IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
WELDED CONSTRUCTION, L.P., *et al.*,[1] Debtors and Debtors In Possession.	Case No. 18-12378 (KG)
	(Jointly Administered)
WELDED CONSTRUCTION, L.P., *et al.*, Plaintiffs, vs. SUNOCO MARKETING PARTNERS & TERMINALS L.P., and SUNOCO PIPELINE L.P., Defendants.	Adversary Proceeding No. 18-____ (KG)

PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Pursuant to sections 105(a) and 362 of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") or, alternatively, Rule 65 of the Federal Rules of Civil Procedure, made applicable herein by Rule 7065 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the above-captioned plaintiffs (collectively, the "Debtors"), having commenced the above-captioned adversary proceeding by filing a verified complaint (the "Adversary Complaint"), hereby move (the "Motion") this Court for the issuance and entry of an order enforcing the automatic stay and preventing Sunoco (as defined below) from terminating the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is 26933 Eckel Road, Perrysburg, OH 43551.

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Agreement (as defined below) and taking any action to control, possess or interfere with property of the Debtors' estates.

PRELIMINARY STATEMENT

Over the past three years, the Debtors have expended hundreds of millions of dollars and devoted a signification portion of their business resources to completing the Mariner East Pipeline for Sunoco. The Mariner East Pipeline is scheduled for mechanical completion within a month, according to the schedule agreed upon between the Debtors and Sunoco. *See Declaration of Stephen Hawkins in Support of Plaintiffs' Motion for Temporary Restraining Order*, ¶4 (the "Hawkins Declaration"). Just one month prior to completion, however, in an obvious attempt to assert leverage and inappropriate bargaining power over the Debtors, on October 19, 2018, Sunoco attempted to terminate the Agreement and deprive the Debtors of in excess of $130 million in amounts owed under the Agreement. Hawkins Declaration, ¶10. Perhaps more troubling, Sunoco has ignored the plain language of the Agreement that provides the Debtors with five (5) days grace and an opportunity to cure prior to Sunoco's intent to terminate becoming effective in an attempt to unilaterally deprive the Debtors of the ability to cure any asserted defaults under the Agreement (to the extent that Sunoco can establish that any such defaults even exist).

Because of Sunoco's misconduct, the Debtors are forced to come before the Court seeking immediate injunctive relief in the form of a temporary restraining order (1) prohibiting Sunoco from terminating the Agreement; and (2) enforcing the automatic stay provisions of section 362 of the Bankruptcy Code to prevent Sunoco from taking possession of or converting property of the Debtors' estates.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the claims raised in this adversary proceeding pursuant to 28 U.S.C. §§ 1334 and 157, and the *Amended Standing Order of Reference* dated as of February 29, 2012 from the United States District Court for the District of Delaware.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b) such that the Court may enter a final order consistent with Article III of the United States Constitution. Pursuant to Rule 7012-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Debtors consent to the entry of a final order by the Court in connection with this Complaint 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.

3. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

The Chapter 11 Cases

4. On October 22, 2018 (the "Petition Date"), the Debtors commenced the above-captioned chapter 11 cases (the "Chapter 11 Cases") by each filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Court.

5. The Debtors continue to operate their business and manage their properties as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108. As of the date of this Motion, no committee, trustee or examiner has been appointed in these Chapter 11 Cases.

6. A detailed description of the circumstances leading to the commencement of these Chapter 11 Cases and information regarding the Debtors' business and capital structure is set forth in the *Declaration of Frank Pometti in Support of Debtors' Chapter 11 Petitions and First*

Day Motions [D.I. 4] (the "First Day Declaration"), which is incorporated by reference as if fully set forth herein.

7. Contemporaneously herewith, the Debtors have filed the *Debtors' Verified Complaint for Declaratory Relief under Section 362(a) of the Bankruptcy Code, Injunctive Relief Under Sections 105(a) and 362(a) of the Bankruptcy Code, and a Preliminary Injunction under Rule 7065 of the Federal Rules of Bankruptcy Procedure* (the "Complaint").

