

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS**

In re:)	In Proceedings Under Chapter 11
)	
GATEWAY ETHANOL, L.L.C.)	Case No. 08-22579-DLS
)	
Debtor.)	

STATE OF KANSAS)
) ss.
COUNTY OF PRATT)

Frederick S. Loomis, being duly sworn on oath, deposes and says:

1. I am the Chairman of the Board of Gateway Ethanol, L.L.C. (“Gateway” or “Debtor”). In my capacity as Chairman of the Board, I am familiar with the day-to-day operations, business affairs, and books and records of Debtor.

2. On October 5, 2008 (the “Petition Date”), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”). Debtor intends to continue in the possession of its properties and the management of its business as debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. In order to enable Debtor to operate effectively and to avoid the adverse effects of the Chapter 11 filing, Debtor will request various types of relief in “first day” applications and motions filed with the Court.

3. I submit this affidavit in support of the first day applications and motions in the above captioned Chapter 11 case. Any capitalized term not expressly defined herein shall have the meaning ascribed to that term in the relevant first day motion or application. Except as otherwise indicated, all facts set forth in this affidavit are based upon my personal knowledge, my review of relevant documents, or my opinion, based upon my experience and knowledge of

the Debtor's operations and financial condition or information reported to me in the course of my duties by the Debtor's officers, agents, or employees. If I were called upon to testify, I could and would testify competently to the facts set forth herein. I am authorized to submit this affidavit.

4. Part I of this affidavit describes Debtor's business and the circumstances surrounding the filing of Debtor's Chapter 11 petition. Part II sets forth the relevant facts in support of Debtor's various first day applications and papers filed concurrently herewith.

I. BACKGROUND

5. Gateway is a Kansas limited liability company with its headquarters in Pratt, Kansas. Gateway was formed in March 2006 to construct, manage, and operate a premier dry-mill ethanol plant.

6. The current member of Gateway is Gateway Holdco, LLC ("Holdco"). Holdco is the holding company for Gateway. The current members of Holdco are Orion Ethanol, Inc. ("Orion"), Indeck Energy Services, Inc. ("Indeck"), Noble Americas Corp. ("Noble"), White Pines, L.L.C. ("White Pines"), Mercy, L.L.C. ("Mercy"), and Lurgi PSI, Inc. ("Lurgi").

7. On March 30, 2006, Gateway entered into a Restated Engineering, Procurement, and Construction Agreement ("EPC Agreement") with Lurgi for the design and construction of a fully integrated and functional dry-mill ethanol plant located near Pratt, Kansas capable of processing approximately 20 million bushels of local corn and milo to produce approximately 55 million gallons per year, or about 150,000 gallons per day, of fuel-grade ethanol, in addition to about 183 thousand tons of distiller grains and approximately 160 thousand tons of carbon dioxide per year as co-products ("Pratt Ethanol Facility").

8. The Pratt Ethanol Facility was expected to be operational by August of 2007. Construction was delayed due to Lurgi's failure to achieve "Interim Completion" of the Pratt

Ethanol Facility, as defined under the EPC Agreement.

9. Since August of 2007, Gateway has attempted to complete the construction of the Pratt Ethanol Facility and start commercial operations. Gateway's efforts to start-up the plant were thwarted by Lurgi's failure to deliver the completed Pratt Ethanol Facility. Further, Gateway became involved in disputes with its senior lender, Dougherty Funding LLC ("Dougherty").

10. Gateway continued in its efforts to operate the plant until early March 2008, when it was required to shut down the plant due to Lurgi's continued construction delays. The Pratt Ethanol Facility is currently not operating, but remains lightly staffed pending a contemplated sale of the plant as part of Gateway's reorganization. Currently, Gateway employs 11 workers, which includes management, office staff, and production staff. Ten of the employees are full-time, and three of these employees will be furloughed after Cargill, Incorporated ("Cargill") finishes removing its grain from Gateway's elevator. One employee is part-time.

11. As of August 31, 2008, Gateway reported assets of approximately \$95.7 million. Also as of August 31, 2008, Gateway reported liabilities of approximately \$95.4 million, comprised of (a) approximately \$71.3 million in secured credit facilities; (b) unsecured debt owed to Cargill in the amount of about \$7 million; (c) unsecured debt owed to Noble in the approximate amount of \$4 million, including funds borrowed under an unsecured letter of credit in the amount of about \$3.25 million; (d) trade debt of approximately \$2.6 million; and (e) other liabilities of approximately \$10.5 million, which includes mechanic's liens filed against Debtor's premises, obligations under equipment and railcar leases, and a note payable to the City of Pratt for a water line.

