

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

In re:	)	
	)	
MISSISSIPPI PHOSPHATES	)	
CORPORATION, <i>et al.</i> <sup>1</sup>	)	CASE NO. 14-51667-KMS
	)	Chapter 11
	)	
	)	(Joint Administration Requested)
Debtors	)	
_____	)	

**APPLICATION OF THE DEBTORS FOR ENTRY OF AN ORDER  
AUTHORIZING THE EMPLOYMENT AND RETENTION  
OF BMC GROUP, INC. AS NOTICING AND CLAIMS AGENT**

Mississippi Phosphates Corporation, *et al.* the Debtors and debtors-in-possession herein (collectively, the “*Debtors*”) in these jointly administered chapter 11 cases, by and through their undersigned attorneys, hereby applies to this Court *nunc pro tunc* as of the Petition Date, pursuant to 28 U.S.C. § 156(c) and §§105(a) and § 363 of chapter 11, title 11 of the United States Code and Federal Rule of Bankruptcy Procedure 2002 for an Order approving this *Application of the Debtors for Entry of an Order Authorizing the Employment and Retention of BMC Group, Inc. as Noticing and Claims Agent* (the “*Application*”) for the Debtors. In support of the Application, the Debtors respectfully state as follows:

**JURISDICTION AND VENUE**

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

<sup>1</sup> The following affiliated Debtors have requested joint administration herein: Mississippi Phosphates Corporation (“*MPC*”), Ammonia Tank Subsidiary, Inc. (“*ATS*”) and Sulfuric Acid Tanks Subsidiary, Inc. (“*SATS*”).

## BACKGROUND

2. On October 27, 2014 (the "*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, Southern Division (the "*Court*"). Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are operating their business and managing the properties as debtors-in-possession. No trustees or examiners have been appointed, and no official committees of creditors or equity interest holders have yet been established.

3. MPC is a Delaware corporation with its principal place of business located at 601 Industrial Road, Pascagoula, Mississippi. MPC is a major United States producer and marketer of one of the most common types of phosphate fertilizer, diammonium phosphate ("*DAP*"). MPC's production facilities are located on a deep-water channel in Pascagoula, Mississippi. As of the Petition Date, MPC employed 224 employees and 26 "nested" third-party contract employees. MPC's production facilities currently yield approximately 600,000 to 650,000 tons of DAP annually.

4. ATS is a Delaware corporation with its principal place of business located at 601 Industrial Road, Pascagoula, Mississippi. ATS is a wholly owned subsidiary of MPC formed in May 2010. ATS' facilities include an ammonia tank, which stores ammonia used in MPC's production of DAP.

5. SATS is a Delaware corporation with its principal place of business located at 601 Industrial Road, Pascagoula, Mississippi. SATS is a wholly owned subsidiary of MPC formed in May 2010. SATS' facilities include a sulfuric acid storage tank, which stores sulfuric acid used in MPC's production of DAP.

6. Additional information about the Debtors' businesses and the events leading up to the Petition Date can be found in that certain *Declaration of David N. Phelps in Support of the Debtor's Chapter 11 Petitions and First Day Motions* (the "**Phelps Declaration**") [Dkt. # 13], which is incorporated herein by reference.

**RELIEF REQUESTED**

7. By this Application, the Debtors hereby seek the entry of an order (a) appointing BMC Group, Inc. ("**BMC**") to perform certain consulting services regarding noticing, claims management and reconciliation, plan solicitation, balloting, disbursements, and any other services agreed to by the parties in these chapter 11 cases (in such role, the "**Claims Agent**"); and (b) authorizing the Debtors to compensate BMC for its services and reimburse BMC for any related expenses in accordance with applicable provisions of the Agreement for Services between BMC and the Debtors, a copy of which is attached hereto as Exhibit "A" (the "**Services Agreement**"). Accordingly, the Debtors respectfully request the entry of an order pursuant to 28 U.S.C. § 156(c) and Sections 105(a) and § 363 of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") Rule 2002 authorizing the Debtors to employ and retain BMC as their Claims Agent to perform the claims, balloting and noticing services that will be necessary during these chapter 11 cases.

8. In support of this Application, the Debtors submit the Declaration of Brad Daniel (the "**Daniel Declaration**"), a copy of which is attached hereto as Exhibit "B".

**BASIS FOR RELIEF REQUESTED**

9. The legal basis for the relief requested herein are 28 U.S.C. § 156(c) and §§ 105(a) and Section 363 of the Bankruptcy Code and Bankruptcy Rule 2002.

10. Bankruptcy Rule 2002 generally regulates the notices that must be provided to creditors and other parties-in-interest in bankruptcy cases. Pursuant to Bankruptcy Rule 2002, the Court may direct a person other than the Clerk of the Court give notice of the various matters described therein.

11. Further, 28 U.S.C. § 156(c), which governs the staffing and expenses of the Bankruptcy Court, states in pertinent part:

Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the cost of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit council may prescribe.