The Master Construction Services Agreement

8. The Debtors are a party to that certain *Master Construction Services Agreement No. 4600000999 between Sunoco Marketing Partners & Terminals, LP and Sunoco Pipeline, LP (collectively, "Sunoco") and Welded Construction, L.P*, dated as of September 8, 2015 (the "Agreement"). A true and correct copy of the Agreement is attached as Exhibit A to the Hawkins Declaration. The Debtors and Sunoco subsequently amended the Agreement on three separate occasions as follows: (i) the *First Amendment of Master Construction Services Agreement No. 4600000999*, dated April 18, 2016; (ii) the *Second Amendment of Master Construction Services Agreement No. 4600000999*, dated July 20, 2016; and (iii) the *Third Amendment of Master Construction Services Agreement No. 4600000999*, dated October 20, 2016. Pursuant to the Agreement, the Debtors have been constructing a portion of the Mariner East Pipelines (the "Mariner Project") for Sunoco. Within the next month, most of the Debtors' segments of work on the pipeline are scheduled to achieve "mechanical completion," meaning construction will be concluded, with only cleanup and demobilization efforts remaining to be completed. Hawkins Declaration, ¶4.

9. On May 23, 2018, the Debtors and Sunoco entered into that certain Completion Agreement (the "Completion Agreement"). A true and correct copy of the Completion

Agreement is attached as Exhibit B to the Hawkins Declaration. Among other things, the Completion Agreement set forth the Debtors' and Sunoco's agreement to (i) resolve various good faith payment disputes between the parties; (ii) agree to a schedule to complete the Mariner East Pipelines; and (iii) provide for payment to third-party subcontractors. Further, Sunoco and the Debtors confirmed in the Completion Agreement that in the event of a breach of the agreement, Sunoco would have the right to terminate "in accordance with Sections 12.1 and 12.2 of the MCSA." Completion Agreement, ¶14. Thus, the Completion Agreement ratified the parties' understanding and intent that any termination of their contractual relationship would be governed by the applicable provisions contained in the Agreement. Hawkins Declaration, ¶ 9.

10. Section 12.1 of the Agreement provides that Sunoco may terminate the Agreement for cause if the Debtors, *inter alia*, (1) fail to achieve certain milestones; (2) fail to perform work in accordance with the required standard of care, or in a good and workmanlike manner; (3) fail to correct defects upon notice by Sunoco, (4) fail to pay subcontractors, suppliers, or laborers when due; (5) become insolvent or fail to pay debts in a timely manner; or (6) Sunoco reasonably believes that the Debtors do not have the financial ability to carry out their duties under the Agreement.

11. Pursuant to Section 12.2 of the Agreement, Sunoco is required to provide the Debtors "with written notice of its intent to terminate [the Agreement], under Section 12.1., five (5) days before actually putting the termination into effect." The Debtors may attempt to cure any defects within the five (5) day grace period and if such progress has been made that is satisfactory to Sunoco, Sunoco may notify the Debtors that the termination will not take effect. Sunoco may also terminate the Agreement without notice or opportunity to cure "if the default involves risk of personal injury or property damage, violation of Sunoco's Safety and Security

Requirements, environmental issues or violations of applicable laws ....applied by any governmental entity having jurisdiction over the Work." Agreement, § 12.2.

12. Among other remedies available to Sunoco in the event of a valid termination is the right to take over the projects contemplated under the Agreement and "to take and use all tools, equipment and supplies" being used in connection with the project.

