

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

AgFeed USA, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 13-11761 (BLS)

Jointly Administered

Hearing Date: April 30, 2014, at 11:00 a.m. (ET)

Objection Deadline: April 14, 2014, at 4:00 p.m. (ET)

**DEBTORS' EIGHTH OMNIBUS (SUBSTANTIVE) OBJECTION
TO CLAIMS PURSUANT TO SECTION 502(b) OF THE BANKRUPTCY CODE,
BANKRUPTCY RULES 3003 AND 3007, AND LOCAL RULE 3007-1**

AgFeed USA, LLC ("AgFeed USA") and its above-captioned affiliated debtors and debtors in possession (collectively, the "Debtors"), by and through their undersigned proposed counsel, hereby object (the "Objection") to each of the claims and interests (the "Disputed Claims") listed on Exhibits 1 through 2 attached to the proposed form of order (the "Proposed Order"), attached hereto as Exhibit A, pursuant to section 502(b) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 3003 and 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 3007-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), and request the entry of the Proposed Order disallowing in full the Disputed Claims as indicated in further detail below and in the exhibits to the Proposed Order. In support of this Objection, the Debtors rely upon the *Declaration of Keith A. Maib in Support of the Debtors' Eighth Omnibus (Substantive) Objection to Claims Pursuant to Section 502(b) of*

¹ The Debtors and the last four digits of their federal tax identification numbers are: AgFeed USA, LLC (8748), AgFeed Industries, Inc. (7168); TS Finishing, LLC (8748); New York Finishing, LLC (8748); Pork Technologies, LC (2076); New Colony Farms, LLC (9246); Heritage Farms, LLC (8141); Heritage Land, LLC (8129); Genetics Operating, LLC (1921); M2P2 Facilities, LLC (8748); MGM, LLC (8748); M2P2 General Operations, LLC (8748); New Colony Land Company, LLC(5834); M2P2 AF JV, LLC (8748); Midwest Finishing, LLC (8748); and Genetics Land, LLC (1921). The mailing address for the Debtors is 616 Congress Ave., Suite 1280, Austin, Texas 78701.

the Bankruptcy Code, Bankruptcy Rules 3003 and 3007, and Local Rule 3007-1 (the “Maib Declaration”), attached hereto as Exhibit B. In further support of this Objection, the Debtors respectfully state as follows:

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012 (the “Amended Standing Order”). This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief requested herein are section 502(b) of the Bankruptcy Code, Bankruptcy Rules 3003 and 3007, and Local Rule 3007-1.

Background

2. On July 15, 2013 (the “Petition Date”), the Debtors filed voluntary petitions (collectively, the “Chapter 11 Cases”) for relief under chapter 11 of the Bankruptcy Code. The Debtors have continued in possession of their properties and have continued to operate and maintain their business as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On July 23, 2013, the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Creditors’ Committee”). On August 23, 2013, the U.S. Trustee appointed an official committee of equity security holders (the “Equity Security Holders’ Committee”) [Docket No. 195].

4. Additional information about the Debtors' business and the events leading up to the Petition Date can be found in the *Declaration of Keith A. Maib in Support of First Day Motions* [Docket No. 4], filed on the Petition Date and incorporated by reference herein.

Bar Dates and Proofs of Claim

5. On July 16, 2013, this Court entered an order [Docket No. 27] appointing BMC Group, Inc. ("BMC") as claims and noticing agent in these Chapter 11 Cases. BMC is authorized to maintain (i) all proofs of claim filed against the Debtors and (ii) an official claims register by docketing all proofs of claim in a claims database containing, inter alia, information regarding the name and address of each claimant, the date the proof of claim was received by BMC, the claim number assigned to the proof of claim, and the asserted amount and classification of the claim.

6. On September 27, 2013, this Court entered an order (the "Bar Date Order") establishing November 12, 2013, at 4:00 p.m. (Prevailing Eastern Time) (the "General Bar Date") as the final date and time for any entity, other than governmental units as defined in section 101(27) of the Bankruptcy Code, to assert (i) a claim against any of the Debtors in these Chapter 11 Cases (whether secured, unsecured priority, or unsecured nonpriority) that arose prior to the Petition Date and (ii) an administrative expense claim pursuant to section 503 of the Bankruptcy Code against AgFeed USA or any other Debtor (excluding Debtor AgFeed Industries, Inc.) arising post-petition through September 12, 2013. Pursuant to the Bar Date Order, the Court established a bar date of January 13, 2014, at 4:00 p.m. (Prevailing Eastern Time) for government entities (collectively, with the General Bar Date, the "Bar Dates").

