Intercompany Transactions shall be accorded administrative expense status under section 503(b) of the Bankruptcy Code, subject and subordinate only to other priority administrative claims granted pursuant to any orders of this Court in connection with the Debtors' use of cash collateral.

19. Notwithstanding use of a consolidated Cash Management System, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

20. Nothing contained in the Motion or this Interim Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist or was not perfected as of the Petition Date, or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

21. Neither the provisions contained herein, nor any actions or payments made by the Debtors pursuant to this Interim Order, shall be deemed an admission as to the validity of the underlying obligation or a waiver of any rights the Debtors may have to dispute the obligation on any ground that applicable law permits.



22. 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 order authorizing the Debtors' use of cash collateral.

23. A hearing to consider entry of an order granting the Motion on a final basis (the "**Final Hearing**") shall be held on June 11, 2018, at 10:00 a.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 June 4, 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 885 Third Avenue, New York, New York 10022, Attn: George A. Davis (george.davis@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, DE 19899-1347, Attn: Robert J. Dehney (rdehney@mnat.com), as counsel to the First Lien Agent.

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

25. 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.

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

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

28. 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: May 17, 2018  
Wilmington, Delaware

  
\_\_\_\_\_  
Kevin Gross  
United States Bankruptcy Judge