IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

In re:	)	
	)	
MISSISSIPPI PHOSPHATES	)	
CORPORATION, *et al.* [1]	)	**CASE NO. 14-51667-KMS**
	)	**Chapter 11**
Debtors	)	**Jointly Administered**
	)	

CERTIFICATE OF SERVICE
[Dkt ## 1232, 1286]

I, Thomas M. Hewitt, certify that on July 14, 2016, I caused to be served via United States Mail, postage prepaid, a true and correct copy of the *Notice of Objection to Claim* [Dkt. #1286], attached hereto as **Exhibit A** along with a copy of the respective *Objection to Claim* [Dkt. #1232] to each of the following:

Obie Eugene Bowman
6800 Pinetop Road
Lucedale, MS 39452

Served electronically through the Court's ECF system on:

Ronald H. McAlpin
United States Trustee

THIS the 18th day of July 2016.

Respectfully submitted,

By: */s/Thomas M. Hewitt*
THOMAS M. HEWITT
Attorney for Debtor

[1] The chapter 11 cases of the following affiliated Debtors (the "***Debtors***") have been administratively consolidated for joint administration pursuant to that certain *Order Granting Motion of the Debtor for Order Directing Joint Administration of Affiliated Cases Pursuant to Bankruptcy Rule 1015(b)*, dated October 29, 2014 [Dkt. # 62]: Mississippi Phosphates Corporation ("***MPC***"), Case No. 14-51667, Ammonia Tank Subsidiary, Inc. ("***ATS***"), Case No. 14-51668 and Sulfuric Acid Tanks Subsidiary, Inc. ("***SATS***"), Case No. 14-51671. The chapter 11 bankruptcy case of Mississippi Phosphates Corporation is sometimes referred to herein as the "***Bankruptcy Case***."

OF COUNSEL:

Stephen W. Rosenblatt (Miss. Bar No. 5676)
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Exhibit A

Form hn3kmslr (Rev. 12/15)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

IN RE:

Mississippi Phosphates Corporation **CASE NO. 14–51667–KMS**

DEBTOR. **CHAPTER 11**

NOTICE OF OBJECTION TO CLAIM

The Debtor has filed an Objection to your claim (Obie Eugene Bowman (Claim #80 with claims agent)) (Dkt. # 1232) in this bankruptcy case.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not want the Court to eliminate or change your claim, then on or before August 16, 2016 (Response Due Date) you or your lawyer must:

1. File with the Court a written response to the objection, explaining your position. Registered Users of the Electronic Case Filing (ECF) system should file any response using ECF. Non–registered users should file any response at:

   U.S. Bankruptcy Court
   Dan M. Russell, Jr. U.S. Courthouse
   2012 15th Street, Suite 244
   Gulfport, MS 39501

   If you mail your response to the Court for filing, you must mail it early enough so that the Court will receive it on or before the date stated above.

   You must also mail a copy to:

   Thomas M. Hewitt, Esq.
   1020 Highland Colony Pkwy., Ste. 1400
   Ridgeland, MS 39157

2. Attend the evidentiary hearing on the objection, scheduled to be held on August 31, 2016, at 09:00 AM, in the Bankruptcy Courtroom, 7th Floor, Dan M. Russell, Jr. U.S. Courthouse, 2012 15th Street, Gulfport, Mississippi. Testimony will be taken. Witnesses must appear.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the objection to your claim. If no response is filed, the Court may consider said objection immediately after the Response Due Date. Please note that a corporation, partnership, trust, or other business entity, other than a sole proprietorship, may appear and act in Bankruptcy Court only through a licensed attorney.

Dated: July 13, 2016

Danny L. Miller, Clerk of Court
U.S. Bankruptcy Court
Dan M. Russell, Jr. U.S. Courthouse
2012 15th Street, Suite 244
Gulfport, MS 39501
228–563–1790

Courtroom Deputy
228–563–1797 (use to advise of settlement)
228–563–1841

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

In re:	)	
	)	
MISSISSIPPI PHOSPHATES	)	
CORPORATION, *et al*.[1]	)	**CASE NO. 14-51667-KMS**
	)	**Chapter 11**
Debtors	)	**Jointly Administered**
	)	

OBJECTION OF MISSISSIPPI PHOSPHATES CORPORATION TO PROOF OF CLAIM OF OBIE EUGENE BOWMAN – CLAIM NO. 80

Mississippi Phosphates Corporation, the Debtor and debtor-in-possession herein (the "***Debtor***"), by and through its attorneys, file this *Objection of Mississippi Phosphates Corporation to Proof of Claim of Obie Eugene Bowman - Claim No. 80* (the "***Objection***") and respectfully request that the Court enter an Order disallowing Proof of Claim No. 80[2] (the "***Claim***") of Obie Eugene Bowman ("***Claimant***") as set forth herein. In support of the Objection, the Debtor respectfully states as follows:

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) & (B).