7. In accordance with the Bar Date Order, actual notice of the Bar Dates was sent to, among others, (i) all known potential claimants and their counsel (if known); (ii) all

parties that have requested notice in these cases; (iii) all equity holders; (iv) the U.S. Trustee; (v) all taxing authorities for the jurisdictions in which the Debtors do business; (vi) all holders of claims listed on the Debtors' schedules of assets and liabilities; (vii) all counterparties to executory contracts; (viii) all parties to litigation with any of the Debtors as of the date of the Bar Date Order; (ix) all regulatory agencies that have jurisdiction over the Debtors; (x) the Internal Revenue Service; (xi) the Securities and Exchange Commission; (xii) the Environmental Protection Agency; (xiii) the Debtors current officers, directors, and employees; and (xiv) individuals who were former officers, directors, or employees of the Debtors within three (3) years of the Petition Date. In addition, notice of the Bar Dates was published in the New York Times on October 17, 2013. Affidavits of service and publication confirming such actual and publication notice of the Bar Dates have been filed with this Court [Docket Nos. 400, 403, 429, 468, 479, 487, 492, 496, 497, 500 & 527].

8. To date, approximately 490 proofs of claim have been filed in these Chapter 11 Cases.

Objection

9. By this Objection, the Debtors seek entry of the Proposed Order modifying and reclassifying the Disputed Claims as indicated in further detail below. This Objection complies in all respects with Local Rule 3007-1.

I. Modified Amount Claims

10. The claimants asserting the claims identified on Exhibit 1 to the Proposed Order (the "Modified Amount Claims") asserted an amount that was higher than the amount of liability reflected in the books and records of the Debtors. As a result, the amount of these claims should be modified by reducing the amount to the dollar values listed under the column

titled “Modified Amount & Classification” on Exhibit 1 to the Proposed Order. Any failure to modify the Modified Amount Claims in this manner would result in the applicable claimants receiving an unwarranted recovery against the Debtors’ estates, to the detriment of other creditors in the Chapter 11 Cases. Accordingly, the Debtors hereby objects to the Modified Amount Claims and requests that the Court enter the Proposed Order reducing the value of the Modified Amount Claims, as provided for on Exhibit 1 to the Proposed Order.

II. Reclassified Claims

11. Local Rule 3007-1(f)(iii) provides that “[a]n objection based on substantive grounds, other than incorrect classification of a claim, shall include all substantive objections to such claim.” Del. Bankr. L.R. 3007-1(f)(iii). An objection based on incorrect classification of a claim, however, shall “provide in the title (or otherwise conspicuously state) that substantive rights may be affected by [the objection] and by any further [o]bjection that may be filed and otherwise compl[y] with [the] Local Rules [other than Local Rules 3007-1(f)(i) and (ii)].” Id.

12. The claimants asserting the claims identified under the column titled “Claim” on Exhibit 2 to the Proposed Order (the “Reclassified Claims”) asserted that all or a portion of their claims are entitled to secured, administrative, or priority status. After reconciling the Reclassified Claims against the the Debtors’ books and records, the Debtors have determined that the priority level of the Reclassified Claims should be adjusted. Specifically, the Reclassified Claims are not entitled, under the Bankruptcy Code or otherwise, to the secured, administrative, or priority status set forth in each claimant’s proof of claim. As a result, the Debtors believe that these Reclassified Claims should be reclassified as indicated in the “Reclassified Amount & Classification” column on Exhibit 2 to the Proposed Order. Any failure

to do so would award the claimants undue secured, administrative, or priority status to the detriment of other creditors in the Chapter 11 Cases. Accordingly, the Debtors hereby object to the Reclassified Claims and request the Court to enter the Proposed Order reclassifying, in full or in part, as appropriate, each of the Disputed Claims, as provided for on Exhibit 2 to the Proposed Order.

Reservation of Rights

13. The Debtors expressly reserve the right to amend, modify, or supplement this Objection, and to file additional objections to any claims filed in these Chapter 11 Cases including, without limitation, the claims that are the subject of this Objection. Should one or more of the grounds for this Objection be dismissed or overruled, the Debtors reserve the right to object to any Disputed Claim listed on Exhibits 1 through 2 to the Proposed Order on any other ground.

Statement of Compliance with Local Bankruptcy Rule 3007-1

14. The undersigned representative of Young Conaway Stargatt & Taylor, LLP has reviewed the requirements of Local Rule 3007-1 and certifies that the Objection substantially complies with that Local Rule. To the extent that the Objection does not comply in all respects with the requirements of Local Rule 3007-1, the Debtors believe such deviations are not material and respectfully requests that any such requirement be waived.

Notice

15. The Debtors have provided notice of this Objection to: (i) the U.S. Trustee; (ii) counsel to the Debtors' prepetition secured lenders; (iii) counsel to the Creditors' Committee; (iv) counsel to the Equity Security Holders' Committee; (v) the holders of the Disputed Claims; and (vi) all parties requesting notice in the Chapter 11 Cases pursuant to

Bankruptcy Rule 2002 as of the date hereof. In light of the nature of the relief requested herein, the Debtors respectfully submit that no further notice is necessary.

Conclusion

WHEREFORE, for the reasons set forth herein, the Debtors respectfully request that the Court enter the Proposed Order granting the relief requested herein and granting such other and further relief as the Court deems appropriate.

Dated: March 31, 2014
Wilmington, Delaware

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