

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

1201 NORTH MARKET STREET  
P.O. BOX 1347  
WILMINGTON, DELAWARE 19899-1347

(302) 658-9200  
(302) 658-3989 FAX

**ROBERT J. DEHNEY**  
(302) 351-9353  
(302) 425-4673 FAX  
rdehney@mnat.com

September 25, 2020

**BY E-FILING AND EMAIL**

The Honorable Christopher S. Sontchi  
U.S. Bankruptcy Court  
824 N. Market Street, 5<sup>th</sup> Floor  
Wilmington, DE 19801

Re: *Extraction Oil & Gas, Inc. v. REP Processing, LLC*, Adv. Pro. No. 20-50813 (CSS);  
*In re Extraction Oil & Gas, Inc., et al.*, Case No. 20-11548 (CSS)

Dear Chief Judge Sontchi:

We represent REP Processing LLC in the above-referenced matters and write concerning a legal issue that may be addressed during today's status conference that could affect REP.

There are no matters set for today's status conference specifically related to REP's contract with Extraction. However, the parties and the Court may address, among other issues, whether the Court can consider extrinsic evidence in deciding whether a contract contains a covenant running with the land.

For the sole purpose of preserving its rights, REP submits this letter to state that it disputes Extraction's assessment of Colorado law regarding the use of extrinsic evidence to determine whether a real covenant exists, as reflected in Extraction's September 14 letter to the Court (A.D.I. 19). Nothing precludes the Court from considering extrinsic evidence in determining whether a real covenant exists under Colorado law, and the Court can and should consider such evidence if the Court must decide whether REP's agreement with Extraction runs with the land.

Sincerely,

*Robert J. Dehney*

Robert J. Dehney



2011548200925000000000013

The Honorable Christopher S. Sontchi

September 25, 2020

Page 2

Cc: Kenneth Young  
Christopher Marcus  
Allyson Smith Weinhouse  
Ciara Foster  
Anna G. Rotman  
Jamie Alan Aycock  
Christian Menefee  
Dustin Lyle Womack  
Grant Jones  
Marc Abrams  
Richard Riley  
Stephen Gerald