2. Venue is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

[1] The chapter 11 cases of the following affiliated Debtors (the "***Debtors***") have been administratively consolidated for joint administration pursuant to that certain *Order Granting Motion of the Debtor for Order Directing Joint Administration of Affiliated Cases Pursuant to Bankruptcy Rule 1015(b)*, dated October 29, 2014 [Dkt. # 62]: Mississippi Phosphates Corporation ("***MPC***"), Case No. 14-51667, Ammonia Tank Subsidiary, Inc. ("***ATS***"), Case No. 14-51668 and Sulfuric Acid Tanks Subsidiary, Inc. ("***SATS***"), Case No. 14-51671. The chapter 11 bankruptcy case of Mississippi Phosphates Corporation is sometimes referred to herein as the "***Bankruptcy Case***."

[2] Pursuant to the Court's *Order Authorizing Debtors to Employ and Retain BMC Group, Inc. as Noticing and Claims Agent* [Dkt. # 257], the Debtors retained BMC Group, Inc. ("***BMC***") as the claims and noticing agent. Accordingly, BMC maintained the official claims register on behalf of the Clerk and BMC assigned the claim its own BMC claim number – BMC Claim No. 80.

3. The Debtor files the Objection and requests the relief sought herein pursuant to 11 U.S.C. §§ 102, 105, and 502, Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), and Miss. Bankr. L.R. 3007-1.

BACKGROUND

4. The Board of Directors of MPC (the "***Board***") adopted the Mississippi Phosphates Corporation Severance Pay Plan (the "***Plan***" or the "***Severance Pay Plan***") on December 19, 2011, to be effective as of November 7, 2011. Under the Plan, the Board reserved the right to amend or terminate the Plan at any time without prior notice:

> 3.4 Amendments and Discontinuation of the Plan. Severance Benefits are not intended to be a vested right. The Company reserves the right to amend or terminate the Plan at any time without prior notice; *provided*, however, that the Plan cannot be amended or terminated so as to reduce the benefit to which an Eligible Employee has become entitled as the result of a termination of active employment in connection with a Reduction in Force prior to the date on which the amendment or termination is effective, except that benefits under the Company's group medical plan (and therefore of COBRA Premium Payments with respect thereto) may be reduced, amended or eliminated without prior notice to the extent consistent with changes made to the benefits under the Company's group medical plan provided to active employees of the Company).

A copy of the Plan is attached hereto as **Exhibit A**.

5. Effective as of October 24, 2014, in consideration of the impact of the Plan on the operations of MPC and MPC's ability to continue to operate in a cost-efficient manner, the Board took the following action and terminated the Severance Pay Plan:

> NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors, on behalf of the Corporation in its capacity as the sponsor of the Plan, hereby approves the termination of the Plan effective as of October 24, 2014.
>
> RESOLVED FURTHER, that the officers of the Corporation are authorized and directed to do all such things as necessary, proper or advisable to promptly notify employees of the termination of the Plan.

A copy of the Minutes of the Special Actions Taken by Written Consent of the Board of Directors of Mississippi Phosphates Corporation in Lieu of a Special Meeting Thereof terminating the Plan is attached hereto as **Exhibit B**.

6. On October 27, 2014 (the "***Petition Date***"), the Debtor filed its voluntary petition for relief and thereby commenced the Bankruptcy Case under chapter 11, title 11 of the United States Code (the "***Bankruptcy Code***"), in the United States Bankruptcy Court for the Southern District of Mississippi, Southern Division (the "***Court***"). Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor operated its business and managed its properties as debtor-in-possession.

7. On November 11, 2014, a memorandum (the "***Memo***") from Steve Russo, MPC's Chief Executive Officer, gave notice to all MPC employees of the Plan's termination:

> Our recent bankruptcy filing has forced us to review many of our existing policies and practices in light of our economic reality and the need to focus our assets on operational requirements. In 2011, Mississippi Phosphates Corporation (MPC) adopted a severance plan, the Mississippi Phosphates Severance Pay Plan. One provision of the Plan was that MPC reserved the right to amend or terminate the Plan at any time without prior notice. Because of MPC's bankruptcy and the financial constraints under which MPC must operate, the Plan was recently terminated by the Board of Directors of MPC. We are writing to give you notice of the termination of the Plan.

A copy of the Memo is attached hereto as **Exhibit C**.

8. As of the Effective Date of the termination of the Severance Pay Plan and the actual notice to all MPC employees of the Plan's termination, there had not been a Reduction in Force for MPC Employees. Further, the requirements for a Reduction in Force, pursuant to Section 1.9 of the Plan, were never met; MPC never designated the downsizing of the workforce as a Reduction in Force because it had terminated the Severance Pay Plan prior to the downsizing and the termination of the employment of the Claimant. Consequently, the Claimant

was not an Eligible Employee who became entitled to severance benefits under the Severance Pay Plan as the result of a termination of active employment in connection with a Reduction in Force prior to the date on which the amendment or termination is effective.

9. On the Petition Date, the Debtors filed their *Motion of the Debtors for Authority to Pay Certain Pre-Petition Employee Obligations* (the "***Employee Motion***") [Dkt. # 15], in which the Debtors sought authority from the Court to pay certain pre-petition Employee Obligations (as defined in the Employee Motion), including wages and salaries, accrued PTO, employee deductions, and employee benefits for the self-funded Employee Health Protection Plan pursuant to a proposed Approved Budget.