13. The Debtors own certain equipment that is currently located at various project sites in furtherance of the tasks and work contemplated under the Agreement (the "Project Equipment"). Hawkins Declaration, ¶5. The Project Equipment includes approximately 100 units comprising welding sleds, utility trailers, van trailers (stocked warehouse units), farm tractors, construction accessories (hammers, straw blowers, etc.), cradle bore machines, farm tractors and low-boy over the road heavy haul units. The Project Equipment has a value of at least $1.7 million. Hawkins Declaration, ¶5. As a condition to entering into the DIP Facility, the Debtors pledged a first lien security interest in the Project Equipment to secure borrowings under the DIP Facility. Hawkins Declaration, ¶5.

Sunoco's Purported Termination of the Agreement

14. On October 19, 2018, Sunoco sent a letter to the Debtors purporting to terminate the Agreement effective immediatly, pursuant to sections 12.1 and 12.2 of the Agreement (the "Notice of Termination"). A true and correct copy of the Termination Letter is attached as Exhibit C to the Hawkins Declaration. The Notice of Termination did not specify any single act or omission to support the purported termination as required by section 12.1 of the Agreement. Rather, the Termination Letter provides a boilerplate recitation of section 12.1 of the Agreement, making it impossible to identify a single incident or breach that conceivably could lead to termination of the Agreement. On October 20, 2019, the Debtors responded to the Notice of

Termination (the "October 20 Letter"). A true and correct copy of the October 20 Letter is attached as Exhibit D to the Hawkins Declaration. The October 20 Letter (i) rejected the validity of the purported termination of the Agreement on the basis that Sunoco's justification for termination (or lack thereof) was incomprehensibly broad and did not allow for a reasonable attempt to cure any defaults; and (ii) communicated that to the extent that Sunoco identified valid and specific breaches, the Debtors stood ready and willing to cure such breaches.

15. By letter dated October 22, 2018 (the "October 22 Letter"), sent by Sunoco and received by the Debtors after the commencement of the Chapter 11 Cases, Sunoco asserted that no notice of termination was required under the Agreement based on the defaults alleged in its October 19 Letter. A true and correct copy of the October 22 Letter is attached as Exhibit E to the Hawkins Declaration. In particular, Sunoco claimed for the first time that it had availed itself of the right to terminate the Agreement with no prior notice or an opportunity to cure, based on alleged deviations from the "Erosion and Sedimentation Plan" which Sunoco asserts is tantamount to non-compliance with "established environmental requirements." Despite its reliance on this provision, Sunoco has yet to make any specific allegation that the Debtors violated established environmental requirements and made no such allegations until the October 22 Letter, after the Debtors commenced these Chapter 11 Cases. Hawkins Declaration, ¶14. The October 22 Letter is an obvious *post hoc*, postpetition attempt to justify Sunoco's improper attempt prior to the Petition Date to terminate the Agreement outside the notice and cure requirements of Section 12.2 of the Agreement.

RELIEF SOUGHT

16. By this Motion, pursuant to (a) section 362 of the Bankruptcy Code and, (b) section 105(a) of the Bankruptcy Code and Rules 7001(7) and 7065 of the Federal Rules of Bankruptcy Rules, the Debtors seek the issuance and entry of an order: (1) enjoining or restraining Sunoco from terminating the Agreement and (2) enforcing the automatic stay and preventing Sunoco from taking possession of, control over, and using the Debtors' Project Equipment.

ARGUMENT

I. A Temporary Restraining Order Should Be Granted to Prevent Sunoco from Terminating the Agreement

17. Section 105 injunctions are governed by the well-known four-factor inquiry governing the entry of an injunction under Rule 65 of the Federal Rules of Civil Procedure:

> When issuing a preliminary injunction pursuant to its powers set forth in section 105(a), a bankruptcy court must consider the traditional factors governing preliminary injunctions issued pursuant to Federal Rule of Civil Procedure 65. The four factors which must be considered are (1) the likelihood of the plaintiffs success on the merits, (2) whether plaintiff will suffer irreparable injury without the injunction, (3) the harm to others which will occur if the injunction is granted, and (4) whether the injunction would serve the public interest.

