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

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

SIXTH INTERIM AND FINAL APPLICATION OF BUTLER SNOW LLP FOR ALLOWANCE OF ADMINISTRATION CLAIM FOR COMPENSATION AND REIMBURSEMENT OF NECESSARY EXPENSES

Butler Snow LLP ("***Butler Snow***" or the "***Applicant***") files this *Sixth Interim and Final Application of Butler Snow LLP for Allowance of Administration Claim for Compensation and Reimbursement of Necessary Expenses* (the "***Sixth Application***") requesting an order: (i) allowing compensation in the amount of $263,800.50 for reasonable and necessary legal services rendered to Mississippi Phosphates Corporation, Ammonia Tank Subsidiary, Inc., and Sulfuric Acid Tanks Subsidiary, Inc. (the "***Debtors***") from May 1, 2016, to October 24, 2016 (the "***Sixth Fee Period***"); (ii) allowing reimbursement for actual and necessary expenses incurred in the amount of $6,547.43 during the Sixth Fee Period; and (iii) granting the final approval for all fees and expenses previously allowed on an interim basis with respect to the five Compensation Applications (as defined herein) previously submitted and approved by the Court in the Allowance Orders (as defined herein) prior to this Sixth Application. In support of this Sixth Application, Butler Snow respectfully states as follows:

[1] The chapter 11 cases of the following affiliated Debtors have been administratively consolidated for joint administration pursuant to that certain *Order Granting Motion of the Debtors 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. These chapter 11 cases are sometimes referred to herein as the "***Bankruptcy Cases***."

1. This Court has jurisdiction over this Sixth Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).

2. The bases for the relief requested herein are 11 U.S.C. §§ 327, 330 and 331, Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), and the Guidelines of the Office of the United States Trustee for the Southern District of Mississippi (the "***UST Guidelines***").

3. The relief requested herein is also made pursuant to the *Order Granting Application of Debtors to Employ Butler Snow LLP as Its Attorneys* [Dkt. # 302] (the "***Employment Order***"), the *Order Granting Motion of the Debtors for an Administrative Order Pursuant to 11 U.S.C. §§ 331 and 503 to Establish a Procedure for Interim Compensation and Reimbursement of Expenses of Employed Professionals of the Debtors and the Official Committee of Unsecured Creditors* [Dkt. # 586] (the "***Interim Fee Procedures Order***"), and the *Stipulation Regarding Uniform Procedures for Attorney Timekeeping, Billing, and Budget* [Dkt. # 621] (the "***Stipulation***").

BACKGROUND

4. On October 27, 2014 ("***Petition Date***"), the Debtors filed their voluntary petitions for relief, and thereby commenced these Bankruptcy Cases 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 (the "***Bankruptcy Court***"). Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors operated their businesses and managed their property as debtors-in-possession. No trustee or examiner has been appointed in any of these Bankruptcy Cases.

5. An Official Committee of Unsecured Creditors (the "***Committee***") was appointed by the United States Trustee in these Bankruptcy Cases on November 12, 2014 [Dkt. #161]. Burr & Forman LLP has been retained as counsel for the Committee in these Bankruptcy Cases [Dkt. # 473].

6. Pursuant to the Employment Order, the Debtors were authorized to employ and retain Butler Snow as their bankruptcy counsel to prosecute the Bankruptcy Cases and all related matters thereto and to render necessary legal services to the Debtors during their Bankruptcy Cases, as more fully described in the Employment Order.

7. Butler Snow does not hold or represent any interest adverse to the Debtors or the bankruptcy estates, and is a disinterested person as that term is defined in Section 101(14) of the Bankruptcy Code, as modified by Section 1107(b) of the Bankruptcy Code, as disclosed in that certain *Affidavit of Stephen W. Rosenblatt and § 329(a) Statement of Compensation in Support of Application to Employ Butler Snow LLP as Bankruptcy Counsel* (the "***Affidavit***"), which was **Exhibit A** to the *Application of Debtors to Employ Butler Snow LLP as their Bankruptcy Counsel and Disclosure of Compensation* [Dkt. # 173] (the "***Employment Application***"). Butler Snow also disclosed its connections to parties-in-interest in the Bankruptcy Cases according to the result of its conflicts search.

8. The Employment Order provided that Butler Snow would be entitled to receive reasonable compensation and to receive reimbursement of actual, necessary expenses after notice and a hearing as contemplated by Section 330 of the Bankruptcy Code and Rule 2016, and any other applicable or related statutes and rules. The Employment Order also provided that any application for compensation and reimbursement for expenses filed by Butler Snow herein shall

set forth the date of entry of all previous orders allowing compensation and expenses and the amounts so allowed.

9. On March 26, 2015, Butler Snow filed its *First Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 651] (the "***First Application***") in which it sought allowance as an administrative expense claim fees in the amount of $1,117,526.20 for services rendered as counsel to the Debtors during October 27, 2014, to February 28, 2015 (the "***Initial Fee Period***"), and $22,616.95 for expenses incurred as counsel to the Debtors. Butler Snow also sought payment from the Butler Snow Professional Fees Escrow Account the total amount of the 20% holdbacks for the Initial Fee Period.

10. On May 11, 2015, the Court entered its *Agreed Order Granting First Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 750] (the "***First Allowance Order***") and awarded Butler Snow allowed fees as an administrative expense claim in the amount of $1,114,021.20 for services rendered as counsel to the Debtors during the Initial Fee Period; allowed expenses as an administrative expense claim in the amount of $17,345.58 for expenses incurred as counsel to the Debtors during the Initial Fee Period; and authorized the payment to Butler Snow from the Butler Snow Professional Fees Escrow Account the sum of $214,728.87 as the amount of the holdbacks for the Initial Fee Period.