Gateway's Secured Indebtedness^{1/}

12. On March 30, 2006, Gateway entered into a Loan and Security Agreement with Dougherty, which provides for advances up to \$54.3 million towards the construction of the Pratt Ethanol Facility (“Dougherty Loan Agreement”), and which is secured by substantially all of Gateway’s assets. As of the Petition Date, the balance due Dougherty under the Dougherty Loan Agreement is approximately \$53 million.

13. On March 30, 2006, Gateway entered into a Tax Increment Secured Promissory Note with Dougherty in the principal amount of \$11.34 million to provide additional funding for the Pratt Ethanol Facility (“TIF Promissory Note”). Dougherty agreed to advance Gateway \$11.34 million secured against, among other assets of Gateway, future revenues from a Property Tax Increment Rebate Agreement between Gateway and Pratt County, Kansas dated February 1, 2006. As of the Petition Date, the balance due Dougherty under the TIF Promissory Note is approximately \$9.6 million.

14. Also on March 30, 2006, Gateway entered into a Subordinated Loan Agreement with Lurgi for advances up to \$7 million plus capitalized interest for construction costs for the Pratt Ethanol Facility (“Lurgi Loan Agreement”), which is secured by a second mortgage on the Pratt Ethanol Facility. As of the Petition Date, the balance due Lurgi under the Lurgi Loan Agreement is approximately \$8.7 million.

^{1/} The discussion in this Affidavit regarding Gateway’s secured debt is meant as a summary only. Gateway’s secured indebtedness is described in further detail in Gateway’s Emergency Motion to Approve Stipulated Order Granting Expedited Relief and Interim Order (I) Authorizing Debtor (A) to Obtain Secured Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 363, and 364(c) and (d); and (B) to Grant Security Interests, Superpriority Claims and Adequate Protection; and (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(c) (the “DIP Motion”). Parties should refer to the DIP Motion for complete details with respect to Gateway’s secured indebtedness.

Events Leading to the Filing of the Chapter 11 Petition

15. The Pratt Ethanol Facility was scheduled to be operational in August of 2007. Now, more than a year after the plant was supposed to be completed, Lurgi still has not met its obligations under the EPC Agreement. Gateway has initiated an arbitration proceeding against Lurgi to recover damages arising from the delayed construction of the plant, in addition to damages resulting from construction defects and tortious interference in Gateway's relationship with Dougherty.

16. In March 2008, Dougherty asserted that Gateway defaulted under its loan obligations, and in early April 2008, Dougherty accelerated the indebtedness. Gateway attempted to negotiate a resolution with Dougherty, however, on May 6, 2008, Dougherty filed a complaint against Gateway seeking judicial foreclosure in the United States District Court for the District of Kansas ("Foreclosure Action"). Dougherty also filed an action in the United States District Court for the District of Kansas regarding the TIF Promissory Note ("Note Action"). Over the summer, Gateway continued to negotiate a workout with Dougherty. Gateway's efforts proved unsuccessful, and Dougherty notified Gateway that it would aggressively move forward with the Foreclosure Action and Note Action.

17. Gateway was dealt another blow in April 2008, when Indeck Power Systems ("IPS"), filed suit against Gateway in Illinois alleging breach of an equipment lease for a thermal oxidizer/boiler system. This equipment is vital to operation of the Pratt Ethanol Facility. Gateway's efforts to resolve the situation with IPS have also been unsuccessful.

18. Following the exploration of numerous alternatives, Gateway determined that its only reasonable course of action was a Chapter 11 filing. Gateway intends to focus its reorganization efforts on selling the Pratt Ethanol Facility and liquidating its other assets in an

orderly manner. Gateway believes that the Chapter 11 process will best preserve the enterprise value of the plant for the benefit of all of Gateway's creditors and stakeholders. Dougherty has agreed to provide debtor in possession financing to Debtor, as well as participate in a Bankruptcy Code Section 363 sale process as the "stalking horse".

19. This affidavit is submitted in support of, and to explain to the Court, Gateway's need for: (i) relief under Chapter 11 of the Bankruptcy Code; and (ii) the relief requested in various applications and motions filed with the Court in connection therewith.

II. MOTIONS AND APPLICATIONS

20. An important element of Debtor's successful Chapter 11 case is approval of each of Debtor's motions and applications submitted concurrently herewith. Factual information in support of such orders is provided below and in the applications and motions filed concurrently herewith.