Am. Imaging Servs., Inc. v. Eagle-Picher Indus., Inc. (In re Eagles-Picher Indus.), 963 F.2d 855, 858 (6th Cir. 1992) (citation omitted); *see also Am. Film Techs., Inc. v. Taritero (In re Am. Film Techs.)*, 175 B.R. 847, 849 (Bankr. D. Del. 1994); *Issa v. Sch. Dist. of Lancaster*, 847 F.3d 121, 131 (3d Cir. 2017).

18. "[T]he Third Circuit recently clarified the burden on a party seeking issuance of a preliminary injunction." *Doe v. Pennsylvania State Univ.*, No. 17-CV-1315, 2017 WL 3581672, at *5 (M.D. Pa. Aug. 18, 2017). Specifically, in *Reilly v. City of Harrisburg*, 858 F.3d 173 (3d Cir. 2017), *as amended* (June 26, 2017), the Third Circuit held that a party seeking preliminary

equitable relief "must meet the threshold for the first two 'most critical' factors: it must demonstrate that it can win on the merits (which requires a showing significantly better than negligible but not necessarily more likely than not) and that it is more likely than not to suffer irreparable harm in the absence of preliminary relief." *Id.* at 179 (footnotes omitted). "If these gateway factors are met, a court then considers the remaining two factors and determines in its sound discretion if all four factors, taken together, balance in favor of granting the requested preliminary relief." *Id.*

19. While the Debtors readily satisfy this standard for injunctive relief, in the context of a bankruptcy proceeding, courts have modified the test by concluding that the four elements are factors to be balanced rather than prerequisites to be satisfied. *See, e.g.*, *In re Phar-Mor, Inc. Sec. Litig.*, 166 B.R. 57, 61 (W.D. Pa. 1994) (listing four factors for 105(a) relief and considering "a weighing of these factors"); *In re Eagles-Picher Indus.*, 963 F.2d at 859 (6th Cir. 1992) (holding that "the four considerations applicable to preliminary injunctions are factors to be balanced and not prerequisites that must be satisfied."); *Baldwin-United Corp. v. Paine Webber Group, Inc. (In re Baldwin-United Corp.)*, 57 B.R. 759, 766 (S.D. Ohio 1985) (of the four factors, no single factor is "determinative as to the appropriateness of equitable relief"). Each of the four factors is analyzed in turn below. As set forth below, balancing these four elements overwhelmingly favors granting a temporary restraining order and prohibiting Sunoco from terminating the Agreement.

A. The Debtors Have a Reasonable Probability of Success on the Merits

20. To establish a likelihood of success on the merits, "[i]t is not necessary that the moving party's right to a final decision after trial be wholly without doubt; rather the burden is on the party seeking relief to make a *prima facie* case showing a reasonable probability that it will

prevail on the merits." *Punnett v. Carter*, 621 F.2d 578, 583 (3d Cir. 1980) (quoting *Oburn v. Sharp*, 521 F.2d 142, 148 (3d Cir. 1975)). In addition, under *Reilly*, the Third Circuit "do[es] not require at the preliminary stage a more-likely-than-not showing of success ... because a '"likelihood" of success ... does not mean more likely than not.'" *Reilly*, 858 F.3d at 179 n.3 (alterations omitted) (quoting *Singer Mgmt. Consultants, Inc. v. Milgram*, 650 F.3d 223, 229 (3d Cir. 2011) (en banc)). The Debtors easily carry their burden on this prong of the test. Section 108(b) of the Bankruptcy Code provides the Debtors with at least sixty (60) days in which to cure any contractual defaults under the Agreement.

