

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

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

**EMERGENCY MOTION OF THE DEBTORS FOR AUTHORITY TO
MAINTAIN EXISTING BANK ACCOUNTS AND CASH MANAGEMENT SYSTEM**

Mississippi Phosphates Corporation, *et al.* the Debtors and debtors-in-possession (collectively, the “**Debtors**”) in these jointly administered chapter 11 cases, by and through the undersigned attorneys, file this *Emergency Motion of the Debtors for Authority to Maintain Existing Bank Accounts and Cash Management System* (the “**Motion**”). In support of the Motion, the Debtors state as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. §§ 105 and 363 and other applicable sections of the United States Bankruptcy Code. 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).

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

¹ 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**”).

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 the businesses 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. # ___], which is incorporated herein by reference.

DESCRIPTION OF CASH MANAGEMENT SYSTEM

7. Prior to the Petition Date, the Debtors implemented and utilized a cash management system (the "**Cash Management System**") with Wells Fargo, N.A. ("**Wells Fargo**") through several accounts as an efficient means of managing its cash, receiving payments/deposits and moving the funds to have money readily available to cover company expenses and debts, as well as to provide funds on an as-needed basis at the operating level. A listing of all accounts held by the Debtors through which the Cash Management System is implemented is attached as Exhibit "A," and is incorporated herein by reference. In addition, a chart detailing the Cash Management System is attached hereto as Exhibit "B," and is incorporated herein by reference.

8. From the Petition Date and for no longer than six months thereafter, the Debtors propose to retain the Cash Management System and their present bank accounts (collectively, the "**Accounts**");

(a) MPC's funding account, maintained by Wells Fargo, is the main account into which all deposits are made, whether checks, credit card charges or otherwise (the "**Funding Account**"). The Funding Account is the funding source of the other bank accounts of MPC.

(b) MPC also has a disbursements clearing account maintained by Wells Fargo (the "**Clearing Account**"). The Clearing Account serves as the clearing house for certain of MPC's cash, and monies paid out by the Funding Account.

(c) MPC also has a lock box account maintained by Wells Fargo (the "**Lock Box Account**"). MPC's customer payments are sometimes deposited in the Lock Box account and subsequently, those funds are deposited into the Funding Account.

(d) MPC also has a local account at Merchants & Marine Bank (the “*Local Account*”). This Local Account is used to pay for small items as they arise in the ordinary course of MPC’s business.

(e) MPC also funds a reclamation trust fund account maintained by Regions Bank (the “*Trust Account*”) by which MPC makes periodic payments in connection with its environmental remediation obligations to various state and federal environmental agencies.

(f) MPC also has an employee benefits account maintained by Wells Fargo (the “*Employee Benefits Account*”). This Employee Benefits Account is used in connection with MPC’s employee benefits and retirement plans and to make all distributions pursuant to such plans.

(g) SATS has an operations account maintained by Wells Fargo (the “*SATS Account*”). The SATS Account is used as the main operations account of SATS.

(h) ATS has an operations account maintained by Wells Fargo (the “*ATS Account*”). The ATS Account receives customer payments received in connection with the ammonia storage tank and terminal facilities. The ATS Account deposits the customer payments in the Funding Account.

RELIEF REQUESTED

A. Waiver of Certain of the United States Trustee’s Debtor-in-Possession Account Guidelines.

9. In order to supervise the administration of chapter 11 cases, the Office of the United States Trustee has established certain operating guidelines for debtors-in-possession. These guidelines require the Debtors to, among other things: (a) close all existing bank accounts and to open new debtor-in-possession accounts at approved depository banks; and, (b) obtain

checks for such debtor-in-possession accounts which bear the designation “debtor-in-possession,” the bankruptcy case number, and the type of account. The Debtors request that the Court provide relief in the form of waiver of these account guidelines for a period of six months from the Petition Date so that the Debtors’ pre-petition Accounts, check-issuing system, and Cash Management System may be maintained.

10. The Debtors will ensure that the appropriate designation is made on their checks to identify the Debtors as “debtor-in-possession” within six months from the Petition Date.