Retention of Bryan Cave LLP

21. Continued representation of Debtor by its counsel, Bryan Cave LLP ("Bryan Cave"), is critical to the success of Debtor's Chapter 11 proceeding because Bryan Cave is uniquely familiar with Debtor's business and legal affairs as more fully set forth in the Application for the retention of Bryan Cave and Affidavits of Laurence M. Frazen and Tamme E. McVey.

22. Debtor selected the firm of Bryan Cave as attorneys because of the firm's experience with and knowledge of Debtor's business and on-going arbitration and litigation matters, as well as its national experience and knowledge in the field of debtors' and creditors' rights and business reorganizations under Chapter 11 of the Bankruptcy Code.

23. Debtor desires to employ the firm of Bryan Cave under a general retainer because of the extensive legal services that will be required in connection with the Chapter 11 case.

24. The services of attorneys under a general retainer are necessary in order to enable Debtor to faithfully execute its duties as debtor in possession. Subject to further order of this Court, Bryan Cave will be required to render, among others, the following services to Debtor:

- a. Advising Debtor with respect to their rights, power and duties in this case;
- b. Assisting and advising Debtor in its consultations with any appointed committee relative to the administration of this case;
- c. Assisting Debtor in analyzing the claims of creditors and negotiating with such creditors;
- d. Assisting Debtor with investigation of the assets, liabilities and financial condition of Debtor and reorganizing Debtor's businesses in order to maximize the value of Debtor's assets for the benefit of all creditors;
- e. Advising Debtor in connection with the sale of assets or business;
- f. Assisting Debtor in its analysis of and negotiation with any appointed committee or any third party concerning matters related to, among other things, the terms of a plan of reorganization;
- g. Assisting and advising Debtor with respect to any communications with the general creditor body regarding significant matters in this case;
- h. Commencing and prosecuting necessary and appropriate actions and/or proceedings on behalf of Debtor;
- i. Reviewing, analyzing or preparing, on behalf of Debtor, all necessary applications, motions, answers, orders, reports, schedules, pleadings and other documents;
- j. Representing Debtor at all hearings and other proceedings;
- k. Conferring with other professional advisors retained by Debtor in providing advice to Debtor; and

1. Performing all other necessary legal services in this case as may be requested by Debtor in these Chapter 11 proceedings; and
- m. Assisting and advising Debtor regarding pending arbitration and litigation matters in which Debtor may be involved, including continued prosecution or defense of actions and/or negotiations on Debtor's behalf.

25. The firm of Bryan Cave has indicated a willingness to act on behalf of Debtor.

26. To the best of Debtor's knowledge, Laurence M. Frazen, Tammee E. McVey, and the other members, counsel, and associates of the firm of Bryan Cave (i) do not have any connection with Debtor, its affiliates, creditors, or any other parties in interest, or their respective attorneys and accountants, (ii) are "disinterested persons," as that term is defined in Section 101(14) of the Bankruptcy Code, and (iii) do not hold or represent any interest adverse to the estate, except as set forth herein and in the affidavits and statements of Laurence M. Frazen, a partner of Bryan Cave, and Tammee E. McVey, an associate of Bryan Cave, filed concurrently herewith.

Retention of William Blair & Company, L.L.C.

27. Debtor seeks to retain William Blair & Company, L.L.C. ("William Blair") to provide investment banking and financial advisory services to Debtor in connection with its Chapter 11 case.

28. The parties have entered into a letter agreement (the "William Blair Agreement"), which governs the relationship between William Blair and Debtor. William Blair will provide such financial advisory and investment banking services as William Blair and Debtor shall deem appropriate and feasible in order to advise Debtor in the course of this Chapter 11 case, including, but not limited to, the following:

- a. Advise and assist Debtor in connection with any acquisition of all, or a substantial portion of the capital stock or assets of Debtor in each case in either a single transaction or a series of transactions, whether by tender or exchange offer, purchase, acquisition, business combination, or otherwise (a “M&A Transaction”);
- b. Advise and assist Debtor in connection with any financing for any portion of Debtor, whether in the form of secured, unsecured, subordinated or senior debt, equity or equity equivalents, and whether or not such financing is arranged on a public or private basis (a “Financing Transaction”); and
- c. Advise and assist Debtor in connection with any single transaction or series of transactions that effectuates any material modification, amendment to, or change of, or in, the principal balance, accrued or accreted interest, payment term, other debt service requirement, and/or financial or operating covenant; any forbearance for at least six months with respect to any payment obligation; conversion to common or other equity, or any other security or instrument, of any, or all, of Debtor's obligations and/or indebtedness for borrowed money, which are currently outstanding; the implementation of a cash tender offer for any, or all, of such obligations or indebtedness; any other compromise of the existing terms of such obligations and/or indebtedness; or any combination of the foregoing transactions (a “Restructuring Transaction”).