28 U.S.C. § 156(c). Thus, employment of entities such as BMC to provide noticing and claims services is expressly authorized under Bankruptcy Rule 2002 and 28 U.S.C. § 156(c).

12. The Debtors do not propose to retain BMC under Section 327 of the Bankruptcy Code. Nevertheless, to the best of the Debtors' knowledge, neither BMC nor any employee thereof has any connection with the Debtors, their creditors, or any other party in interest herein, they are "disinterested persons," as that term is defined in Section 101(14) of the Bankruptcy Code, and they do not hold or represent any interest adverse to the bankruptcy estates. BMC is not a creditor in these cases. To the best of Debtors' knowledge, BMC: (a) is a "disinterested person" as that term is used in Section 327 of the Bankruptcy Code and defined in Section 101(14) of the Bankruptcy Code, except that BMC was employed by Debtors after the Petition Date as allowed by Section 1107(b) of the Bankruptcy Code; and (b) does not hold or represent an interest adverse to the chapter 11 bankruptcy estates and does not have any connection with Debtors, their creditors, or any other party in interest in these cases or with their respective attorneys or accountants, or with the United States Trustee or any person employed in the Office

of the United States Trustee in connection with any matter upon which BMC would be employed. BMC has reviewed its electronic database to determine whether it has any relationships with the entities constituting the Debtors. At this time, BMC is not aware of any relationship that would present a disqualifying conflict of interest. Upon BMC's review of a list of potential parties-in-interest, it appears that Farmland Industries, Inc., Mississippi Chemical Corporation, and Arch Wireless (formerly Metrocall) may be parties-in-interest or vendors of the Debtors. BMC currently serves, or in the past may have served, in a neutral capacity as claims and noticing agent for these parties or may have been a creditor in a case in which BMC served as the claims and noticing agent. However, given BMC's neutral position as claims and noticing agent in those cases, the Debtors' cases, or any other cases, BMC does not view such relationships as real or potential conflicts.

13. The Debtors have many creditors, and accordingly, BMC may have rendered and may continue to render services to certain of these creditors. BMC has not and will not represent the separate interests of any such creditor in these cases. Additionally, BMC employees may, in the ordinary course of their personal affairs, have relationships with certain creditors of the Debtors. Except as may be disclosed in the Daniel Declaration, BMC has represented that it neither holds nor represents any interest adverse to the bankruptcy estates in connection with any matter on which it would be employed and that it is a "disinterested person," as referenced in Section 327(a) of the Bankruptcy Code and as defined in Section 101(14) of the Bankruptcy Code, as modified by Section 1107(b) of the Bankruptcy Code.

14. BMC will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or relationships are discovered, BMC will supplement its disclosure to the Court.

15. The Debtors propose to retain BMC pursuant to Sections 105(a) and 363(b)(1) of the Bankruptcy Code. As explained in more detail below, retention of BMC is an important and necessary business use of the Debtors' funds outside the ordinary course of business.

16. Because of the size of the Debtors' chapter 11 cases, the number of creditors and parties-in-interest, and BMC's experience, the Debtors believe that the appointment of BMC as the Claims Agent is appropriate and in the best interests of the bankruptcy estates.

#### **NECESSITY OF A CLAIMS AGENT**

17. There are hundreds of creditors and other parties in interest involved in these chapter 11 cases. This significant number of parties will impose heavy administrative and other burdens upon the Court and the Office of the Clerk of this Court (the "*Clerk's Office*"). Further, neither the Debtors nor the Debtors' counsel have the capability of adequately providing the services to be provided by BMC without greatly diminishing the ability of the Debtors and Debtors' counsel to focus their effort on managing the day-to-day operations of the business and of this chapter 11 case. To relieve the Court, the Clerk's Office, and the Debtors of these burdens, the Debtors propose to appoint BMC as claims, noticing and balloting agent in these chapter 11 cases.

#### **BMC'S QUALIFICATIONS AS A CLAIMS AGENT**

18. BMC is a bankruptcy administrator that specializes in providing comprehensive chapter 11 administrative services, including noticing, claims processing, balloting, and other related services critical to the effective administration of chapter 11 cases. BMC has developed efficient and cost-effective methods to handle the voluminous mailings associated with the noticing, claims processing and balloting aspects of chapter 11 cases that ensure the orderly and fair treatment of creditors, equity security holders, and all parties in interest. Further, BMC has

experience working with various Clerk's Offices to ensure that BMC's services conform to all of the Court's procedures, applicable Local Rules, and any orders entered by this Court. BMC has provided or currently provides services substantially similar to those proposed by this Motion in other chapter 11 cases in a variety of jurisdictions and has been engaged in a similar capacity in prior proceedings in this Court.