21. The Third Circuit, and courts within the Third Circuit, have held that, where a debtor files a bankruptcy petition during a contractual grace or cure period, section 108(b) of the Bankruptcy Code provides a sixty (60) day extension of the grace period running from the date of the petition. *See Ctys. Contracting & Const. Co. v. Constitution Life Ins. Co.*, 855 F.2d 1054, 1059 (3d Cir. 1988) (holding that, where insured filed bankruptcy petition before expiration of statutory grace period for payment of premium, insured's bankruptcy estate had 60 days from date of filing of petition in order to pay premium); *In re Global Outreach, S.A.*, Case No. 09-15985 (DHS), 2009 LEXIS Bankr. 993, at *11-12 (Bankr. D. N.J. Apr. 1, 2009) (holding that, where a corporation had 30 days to pay all debt it owed to a partnership once it was notified it was in default of a trust agreement and the corporation filed bankruptcy petition before expiration of contractual period to cure a default, section 108(b) afforded the debtor 60 days from the petition date to comply with the cure provision in the trust agreement).

22. Thus, even if Sunoco's Notice of Termination were valid (and it is not), the Debtors commenced these Chapter 11 Cases three (3) days into the five (5) day grace and cure period provided for under the Agreement. As a result, and as the Third Circuit has made clear,

the Debtors are entitled to an additional sixty (60) days to cure any defaults under the Agreement and. Sunoco's purported immediate termination is invalid, and Sunoco cannot terminate the Agreement at this time.

B. The Debtors Will Be Irreparably Harmed if the TRO is not Entered

23. There can be no serious dispute that failure to grant the TRO will cause the Debtors' to suffer irreparable harm. If Sunoco is permitted to terminate the Agreement and obtain (or continue to exercise) possession and control over the Project Equipment, the Debtors' prospects for a successful reorganization will be dealt a serious blow at the very outset of these Chapter 11 Cases.

24. In order to demonstrate irreparable harm, a plaintiff must "demonstrate potential harm which cannot be redressed by a legal or an equitable remedy . . . The preliminary injunction must be the only way of protecting the plaintiff from harm." *Instant Air Freight Co. v. C.F. Air Freight, Inc.,* 882 F.2d 797, 801 (3d Cir. 1989). Further, "[t]he availability of adequate monetary damages belies a claim of irreparable injury." *Frank's GMC Truck Center, Inc. v. General Motors Corp.*, 847 F.2d 100, 102 (3d Cir. 1988). "Establishing a risk of irreparable harm is not enough. A plaintiff has the burden of proving a 'clear showing of immediate irreparable injury.' The 'requisite feared injury or harm must be irreparable--not merely serious or substantial,' and it 'must be of a peculiar nature, so that compensation in money cannot atone for it.'" *Campbell Soup Co. v. ConAgra, Inc.*, 977 F.2d 86, 91-92 (3d Cir. 1992) (internal citations omitted).

25. As previously stated, the Project Equipment has a value of $1.7 million and has been pledged as collateral to secure borrowings under the DIP Facility. Given that Sunoco has already taken steps to assert control over significant assets of the Debtors' estates, the harm facing the Debtors cannot be understated. The actions by Sunoco over the last three days suggest

that it has no regard for the contractual rights of the Debtors; its actions could well thwart any attempt of the Debtors to successfully reorganize and the TRO is the only form of relief that is appropriate under the circumstances.

C. Sunoco Will Suffer No Prejudice if the Injunction is Granted

26. Sunoco will not be prejudiced by the grant of the TRO because the TRO effectively preserves the contractual status quo between the parties as it existed on the Petition Date. Moreover, the Debtors have been required to seek a TRO specifically because of Sunoco's self-serving conduct over the past several days. But for Sunoco's own acts, taken in violation of the Agreement (and in particular its efforts to possess and control property of the Debtors' estates), the Debtors would not have been forced to commence this action. Sunoco cannot plausibly claim to be prejudiced by this TRO given its own actions. Further, Sunoco retains its rights to (a) seek relief from the automatic stay to terminate the Agreement; and/or (b) move to compel assumption or rejection of the Agreement.