29. A Financing Transaction, an M&A Transaction and a Restructuring Transaction are each referred to herein as a (“Possible Transaction”) and are collectively referred to herein as the (“Possible Transactions”). Depending upon the nature of the Possible Transactions, William Blair’s services will include, if appropriate or if requested by Debtor, the following:

- a. Assist Debtor’s management in (a) developing a strategy for pursuing one or more Possible Transactions, (b) preparing a descriptive memorandum that describes Debtor’s operations and financial condition and includes current financial data and other appropriate information furnished by Debtor (as amended and supplemented from time to time, the “Descriptive Memorandum”) and (c) contacting and eliciting interest from those possible participants expressly approved by Debtor and a list of possible participants in the Possible Transactions (it being understood that such participants may include parties to whom William Blair has rendered or is now rendering investment banking services but, in any case, such services have not and do not in any way relate to Debtor or any Possible Transactions);

- b. Review and analyze the business plans and financial projections prepared by Debtor including, but not limited to, testing assumptions and comparing those assumptions to historical Debtor and industry trends;
- c. Assist Debtor and its other professionals in reviewing and analyzing the terms of any proposed Possible Transaction, in responding thereto and, if directed, in evaluating alternative proposals for a Possible Transaction, whether in connection with a confirmed chapter 11 plan (a “Plan”) or otherwise;
- d. Determine a range of values for Debtor and any securities that Debtor offers or proposes to offer in connection with a Possible Transaction;
- e. Advise Debtor on the risks and benefits of considering a Possible Transaction with respect to Debtor's business prospects and strategic alternatives to maximize the business enterprise value of Debtor, whether pursuant to a Plan or otherwise;
- f. Assist or participate in negotiations with parties in interest, including, without limitation, any current or prospective creditors of, holders of equity in, or claimants against Debtor and/or their respective representatives in connection with a Possible Transaction and/or a Plan;
- g. Advise and attend meetings of Debtor's Board of Directors, creditor groups, official constituencies and other interested parties, as necessary;
- h. To the extent requested by Debtor, assist Debtor in raising capital and/or refinancing or amending any of its existing debt facilities;
- i. In the event Debtor determines to commence one or more cases under chapter 11 of the Bankruptcy Code in order to pursue a Possible Transaction or otherwise, and if requested by Debtor, participate in hearings before the Bankruptcy Court in which such cases are commenced (the “Bankruptcy Court”) and provide relevant testimony with respect to the matters described herein and arising in connection with any Possible Transaction or any proposed Plan; and
- j. Render such other financial advisory and investment banking services as may be agreed upon in writing by William Blair and Debtor in connection with any of the foregoing.

30. To the best of Debtor’s knowledge, the directors, associates, employees, and professionals of William Blair (i) do not have any connection with the Debtor, its creditors, or any other party in interest, or their respective attorneys or accountants, (ii) are “disinterested persons” under Section 101(14) of the Bankruptcy Code, as modified by Section 1107(b) of the

Bankruptcy Code, and (iii) do not hold or represent an interest adverse to the estate, except as may be set forth in the Affidavit of Geoffrey A. Richards.

DIP Credit Facility

31. As more fully described in Debtor's Emergency Motion to Approve Stipulated Order Granting Expedited Relief and Interim Order (I) Authorizing Debtor (A) to Obtain Secured Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 363, and 364(c) and (d); and (B) to Grant Security Interests, Superpriority Claims and Adequate Protection; and (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(c) (the "DIP Motion"), as of the Petition Date, Debtor was indebted to Dougherty and Lurgi pursuant to certain secured loan transactions for construction costs associated with the Pratt Ethanol Facility in the amounts of approximately \$62.6 million and \$8.7 million, respectively.

32. Debtor requires cash flow to proceed with its reorganization efforts, and without post-petition financing, Debtor's efforts to reorganize and liquidate its assets in an orderly manner will be severely and irreparably harmed. Debtor must have financing to pay employees, utilities, insurance, and other expenses. Debtor has determined, in the exercise of its sound business judgment, that it requires a post-petition financing arrangement, which is critical to Debtor's reorganization efforts and Debtor believes will result in a significant benefit to all creditors.

33. Prior to filing this Chapter 11 case, Debtor contacted several lenders with respect to post-petition financing. Such lenders were either unwilling to provide the necessary financing, or unable to provide sufficient financing to sustain Debtor through the reorganization and asset sale process.