19. The Debtors believe that BMC's assistance will expedite service of notices, streamline the claims administration process, and permit the Debtors to focus efficiently on their efforts to maximize the value of the bankruptcy estates. The Debtors believe that BMC is well qualified to provide its services. BMC has provided identical or substantially similar services in other chapter 11 cases in this and a variety of other jurisdictions, including among others: *In re Mississippi Chemical Corporation, et al.*, Case No. 03-02984 (Bankr. S.D. Miss.); *In re Piccadilly Restaurants, LLC, et al.*, Case No. 12-51127 (Bankr. W.D. La.); *In re O&G Leasing, LLC*, Case No. 10-01851 (Bankr. S.D. Miss.); *In re Ultimate Escapes Holdings, LLC*, Case No. 10-12915 (Bankr. Del.); *In re Entergy New Orleans, Inc.*, Case No. 05-17697 (Bankr. E.D. La.); *In re Quantam Foods, LLC*, Case No. 14-10318 (Bankr. Del.); *In re Coach Am Group Holdings Corp.*, Case No. 12-10010 (Bankr. Del.); *In re NV Broadcasting, LLC, et al.*, Case No. 09-12473 (Bankr. Del.); *In re Kmart Corporation, et al.*, Case No. 02-02474 (Bankr. N.D. Ill.); *In re PMGI Holdings, Inc., et al.*, Case No. 13-12404 (Bankr. Del.); *In re Atari, Inc.*, No. 13-10176 (Bankr. S.D. N.Y.), *In re Jennifer Convertibles, Inc.*, No. 10-13779 (Bankr. S.D. N.Y.), and *In re AgFeed USA, LLC, et al.*, Case No. 13-11761 (Bankr. Del.).

20. Additional information about the BMC's business can be found in the Daniel Declaration.

**SERVICES TO BE PROVIDED**

21. Pursuant to the Services Agreement, BMC will perform various noticing, claims management, plan solicitation, balloting, disbursement, and other services (collectively, the “*Services*”), if necessary, at the request of the Debtors or the Clerk’s Office. In performing the Services, BMC may, for example:

- (a) Prepare and serve required notices and documents in the cases in accordance with the Bankruptcy Rules in the form and manner directed by the Debtors and/or the Court, including (i) notice of the commencement of the cases and the initial meeting of creditors under Bankruptcy Code § 341(a), (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notice of the effective date of any plan and (vi) all other notices, orders, pleadings, publications and other documents as the Debtors or Court may deem necessary or appropriate for an orderly administration of the cases;
- (b) Maintain an official copy of the Debtors’ schedules of assets and liabilities and statement of financial affairs (collectively, “*Schedules*”), listing the Debtors’ known creditors and the amounts owed thereto;
- (c) Maintain (i) a list of all potential creditors, equity holders and other parties-in-interest; and (ii) a “core” mailing list consisting of all parties described in sections 2002(i), (j) and (k) and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; update said lists and make said lists available upon request by a party-in-interest or the Clerk;
- (d) Furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by this Court, and notify said potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;
- (e) Maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- (f) For all notices, motions, orders or other pleadings or documents served, prepare and file or caused to be filed with the Clerk an affidavit or certificate of service within seven (7) business days of service which



includes (i) either a copy of the notice served or the docket numbers(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;

- (g) Process all proofs of claim received, including those received by the Clerk's Office, and check said processing for accuracy, and maintain the original proofs of claim in a secure area;
- (h) Maintain the official claims register for each Debtor (the "***Claims Registers***") on behalf of the Clerk; upon the Clerk's request, provide the Clerk with certified, duplicate unofficial Claims Registers; and specify in the Claims Registers the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the amount asserted, (v) the asserted classification(s) of the claim (e.g., secured, unsecured, priority, etc.), (vi) the applicable Debtor, and (vii) any disposition of the claim;
- (i) Implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (j) Record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (k) Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of Claims and Noticing Agent, not less than weekly;
- (l) Upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the claims register for the Clerk's review (upon the Clerk's request);
- (m) Monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the claims register;
- (n) Assist in the dissemination of information to the public and respond to requests for administrative information regarding the case as directed by the Debtors or the Court;
- (o) If the case is converted to chapter 7, contact the Clerk's Office within three days of the notice to Claims and Noticing Agent of entry of the order converting the case;
- (p) Thirty days prior to the close of these cases, to the extent practicable, request that the Debtors submit to the Court a proposed Order dismissing the Claims and Noticing Agent and terminating the services of such agent

upon completion of its duties and responsibilities and upon the closing of these cases;

- (q) Within fourteen (14) days of notice to Claims and Noticing Agent of entry of an order closing the chapter 11 cases, the agent shall docket all Quarterly/Final claims registers in alphabetical and numerical order into the lead and jointly administered cases as of the date immediately before the close of the cases; and
- (r) At the close of these cases, box and transport all original documents, in proper format, as provided by the Clerk's Office, to any location requested by the Clerk's Office.