B. Authorization to Maintain Pre-Petition Bank Accounts and Cash Management System.

11. Maintaining the pre-petition Accounts and the Cash Management System is in the best interest of the Debtors, the Debtors’ employees, the bankruptcy estates and creditors. Because of the size, scope and automated nature of the Cash Management System, it would be extremely difficult, disruptive, and expensive for the Debtors to close their Accounts and open new accounts. Additionally, any disruption of the existing system would not only impair current operations, but would interrupt and delay financial reporting by the Debtors to the Court because the existing internal accounting system is based on the availability of the data generated as a by-product of the existing Cash Management System.

12. Maintaining the Debtors existing Accounts will preserve business continuity and lessen the confusion among employees, vendors, and customers that often follows a chapter 11 filing. Opening new bank accounts would be unduly burdensome and would disrupt the Debtors’ ongoing business operations during the initial stages of the chapter 11 bankruptcy proceedings -- in some instances, the process of arranging a new account could take several weeks to complete. Changing the electronic checks and deposit slips would require reprogramming certain printers and programs which would require unnecessary time and

expense. New electronic transfer instructions would have to be issued by the Debtors for each of the Accounts directing daily transfer to newly established operating accounts. Electronic transfer instructions would have to be issued for the new operating accounts to make disbursements to new payroll and account payable accounts.

13. To mitigate against the possibility of the payment of pre-petition obligations that are not otherwise approved by the Court, the Debtors have, or will have by the time this Motion is heard, ordered a stop-pay for any check drawn on the Funding Account. Invoices subsequently entered into the system for payment are systematically put on “hold” until individually reviewed by the proper accounting person with the Debtors. Based on the invoice date, delivery date, service dates, etc., the Debtors will release those invoices related solely to post-petition and will follow up on those invoices determined to be partially or completely pre-petition.

14. The Debtors also propose to implement a check number gap of at least 100 checks between any pre-petition checks drawn on any of the Accounts and those checks that are drawn post-petition. This procedure is a further safeguard to ensure that only appropriate post-petition checks are honored.

15. Bankruptcy law supports the Debtors’ request for relief as described herein. Bankruptcy court approval of an existing cash management system and its related procedures and transactions used in the ordinary course of business is common. *See In re The Charter Co.*, 778 F.2d 617, 621 (11th Cir. 1985) (holding that it was “entirely consistent” with the provisions of the Bankruptcy Code for the bankruptcy court to authorize the debtors to use their pre-petition “routine cash management system”). It is also common for bankruptcy courts to permit debtors to use the debtors’ existing depository accounts. *See, e.g., In re Grant Broadcasting of*

Philadelphia, Inc., 75 B.R. 819, 820 (E.D. Pa. 1987); *see also In re New York City Shoes, Inc.*, 78 B.R. 426, 427 (Bankr. E.D. Pa. 1987) (debtor deposited post-petition funds into pre-petition bank accounts).

C. Authorization to Continue to Use Checks and Business Forms without Imprint of “Debtor-in-Possession”

16. The Debtors further request that the Court authorize the Debtors to continue to use their current checks and business forms related to the Debtors existing Accounts without requiring the Debtors to imprint the legend “debtor-in-possession” on those forms, for no longer than six months from the Petition Date. Given the provision for at least a 100-check gap between pre-petition and post-petition checks, there is no risk of payment confusion. The Debtors have already sought to have its checks imprinted as the United States Trustee requires but may not be able to do so with respect to all checks necessary to be issued post-filing.

17. Section 345 of the Bankruptcy Code requires that any deposit or other investment made by a debtor, except those insured or guaranteed by the United States or by a department, agency or instrumentality of the United States or backed by the full faith and credit of the United States, be secured by a bond in favor of the United States of a corporate surety approved by the United States Trustee or the deposit of securities of the kind specified in 31 U.S.C. § 9303.

18. At this time, the Debtors do not seek a waiver of any of the requirements of Section 345 of the Bankruptcy Code. The Debtors will work with the United States Trustee’s office for the Southern District of Mississippi to develop a program for maintenance of its accounts in accordance with the Bankruptcy Code to the extent that any further action is required in this regard. The Debtors, however, reserve the right to request at a later date that this Court waive certain requirements of Section 345 of the Bankruptcy Code in a motion for order approving investment guidelines.