D. Granting the Injunction is in the Public Interest

27. Granting the TRO will promote the Debtors' reorganization efforts and promote equitable and efficient administration of the Debtors' estate. "In the context of bankruptcy proceedings, the 'public interest' element means 'the promoting of a successful reorganization.'" *In re Am. Film Techs., Inc.*, 175 B.R. at 849; *see also Broadstripe, LLC v. Nat'l Cable Television Coop., Inc.* (*In re Broadstripe, LLC*), 402 B.R. 646, 659 (Bankr. D. Del. 2009) ("In the face of the potential for significant injury to the Debtors' business value and reorganization efforts and the potential loss of service to its customers, the public interest favors granting the requested injunctive relief to enable the Debtors to attempt to reorganize in chapter 11."), *as amended* (Mar. 10, 2009); *Rickel Home Ctrs., Inc. v. Baffa* (*In re Rickel Home Ctrs., Inc.*), 199 B.R. 498,

501 (Bankr. D. Del. 1996) ("[T]here is a strong public interest in promoting a successful Chapter 11 reorganization."); *Back v. LTV Corp.* (*In re Chateaugay Corp.*), 201 B.R. 48, 72 (Bankr. S.D.N.Y. 1996) ("Public policy, as evidenced by chapter 11 of the Bankruptcy Code, strongly favors the reorganization and rehabilitation of troubled companies and the concomitant preservation of jobs and going concern values."), *aff'd*, 213 B.R. 633 (S.D.N.Y. 1997).

28. By granting the TRO, the Court will allow both the Debtors and Sunoco to maintain the status quo that existed prior to the Petition Date and either (a) negotiate a consensual resolution of their various disputes; or (b) litigate the disputes to final judgement in a manner that provides both the Debtors and Sunoco with appropriate due process protections. Either scenario will promote the orderly and efficient administration of the Debtors' estates and promote the Debtors' reorganization efforts in these Chapter 11 Cases.

E. All Factors Favor Issuing a TRO

29. All of the factors favor issuing the relief sought, and the Court should issue temporary restraints upon Sunoco and grant the Debtors a TRO. The Plaintiff has shown a likelihood of success on the merits because Sunoco is not entitled to terminate the Agreement at this time and the Debtors are entitled to cure any defaults that existed thereunder as of the Petition Date. Moreover, the Debtors will suffer irreparable injury if the requested relief is not granted, while the Defendant would not suffer any injury. Finally, as set forth herein, public policy favors granting the requested relief.

30. For the reasons stated above, the Debtors are entitled to entry of a TRO pursuant to Federal Rule of Civil Procedure 65, incorporated in this adversary proceeding by Federal Rule of Bankruptcy Procedure 7065.

II. Court Should Enforce the Automatic Stay and Bar Sunoco from Exercising Control over the Project Equipment

31. As set forth above, the Project Equipment is property of the Debtors' estates and represents significant value to the Debtors' Estates. Regardless of whether the Agreement has terminated, the automatic stay bars Sunoco from unilaterally confiscating, using or otherwise interfering with property of the Debtors' estates, which includes the Debtors' interests in equipment owned or leased by the debtors. *See* 11 U.S.C. § 362(a) (stating that the filing of a bankruptcy petition acts as a stay to "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"); *Assoc. of St. Croix Condominium Owners v. St. Croix Hotel Corp.*, 682 F.2d 446, 448 (3d Cir.1982) ("The automatic stay is one of the fundamental debtor protections provided by the bankruptcy law. It gives the debtor a breathing spell from his creditors. It stops all collection efforts, all harassment, and all foreclosure actions. It permits the debtor to attempt a repayment or reorganization plan or simply to be relieved of the financial pressures that drove him into bankruptcy") (quoting H.R.Rep. No. 95–595, 95th Cong. 1st Sess. 340 (1977), reprinted in U.S. Cong. & Admin. News 1978, p. 5787).