11. On June 29, 2015, Butler Snow filed its *Second Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 834] (the "***Second Application***") in which it sought allowance as an administrative expense claim fees in the amount of $510,867.00 for services rendered as counsel

to the Debtors from March 1, 2015, to May 31, 2015 (the "***Second Fee Period***"), and $5,693.97 for expenses incurred as counsel to the Debtors. Butler Snow also sought payment from the Butler Snow Professional Fees Escrow Account the total amount of the 20% holdbacks for the Second Fee Period.

12. On August 3, 2015, the Court entered its *Agreed Order Granting Second Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 958] (the "***Second Allowance Order***") and awarded Butler Snow allowed fees as an administrative expense claim in the amount of $507,888.00 for services rendered as counsel to the Debtors during the Second Fee Period; allowed expenses as an administrative expense claim in the amount of $5,693.97 for expenses incurred as counsel to the Debtors during the Second Fee Period; and authorized the payment to Butler Snow from the Butler Snow Professional Fees Escrow Account the sum of $99,194.40 as the amount of the holdbacks for the Second Fee Period.

13. On September 30, 2015, Butler Snow filed its *Third Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 1038] (the "***Third Application***") in which it sought allowance as an administrative expense claim fees in the amount of $504,474.00 for services rendered as counsel to the Debtors from June 1, 2015, to August 31, 2015 (the "***Third Fee Period***"), and $5,063.66 for expenses incurred as counsel to the Debtors. Butler Snow also sought payment from the Butler Snow Professional Fees Escrow Account the total amount of the 20% holdbacks for the Third Fee Period.

14. On October 30, 2015, the Court entered its *Agreed Order Granting Third Application of Butler Snow LLP for Interim Allowance of Administrative Claim for*

Compensation and Reimbursement of Expenses [Dkt. # 1067] (the "***Third Allowance Order***") and awarded Butler Snow allowed fees as an administrative expense claim in the amount of $504,444.00 for services rendered as counsel to the Debtors during the Third Fee Period; allowed expenses as an administrative expense claim in the amount of $5,063.66 for expenses incurred as counsel to the Debtors during the Third Fee Period; and authorized the payment to Butler Snow from the Butler Snow Professional Fees Escrow Account the sum of $100,864.80 as the amount of the holdbacks for the Third Fee Period.

15. On December 21, 2015, Butler Snow filed its *Fourth Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 1078] (the "***Fourth Application***") in which it sought allowance as an administrative expense claim fees in the amount of $316,082.50 for services rendered as counsel to the Debtors from September 1, 2015, to November 30, 2015 (the "***Fourth Fee Period***"), and $3,480.06 for expenses incurred as counsel to the Debtors. Butler Snow also sought payment from the Butler Snow Professional Fees Escrow Account the total amount of the 20% holdbacks for the Fourth Fee Period.

16. On January 19, 2016, the Court entered its *Agreed Order Granting Fourth Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 1088] (the "***Fourth Allowance Order***") and awarded Butler Snow allowed fees as an administrative expense claim in the amount of $315,384.50, for services rendered as counsel to the Debtors during the Fourth Fee Period; allowed expenses as an administrative expense claim in the amount of $3,480.06 for expenses incurred as counsel to the Debtors during the Fourth Fee Period; and authorized the payment to

Butler Snow from the Butler Snow Professional Fees Escrow Account the sum of $62,518.50 as the amount of the holdbacks for the Fourth Fee Period.

17. On May 16, 2016, Butler Snow filed its *Fifth Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 1148] (the "***Fifth Application***") in which it sought allowance as an administrative expense claim fees in the amount of $89,282.50 for services rendered as counsel to the Debtors from December 1, 2015, to April 30, 2016 (the "***Fifth Fee Period***"), and $344.08 for expenses incurred as counsel to the Debtors. Butler Snow also sought payment from the Butler Snow Professional Fees Escrow Account the total amount of the 20% holdbacks for the Fifth Fee Period.

18. On June 13, 2016, the Court entered its *Agreed Order Granting Fifth Application of Butler Snow LLP for Interim Allowance of Administrative Claim for Compensation and Reimbursement of Expenses* [Dkt. # 1159] (the "***Fifth Allowance Order***") and awarded Butler Snow allowed fees as an administrative expense claim in the amount of $89,184.50, for services rendered as counsel to the Debtors during the Fifth Fee Period; allowed expenses as an administrative expense claim in the amount of $344.08 for expenses incurred as counsel to the Debtors during the Fifth Fee Period; and authorized the payment to Butler Snow from the available budgeted funds or from the retainer held by Butler Snow in the amount of $89,528.58 for the Fifth Fee Period.

19. The First Application, the Second Application, the Third Application, the Fourth Application, the Fifth Application, and this Application are collectively referred to herein as the "***Compensation Applications***"), and the First Allowance Order, the Second Allowance Order,

the Third Allowance Order, the Fourth Allowance Order, and the Fifth Allowance Order are collectively referred to herein as the "***Allowance Orders***."

20. Since the entry of each of the Allowance Orders, the Debtors have paid Butler Snow a total of $2,543,421.35, as follows:

Date	**Allowance Order**	**Fees Allowed**	**Expenses Allowed**	**Fees Paid**	**Expenses Paid**	**Balance Remaining**
5/11/2015	First Allowance Order	$1,111,402.20	$17,345.58	$1,111,402.20	$17,345.58	$0.00
8/3/2015	Second Allowance Order	$ 510,867.00	$ 5,693.66	$510,867.00	$ 5,693.66	$0.00
10/30/2015	Third Allowance Order	$ 504,444.00	$ 5,063.66	$504,444.00	$ 5,063.66	$0.00
1/19/2016	Fourth Allowance Order	$ 315,384.50	$ 3,480.06	$315,384.50	$ 3,480.06	$0.00
6/13/2016	Fifth Allowance Order	$ 89,184.50	$ 344.08	$ 89,184.50	$ 344.08	$0.00
Total		**$2,531,282.20**	**$31,927.04**	**$2,531,282.20**	**$31,927.04**	**$0.00**

21. Pursuant to Bankruptcy Rule 2016(a), an entity seeking interim or final compensation for services, or reimbursement of necessary expenses, from the bankruptcy estates shall file an application setting forth a detailed statement of (a) the services rendered, time expended, and expenses incurred, and (b) the amounts requested.