34. Following extensive negotiations with Dougherty (hereinafter “DIP Lender”), Debtor and DIP Lender agreed to the terms of a post-petition financing arrangement (the “DIP Facility”) whereby DIP Lender will advance to Debtor as set forth in the DIP Facility. The terms of the DIP Facility are described in the Loan Agreement, a copy of which is attached to Debtor’s DIP Motion, and in the proposed Interim Order.

35. The terms and provisions of the DIP Facility documents have been negotiated at arm’s length and in good faith by Debtor and DIP Lender. In addition, the terms and provisions of the DIP Facility documents are fair and reasonable under the circumstances and reflect the most favorable terms upon which Debtor could obtain the needed post-petition financing.

36. Debtor has determined, in its business judgment, that obtaining post-petition financing is necessary for its reorganization efforts and the orderly liquidation of its assets, and will assist Debtor in maximizing the value of its assets for creditors.

37. An immediate need exists for Debtor to obtain interim approval of the DIP Facility in order to pay payroll, utilities, insurance, and other expenses, as identified on the three week budget attached as Exhibit A to the Interim Order. Without the immediate use of at least a portion of the proceeds of the DIP Facility pending a final hearing on the DIP Motion, Debtor’s ability to reorganize and orderly liquidate its assets will be severely impaired. The immediate and irreparable harm that could result in the absence of approval of interim financing is inimical to the interests of Debtor’s estate and creditors.

Extension of Time to File Schedules and Statement of Financial Affairs

38. At the time of filing its petition, Debtor filed a matrix listing its creditors' and all known interested parties' names and addresses. The matrix contains the names and addresses of approximately 350 creditors and parties in interest.

39. Due to Debtor's need to quickly file its Chapter 11 petition, the nature of Debtor's business, its assets, liabilities, financial and transactional records, executory contracts and unexpired leases, and the number of demands on the personnel possessing information necessary to complete schedules, Debtor is unable to complete and file its Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Statements of Financial Affairs and Statements of Executory Contracts (collectively, the "Schedules") with its petition.

40. Debtor expects to have all information necessary to enable it to complete the preparation of its Schedules by October 31, 2008 and therefore, seeks an extension of the deadline for filing their Schedules up to and including October 31, 2008.

Maintenance of Cash Management System

41. Debtor maintains a multipart banking system (the "Cash Management System") to process its revenues and expenses.

42. Debtor's cash management system is composed of three (3) accounts at The Peoples Bank in Pratt, Kansas. At the present time, only the main operating account has funds and the remaining two accounts have a zero balance.

43. The Peoples Bank is owned by Krey Co. Ltd. ("Krey"), a bank holding company. Mr. Loomis is the president of Krey and is on Krey's board of directors. Mr. Loomis is also on the board of directors of The Peoples Bank, and is the vice president and trust consultant of The Peoples Bank. Additionally, Mr. Loomis is a general partner of White Pines.

44. Debtor's Cash Management System operates as follows:

i. Debtor issues checks and wire transfers out of its main operating account on a normal basis. Some payments are made utilizing the Federal Reserve wire transfer system or the automated clearing house (ACH) electronic funds transfer system. Debtor has check stock on site, and internet banking abilities that result in more reasonable service charges. Payments to vendors are made primarily using checks drawn on the main operating account. Certain vendors prefer payments made via ACH, which the Belle Bank internet service helps to facilitate.

ii. Debtor has employed The Peoples Bank to administer its payroll every two weeks. The Peoples Bank has been authorized to withdraw the needed funds from the main operating account to pay Debtor's employees via either direct deposit or check. Amounts which employees defer out of their wages towards the 401(k) plan are transferred out of this operating account into the 401(k) account, described below. Also, The Peoples Bank disperses the state and federal taxes automatically out of the main operating account. There are no vendors other than The Peoples Bank Payroll Department who have been given the rights to remove money automatically from the main operating account. All transactions are approved and initiated by authorized personnel.

iii. If Gateway is not utilizing the Noble Americas Corp. ("Noble") revolving line of credit, sales proceeds from Debtor's products can be deposited into the main operating account. Otherwise, under the Working Capital Facilities Agreement with Noble, all sales dollars must be deposited into what is referred to as the control account, described below. Presently, Noble refuses to allow Gateway access to the line of credit.

iv. The marketers of Debtors products deposit sales proceeds into the control account. The Peoples Bank must receive written authorization from both the Debtor and Noble to make transfers out of the control account. Upon completion of a borrowing base, there is typically a transfer of funds out of the control account back to Noble, with excess funds being transferred to Debtor, to true up and accommodate the status of the borrowing base. Currently, there are no funds in the control account.

v. The 401(k) account was created as a holding place for deferred wages. Great West Retirement Services ("Great West") has been given authority to automatically retrieve the funds out this account. For security reasons, the account was set up to only hold 401(k) dollars. The 401(k) account contains a balance only from a payday that occurs every other Friday, until the following Monday when Great West removes the funds. Currently, there are no funds in the 401(k) account.