10. On November 5, 2014, the Court entered its *Interim Order Granting, in Part, Motion of the Debtors for Authority to Pay Certain Pre-Petition Employee Obligations* [Dkt. # 129], authorizing the Debtors to pay the Employee Obligations that included, among other things, the wages and salaries, and employee deductions.

11. On December 3, 2014, the Court entered its *Final Order Granting Motion of the Debtors for Authority to Pay Certain Pre-Petition Employee Obligations* [Dkt. # 288] in which the Debtors were authorized to pay the Employee Obligations that included the wages and salaries, PTO, business expenses, and employee deductions, and to pay Blue Cross and Blue Shield of Mississippi, the third-party administrator for the self-funded Employee Health Protection Plan (the "*Health Plan*") for the Debtors, for allowed claims of Covered Persons under the self-funded Health Plan.

12. The Debtors ceased production of product at the Pascagoula facility after the first week of December 2014. The Debtors then worked to idle the production facility, while maintaining the terminalling operations and the Debtors' environmental responsibilities.

Because of the cessation of production, MPC terminated the employment of a number of its production employees. MPC, however, paid all wages and salaries, PTO, business expenses, employee deductions, and allowed claims of covered persons under the self-funded Health Plan until the Health Plan was terminated.

13. Thereafter, for those employees retained by the Debtors for terminalling operations and the Debtors' environmental responsibilities, the Debtors continued to pay all wages and salaries, PTO, business expenses, and employee deductions until October 16, 2015, when the Debtors closed the Alternative Transactions by transferring substantially all of its real and personal property to the MPC Environmental Trust and to the MPC Liquidation Trust. As of October 16, 2015, the MPC Environmental Trustee assumed the responsibility for the wastewater treatment and the gyp stacks maintenance, while the MPC Liquidation Trustee assumed the responsibility for the ammonia terminalling operations of the Debtors. Although MPC terminated all of its employees working in the terminalling operations or environmental maintenance on October 16, 2015, many of those employees were retained by the MPC Environmental Trust, the MPC Liquidation Trust, or their agents.

14. The Claimant was paid all wages and compensation for the period of time the Claimant was employed by the Debtor – both pre-petition and post-petition.

15. An Official Committee of Unsecured Creditors was appointed by the United States Trustee in the Bankruptcy Case on November 12, 2014 [Dkt. # 161], and the Court approved the Committee's retention of Burr & Forman LLP as counsel for the Committee [Dkt. # 473].

16. The last day for creditors and parties-in-interest, with the exception of governmental units, to file claims or proofs of interest against the Debtors was February 24, 2015 (the "***Bar Date***"). The claims bar date for governmental units was April 25, 2015.

THE CLAIM

17. On December 19, 2014, the Claimant filed his Claim in the amount of $42,360.80 for "severance pay." The Claim was filed as a priority claim. A copy of the Claim is attached hereto as **Exhibit D**.

RELIEF REQUESTED

18. The Debtor seeks entry of an Order, pursuant to Sections 102, 105, and 502 of the Bankruptcy Code and Bankruptcy Rule 3007, directing the disallowance of the Claim of the Claimant as detailed herein.

19. Because the MPC as the debtor-in-possession has objected to the Claim, the Claim is no longer deemed allowed, pursuant to Section 502(a) of the Bankruptcy Code. *See Johnson v. Midland Funding, LLC*, 62 Bankr. Ct. Dec. 169 (11th Cir. 2016) ("Where a proof of claim is filed in a bankruptcy case, that claim is generally 'deemed allowed,' so it will be viewed as a valid claim and paid out of the bankruptcy estate. 11 U.S.C. § 502(a). However, the bankruptcy trustee is charged with 'examin[ing] proofs of claim and object[ing] to the allowance of any claim that is improper.' *Id*. § 704(a)(5); *see also id*. at § 1302(b)(1). Once the trustee objects, the bankruptcy court is in turn charged with determining whether the claim 'is unenforceable against the debtor . . . under any agreement or applicable law for a reason other than because such claim is contingent or unmatured.' *Id*. § 502(b)(1); …").

20. The burden of proof for claims brought in the bankruptcy court under 11 U.S.C. § 502(a) rests on different parties at different times. The shifting burdens is best

described in *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992), in which the Court noted:

> Initially, the claimant must allege facts sufficient to support the claim. If the averments in his filed claim meet this standard of sufficiency, it is "*prima facie*" valid. *In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991) (quoting 3 L. King, *Collier on Bankruptcy* § 502.02, at 502-22 (15th ed. 1991)). In other words, a claim that alleges facts sufficient to support a legal liability to the claimant satisfies the claimant's initial obligation to go forward. The burden of going forward then shifts to the objector to produce evidence sufficient to negate the *prima facie* validity of the filed claim. It is often said that the objector must produce evidence equal in force to the *prima facie* case. *Id.*; *see In re Windsor Communications Group, Inc.*, 45 Bankr. 770, 773 (Bankr. E.D. Pa. 1985). In practice, the objector must produce evidence which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency. If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re WHET, Inc.*, 33 Bankr. 424, 437 (Bankr. D. Mass. 1983). The burden of persuasion is always on the claimant. *Holm*, 931 F.2d at 623 (quoting *Collier* § 502.02, at 502-22); *Windsor Communications*, 45 Bankr. at 773.