22. All the services for which Butler Snow seeks compensation or reimbursement were performed for, and on behalf of, the Debtors and the Debtors' bankruptcy estates. In accordance with Bankruptcy Rule 2016(b), Butler Snow has neither shared, nor agreed to share, (a) any compensation it has received or may receive with another party or person other than as permitted by Section 504(b) of the Bankruptcy Code; and (b) has not received any compensation from the Debtors or the DIP Lender or from any other source for the services performed and expenses incurred by Butler Snow on behalf of the Debtors during the Sixth Fee Period other than as permitted under the Interim Fee Procedures Order.

23. This is Butler Snow's sixth application for fees and expenses to be awarded on an interim basis that has been filed in these Bankruptcy Cases. It is also Butler Snow's final fee application for these Bankruptcy Cases. Pursuant to this Sixth Application, Butler Snow

requests allowance, on an interim basis, of compensation in the amount of $263,800.50 and reimbursement of expenses in the amount of $6,547.43, for a total of $270,347.93 for the Sixth Fee Period. A copy of the complete, detailed invoice for the Sixth Fee Period (the "***Sixth Fee Period Invoice***") is attached hereto as **Exhibit A**.

24. Butler Snow submits this Sixth Application pursuant to Section 330 of the Bankruptcy Code, which provides that the Court may award to an attorney employed by the debtor (a) reasonable compensation for actual, necessary services and (b) reimbursement for actual, necessary expenses. This is an interim application pursuant to Section 331 of the Bankruptcy Code.

25. Butler Snow believes that the sums requested in this Sixth Application should be approved and allowed by this Court, on an interim basis, as priority administrative expenses as set forth in Sections 503(b)(4) and 507(a)(2) of the Bankruptcy Code.

26. The primary Butler Snow professionals in these Bankruptcy Cases during the Sixth Fee Period, as well as the position, experience, and hourly rates of each, are as follows:

Professional	**Position**	**Experience**	**2016 Rate**
Stephen W. Rosenblatt	Partner	40 years+	$490.00
John L. Galloway	Partner	40 years+	$335.00
Christopher R. Maddux	Partner	16 years	$385.00
J. Mitchell Carrington	Associate	4 years	$195.00
Thomas M. Hewitt	Associate	3 years	$190.00
Velvet Johnson	Paralegal	20 years+	$165.00

27. All services and expenses for which compensation or reimbursement is requested were performed or incurred in connection with the bankruptcy proceedings and all services performed and expenses incurred were in connection with the performance of Butler Snow and its duties as counsel for the Debtor. In accordance with the factors listed in Section 330 of the Bankruptcy Code, the amount of fees requested is fair and reasonable given: (a) the complexity

of this bankruptcy case; (b) the time expended; (c) the nature and extent of the services rendered; (d) the value of such services; and (e) the costs of comparable services other than in a case under the Bankruptcy Code.

28. Butler Snow seeks allowance of all fees and expenses set forth in the Sixth Application, but seeks authorization to be paid at this time only from the funds remaining in its retainer in the amount of $131,599.14, with the balance of approved fees and expenses to be paid pursuant to the terms of the *Findings of Fact, Conclusions of Law, and Order Confirming First Amended Joint Chapter 11 Plan of the Debtors and the Official Committee of Unsecured Creditors* [Dkt. # 1714] (the "***Confirmation Order***").[2]

REPRESENTATIONS

29. Butler Snow believes that the descriptions set forth in **Exhibit A** of work performed are in compliance with all requirements of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, the UST Guidelines, the Stipulation, and all applicable procedural requirements of the Court.

30. The rates described above are consistent with the hourly rates customarily charged by Butler Snow for services of this type. The Sixth Fee Period Invoice contains a detailed itemization and description of the services that Butler Snow rendered during the Sixth Fee Period. Based on these rates and the services performed by each individual, the reasonable value of such services is $263,800.50. The individuals of Butler Snow expended a total of 795.00 hours for these Bankruptcy Cases during the Sixth Fee Period (661.6 hours for attorneys

[2] Butler Snow recognizes that Paragraph 44 of the Confirmation Order provides, in part, as follows: " . . . For any distribution to holders of Allowed Administrative Expense Claims following the First Admin Claim Distribution, all Allowed Administrative Expense Claims (including Professional Administrative Expense Claims) shall receive distributions pro rata. . . . " Accordingly, the balance of the allowed fees and expenses, after the application of the remaining funds in Butler Snow's retainer, will be paid pursuant to Paragraph 44 of the Confirmation Order.

and 133.4 hours for paralegals). The blended hourly rate for these services of all attorneys is $365.53, and the blended hourly rate for these services of all timekeepers is $331.82.

31. Further, in **Exhibit A**, Butler Snow has: (a) identified the individuals who rendered services in the described subject matters; (b) described each activity or service that each individual performed; and (c) stated the number of hours (in increments of one-tenth of an hour) spent by each individual providing the services. Additionally, a summary of the hours worked by each individual each month, together with that individual's applicable hourly rate, are reflected at the end of each monthly statement.

32. In addition to the fees set forth above, Butler Snow also seeks reimbursement for actual and necessary expenses incurred in the amount of $6,547.43 during the Sixth Fee Period. In **Exhibit A** to the Application, Butler Snow has set forth a detailed statement of (a) the expenses incurred and (b) the amounts requested.

33. The Court approved, on an interim basis, those fees and expenses described in the previous five Allowance Orders. In this Sixth Application, Butler Snow now seeks final allowance of all fees and expenses previously approved by the Court on an interim basis in the Allowance Orders, including those fees and expenses that are requested to be approved on an interim basis as set forth in the Sixth Fee Period Invoice.