WHEREFORE, the Debtors respectfully request that the Court enter an Order:

- A. Authorizing the Debtors to maintain the existing Cash Management System;
- B. Authorizing the Debtors to continue utilizing the existing Accounts for no longer than six months from the Petition Date and subject to the procedures and practices set forth herein, and directing all of the Debtors financial institutions to allow transfers to be made from and deposits to be placed in those accounts in the same manner as transfers and deposits were made prior to the Petition Date;
- C. Approving the use of the Debtors' existing business forms without the necessity of placing the legend "debtor-in-possession" on those forms; and
- D. Granting such other and further relief as the Court deems just and proper.

THIS, the 27th day of October 2014.

Respectfully submitted,

MISSISSIPPI PHOSPHATES CORPORATION, *ET AL.*

By: /s/ Stephen W. Rosenblatt

Stephen W. Rosenblatt (Miss. Bar No. 5676)
Christopher R. Maddux (Miss. Bar No. 100501)
Paul S. Murphy (Miss. Bar No. 101396)
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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:

David N. Usry
Assistant United States Attorney
501 East Court Street
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Jackson, MS 39201
David.Usry@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 27th day of October 2014.

/s/ Stephen W. Rosenblatt

STEPHEN W. ROSENBLATT

Exhibit "A"

List of Existing Bank Accounts

Name of Bank	Account No. (Last 4 digits)	Purpose
Wells Fargo, N.A.	7342	Funding Account
Wells Fargo, N.A.	7334	Lock Box Account
Regions Bank	4740	Trust Account
Merchants & Marine Bank	4461	Local Account
Wells Fargo, N.A.	8878	Clearing Account
Wells Fargo, N.A.	6388	Employee Benefits Account
Wells Fargo, N.A.	7383	SATS Account
Wells Fargo, N.A.	7375	ATS Account

Exhibit "B"