45. The Cash Management System is governed by numerous documents, agreements, internal procedures and understandings between Debtor and The Peoples Bank. Debtor believes that the rights and remedies afforded to The Peoples Bank, under the various

account agreements between Debtor and The Peoples Bank, are consistent with the rights and remedies afforded to any financial institution providing cash management services such as that maintained and utilized by Debtor.

46. Because of the nature of Debtor's Cash Management System, it would be difficult, disruptive and expensive for Debtor to close its existing accounts and open new accounts. Additionally, any disruption of the existing system would not only impair current operations, it would interrupt and delay financial reporting by Debtor 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.

47. Maintaining Debtor's existing accounts will enhance reorganization efforts and lessen the confusion among employees, vendors, and potential customers that often follows a Chapter 11 filing. Opening new bank accounts would be unduly burdensome, be disruptive to Debtor during this critical initial stage of the chapter 11 process and may take several weeks to complete. Furthermore, Debtor has preprinted check stock which would require unnecessary time and expense to replace.

48. To prevent the possibility of the payment of pre-petition obligations, Debtor has implemented the following procedures:

Accounts Payable Accounts – Debtor has, or will have by the time this Motion is heard, ordered a stop-pay with The Peoples Bank for any check drawn on the main operating account numbered below a particular number (the number is at least 100 above the last check Debtor wrote on the account pre-petition unless otherwise ordered by the Court.) Invoices subsequently entered into the system for payment are systematically put on "hold" until individually reviewed by Accounting. Based on the invoice date, delivery date, service date, etc., Accounting will release those invoices related solely to post-petition and follow up on those determined to be partially or completely pre-petition.

49. Unless Debtor is allowed to maintain its existing accounts, it will be unable to effect a smooth transition into its Chapter 11 proceeding. Maintenance of the existing accounts will not prejudice any party-in-interest. However, the inability to maintain existing accounts will prejudice Debtor, as well as its employees, vendors, and providers, as it may take approximately two weeks to receive new checks or may require time and expense in reprogramming certain printers and software. Accordingly, the entry of an order granting the relief requested is in the best interest of Debtor's estates, employees, and creditors.

50. It is essential to Debtor while it is continuing to negotiate debtor-in-possession financing and reorganization that there be minimal disruption to its ordinary business affairs. Significantly, the Cash Management System utilized by Debtor is familiar to Debtor, The Peoples Bank at which it maintains the accounts, and its employees.

51. In addition, the Court should authorize Debtor to continue to use its checks and other business forms related to Debtor's existing bank accounts without requiring Debtor to imprint the legend "Debtor in Possession" on those forms. Given the provision for at least a 100-check gap between pre-petition and post-petition checks, there is no risk of payment confusion by The Peoples Bank. Consequently, no reasonable justification exists for labeling Debtor with such a "scarlet letter" designation, and the cost associated with such change is unjustified.

Business Necessity to Pay Pre-Petition Employee Claims

52. Debtor has requested authority to pay outstanding pre-petition Employee wages and benefits under the Emergency Motion for Order Authorizing Payment of Pre-Petition Wages, Salaries, Reimbursable Employee Expenses and Medical and Other Employee Benefits

(“Wage Motion”). Debtor is not seeking authority to pay the pre-petition claim of Jeff Spencer, Debtor’s former Chief Financial Officer, who was contract labor.

53. In the past Debtor’s facility included a much larger staff, but Debtor currently employs 11 salaried and hourly employees, which include management, office staff, and production staff. Ten of the employees are full-time, and three of these employees will be furloughed after Cargill finishes removing its grain from Debtor’s elevator. One employee is part-time. All of these employees are on the payroll of, and paid by, Debtor. The majority of employees are paid on an hourly basis. The employees are all non-union. A smaller percentage of employees (i.e., management, professionals, or supervisors), are paid on a salaried basis. All employees will suffer great hardship if they were to lose or suffer any delay in receiving their pay and/or benefits.