34. In addition to the fees and expenses actually billed by Butler Snow in these Bankruptcy Cases, during the course of these Bankruptcy Cases, Butler Snow wrote off in excess of $100,000.00 in fees from recorded, but unbilled, time entries and approximately $5,400.00 in expenses for which compensation was never sought. Additionally, from and after the Effective Date up to the date of this Application, Butler Snow has incurred in excess of $10,000.00 in fees in completing tasks and responsibilities associated with representing the Debtors in the

Bankruptcy Cases, as well as assisting in the transition of estate administration to the MPC Plan Trustee and its professionals for which compensation is not being sought. Further, Butler Snow anticipates incurring additional fees and expenses from and after this date in connection with such transition issues for which it will not receive compensation.

APPLICABLE STANDARD FOR AWARD OF COMPENSATION AND EXPENSES

35. In *In re Asarco, L.L.C.*, 751 F.3d 291 (5th Cir. 2014), the Fifth Circuit discussed the factors that a bankruptcy court should consider in reviewing a fee application:

> Section 330(a)(3) of the Bankruptcy Code provides a non-exclusive list of factors that bear on a court's determination of the reasonable compensation for actual, necessary services and expenses rendered by attorneys and other court-supervised bankruptcy professionals. *See* 11 U.S.C. § 330(a)(1)(A). Thus,
>
> > [T]he court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—
> >
> > (A) the time spent on such services;
> > (B) the rates charged for such services;
> > (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
> > (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
> > (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
> > (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.
>
> 11 U.S.C. § 330(a)(3).
>
> Elaborating on this provision, bankruptcy courts use the lodestar method, multiplying the number of hours of work performed by attorneys and

> paraprofessionals by the hourly rates of each. The total yields a lodestar amount. *In re Pilgrim's Pride Corp.*, 690 F.3d 650, 654-55 (5th Cir. 2012) (citing *Lawler*, 807 F.2d at 1211). "[A]fter calculating the lodestar, bankruptcy courts retain [ ] the discretion to adjust the lodestar upwards or downwards to reflect *their consideration of the* Johnson *factors.*" *Id*., *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974). *See also* 11 U.S.C. § 330(a)(2) . . . . This court has clarified that Section 330(a), the lodestar method, and the *Johnson* factors work in conjunction with each other to guide the court's discretion. *Id*. at 656 (citing *Cahill*, 428 F.3d at 539-40).

Id., at 295.[3]

36. In *In re Woerner*, 783 F.3d 266 (5th Cir. 2015), the Fifth Circuit stated that a court may compensate an attorney for services that are "reasonably likely to benefit" the estate and adjudge whether such services were reasonable "at the time at which the service was rendered." "Under this framework, if a fee applicant establishes that its services were 'necessary to the administration' of a bankruptcy case or 'reasonably likely to benefit' the bankruptcy estate 'at the time at which [they were] rendered,' *see* 11 U.S.C. § 330(a)(3)(C), 4(A), then the services are compensable." *Id*. at 276.

37. In elaborating on the application of the prospective standard it adopted in *Woerner*, the Court stated:

> In assessing the likelihood that legal services would benefit the estate, courts adhering to a prospective standard ordinarily consider, among other factors, the probability of success at the time the services were rendered, the reasonable costs of pursuing the action, what services a reasonable lawyer or legal firm would have performed in the same circumstances, whether the attorney's services could have been rendered by the Trustee and his or her staff, and any potential benefits to the estate (rather than to the individual debtor). *See, e.g., In re Strand*, 375 F.3d 854, 860-61 (9th Cir. 2004); *In re Top Grade Sausage, Inc*., 227 F.3d at 132; *In re Ames Dep't Stores, Inc.*, 76 F.3d at 72; *In re Taxman Clothing Co.*, 49 F.3d at 313-15. Whether the services were ultimately successful is relevant to,

[3] The twelve *Johnson* factors are: (a) The time and labor required; (b) The novelty and difficulty of the questions; (c) The skill requisite to perform the legal service properly; (d) The preclusion of other employment by the attorney due to acceptance of the case; (e) The customary fee; (f) Whether the fee is fixed or contingent; (g) Time limitations imposed by the client or other circumstances; (h) The amount involved and the results obtained; (i) The experience, reputation, and ability of the attorneys; (j) The "undesirability" of the case; (k) The nature and length of the professional relationship with the client; and (l) Awards in similar cases. *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974).

> but not dispositive of, attorney compensation. *See* 11 U.S.C. § 330(a)(3) ("[T]he court shall consider the nature, the extent and *the value* of such services, taking into account all relevant factors . . . ." (emphasis added)); *In re Smith*, 317 F.3d at 926; *In re Top Grade Sausage, Inc.*, 227 F.3d at 132; *In re Ames Dep't Stores, Inc.*, 76 F.3d at 71; *cf. Johnson*, 488 F.2d at 718 (instructing courts to consider "the results obtained" by an attorney seeking compensation); *see also In re Pilgrim's Pride Corp.*, 690 F.3d 650, 656 (5th Cir. 2012) (affirming the continued relevance of the *Johnson* factors).

Id. at 276-77.

APPLICATION OF THE APPLICABLE STANDARD TO
BUTLER SNOW'S SIXTH APPLICATION AND THE FINAL APPLICATION

38. When fixing a fee award, courts consider the nature and extent of the services rendered, the value of such services, and the twelve factors articulated in *Johnson*. *See Johnson v. Ga. Highway Express, Inc.*, 488 F.2d at 717-19; *see also In re Burns*, 503 B.R. 666 (Bankr. S.D. Miss. 2013); *In re Williams*, 2013 Bankr. LEXIS 3715 (Bankr. S.D. Miss. 2013); *In re Johnson*, 478 B.R. 235 (Bankr. S.D. Miss 2012); and *In re Coastal Land Dev. Corp.*, 2009 Bankr. LEXIS 1423 (Bankr. S.D. Miss. May 29, 2009). Butler Snow's fees and expenses were incurred in connection with the administration of the Bankruptcy Cases.