21. The ultimate burden of proof is on the creditor seeking to establish its claim. *See Franchise Tax Bd. v. MacFarlane (In re MacFarlane)*, 83 F.3d 1041, 1044 ("In bankruptcy proceedings, a properly filed claim constitutes prima facie evidence of the validity and amount of the claim. 11 U.S.C. §§ 501, 502(a). The debtor or trustee has the burden of presenting evidence to rebut this prima facie validity. If that burden is met, the creditor must present evidence to prove the claim. The ultimate burden of proof therefore is on the creditor. *See In re Holm,* 931 F.2d 620, 623 (9th Cir. 1991); *United States v. Sampsell*, 224 F.2d 721, 722-23 (9th Cir. 1955).").

22. By the express terms of the Severance Pay Plan, MPC reserved the right to amend or terminate the Plan at any time without prior notice, provided that the Plan could not be amended or terminated so as to reduce the benefit to which an Eligible Employee had become entitled as the result of a termination of active employment in connection with a Reduction in

Force prior to the date on which the amendment or termination is effective. *See, Potter v. CNA Ins. Co. (In re MEI Diversified)*, 106 F.3d 829, 832 (4th Cir. 1997) ("MEI as debtor in possession could have terminated the insurance, either by exercising its power to reject executory contracts, see § 365, or by exercising its contractual right to cancel the policy at any time."). The employment of the Claimant was not terminated by MPC prior to effective date of the termination of the Severance Pay Plan.

23. Because MPC properly terminated the Severance Pay Plan and notified its employees of the termination of the Severance Pay Plan prior to the date when the employment of the Claimant with MPC was terminated, the Claim of the Claimant should be disallowed.

24. The Claim is not enforceable against the Debtor or its property under any agreement or under applicable law. Pursuant to Section 502(b)(1) of the Bankruptcy Code, the Claim should be disallowed and expunged for all purposes.

25. The Debtor expressly reserves the right to amend, modify, or supplement this Objection. Nothing contained in this Objection is intended to or shall be construed to constitute a waiver of any additional defenses, claims, or other issues the Debtor may have with the allowance or propriety of the Claim.

WHEREFORE, the Debtor respectfully requests that this Court enter an order disallowing and expunging the Claim described in this Objection, and for such further relief as is just and proper.

[*The remainder of this page is left blank intentionally.*]

This, the 12th day of July 2016.

Respectfully submitted,

MISSISSIPPI PHOSPHATES CORPORATION

By: */s/ Thomas M. Hewitt*

Stephen W. Rosenblatt (Miss. Bar No. 5676)
Christopher R. Maddux (Miss. Bar No. 100501)
Paul S. Murphy (Miss. Bar No. 101396)
J. Mitchell Carrington (Miss. Bar No. 104228)
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Mitch.Carrington@butlersnow.com
Thomas.Hewitt@butlersnow.com

ATTORNEYS FOR THE DEBTORS

CERTIFICATE OF SERVICE

I certify that the foregoing pleading was filed electronically through the Court's ECF system and served electronically on all parties enlisted to receive service electronically and also was mailed by United States mail, postage paid, to the Claimant at the address listed in the Claim.

SO CERTIFIED, this the 12th day of July 2016.

/s/ Thomas M. Hewitt
THOMAS M. HEWITT

Exhibit A

Mississippi Phosphates Corporation Severance Pay Plan

Exhibit B

Minutes of the Special Actions Taken by Written Consent of the Board of Directors of Mississippi Phosphates Corporation in Lieu of a Special Meeting Thereof

Exhibit C

Memorandum from Steve Russo to All Employees
Dated November 11, 2014

Exhibit D

Proof of Claim of Claimant

B 10 (Official Form 10) (04/10)

UNITED STATES BANKRUPTCY COURT | **PROOF OF CLAIM**

Name of Debtor: Mississippi Phosphates Inc. | Case Number: 14-51667KMS

NOTE: *This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.*

Name of Creditor (the person or other entity to whom the debtor owes money or property):

Name and address where notices should be sent:
Obie Eugene Bowman
6800 Pinetop Road, Lucedale, MS 39452

Telephone number:
228-588-2280

RECEIVED
DEC 19 2014
BMC GROUP

Name and address where payment should be sent (if different from above):
Same

Telephone number:

☐ Check this box to indicate that this claim amends a previously filed claim.

Court Claim Number: _____ (*If known*)

Filed on: 10-27-2014

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check this box if you are the debtor or trustee in this case.

1. Amount of Claim as of Date Case Filed: $42,360.80

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. Basis for Claim: Severance Pay Plan
(See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: _____

3a. Debtor may have scheduled account as: _____
(See instruction #3a on reverse side.)

4. Secured Claim (See instruction #4 on reverse side.)
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other
Describe:

Value of Property: $_____ **Annual Interest Rate** _____%

Amount of arrearage and other charges as of time case filed included in secured claim, if any: $_____ **Basis for perfection:** _____

Amount of Secured Claim: $_____ **Amount Unsecured:** $_____

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (*See instruction 7 and definition of "redacted" on reverse side.*)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim.