54. Failure to pay the pre-petition employee claims (the “Pre-Petition Employee Claims”) as described and identified in the Wage Motion would cause Debtor’s employees to suffer undue hardships and, in many instances, financial difficulties because such amounts are necessary to enable employees to meet their respective personal, household and family obligations. Such a result would obviously destroy employee morale and result in unmanageable employee turnover. The Debtor submits that any significant deterioration in morale at this time will substantially and adversely impact the Debtor and its ability to reorganize, thereby resulting in immediate and irreparable harm to the Debtor and its estate.

55. In addition, the Debtor believes that most, if not all, of the Pre-Petition Employee Claims will be entitled to priority status. The Debtor believes no single employee is owed more than \$10,950 in total Pre-Petition Employee Claims. Thus, these employees will

most likely be entitled to seek priority status for their claims under section 507(a)(4) and 507(a)(5) of the Bankruptcy Code.

56. To the extent that payment of the amounts described in the Wage Motion may subsequently be determined to be greater than a recipient thereof would otherwise have received if these cases were commenced or proceeded under Chapter 7 of the Bankruptcy Code, Debtor (or any subsequently appointed Trustee) expressly reserves the right to seek recovery of such payments.

57. Debtor submits that the amounts to be paid to employees pursuant to the Wage Motion are reasonable compared with the importance and necessity of the services of the employees and the losses Debtor will likely suffer if those amounts are not paid.

58. The requested relief also will reduce significantly the administrative burden which otherwise might be imposed in the Chapter 11 case. For Debtor to identify whether and to what extent individual employees hold priority or general unsecured claims for employee benefits, and to modify benefit policies to enforce these distinctions, would impose additional burdens of administration and expense which seem unwarranted under the circumstances of these cases.

Utilities

59. In connection with the operation of its business, Debtor obtains electricity, natural gas, water, telephone and other similar services from several utility companies or utility divisions. Any interruption in these services would seriously disrupt Debtor's normal day-to-day operations, thereby causing potentially irreparable harm to the reorganization of Debtor. Exhibit A to the Debtor's Emergency Motion for Order Approving Debtor's Method of Furnishing Adequate Assurance of Payment of Post-Petition Utility Services (the "Utilities Motion") is a list

of all the utility companies that provide services to Debtor. The utility companies identified in Exhibit A with respect to their function as providers of utility services shall be referred to as the “Utilities.”

60. The Utilities service Debtor’s headquarters and plant. Without utilities, Debtor’s facilities would be inoperable. Utility services are essential to Debtor’s ability to reorganize.

61. Before the Petition Date, Debtor maintained relatively good payment histories with most of the Utilities. However, Debtor has fallen behind in paying some of the Utilities, and as of the Petition Date, there are arrearages owed to a few of the Utilities. Kansas Gas Service, a Division of ONEOK, Inc. currently holds a \$30,000 deposit from Debtor for gas service. Ninnescah Electric currently holds a \$36,000 deposit from Debtor for electric service.

62. The Debtor believes that the following offer to provide adequate assurance of payment to the utilities is sufficient to preclude unilateral termination by a utility under 11 U.S.C. § 366(b):

(a) Debtor shall provide a cash deposit to each utility company equivalent to a two months average bill;

(b) Debtor shall timely pay for all post-petition utility services pursuant to the terms of the invoices and billing statements generated by the utility companies in the ordinary course of business;

(c) In the event that Debtor fails to timely pay for post-petition utility service per an invoice, Debtor shall have a ten (10)-day period to cure such nonpayment, which ten (10)-day period shall begin to run automatically from the date of the non-payment notice from the utility company;

(d) Should Debtor fail to pay the invoice within the ten (10)-day time period after receipt of notice of default, the utility company shall be entitled to alter, refuse or discontinue service, without further Court order;

(e) If a utility company maintains more than one account for Debtor, the failure to pay for post-petition utility services with respect to one account shall not be deemed a failure to pay or “cross-default” with respect to any other account, provided

that such other account is being paid. Each failure to pay, and the ability to alter, refuse or discontinue service shall arise on a per account basis; and

(f) To the extent that a utility company provides post-petition services that are unpaid, such utility company shall be entitled to an administrative claim, pursuant to 11 U.S.C. §§ 503(b)(1) and 507(a)(1), payable upon confirmation of a plan of reorganization or such earlier date as determined by the Court. Further, existing deposits held by Debtor's utility providers may be offset against any past-due pre-petition or post-petition invoice without necessity of court order or prior notice to creditors.