39. Butler Snow advised and represented the Debtors in connection with the Debtors' business activities and numerous other matters arising in the performance of the Debtors' duties as a debtor-in-possession during the Sixth Fee Period as more particularly set forth in paragraph 39(C) below. The services rendered and the expenses incurred by Butler Snow as counsel for the Debtors have benefited the Debtors, the bankruptcy estates, and their creditors. The services rendered reflected by these fees and expenses were necessary to protect and preserve rights of the Debtors and the bankruptcy estates and served to enhance the value of the bankruptcy estates.

40. The *Johnson* factors are applied to Butler Snow's Sixth Application as follows:

A. Time and Labor Required. The actual time Butler Snow has expended on behalf of the Debtors during the Sixth Fee Period is detailed in **Exhibit A**, which is an itemization of the time billed for Butler Snow's services. The time required for previous periods was listed in detail in each of the Compensation Applications. The time Butler Snow expended is commensurate with the size and scope of the Debtors' Bankruptcy Cases. Although certain redundancy is required in bankruptcy cases such as these, Butler Snow has sought to avoid unnecessary duplication of time or services. The time expended as reflected in the Monthly Invoices was reasonable and necessary given the significant demands of the Bankruptcy Cases.

B. The Novelty and Difficulty of Questions Presented by these Bankruptcy Cases. Butler Snow has advised and represented the Debtors in numerous aspects of the Bankruptcy Cases. As evidenced by the more than 1,700 docket entries in these Bankruptcy Cases, Butler Snow has negotiated, prepared, and filed a substantial number of varying motions and pleadings in the Bankruptcy Cases. Many of these motions and pleadings filed during the Bankruptcy Cases involved complex legal, financial, and operational issues. In addition to bankruptcy, these matters involved areas of law such as: environmental law, commercial finance, corporate sale and acquisition transactions, real estate, corporate governance, secured transactions, employment law, employee benefits, insurance, and even criminal law. The primary work during the Sixth Fee Period, however, focused primarily on (i) claims adjudication and resolution, and (ii) obtaining confirmation of the Debtors' chapter 11 plans. Further, these Bankruptcy Cases qualified as "larger chapter 11 cases" under the Guidelines promulgated by the Office of the United States Trustee pursuant to the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases, 28 CFR Part 58 – Appendix B to Part 58 (the "***Guidelines***"). To date, only one other "larger chapter 11 case" subject to the Guidelines has been filed in Mississippi. There is added difficulty and complexity in managing cases that have assets and liabilities in excess of $100 million.

C. Skill Requisite to Perform the Legal Services Properly. These Bankruptcy Cases have been complex and challenging and involve matters and issues requiring considerable knowledge and expertise of bankruptcy law, as well as other diverse areas such as environmental law, commercial finance, corporate transactions, secured transactions, real estate transactions, employee benefits, and employment law. In addition, bankruptcy counsel had to understand the dynamics of the Debtors' operations, environmental responsibilities, financing and assets to advise the Debtors properly on these many diverse issues. Overlaying these issues was the necessity of providing counsel to the Chief Restructuring Officer (the "***CRO***") and management in a fluid environment where the exigencies of the situation often limited the amount of time available for a thorough and detailed analysis. Among the matters handled by Debtors' counsel

during the Sixth Fee Period were advice, communication, pleadings, and documentation related to the following:

(1) Coordinating with Deloitte and with Jon Nash, the Chief Restructuring Officer, concerning Nash's departure from Deloitte and his retention on a going-forward basis as the CRO of the Debtors through Meadowlark Advisors, LLC;

(2) Working with professionals for the MPC Environmental Trustee and the MPC Liquidation Trustee with respect to: (i) the transfers of assets of the Debtors to those two Trusts, including matters related to a survey of the subject property, and (ii) certain operational, transitional, and legal issues related thereto;

(3) Communicating with counsel for certain insurance companies regarding the proposed treatment of those entities under the Plan and the rights and responsibilities of all parties related thereto;

(4) Filing more than 125 objections to claims of various claimants seeking severance pay from MPC and various other claims objections and participating in the hearings regarding those claims;

(5) Resolving the Objection to the John Deere proof of claim;

(6) Communications with representatives of Arthur J. Gallagher and counsel for the Committee concerning the status of certain D&O insurance policies;

(7) Communications with Assessment Technologies, Ltd. with respect to the ad valorem tax claim of Jackson County, Mississippi for real and personal property;

(8) Responding to motions seeking to modify the automatic stay to permit workers' compensation claims and Longshore and Harbor Workers Act compensation claims, and otherwise resolving such motions;

(9) Communications with State agencies with respect to the implementation of the requirements of the Order Granting Motion of Mississippi Phosphates Corporation for Order Approving Entry Into Settlement with the United States Department of Justice and for Authority to Enter Into and Perform to Proposed Plea Agreement [Dkt. # 948], and the Judgment entered on August 18, 2015, in the case styled, "*United States of America v. Mississippi Phosphates Corporation*," Criminal Action No: 1:15CR58, United States District Court, Southern District of Mississippi;

(10) Discussions with the Mississippi Department of Revenue regarding amount of its tax claims;

(11) Communicating with counsel for the Committee and preparing and finalizing the First Amended Joint Chapter 11 Plan of the Debtors and the Official Committee of Unsecured Creditors [Dkt. # 1168] and Disclosure Statement;

(12) Participation in the hearing approving the Disclosure Statement;

(13) Working with BMC Group, the claims and noticing agent for the Debtors, with respect to issues for noticing of the plan and disclosure statement and the balloting on the plan;

(14) Coordinating and filing the Chapter 11 Ballot Summary and Certification, including (i) the tabulation of the voted by BMC Group, Inc., the Court-approved claims and noticing agent, and (ii) the ballots that were cast on the First Amended Joint Plan [Dkt. # 1657];