### **TERMS OF RETENTION**

22. The amounts paid to BMC in connection with this appointment will not exceed the amounts set forth in the Services Agreement, except to the extent such amounts are subject to ordinary increase in accordance with BMC's established billing practices and procedures. The Debtors believe that the compensation to be paid to BMC pursuant to the Services Agreement is fair and reasonable and is competitive and comparable to or below the rates charged by its competitors for similar services. Upon the entry of an order authorizing the employment and retention of BMC, the Debtors will provide BMC with a \$5,000 evergreen retainer to remain outstanding at all times.

23. The Debtors request that the fees and expenses BMC incurs in the performance of the above services be treated as an administrative expense of the chapter 11 bankruptcy estates and be paid in the ordinary course of business in accordance with the Services Agreement without further application to the Court.

24. Upon the completion of BMC's duties and responsibilities at the closing of this case, the Debtors and BMC shall take the appropriate action to obtain an order from this Court terminating its duties and responsibilities in this case, in accordance with the Services Agreement and the order of the Court approving BMC's retention.

**DISCLOSURE CONCERNING DISINTERESTEDNESS**

25. To the best of the Debtors' knowledge and as disclosed in the Daniel Declaration:
- (a) BMC is not a creditor of the Debtors;
  - (b) BMC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the notice and claims agent in these chapter 11 cases;
  - (c) In its capacity as the notice agent in these chapter 11 cases, BMC will not be an agent of the United States and will not act on behalf of the United States;
  - (d) BMC will not employ any past or present employees of the Debtors in connection with its work as the notice and claims agent in these chapter 11 cases;
  - (e) In its capacity as notice and claims agent in these chapter 11 cases, BMC will not intentionally misrepresent any material fact to any person;
  - (f) None of the services provided by BMC as notice and claims agent shall be at the expense of the Clerk's Office;
  - (g) Neither BMC nor any of its employees has any material connections with the Debtors, their creditors, the office of the United States Trustee for the Southern District of Mississippi or any employees thereof or any party in interest;
  - (h) BMC is a "disinterested person" within the meaning of Section 101(14) of the Bankruptcy Code and does not hold or represent an interest materially adverse to the bankruptcy estates; and
  - (i) If any new facts or relationships are discovered material to the disclosures in the Daniel Declaration, BMC will supplement its disclosure to the Court.

**NO PRIOR REQUEST**

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

WHEREFORE, the Debtors respectfully request that this Court approve the retention and employment of BMC Group, Inc. as claims, balloting, and noticing agent for the Debtors, and for any and all other just relief to which they are entitled.

THIS, the 29th day of October 2014.

Respectfully submitted,

MISSISSIPPI PHOSPHATES CORPORATION, *ET AL.*

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)

Thomas M. Hewitt (Miss. Bar No. 104589)

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[Thomas.Hewitt@butlersnow.com](mailto: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 was separately served by e-mail on the following:

Ronald H. McAlpin, Esq.  
Assistant United States Trustee  
501 East Court Street  
Suite 6-430  
Jackson, MS 39201  
Ronald.McAlpin@USDOJ.gov

Office of the United States Trustee  
501 East Court Street  
Suite 6-430  
Jackson, MS 39201  
USTPRegion05.AB.ECF@usdoj.gov

Christopher J. Steiskal, Sr.  
Office of the United States Trustee  
501 East Court Street  
Suite 6-430  
Jackson, MS 39201  
Christopher.J.Steiskal@usdoj.gov

The 20 Largest Unsecured Creditors identified on the attached Exhibit "C" hereto.

SO CERTIFIED, this the 29th day of October 2014.

/s/ Thomas M. Hewitt  
THOMAS M. HEWITT

**EXHIBIT A**

**Services Agreement**

### AGREEMENT FOR SERVICES

This Agreement dated as of October 27, 2014, is entered between

Mississippi Phosphates Corporation ("Customer") and BMC Group, Inc. ("BMC"). The services rendered by BMC pursuant to this Agreement will commence on the date first set forth above and will continue until the Agreement is terminated as set forth below.

#### TERMS AND CONDITIONS

##### I. SERVICES

In accordance with the terms and conditions contained in this Agreement and in the Fee Schedule annexed hereto, BMC agrees to provide services to assist Customer with the compilation, administration, evaluation and production of documents and information necessary to support a restructuring effort. At Customer's, Counsel's or the Clerk's Office's direction, as the case may be, and in accordance with any court orders or rules in a bankruptcy case (including any court order authorizing BMC's engagement), BMC will (1) prepare and serve those notices required in the bankruptcy case; (2) receive, record and maintain copies of all claims and ballots; (3) provide other technical and/or document management services of a similar nature requested by Customer or the Clerk's office.