**Mississippi Phosphates Corporation and Subsidiaries
Money and Bank Account Flow**

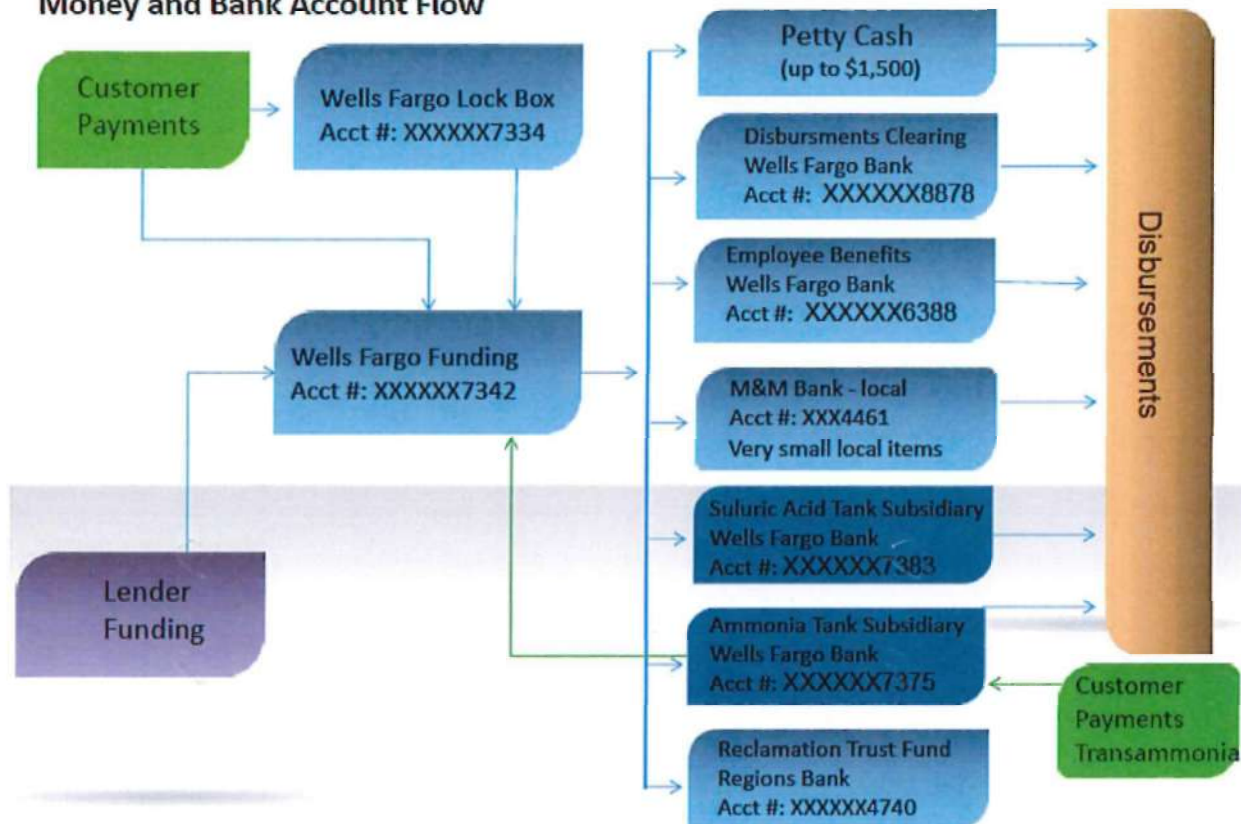


Exhibit "C"

ButlerSnow 23121453v2

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B4 (Official Form 4) (12/07)

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

In re Mississippi Phosphates Corporation

Debtor(s)

Case No.

Chapter 11

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

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) <i>Name of creditor and complete mailing address including zip code</i>	(2) <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>	(3) <i>Nature of claim (trade debt, bank loan, government contract, etc.)</i>	(4) <i>Indicate if claim is contingent, unliquidated, disputed, or subject to setoff</i>	(5) <i>Amount of claim [if secured, also state value of security]</i>
OCP Office Cherifien Des Ocpangle Route D'el Jadida De La Grand Ceinture Casablanca, Morocco	OCP Office Cherifien Des Ocpangle Route D'el Jadida De La Grand Ceinture Casablanca, Morocco			4,690,253.50
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
Central Maintenance & Weld 2620 Keysville Road Lithia, FL 33547	Central Maintenance & Weld 2620 Keysville Road Lithia, FL 33547			1,541,778.51
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
Int'l Welding & Fabricatio 11401 Hwy 63 Moss Point, MS 39562	Int'l Welding & Fabricatio 11401 Hwy 63 Moss Point, MS 39562			1,072,519.16
Hydrovac Industrial Ser. P. O. Box 83006 Chicago, IL 60691-3010	Hydrovac Industrial Ser. P. O. Box 83006 Chicago, IL 60691-3010			975,105.72
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
Duponte Sulfur Prod. 586 Hwy 44 La Place, LA 70068	Duponte Sulfur Prod. 586 Hwy 44 La Place, LA 70068			629,045.00

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In re Mississippi Phosphates Corporation

Case No. _____

Debtor(s)

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

(1) <i>Name of creditor and complete mailing address including zip code</i>	(2) <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>	(3) <i>Nature of claim (trade debt, bank loan, government contract, etc.)</i>	(4) <i>Indicate if claim is contingent, unliquidated, disputed, or subject to setoff</i>	(5) <i>Amount of claim [if secured, also state value of security]</i>
MS Power Company P. O. Box 4275 Gulfport, MS 39502-4275	MS Power Company P. O. Box 4275 Gulfport, MS 39502-4275			508,779.67
Carrier Rental Systems 6282 Hwy 73 Geismar, LA 70734	Carrier Rental Systems 6282 Hwy 73 Geismar, LA 70734			502,440.40
Dresser-Rand Company P. O. Box 7247-6149 Philadelphia, PA 19170-6149	Dresser-Rand Company P. O. Box 7247-6149 Philadelphia, PA 19170-6149			414,730.91
Jackson Cty Port Auth. P. O. Box 70 Pascagoula, MS 39568-0070	Jackson Cty Port Auth. P. O. Box 70 Pascagoula, MS 39568-0070			386,721.27
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
VIP International 6638 Pecue Lane Baton Rouge, LA 70817-4400	VIP International 6638 Pecue Lane Baton Rouge, LA 70817-4400			271,406.26
BP Energy Co. 209 Public Square Cleveland, OH 44114-2375	BP Energy Co. 209 Public Square Cleveland, OH 44114-2375			235,878.91
Brook Services LTD P. O. Box 8406 Dallas, TX 75284-0640	Brook Services LTD P. O. Box 8406 Dallas, TX 75284-0640			227,968.71

**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 27, 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.