63. Debtor believes that these provisions provide utility companies with "adequate assurance" of payment.

64. Debtor will pay all post-petition utility bills when due. If any delay occurs, Debtor believes that the proposed assurances will more than provide sufficient protection to the utility companies providing post-petition services.

Insurance

65. Debtor maintains various insurance policies (collectively, the "Insurance Policies") through several third-party insurance carriers (the "Insurance Carriers"). Exhibit A to the Debtor's Emergency Motion for Authority to Perform Obligations Necessary to Maintain Existing Insurance (the "Insurance Motion") is a list of all the Insurance Carriers that provide insurance to Debtor.

66. Debtor must be permitted to maintain the Insurance Policies. If the Insurance Policies are allowed to lapse, Debtor will be exposed to substantial liability for any damages or losses resulting in persons and property of Debtor and others.

67. If the post-petition installment payments are not paid as they come due, the Insurance Carriers could try to lift the automatic stay to terminate the Insurance Policies. If the Insurance Carriers were successful, Debtor would be forced to seek replacement insurance coverage. Even if Debtor was able to purchase replacement insurance coverage, Debtor doubts that it would be able to do so on terms and conditions as favorable as those presently in place

under the current Insurance Policies. Given Debtor's current circumstances, there is no assurance that Debtor would be able to obtain replacement insurance quickly enough to prevent a lapse in coverage.

68. The Insurance Policies provide Debtor with essential insurance coverage. Any interruption in such coverage would expose Debtor to serious risks, including: (a) the possible incurrence of direct liability for the payment of claims that otherwise would have been payable by the Insurance Carriers; (b) the possible incurrence of material costs and other losses that otherwise would have been reimbursed by the Insurance Carriers; (c) the possible inability to obtain similar types and levels of insurance coverage; and (d) the possible incurrence of higher costs for re-establishing lapsed policies or obtaining new insurance coverage.

69. Debtor believes that maintaining continued and uninterrupted insurance coverage under the favorable terms and conditions provided by the Insurance Carriers clearly is in the best interests of the Debtor, its estate and its creditors. Debtor seeks authority to pay all of the post-petition installment payments as they come due.

70. Debtor's ability to pay for such insurance will of course depend on Debtor's ability to obtain sufficient debtor in possession financing.

Taxes

71. In the ordinary course of business, Debtor pays taxes to a number of different taxing authorities at the federal, state and local levels (the "Taxes").

72. Taxes accrue as wages are earned and are calculated based upon a statutorily mandated percentage of gross wages employees earn.

73. The Peoples Bank administers Debtor's payroll and disburses the withholding tax obligations to the taxing authorities from Debtor's main operating account.

74. The Internal Revenue Service (“IRS”) asserts that Debtor owes withholding taxes related to pre-petition payroll in the amount of approximately \$3,000.00. Debtor believes this sum relates to employee moving expenses, and disputes the IRS’s claim. Debtor has not paid certain state and local withholding taxes accruing pre-petition, but due and owing post-petition, and certain federal withholding taxes on pre-petition wages that are due and payable post-petition. In connection with the payment of the Pre-Petition Employee Claims, Debtor asks for authority to pay the Taxes.

75. Debtor also pays Taxes involving sales and use taxes, income, *ad valorem*, and other miscellaneous taxes and fees levied under federal, State of Kansas, and local authorities, as identified and described in the Motion for Order Under 11 U.S.C. §§ 105(a) and 541 Confirming Authority and/or Authorizing Debtor to Pay Various Federal, State and Local Taxes (the “Tax Motion”).

76. Debtor believes that most, if not all, of the Taxes likely constitute so called “trust fund” taxes which are required to be collected from third parties and held in trust for payment to taxing authorities. Debtor seeks authority to pay the Taxes in the ordinary course of its business.

Retention of Ordinary Course Professionals

77. Prior to filing its Chapter 11 petition, Debtor employed, from time to time, various accountants and attorneys in the ordinary course of its business to render accounting and audit services, and to provide legal advice and assistance with respect to litigation matters (the “Ordinary Course Professionals”).

78. Debtor desires to continue to employ and retain the Ordinary Course Professionals to render services to its estate similar to those rendered prior to the commencement

of this Chapter 11 case. It would be impractical and inefficient for Debtor to submit individual applications and proposed retention orders to the Court for each such Ordinary Course Professional.

FURTHER AFFIANT SAYETH NOT.

Frederick S. Loomis

Frederick S. Loomis

Subscribed and sworn to before me this 3rd day of October, 2008.

Troy G. Hoehn

NOTARY PUBLIC

My Commission Expires:

6-1-09