##### II. PRICES, CHARGES AND PAYMENT

- A. BMC agrees to charge, and Customer agrees to pay, BMC's standard prices for its services and supplies at the rates or prices in effect on the day such services and/or supplies are provided to the Customer, in accordance with the Fee Schedule annexed hereto. BMC raises its rates from time to time and generally does so each January.
- B. Customer agrees to reimburse BMC for any out-of-pocket expenses necessarily incurred in support of the services provided under this Agreement.
- C. A deposit will be required before BMC services will commence. Wire transfer information for the transmission of payments is as follows:
- |                 |                   |
|-----------------|-------------------|
| Bank Name -     | Bridge Bank, N.A. |
| ABA/Routing # - | 121143260         |
| Account Name -  | BMC Group, Inc.   |
| Account # -     | 0101222545        |
- D. In connection with high volume noticing, or publication services, Customer may be required to prepay BMC estimated postage or publication amounts with respect to each notice. Alternatively, Customer may authorize BMC to cause courier's charges (such as UPS or FedEx) to be stated to Customer's own account with such courier.
- E. BMC agrees to regularly invoice Customer and Customer agrees that the amount invoiced is due and payable within thirty (30) days. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, Customer further agrees to pay a late charge, calculated at one and one-half percent (1-1/2%) of the amount unpaid, accruing monthly from the invoice date. In the case of a dispute in the invoice amount, notice shall be given to BMC within twenty (20) days of receipt of the invoice by Customer. Late charges shall not accrue on any amounts in dispute. The undisputed balance of the invoice amount is due and payable in the normal course.

**III. RIGHTS OF OWNERSHIP**

- A. Upon Customer's request at any time or times while this Agreement is in effect, BMC shall immediately deliver to Customer at Customer's sole expense, any or all of the non-proprietary data, information and records held or controlled by BMC pursuant to this Agreement, in the form requested by Customer. Any information, data and records, in whatever form existing, whether provided to BMC by Customer or developed by BMC for Customer under this Agreement, may be retained by BMC until all amounts due under this Agreement are paid in full, it being understood that neither party asserts rights of ownership in the official claims register or materials filed with BMC as an agent of the court.
- B. Customer shall remain liable for all charges imposed under this Agreement as a result of data or physical media maintained by BMC. BMC shall dispose of the data and media in the manner requested by Customer. Customer agrees to pay BMC for reasonable expenses incurred as a result of the disposition of the data or media. After giving Customer thirty (30) days advance notice, BMC reserves the right to dispose of data or media maintained by BMC for Customer if Customer has not utilized the services provided herein for a period of at least ninety (90) days or if Customer has not paid all charges due to BMC.

**IV. NON-SOLICITATION**

Customer agrees that it shall not, directly or indirectly, solicit for employment, employ or otherwise retain staff of BMC during the term of this Agreement, nor for a period of twelve (12) months after termination of this Agreement unless mutually agreed upon by both parties.

**V. CONFIDENTIALITY**

BMC agrees to, and shall cause its servants, agents, employees, licensees, and subcontractors to, safeguard and keep confidential all data, records, information and communications of any sort or form, regardless of whether written, oral, visual or otherwise recorded or transmitted, with respect to Customer, but excluding such data, records, information and communications that exist in the public domain by reason other than a breach of BMC's obligations under this Section V "Confidentiality" (the "Confidential Information"). BMC will use the Confidential Information only for the benefit of Customer in connection with the provision of services under this Agreement. Customer agrees to, and will cause its servants, agents, employees, licensees, and subcontractors to, keep all information with respect to BMC's system, procedures and software confidential; provided, however, that if either party is required to produce any such information by order of any governmental agency or other regulatory body, it may, upon not less than five business days' written notice to the other party, release the required information. The obligations set forth in this paragraph shall survive termination of this Agreement.

**VI. TERMINATION**

- A. This Agreement shall remain in force until terminated by Customer, or, by BMC upon thirty (30) days' prior written notice to the other party.
- B. In the event that this contract is terminated, regardless of the reason for such termination, BMC shall cooperate with Customer to orderly transfer to Customer or its designee (or destroy, at Customer's direction) data, records and information in its possession or control and to effect an orderly transition of record-keeping functions. BMC shall provide all necessary staff, services and assistance required for an orderly transfer and transition.



Customer agrees to pay for such services in accordance with BMC's then existing prices for such services.

**VII. LIMITATIONS OF LIABILITY AND INDEMNIFICATION**

Except with respect to breaches under Section V "Confidentiality" above, Customer shall indemnify and hold BMC, its officers, employees and agents harmless against any losses, claims, damages, judgments, liabilities and expense (including reasonable counsel fees and expenses) resulting from action taken or permitted by BMC in good faith with due care and without negligence in reliance upon instructions or orders received from Customer as to anything arising in connection with its performance under this Agreement. Except with respect to breaches under Section V "Confidentiality" above, BMC shall be without liability to Customer with respect to any performance or non-performance, in accordance with the terms of this Agreement or instructions properly received pursuant hereto, if done in good faith and without negligence or willful or wanton misconduct. Except with respect to breaches under Section V "Confidentiality" above, in no event shall liability to Customer for any losses or damages, whether direct or indirect, arising out of this Agreement exceed the total amount billed or billable to Customer for the portion of the particular work which gave rise to the loss or damage. Except with respect to breaches under Section V "Confidentiality", in no event shall BMC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement.