(15) Communications with counsel for the Committee regarding resolving the objections to the confirmation of the First Amended Joint Plan filed by The Chemours Company, LLC [Dkt. # 1640];

(16) Resolving all but one of the objections by the United States Trustee to the First Amended Joint Plan [Dkt. # 1641], and then responding to the remaining objection to the United States Trustee;

(17) Participating in the Confirmation Hearing for the *First Amended Joint Chapter 11 Plan of the Debtors and the Official Committee of Unsecured Creditors* [Dkt. # 1168], which was held on September 1, 2016, at which the Debtors presented their testimony and evidence in support of the confirmation of the First Amended Joint Plan through the testimony of Jonathan J. Nash, the Chief Restructuring Officer of the Debtors, as well as through the exhibits that were introduced into evidence at that hearing [Dkt. # 1681];

(18) Coordinating with the professionals for the Committee with respect to an Effective Date for the anticipated confirmed First Amended Joint Plan;

(19) Drafting and circulating to counsel for the Committee (and subsequently to other interested parties for their review and input) proposed confirmation orders;

(20) Communications with Horne LLP with respect to its being retained to prepare and file the 2015 federal and state income tax returns; and

(21) Addressing other case administration matters, including the preparation and filing of Monthly Operating Reports.

These matters were in addition to the other routine legal matters handled by Butler Snow in representing the interests of the Debtors as debtors-in-possession.

D. Attorney's Opportunity Costs in Pressing the Instant Case. These Bankruptcy Cases demanded a significant time commitment from Butler Snow's lead bankruptcy attorneys, as more fully reflected in **Exhibit A** for the Sixth Fee Period and the Compensation Applications for the previous periods.

E. Customary Fees for Similar Work in the Community. Butler Snow's fees for services rendered by its lawyers and paralegals are customary and usual in the legal community for handling matters of the types and complexity of both bankruptcy and non-bankruptcy issues of the kinds involved in these Bankruptcy Cases. Further, the hourly rates are those customarily charged to Butler Snow's similarly situated bankruptcy and non-bankruptcy clients for similar legal services. Butler Snow's hourly rates are on parity with or less than other bankruptcy professionals with significant roles in these Bankruptcy Cases. Further, Butler Snow's hourly rates are commensurate with or lower than the hourly rates that Butler Snow has charged for other comparable engagements. For these Bankruptcy Cases, Butler Snow charged the Debtors a lower hourly rate than the standard hourly rate charged by the firm.

F. Contingent Nature of Fees. Although Butler Snow's requested fees in the Debtors' Bankruptcy Cases are based upon Butler Snow's regular hourly billing rates, the ability to be paid based on these hourly rates effectively is contingent. Some of the contingent factors in these Bankruptcy Cases include: (1) the Debtors' obtaining an adequate DIP Facility to fund the ongoing operations of the Debtors' operations, the sales process of the Debtors' assets, and payment of professionals' fees which are to be borne by the bankruptcy estates; (2) the Bankruptcy Cases not converting to chapter 7 cases or being dismissed; (3) the approval of these fees by the Bankruptcy Court pursuant to Sections 330 and 331 of the Bankruptcy Code; and (4) available funds from which these fees can be paid. Although Butler Snow was entitled to be paid its allowed fees in full on the Effective Date of the confirmed Plan as an allowed administrative expense claim, Butler Snow anticipates that it will have a substantial amount of its allowed fees and expenses that will have to be paid over time and *pro rata* with the other allowed administrative expense claims as provided in the Confirmation Order. Accordingly, these fees sought by Butler Snow are contingent on these events.

G. Amount Involved and Results Obtained. The fees requested by Butler Snow are reasonable given the amount involved and the results obtained. During the Sixth Fee Period, Butler Snow worked with professionals of the Committee to prepare, file, and obtain confirmation of a joint chapter 11 Plan that embodied two significant settlements reached and approved earlier in the Bankruptcy Cases. Butler Snow also reviewed filed claims and prepared and successfully prosecuted more than 125 objections to those claims, many of which sought administrative expense status for severance benefits. Finally, Butler Snow has coordinated with the professionals for the Committee and the MPC Plan

Trustee with respect to the transition of all matters from the Debtor to the MPC Plan Trustee after the Effective Date.

These Bankruptcy Cases are "larger chapter 11 cases" under the Guidelines, which involve assets and liabilities in excess of $100 million. As noted above, there is added difficulty and complexity in managing cases that have assets and liabilities in excess of $100 million. During these Bankruptcy Cases, Butler Snow has worked with the CRO and management of the Debtors on the following matters and to achieve the results described below:

(1) successfully converted the inventory of raw materials into DAP at significant value to the bankruptcy estates (which substantially contributed to the Debtors being able to continue water treatment and other environmental maintenance for far longer than initially projected at the outset of the Bankruptcy Cases);

(2) collected deposits and lease payments that counterparties previously had refused to pay;

(3) secured DIP funding for the ongoing operations of the Debtors in these Bankruptcy Cases;

(4) maintained a Data Room and production of documents for both creditors and potential buyers and responded to substantial requests for documents and information;

(5) effectively transitioned the workforce of 224 employees and 26 "nested" third-party contract employees to a skeletal workforce which continued to be used for environmental maintenance operations;

(6) effectively managed the termination of the self-funded medical plan, including negotiating the handling of run-out claims;

(7) assisted Debtors' management in the termination of the Debtors' present 401(k) plan, including the liquidation of the plan trust;

(8) successfully maintained water treatment and other environmental remediation efforts in compliance with the requirements of the EPA and the MDEQ and averted any major catastrophic environmental events during the pendency of the Bankruptcy Cases;

(9) conducted periodic conference calls and regularly communicated with the EPA and the MDEQ concerning environmental issues;