☐ Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

☐ Wages, salaries, or commissions (up to $11,725*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).

☒ Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).

☐ Up to $2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).

☐ Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).

☐ Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(__).

Amount entitled to priority:
$42,360.80

**Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

Date: 12/10/2014

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Obie E. Bowman Warehouse Manager

FOR COURT USE ONLY

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C.

MISS PHOSPHATES
00080

SUMMARY PLAN DESCRIPTION

OF THE

MISSISSIPPI PHOSPHATES CORPORATION

SEVERANCE PAY PLAN

Mississippi Phosphates Corporation
601 Industrial Road
P.O. Box 848
Pascagoula, Mississippi 39568-0848

****

THE FOLLOWING IS ONLY A SUMMARY OF THE EMPLOYER'S PLAN. IF THERE IS ANY CONFLICT BETWEEN THIS SUMMARY AND THE PLAN, THE PLAN SHALL CONTROL IN ALL CASES. PLEASE CONTACT THE PLAN ADMINISTRATOR IF YOU HAVE ANY QUESTIONS.

****

Employer Identification Number: 504
Plan Number Assigned by the Plan Sponsor: 64-0794981

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INTRODUCTION

This Summary Plan Description (or "SPD") is being furnished to you as an employee eligible to participate in the Mississippi Phosphates Corporation Severance Pay Plan. The effective date of the plan described in this Summary Plan Description is November 7, 2011.

The purpose of this Summary Plan Description is to provide you with a general overview of the more significant provisions of the plan. Unfortunately, many provisions of the plan are detailed and technical so this Summary Plan Description only describes the major provisions of the plan and does not address all provisions or possible exceptions. A copy of the entire plan document is available for review by you or your legal representatives in the plan administrator's office. This SPD is not meant to interpret, extend or change the provisions of the plan in any way. The provisions of the plan may only be determined accurately and fully by reading the actual plan document. If there are any differences between this Summary Plan Description and the language of the plan document, the plan document will control and this document will be disregarded. For this reason, you are urged to review the plan document whenever an issue of importance affects or potentially affects you.

GENERAL PLAN PROVISIONS

A. Plan Sponsor and Employer. The plan sponsor and employer is Mississippi Phosphates Corporation; it is referred to in this SPD as "employer". The plan sponsor's employer identification number is 64-0794981 and its address and phone number are 601 Industrial Road, P.O. Box 848, Pascagoula, Mississippi 39568-0848; (228)762-3210.

B. Plan Year. The plan year begins on January 1 and ends on December 31 for purposes of maintaining the plan's accounting records.

C. Type of Plan. This plan is a severance pay plan and an employee welfare benefit plan. It is designed to provide specified benefits to certain employees who are involuntarily terminated. Eligibility to participate in the plan does not affect the employer's right to terminate an employee's employment at any time.

D. Administration of the Plan. The plan administrator is Mississippi Phosphates Corporation, and the address and telephone number of the plan administrator is: Mississippi Phosphates Corporation, Attn: Severance Pay Plan Administrator, 100 Webster Circle, Suite 4, Madison, Mississippi 39110.

The plan administrator is responsible for the overall administration of the plan. The plan administrator is vested with the power and the discretion to construe the terms of the plan and to

decide all questions that arise under the plan, including determining questions of eligibility for benefits and resolving ambiguities and factual disputes. The plan administrator's interpretations and determinations shall be binding on all parties.

E. Benefits Payable Solely from Employer's General Assets. This plan is unfunded and employee contributions are not required. All benefits will be paid solely from the general assets of the employer. Benefits are not guaranteed or secured by any governmental agency or any other party.

F. Agent for Service of Process. Robert Jones is designated as agent for service of legal process at 100 Webster Circle, Suite 4, Madison, Mississippi 39110. Service of process may also be made on the Plan Administrator (see Part D).

PARTICIPATION

G. Participation Requirements.

Eligible Employees:

To be eligible to participate in the plan, you must be an "eligible employee," which means a full-time, regular employee of the employer who was on the payroll at the time of a reduction in force. This term does not include: (1) an individual designated as an independent contractor; (2) an employee designated as a part-time employee or as a temporary employee; (3) an individual who is providing services pursuant to an agreement or arrangement with an unrelated employer; (4) an employee who is covered by a collective bargaining agreement which does not provide for participation in this plan; or (5) an employee who is employed pursuant to a cooperative studies or intern program. An employee who otherwise qualifies as an eligible employee does not lose that status simply because he or she he is on an authorized leave of absence at the time of the reduction in force.

Reduction in Force:

A "reduction in force" means, with respect to an eligible employee, an action (a) in which the employer's workforce is downsized and/or restructured as a consequence of economic factors affecting the employer, consolidation of operations of the employer, changes in the employer's strategy or business plan, or the sale or disposition (whether by merger, consolidation, reorganization, dissolution or otherwise) of the facility, division or entity at or for which the eligible employee is employed *if and only if* the eligible employee is not hired or retained in employment by the purchaser, successor to the employer or a related entity within thirty (30) days of the sale or disposition; (b) in which the eligible employee is involuntarily terminated due to such downsizing and/or restructuring; (c) in which the employer eliminates the position of the eligible employee due to such downsizing and/or restructuring; and (d) which the employer, acting in good faith, designates as a reduction in force.