**VIII. NOTICES**

All notices in connection with this Agreement shall be given or made upon the respective parties in writing by facsimile or overnight courier and shall be deemed as given, if by facsimile, on the business day immediately following confirmed transmission, or if by courier, on the day it is delivered by such courier to the appropriate address set forth below:

<p>BMC Group, Inc.          Attn: Tinamarie Feil          600 1st Avenue          Suite 300          Seattle, WA 98104</p> <p>Telephone 206.499.2169          Fax 206.516.3300</p>	<p><b>Customer</b></p> <p><i>Mississippi Phosphates Corporation</i></p> <p><i>Attn: Robert Reddy</i></p> <p><i>601 Industrial Road</i></p> <p><i>Pascagoula, MS, 39568-0688</i></p> <p><i>Phone: 228-712-3314</i></p>
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Or to such other address as the party to receive the notice or request so designates by written notice to the other.

**IX. APPLICABLE LAW**

This agreement shall be construed in accordance with the laws of the State of Washington and may be modified only by a written instrument duly executed by an authorized representative of Customer and an officer of BMC.

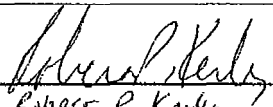
**X. ENTIRE AGREEMENT/ MODIFICATIONS**

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings and other agreements, oral and written between the parties relating to the subject matter of this Agreement. The Agreement may not be modified or altered by written instrument duly executed by both parties. Customer represents that it has the authority to enter into this Agreement, may be subject to bankruptcy court approval, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. In the event of any conflict between a term of this Agreement and any order of the court exercising jurisdiction over the Customer bankruptcy case, the term of the order shall govern.

**XIII. ASSIGNMENT**

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that this Agreement can be assigned by BMC to a wholly owned subsidiary of BMC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

<b>BMC Group, Inc.</b>  /s/ By: _____ Name: Tinamarie Feil Title: President, Client Services  Date: 10/19/2014	By:  Name: Robert P. Kerley Title: Chief Financial Officer  Date: 10-27-14
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**EXHIBIT B**

**Daniel Declaration**

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

In re:	)	
	)	
MISSISSIPPI PHOSPHATES	)	
CORPORATION, <i>et al.</i> <sup>1</sup>	)	CASE NO. 14-51667-KMS
	)	Chapter 11
	)	
	)	(Joint Administration Requested)
Debtors	)	
_____	)	

**DECLARATION OF BRAD DANIEL IN SUPPORT OF DEBTORS' APPLICATION FOR ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF BMC GROUP, INC. AS NOTICING AND CLAIMS AGENT**

I, BRAD DANIEL, hereby state and declare as follows:

1. I am a Director for BMC Group, Inc. ("BMC"), whose offices are located at 600 1st Avenue, Suite 300, Seattle, WA 98104. The matters set forth herein are made of my own personal knowledge and, if called and sworn as a witness, I could and would testify competently thereto.<sup>2</sup>

2. I am duly authorized to make this Declaration (the "Declaration") on behalf of BMC. I submit this Declaration in support of the *Debtors' Application for Entry of an Order Authorizing the Employment and Retention of BMC Group, Inc. as Noticing and Claims Agent* (the "Application")<sup>3</sup>, seeking the appointment of BMC to act as an official claims and noticing agent of the Court effective as of the Petition Date on the terms and conditions set forth in the Debtors' Engagement Agreement with BMC, attached to the Application as Exhibit B.

<sup>1</sup> The following affiliated Debtors have requested joint administration herein: Mississippi Phosphates Corporation ("MPC"), Ammonia Tank Subsidiary, Inc. ("ATS") and Sulfuric Acid Tanks Subsidiary, Inc. ("SATS").

<sup>2</sup> Certain of the disclosures herein relate to matters within the knowledge of other professionals at BMC and are based on information provided by them.

<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Application.

3. As agent and custodian of the Court records pursuant to 28 U.S.C. § 156(c), BMC will perform, at the request of the Office of the Clerk of the Court (the “Clerk’s Office”), the Noticing and Claims Services specified in the Application. In addition, at the Debtors’ request, BMC will perform such other noticing, claims, administrative, technical, and support services specified in the Application and the Engagement Agreement.

4. BMC is a bankruptcy administrator that specializes in providing comprehensive chapter 11 administrative services, including noticing, claims processing, balloting, and other related services critical to the effective administration of chapter 11 cases. BMC has developed efficient and cost-effective methods to handle the voluminous mailings associated with the noticing, claims processing and balloting aspects of chapter 11 cases that ensure the orderly and fair treatment of creditors, equity security holders, and all parties in interest. Further, BMC has experience working with various Clerk’s Offices to ensure that BMC’s services conform with all of the Court’s procedures, the Local Rules, and any orders entered by the Court.