32. Even if it ultimately is determined that Sunoco properly terminated the Agreement, Sunoco cannot be allowed to exercise control over assets that are property of the Debtors' estates. The Project Equipment represents significant value to the Debtors' estates and will certainly be the basis for providing a recovery to creditors of the Debtors' estates. Moreover, the Project Equipment, with a value of at least $1.7 million, has been pledged as collateral to secure borrowings under the DIP Facility. As a result of the Debtors' ownership interests in the Project Equipment, the automatic stay prohibits Sunoco from asserting control or otherwise dissipating the value of such property.

NOTICE AND NO PRIOR REQUEST

33. The Debtors provided notice of this Motion to the following, or their counsel, if known: (a) the Office of the United States Trustee; (b) Sunoco; (c) counsel to the DIP Lenders; (d) all parties who have requested notice in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested in this Motion, the Debtors respectfully submit that no further notice is necessary.

34. No prior request for the relief sought in this Motion has been made to this or any other Court.

WHEREFORE, Plaintiff respectfully requests that the Court: (i) enter a temporary restraining order enjoining Sunoco from terminating the Agreement or taking any further action in violation of the automatic stay; and (ii) granting such other and further relief as is just and proper.

Dated: October 24, 2018
Wilmington, Delaware

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
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	(Jointly Administered)
WELDED CONSTRUCTION, L.P., *et al.*, Plaintiffs, vs. SUNOCO MARKETING PARTNERS & TERMINALS L.P., and SUNOCO PIPELINE L.P., Defendants.	Adversary Proceeding No. 18-_____ (KG)

TEMPORARY RESTRAINING ORDER

Upon consideration of the *Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction* (the "Motion") for the issuance and entry of a temporary restraining order and a preliminary injunction pursuant to sections 362(a) and 105(a) of title 11 of the United States Code (the "Bankruptcy Code") and/or Rule 7065 of the Federal Rules of Bankruptcy Procedure, staying, restraining, and enjoining the above-captioned defendants (collectively, "Sunoco"); and this Court having found that good and sufficient cause exists for granting the Motion; it is hereby: FOUND AND DETERMINED THAT

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is 26933 Eckel Road, Perrysburg, OH 43551.

The legal and factual bases set forth in the Adversary Complaint and Motion establish just cause for the relief granted herein. The Debtors have demonstrated a reasonable likelihood of success on the merits of their claims against Sunoco.

Failure to enter this temporary restraining order ("TRO") would cause immediate and irreparable injury to the Debtors.

The serious and irreparable harm to the Debtors from failure to issue a TRO far outweighs any harm to Sunoco.

Issuance of this TRO preserves the status quo pending a preliminary injunction hearing, and Sunoco will not be harmed by the issuance of a TRO.

Issuance of this TRO appears necessary to protect the interests of all parties in interest in these chapter 11 cases, and serves the public interest by preventing harm to the Debtors' reorganization efforts and their estates.

IT IS THEREFORE:

ORDERED that, as of _____ .m (ET) on this date, the Motion is GRANTED as set forth herein; and it is further

ORDERED that, pending a hearing and a determination of the Debtors' request for a preliminary injunction, Sunoco and its agents are temporarily stayed, restrained, and enjoined from terminating or interfering with the Agreement; and it is further

ORDERED that, pending a hearing and a determination of the Debtors' request for a preliminary injunction, Sunoco and its agents are temporarily stayed, restrained, and enjoined from terminating or interfering with Project Equipment and any other property of the Debtors' estates; and it is further

ORDERED that the Court will conduct a hearing in connection with the Debtors' request for a preliminary injunction on _____, 2018 at _____.m. (ET); and it is further

ORDERED that objections to the Debtors' request for a preliminary injunction, if any, shall be filed and served on proposed counsel to the Debtors by _____, 2018 at 4:00 p.m. (ET); and it is further

ORDERED that the Court shall retain jurisdiction to, among other things, interpret, implement and enforce the terms and provision of this temporary restraining order.

Dated: October __, 2018
Wilmington, Delaware

_____
The Honorable Kevin Gross
United States Bankruptcy Judge