BENEFITS

H. Benefits.

Requirements:

An eligible employee will be entitled to receive severance benefits when (1) he or she is terminated solely due to a "reduction in force," (2) he or she properly executes and returns a release agreement in a form acceptable to the employer, (3) the eligible employee does not revoke his or her acceptance of the release agreement within 7 days of its execution, and (4) the other conditions described in the plan are satisfied. The benefits provided to eligible employees who satisfy all plan requirements consist of severance pay and the COBRA premium payments described below.

Severance Pay:

An eligible employee will be entitled to severance pay based upon his or her pay and years of service as of the date of the reduction in force, subject to the reductions and adjustments described below.

An eligible employee shall be entitled to the number of weeks of severance pay based on his or her years of service as determined under the schedule attached as Exhibit A. Years of service for this purpose means complete years of service with the employer and certain affiliates but excluding service while he or she was not an employee or was not employed in an eligible employment classification (see Part G).

The amount of severance pay paid per week will be equal to one-half (½) of the eligible employee's weekly pay as of the reduction in force. For this purpose, pay means the eligible employee's weekly base salary based upon his or her stated hourly, weekly, monthly or annual rate on the reduction in force, using a 40-hour work week; overtime pay and other remuneration will not be considered.

COBRA Premium Payments:

With respect to each eligible employee who receives severance pay, the employer will pay the cost of COBRA medical continuation coverage on behalf of the eligible employee and/or his or her dependents provided they are covered under the employer's group medical plan immediately prior to his or her termination, they are eligible for and timely elect COBRA medical continuation coverage, and they properly complete the forms required by the employer and/or the group medical plan administrator. Those payments will commence when the payment of severance pay commences (as described in Part I) and continue until the earliest of (1) the date the employer has paid premiums for the number of weeks for which severance pay is payable with respect to the eligible employee, subject to certain adjustments applicable to re-hired employees, if any; (2) the date coverage ends under the terms of the applicable employer group

medical plan; or (3) the date such COBRA continuation coverage would otherwise end in accordance with COBRA, regardless of reason. Thereafter, the employee will be solely responsible for paying the full COBRA premiums. The premium payments to be made by the employer are limited to premiums for medical coverage, and do not include coverage for dental or any other benefit, even if such benefit would be subject to COBRA.

Amounts Payable by Other Plans:

The amount of severance pay determined above will be reduced by the amount of severance benefits received from the employer under any other plan or employment agreement.

Reduction for Certain Payments:

The amount of any severance benefits determined above will be further reduced by the amount of any other payments made to the eligible employee by the employer under applicable law because of that employee's involuntary termination due to layoff, reduction in force, plant or facility closing, sale of business, change of control or any other similar event or reason.

Set-off and Right of Recovery:

The amount of severance benefits determined above will be further reduced by the amount of any indebtedness or obligation an eligible employee has to the employer. Furthermore, if an eligible employee receives more than he or she was entitled to receive under this plan, the employer will be entitled to recover the excess amount from him or her.

I. Payment of Benefits.

Commencement:

The payment of severance pay will begin as soon as administratively feasible after the 8th day following the employee's execution of the required release agreement, provided that the release agreement has not been revoked by him or her within 7 days following execution. Thereafter, severance pay will be paid on the former employee's previously scheduled pay days.

Effect of Subsequent Employment:

If a terminated employee receiving severance benefits is re-hired by the employer as a regular employee, his or her severance pay will cease immediately. If this occurs, the eligible employee will be notified of the effect of the re-hire on his or her COBRA premium payments.

Death of Eligible Employee:

In the event an eligible employee dies while receiving severance pay, the remainder of the severance pay due him or her will be paid in a lump sum to the beneficiary named on his or her most recently completed group life insurance enrollment. If no beneficiary is named, or if

the beneficiary has predeceased the employee, the severance pay will be paid to the terminated employee's surviving spouse, or, if none, to the employee's surviving children. In addition, the COBRA premium payments will continue to be made for the benefit of the covered dependents of the eligible employee for the applicable period of coverage, subject to the limitations described above.

Tax Withholdings:

All payments of severance benefits under the plan will be subject to the customary withholding taxes applicable to payments of this type.

J. Supersession of Other Arrangements. The benefits provided under this plan supersede and replace in their entirety all prior existing severance pay plans, programs or practices for employees of the employer other than severance provisions in any written employment or other written agreement between the employer and a particular employee.

K. Alienation of Benefits. Generally, benefits under the plan are not subject in any manner to alienation, except as described above and in this Part. This means that benefits generally cannot be sold, used as collateral for a loan, given away or otherwise transferred, and a creditor cannot attach or garnish an employee's benefits.

The plan administrator may, however, be required by law to recognize a "qualified domestic relations order". A qualified domestic relations order is a decree or order issued by a court that obligates an eligible employee to pay child support or alimony or otherwise allocates a portion of his or her benefit to his or her spouse, former spouse, child, or other dependent. The plan administrator will determine the validity of such an order. Persons who are or become a party to a domestic relations matter and anticipate that a portion of his or her plan benefit will be awarded to a spouse, former spouse or child, are urged to immediately contact the plan administrator for assistance to assure that any proposed court order relating to his or her plan benefit satisfies the requirements of a qualified domestic relations order. The costs and expenses associated with determining whether a domestic relations order constitutes a qualified domestic relations order and the processing of any such order will be charged against the benefits to be paid hereunder.