5. BMC has substantial experience in matters of this size and complexity and has acted as the official notice, claims and balloting agent in many large chapter 11 cases. See, e.g., *In re Mississippi Chemical Corporation, et al.*, Case No. 03-02984 (Bankr. S.D. Miss.); *In re Piccadilly Restaurants, LLC, et al.*, Case No. 12-51127 (Bankr. W.D. La.); *In re O&G Leasing, LLC*, Case No. 10-01851 (Bankr. S.D. Miss.); *In re Ultimate Escapes Holdings, LLC*, Case No. 10-12915 (Bankr. Del.); *In re Entergy New Orleans, Inc.*, Case No. 05-17697 (E.D. La.); *In re Quantam Foods, LLC*, Case No. 14-10318 (Bankr. Del.); *In re Coach Am Group Holdings Corp.*, Case No. 12-10010 (Bankr. Del.); *In re NV Broadcasting, LLC, et al.*, Case No. 09-12473 (Bankr. Del.); *In re Kmart Corporation, et al.*, Case No. 02-02474 (Bankr. N.D. Ill.); *In re PMGI Holdings, Inc., et al.*, Case No. 13-12404 (Bankr. Del.); *In re Atari, Inc.*, No. 13-10176 (Bankr.

S.D.N.Y.), *In re Jennifer Convertibles, Inc.*, No. 10-13779 (Bankr. S.D.N.Y.), and *In re AgFeed USA, LLC, et al.*, Case No. 13-11761 (Bankr. Del.).

6. BMC represents, among other things, that:
  - a. BMC is not a creditor of the Debtors;
  - b. BMC will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as an agent in these chapter 11 cases;
  - c. by accepting employment in these chapter 11 cases, BMC waives any rights to receive compensation from the United States government;
  - d. in its capacity as the agent in these chapter 11 cases, BMC will not be an agent of the United States and will not act on behalf of the United States;
  - e. in its capacity as the agent in these chapter 11 cases, BMC will not misrepresent any fact to any person;
  - f. BMC will not employ any past or present employees of the Debtors in connection with its work as the agent in the chapter 11 cases;
  - g. BMC shall be under the supervision and control of the Clerk's Office with respect to the receipt and recordation of claims and claim transfers; and
  - h. none of the services provided by BMC as agent shall be at the expense of the Clerk's Office.

7. The Debtors have many creditors, and accordingly, BMC may have rendered and may continue to render services to certain of these creditors in matters unrelated to these cases, either as vendors or in cases where BMC serves in a neutral capacity as a bankruptcy claims and noticing agent or class action settlement administrator. BMC has not and will not represent the separate interest of any such creditor in these cases. To the best of my knowledge, neither BMC, nor any of its professional personnel, has any relationship with the Debtors that would impair BMC's ability to perform claims and noticing services. BMC has working relationships with certain of the professionals retained by the Debtors and other parties herein, but such relationships are completely unrelated to the Debtors' cases. In addition, BMC personnel may

have relationships with some of the Debtors' creditors. Such relationships are, however, of a personal, financial nature and are wholly unrelated to the Debtors' cases. BMC has and will continue to represent clients in matters unrelated to the Debtors' cases and has had and will continue to have relationships in the ordinary course of its business with certain vendors and professionals in connection with matters unrelated to these cases.


9. To the best of my knowledge and except as provided herein, BMC neither holds nor represents any interest materially adverse to the Debtors' estates in connection with any matter on which it would be employed and it is a "disinterested person," as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b). BMC will supplement its disclosure to the Court if any facts or circumstances are discovered that require additional disclosure.

10. In performing the services set forth in the Application, BMC will charge the Debtors the rates set forth in the Engagement Agreement.

11. BMC will comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. §156(c).

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: October 28, 2014

  
\_\_\_\_\_  
BRAD DANIEL

**EXHIBIT C**

**Twenty Largest Unsecured Creditors**

ButlerSnow 23110463v3



B4 (Official Form 4) (12/07)

**United States Bankruptcy Court  
Southern District of Mississippi**

In re Mississippi Phosphates Corporation

Debtor(s)

Case No. 14-51667-KMS

Chapter 11

**LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS - AMENDED**

Following is the list of the debtor's creditors holding the 20 largest unsecured claims. The list is prepared in accordance with Fed. R. Bankr. P. 1007(d) for filing in this chapter 11 [or chapter 9] case. The list does not include (1) persons who come within the definition of "insider" set forth in 11 U.S.C. § 101, or (2) secured creditors unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. If a minor child is one of the creditors holding the 20 largest unsecured claims, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