(10) generally facilitated the dialogue among the Lenders, the Committee and the Environmental Agencies to address issues, both global and singular, affecting the Bankruptcy Cases;

(11) coordinated and facilitated comprehensive settlement agreements with the Committee, the EPA, and the MDEQ to resolve significant disputes in the chapter 11 cases, which settlements allowed a sale of the Debtors' property and which were the key elements of a consensual chapter 11 plan;

(12) conducted a structured, court-supervised sales process;

(13) assisted in the sale of substantially all of the Debtors' assets to the MPC Liquidation Trust and the MPC Environmental Trust;

(14) worked with the Trustees of the MPC Liquidation Trust and the MPC Environmental Trust in the transition of operations, including employees, to those two Trusts;

(15) assisted Court-approved special counsel retained by the Debtors by providing requested information related to the filing of a protective BP Claim for the Debtors;

(16) satisfactorily resolved a federal criminal proceeding against the Debtors related to a pre-petition environmental event;

(17) addressed numerous insurance issues with the Debtors' insurance broker as well as with claimants, the Committee, the Governments, and other affected parties, covering areas such as workers compensation, general liability, environmental, and directors and officers insurance;

(18) worked with professionals of the Committee to prepare a joint chapter 11 Plan and Disclosure Statement;

(19) reviewed filed claims and prepared and successfully prosecuted more than 125 objections to claims;

(20) coordinated with BMC concerning the noticing and balloting process for the chapter 11 plan;

(21) coordinated with the professionals for the Committee in preparing for and presenting the necessary testimony and evidence with respect to the confirmation hearing; and

(22) coordinated with the professionals for the Committee and the MPC Plan Trustee with respect to the transition of all matters from the Debtor to the MPC Plan Trustee after the Effective Date.

H. Time Limitations by the Circumstances. From the outset of the case, the filings of the Bankruptcy Cases were a "hard landing," *i.e.*, bankruptcy cases filed on very short notice with little time for preparation. From the outset of

the Bankruptcy Cases, the Debtors often had to work under significant time constraints and tight deadlines, often imposed by other parties or by the circumstances. Consequently, a great deal of work was accomplished in a very short period of time as the Debtors sought to maintain funding, maintain environmental obligations, and deal with operations, as well as global or plan-related issues.

I. Experience, Reputation, and Ability of Attorneys and Legal Assistants. Butler Snow's attorneys have performed services on behalf of the Debtors within their specialized areas of expertise. As expected, a substantial portion of Butler Snow's services during the Sixth Fee Period were performed by its lead bankruptcy lawyers – Stephen W. Rosenblatt and Christopher R. Maddux. Both Mr. Rosenblatt and Mr. Maddux are partners of Butler Snow whose practices are primarily focused on bankruptcy and financial restructuring.

(1) Stephen W. Rosenblatt. Mr. Rosenblatt has more than 40 years of legal experience. He is a Fellow in the American College of Bankruptcy, is an AV rated attorney by Martindale Hubbell®, has been certified as a Business Bankruptcy Specialist by the American Board of Certification and has been included in Chambers USA, America's Leading Business Lawyers® since 2005. Mr. Rosenblatt has been listed in the Bankruptcy and Creditor-Debtors Rights Law section of Best Lawyers in America® for more than twenty years and was selected as Best Lawyers® 2013 Jackson, Mississippi, Bankruptcy and Creditor Debtors Rights/Insolvency and Reorganization Law Lawyer of the Year. He has been included in Mid South Super Lawyers®, Bankruptcy and Creditor/Debtors Rights since 2006.

Mr. Rosenblatt is also active in practice-related organizations, such as the Mississippi Bankruptcy Conference, of which he was a founding member and a past President. In addition, Mr. Rosenblatt is a member of the American Bankruptcy Institute (ABI), the Association of Insolvency and Restructuring Advisors (AIRA) and the Turnaround Management Association (TMA). He served as the Chair of the Steering Committee on Local Bankruptcy Rules and is a Bencher in the Charles Clark Inn of Court. Mr. Rosenblatt has spoken at continuing legal education programs on numerous bankruptcy related topics, as well as on law firm management.

As an active member of the Mississippi Bar, Mr. Rosenblatt is the Past President of the Mississippi Bar Foundation and served as a Director of the Board of the Mississippi Volunteer Lawyers Project. He also has served as a member of the Board of Bar Commissioners and is a past President of the Young Lawyers Division of the Mississippi Bar.

(2) Christopher R. Maddux. Mr. Maddux has over 16 years of legal experience. He is listed in Chambers USA, America's Leading Business Lawyers® and in Best Lawyers in America® in the Bankruptcy and Creditor-Debtors Rights Law section, as well as in Mid-South Super Lawyers®, Bankruptcy. Mr. Maddux served as the Chair of the 2014 Annual Seminar of the Mississippi Bankruptcy Conference. Mr. Maddux is also a member of the American Bankruptcy Institute (ABI) and the Turnaround Management Association (TMA).

J. Undesirability of the Case. From the outset of the Bankruptcy Cases, it appeared likely that management would have to cease production operations and reduce the Debtors' workforce. Those financial and operational issues adversely impact the lives of many employees and their families, many of whom had worked for the Debtors for many years. Dealing with legal issues related to these matters is never easy. Additionally, during the Bankruptcy Cases, the criminal proceeding had to be addressed. The publicity and media coverage related to such matters is never favorable or desirable. Other than these matters, Butler Snow does not consider the representation of the Debtors as debtors-in-possession in these Bankruptcy Cases to be undesirable.