The plan administrator may also be required to honor the terms of a federal tax levy issued by the Internal Revenue Service and by certain wage attachments for child support and bankruptcy payments.

L. Release Agreement. As a condition to receiving any benefits under the plan, an eligible employee must first execute a release agreement in a form satisfactory to the employer and all legally required waiting periods for the release agreement to be legally effective must have expired. The required release agreement will provide that the eligible employee releases the

employer and all other parties from liability for all claims, known and unknown, the eligible employee has or may have in relation to his or her employment by the employer and the termination of his or her employment. A failure or refusal to execute the required release agreement will result in a complete denial of benefits hereunder; a delay in execution of the required release agreement can result in the loss of a portion of the benefits otherwise payable. No benefits will be paid until the employer is satisfied that the release agreement constitutes a legally binding obligation of the eligible employee.

PLAN AMENDMENT AND TERMINATION

M. Plan Amendment and Termination. The benefits provided under this plan are not intended to, and do not create, a vested right. The employer reserves the right to amend or terminate the plan at any time without prior notice and without further obligation. No amendment or termination will be effective to reduce the benefit to which an eligible employee has become entitled as a result of a termination in connection with a reduction in force prior to the date on which the amendment or termination is effective, except, however, benefits under the employer's group medical plan may be reduced, amended or eliminated at any time without prior notice to the extent consistent with changes made to the benefits under the employer's group medical plan provided to active employees.

CLAIMS PROCEDURE AND ERISA RIGHTS

N. Claims Procedure. A person who believes he or she has not received the full benefit to which he or she is entitled under the plan (a "claimant") must make a written claim to the plan administrator. If the claim for benefits, including any claims relating to alleged administrative errors, is denied, the claimant must, except as described in the next paragraph, follow the plan's claims procedure attached as Appendix B to contest the denial. A claimant must timely exhaust the plan's claims procedure before he or she may bring a lawsuit contesting the denial of his or her claim. If a claimant has timely exhausted the plan's claims procedure and wishes to bring a lawsuit to contest the denial of benefits, he or she must commence his or her lawsuit within 180 days after the final denial of the claim or he or she will be forever barred from bringing a lawsuit to contest the denial.

Notwithstanding the preceding, any claims pertaining to the group medical plan for which the COBRA premium payments are being made by the employer (as described above) must be made in accordance with the claims procedure applicable to that plan.

O. ERISA Rights. The following statement of ERISA Rights is required by federal law and regulations.

As a participant in the Mississippi Phosphates Corporation Severance Pay Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of

1974, as amended (or "ERISA"). ERISA provides that all plan participants shall be entitled to:

Receive Information About Your Plan and Benefits

- Examine, without charge, at the employer's office and at other specified locations, all documents governing the Plan and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.

- Obtain, upon written request to the Plan Administrator, copies of documents governing the operation of the Plan and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Plan Administrator may make a reasonable charge for the copies.

Prudent Actions by Plan Fiduciaries

In addition to creating rights for Plan participants, ERISA also imposes duties on the people who are responsible for the operation of the Plan. The people who operate your Plan, called "fiduciaries," have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your employer or any other person, may fire you or otherwise discriminate against you in any way solely in order to prevent you from obtaining a benefit or exercising your rights under ERISA.

Enforce Your Rights

If your claim for a benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to $110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator.

If you have a claim for benefits that is denied or ignored, in whole or in part, you may file suit in a state or federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in federal court provided you have first exhausted the Plan's claims and appeal procedures (see Part N). If it should happen that the Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and

fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance With Your Questions

If you have any questions about your Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory, or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

APPENDIX A
to the
Summary Plan Description
of the
Mississippi Phosphates Corporation
Severance Pay Plan

PERIOD BENEFITS TO BE PAID

Eligible Employee's Length of Service	Weeks of Benefit
5 or fewer than 5 years of service	5
more than 5 years of service, but less than 6 years of service	6.5
more than 6 years of service, but less than 7 years of service	8
more than 7 years of service, but less than 8 years of service	9.5
more than 8 years of service, but less than 9 years of service	11
more than 9 years of service, but less than 10 years of service	12.5
more than 10 years of service, but less than 11 years of service	14
more than 11 years of service, but less than 12 years of service	16
more than 12 years of service, but less than 13 years of service	18
more than 13 years of service, but less than 14 years of service	20
more than 14 years of service, but less than 15 years of service	22
more than 15 years of service, but less than 16 years of service	24
more than 16 years of service, but less than 17 years of service	26
more than 17 years of service, but less than 18 years of service	28
more than 18 years of service, but less than 19 years of service	30
more than 19 years of service, but less than 20 years of service	32
more than 20 years of service, but less than 21 years of service	34
more than 21 years of service, but less than 22 years of service	36
more than 22 years of service, but less than 23 years of service	38
more than 23 years of service, but less than 24 years of service	40
more than 24 years of service, but less than 25 years of service	42
more than 25 years of service, but less than 26 years of service	44
more than 26 years of service, but less than 27 years of service	46
more than 27 years of service, but less than 28 years of service	48
more than 28 years of service, but less than 29 years of service	50
29 or more years of service	52

APPENDIX B
to the
Summary Plan Description
of the
Mississippi Phosphates Corporation
Severance Pay Plan

CLAIMS PROCEDURE

This Claims Procedure (the "Procedure") describes the procedures for making a claim for benefits and for contesting any denial of a claim for benefits under the Plan. This Procedure shall be applied in a uniform, nondiscriminatory manner.