(1)	(2)	(3)	(4)	(5)
<i>Name of creditor and complete mailing address including zip code</i>	<i>Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted</i>	<i>Nature of claim (trade debt, bank loan, government contract, etc.)</i>	<i>Indicate if claim is contingent, unliquidated, disputed, or subject to setoff</i>	<i>Amount of claim [if secured, also state value of security]</i>
OCP Office Cherifien Des Ocpangle Route D'el Jadida De La Grand Ceiinture Casablanca, Morocco	OCP Office Cherifien Des Ocpangle Route D'el Jadida De La Grand Ceiinture Casablanca, Morocco			4,830,253.50
Transammonia, Inc. 320 Park Ave 10th Floor New York, NY 10022	Transammonia, Inc. 320 Park Ave 10th Floor New York, NY 10022			1,967,000.00
Oxbow Sulphur Inc. 1450 Lake Robbins Dr. Ste 500 The Woodlands, TX 77380	Oxbow Sulphur Inc. 1450 Lake Robbins Dr. Ste 500 The Woodlands, TX 77380			1,741,326.46
Premier Chemicals 4664 James Ave Ste 125 Baton Rouge, LA 70808	Premier Chemicals 4664 James Ave Ste 125 Baton Rouge, LA 70808			1,455,651.75
Shrieve Chemical P. O. Box 671515 Dallas, TX 75267-1667	Shrieve Chemical P. O. Box 671515 Dallas, TX 75267-1667			1,167,705.95
Central Maintenance & Weld 2620 Keysville Road Lithia, FL 33547	Central Maintenance & Weld 2620 Keysville Road Lithia, FL 33547			1,126,778.51
MS Power Company P. O. Box 4275 Gulfport, MS 39502-4275	MS Power Company P. O. Box 4275 Gulfport, MS 39502-4275			1,060,528.25
Hydrovac Industrial Ser. P. O. Box 83006 Chicago, IL 60691-3010	Hydrovac Industrial Ser. P. O. Box 83006 Chicago, IL 60691-3010		Unliquidated Disputed	975,105.72
Int'l Welding & Fabricatio 11401 Hwy 63 Moss Point, MS 39562	Int'l Welding & Fabricatio 11401 Hwy 63 Moss Point, MS 39562			886,166.16
Unimin Lime P. O. Box 181 Calera, AL 35040	Unimin Lime P. O. Box 181 Calera, AL 35040			877,322.96
Envir. Acid Solutions 24838 NC Hwy 33 East Aurora, NC 27806	Envir. Acid Solutions 24838 NC Hwy 33 East Aurora, NC 27806			666,920.17

B4 (Official Form 4) (12/07) - Cont.

In re Mississippi Phosphates Corporation  
Debtor(s)

Case No. 14-51667-KMS

**LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS - AMENDED**  
(Continuation Sheet)

(1)	(2)	(3)	(4)	(5)
<i>Name of creditor and complete mailing address including zip code</i>	<i>Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted</i>	<i>Nature of claim (trade debt, bank loan, government contract, etc.)</i>	<i>Indicate if claim is contingent, unliquidated, disputed, or subject to setoff</i>	<i>Amount of claim [if secured, also state value of security]</i>
Duponte Sulfur Prod. 586 Hwy 44 La Place, LA 70068	Duponte Sulfur Prod. 586 Hwy 44 La Place, LA 70068			629,045.00
Carrier Rental Systems 6282 Hwy 73 Geismar, LA 70734	Carrier Rental Systems 6282 Hwy 73 Geismar, LA 70734			492,440.40
Jackson Cty Port Auth. P. O. Box 70 Pascagoula, MS 39568-0070	Jackson Cty Port Auth. P. O. Box 70 Pascagoula, MS 39568-0070			423,721.27
BP Energy Co. 209 Public Square Cleveland, OH 44114-2375	BP Energy Co. 209 Public Square Cleveland, OH 44114-2375			378,150.91
Plant Maintenance Ser. 37110 Hwy 30 Geismar, LA 70734	Plant Maintenance Ser. 37110 Hwy 30 Geismar, LA 70734			352,135.92
RPW, Inc. P. O. Box 2151 Pascagoula, MS 39569	RPW, Inc. P. O. Box 2151 Pascagoula, MS 39569			284,301.76
Brock Services LTD P. O. Box 8406 Dallas, TX 75284-0640	Brock Services LTD P. O. Box 8406 Dallas, TX 75284-0640			239,968.71
VIP International 6638 Pecue Lane Baton Rouge, LA 70817-4400	VIP International 6638 Pecue Lane Baton Rouge, LA 70817-4400			236,406.26
Flexicrew 3517 Laughlin Drive Mobile, AL 36693	Flexicrew 3517 Laughlin Drive Mobile, AL 36693			229,594.85

**DECLARATION UNDER PENALTY OF PERJURY  
ON BEHALF OF A CORPORATION OR PARTNERSHIP**

I, the CFO of the corporation named as the debtor in this case, declare under penalty of perjury that I have read the foregoing list and that it is true and correct to the best of my information and belief.

Date October 29, 2014

Signature /s/ Robert Kerley  
**Robert Kerley**  
CFO

*Penalty for making a false statement or concealing property:* Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571.