K. Nature and Length of the Professional Relationship with the Client. As reflected in *Amended Affidavit of Stephen W. Rosenblatt and § 329(a) Statement of Compensation in Support of Application to Employ Butler Snow LLP as Bankruptcy Counsel* [Dkt. # 173], prior to being retained as counsel for the Debtors in connection with the financial restructuring and potential bankruptcy of the Debtors, Butler Snow had represented the Debtors and the MPC's parent, Phosphate Holdings, Inc. ("***PHI***") since PHI was formed as a Delaware corporation on December 17, 2004, as a part of the confirmed chapter 11 plan of Mississippi Chemical Corporation, et al., Case No. 03 02984-WEE. Since 2004, Butler Snow represented MPC and PHI on a variety of matters (and ATS and SATS since their formation), including general corporate matters; commercial transactions; real estate transactions; environmental matters; employment benefit plans and employment issues; financing transactions; the Deepwater Horizon economic loss commercial tort claim; certain wrongful death claims; and shareholder claims. Butler Snow's knowledge of some of the Debtors' business affairs advanced the interests of the bankruptcy estates and promoted a more efficient administration of the bankruptcy estates.

L. Awards in Similar Cases. The compensation requested by Butler Snow is commensurate with fees requested and awarded by the other bankruptcy courts in similar bankruptcy cases.

41. The legal services that Butler Snow provided to these Debtors and the hours Butler Snow devoted to the representation of the Debtors meet the above-stated criteria. As the

billing summaries included in **Exhibit A** and the Sixth Fee Period Invoice demonstrate, the individual attorneys and paralegals involved in Butler Snow's representation of the Debtors kept detailed, contemporaneous records of the time devoted to the Debtors' Bankruptcy Cases. The time spent on each particular task is reasonable and comparable to the time Butler Snow's professionals would have expended on behalf of another bankruptcy client. Butler Snow seeks payment only for such documented and reasonable services rendered to and for the benefit of the bankruptcy estates.

42. A summary of expenses is included in **Exhibit A** and an itemization and description of the disbursements made by Butler Snow on the Debtors' behalf during the Sixth Fee Period is reflected in the Sixth Fee Period Invoice. As a part of its ordinary course of business activity, Butler Snow keeps contemporaneous records of expenses incurred on behalf of clients. Butler Snow's clerical and bookkeeping staff recorded the expense information in the Sixth Fee Period Invoice at or about the same time as such charges occurred. Butler Snow maintains an automatic, computerized cost accounting system to track expenses and to ensure that charges for copies, postage, and other expenses are properly posted to the account of the client for which Butler Snow incurs such expenses. All of these disbursements constitute the requested sum for Butler Snow's out-of-pocket expenses, totaling $6,547.43, all of which are the actual or customary charges by Butler Snow for the kind and type of expense and were reasonable and were necessary to Butler Snow's representation of the Debtors in these Bankruptcy Cases.

SUMMARY

43. Applying the factors of Section 330 of the Bankruptcy Code, as well as the standards set forth in *Asarco*, *Woerner*, and the *Johnson* factors, Butler Snow respectfully submits that the Court should approve and allow, on an interim basis, the Applicant's fees and

the reimbursement of the Applicant's expenses in the amounts requested for the Sixth Fee Period, as well as the final approval of the amounts set forth in the Allowance Orders, including the Order allowing fees and expenses for the Sixth Fee Period.

44. Butler Snow requests the allowance, on an interim basis, of an administrative expense claim for fees and expenses totaling $270,347.93 for the Sixth Fee Period, consisting of: (a) $263,800.50 for compensation for reasonable and necessary legal services provided during the Sixth Fee Period; and (b) $6,547.43 for reimbursement of expenses in connection with the legal services provided during the Sixth Fee Period, all as set forth in **Exhibit A**.

45. Butler Snow also requests the allowance, on a final basis, of an administrative expense claim for fees and expenses totaling $2,833,557.17 for the Bankruptcy Cases (including the Sixth Fee Period), consisting of: (a) $2,795,082.70 for compensation for reasonable and necessary legal services provided during the Bankruptcy Cases; and (b) $38,474.47 for reimbursement of expenses in connection with the legal services provided during the Bankruptcy Cases, all as set forth in the Compensation Applications and this Application.

WHEREFORE, Butler Snow respectfully requests that this Court approve its Sixth Application as follows:

(i) For allowance as an administrative expense claim for compensation for professional fees in the amount of $263,800.50 for the period May 1, 2016, through October 24, 2016;

(ii) For allowance as an administrative expense claim for reimbursement of necessary out-of-pocket expenses in the amount of $6,547.43 for the period May 1, 2016, through October 24, 2016;

(iii) For allowance as an administrative expense claim for the Sixth Fee Period the amount of $270,347.93 as the total interim award;

(iv) For final approval of all fees and expenses for the period October 27, 2014, through October 24, 2016, of all fees and expenses previously allowed on an interim basis as priority administrative expense claims pursuant to 11 U.S.C. §§503(b)(4) and 507(a)(1), in the total amount of $2,833,557.17 for the Bankruptcy Cases (including the Sixth Fee Period), consisting of: (a) $2,795,082.70 for compensation for reasonable and necessary legal services provided during the Bankruptcy Cases; and (b) $38,474.47 for reimbursement of expenses in connection with the legal services provided during the Bankruptcy Cases, all as set forth in the Compensation Applications and this Application;

(v) To authorize the immediate payment from the funds remaining in Butler Snow's retainer in the amount of $131,599.14, with the balance of approved fees and expenses to be paid *pro rata* with all other Allowed Administrative Expense Claims (including Professional Administrative Expense Claims) pursuant to the terms of the Confirmation Order; and

(vi) For such other relief as may be just and proper.

THIS, the 17th day of November 2016.

Respectfully submitted,

BUTLER SNOW LLP

By: */s/ Stephen W. Rosenblatt*

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CERTIFICATE OF SERVICE

I certify that the foregoing pleading was filed electronically through the Court's ECF system and served electronically on all persons who are registered users of the CM/ECF System for the Bankruptcy Cases.

Dated: November 17, 2016.

/s/ Stephen W. Rosenblatt
STEPHEN W. ROSENBLATT

Exhibit A

Detailed Invoice for the Sixth Fee Period