1. Authority of the Plan Administrator. The Plan Administrator shall make all determinations as to the right of any person to a benefit in accordance with the terms of the Plan.

2. Forms for Making Claims. All initial claims for benefits shall be made by completing a severance agreement and release provided by the Plan Administrator, together with such other forms as the Plan Administrator shall prescribe.

3. Denial of Claims. Any denial of a claim for benefits under the Plan from a Participant shall be stated in writing by the Plan Administrator. It shall be delivered or mailed to the Participant within 90 days after the receipt of a claim for benefits by the Plan Administrator. An extension of time for processing the claim for benefits is allowable if special circumstances require an extension, but such an extension shall not extend beyond 180 days from the date of claim for benefits as received by the Plan Administrator. Written notice of any extension of time shall be delivered or mailed to the Participant within 90 days after receipt of the claim by the Plan Administrator and shall include an explanation of the special circumstances requiring the extension and the date by which the Plan Administrator expects to render the final decision. If the Plan Administrator fails to act within 90 days of the receipt of a claim for benefits, the claim for benefits shall be deemed denied.

4. Appeal of Denial of Claims. If a claim for benefits is denied, the Plan Administrator shall afford a reasonable opportunity to any Participant whose claim for benefits has been denied (or his/her representative) to submit any issues and comments in writing for a review of the decision denying the claim and to submit and review any pertinent documents. The Plan Administrator may require a hearing or any other investigative procedures it deems necessary to aid it in its determination. Any request for review of a denial of a claim shall not be reviewed by the Plan Administrator if submitted more than 60 days after receipt

by the claimant of written notification of a claim denial. Within 60 days after the receipt by the Plan Administrator of the request for review, the Plan Administrator shall deliver or mail to the claimant written notice of its decision. An extension of time for making the decision on the request for review is allowable if special circumstances shall occur, but such an extension shall not extend beyond 120 days from the date the request for review is received by the Plan Administrator. Written notice of the extension of time shall be delivered or mailed to the claimant within 60 days after receipt of the claim by the Plan Administrator.

5. Contents of Notices. All written notices required under this Procedure shall be written to the best of the Plan Administrator's ability in a manner that may be understood by the claimant and shall state the specific reasons upon which the claim denial, the review of a decision, or the extension of time is based. Written notice of a denial of a claim or request for review shall also contain references to specific Plan provisions upon which any denial or request for review is based. In addition, any denial of benefits by the Plan Administrator, other than the review of a previous denial, shall include a description of any additional material or information necessary for the claimant to perfect the claim, an explanation of why such information is necessary and the steps required to be taken to obtain a review. Any notice of denial shall also state that the claimant is entitled to receive, upon request and without change, all documents, records or other information relevant to the claim and that the claimant has a right to bring a lawsuit to challenge the determination, and shall include reference to available alternative dispute resolution options available. Special circumstances as used herein shall include, but shall not be limited to, the need to hold a hearing under this Procedure.

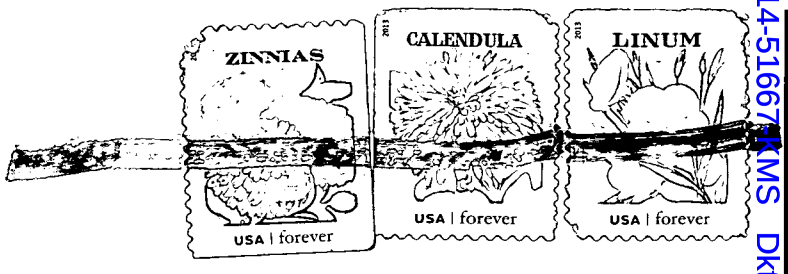
6. Mandatory Exhaustion of Claims Procedure. Exhaustion of the Plan's claims procedure shall be a condition precedent to any suit relating to the denial of benefits.

7. Time Limit on Commencing Suit Following Final Determination. Once the Plan Administrator has made a final written determination denying a Participant's claim, the Participant shall be forever barred from filing a legal action to contest the denied claim unless such action is filed not later than 180 days following the date of the Plan Administrator's final determination.

8. Address for Making Claims. Unless the Plan Administrator specifies an alternate address, all claims for benefits and appeals of denied claims shall be made to:

Mississippi Phosphates Corporation
Attn: Severance Pay Plan Administrator
100 Webster Circle, Suite 4
Madison, MS 39110

6800 Pinetop Rd
Lucedale, MS
39452



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BMC GROUP

BMC Group, Inc.
P.O. Box 3020
Chanhassen, MN
55317-3020

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