

Debtors' Objection to the Proof of Claim Filed by Oildale Energy LLC [Claim No. 9389] (the "Oildale Objection").

By the Oildale Objection, the Debtors seek entry of an order disallowing the proof of claim filed by Oildale Energy LLC ("Oildale") in the amount of \$16,263,764 (the "Oildale Claim").

On July 3, 1991 Witco Corporation ("Witco") (a predecessor to Chemtura Corporation ("Chemtura")) entered into that certain Cogeneration Agreement (as amended, the "Agreement") with Oildale Cogeneration (a predecessor of Oildale). Pursuant to the Agreement, Witco purchased minimum amounts of steam and process heat (the "Steam Purchase Obligations") for use at Witco's refinery located in Oildale, California (the "Refinery") and provided Oildale Cogeneration with various services including use of facilities for treatment and disposal of wastewater (the "Raw Materials and Wastewater Treatment Obligations"). On April 19, 1996, Oildale Cogeneration assigned its rights, title and interest in the Agreement to Oildale and, subsequently, Witco and Oildale executed an amendment to the Agreement substituting Oildale Cogeneration with Oildale (the "First Amendment").

In July 1997, Witco sold certain of its assets including the Refinery to Golden Bear Oil Specialties, Inc. ("GBOS") and assigned its rights, obligations and interests under the Agreement to GBOS. GBOS and Oildale performed under the Agreement for three years and, on April 13, 2000, GBOS executed a second amendment to the Agreement that contained material modifications to the Agreement (the "Second Amendment"). Witco was not a party to the Second Amendment.

On April 23, 2001, GBOS filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On May 29, 2001, GBOS filed a motion to authorize the sale of substantially all of its assets including the Refinery (the "Sale Motion"). In addition, GBOS sought to reject the Agreement. On June 29, 2001, the Bankruptcy Court for the Central District of California entered an order authorizing the sale of substantially all of GBOS's assets including the Refinery to Tricor Refining, Inc. ("Tricor"). The Agreement was also deemed rejected as of June 29, 2001. Thereafter, Tricor began operating the Refinery and also began purchasing steam and process heat from Oildale, notwithstanding the fact that the Agreement had been rejected.

On January 9, 2006, Oildale wrote to Crompton Corporation advising it of certain shortfalls in Witco's Steam Purchase Obligations and Raw Materials and Wastewater Treatment Obligations pursuant to the Agreement. The Debtors maintain that similar letters were sent in January 2007, January 2008 and January 2009. On October 23, 2009, Oildale filed the Oildale Claim asserting (i) \$13,304,000 for the shortfalls in the Steam Purchase Obligations and (ii) \$2,959,764 for the shortfalls in the Raw Materials and Wastewater Treatment Obligations.

The Debtors assert that the Oildale Claim is based on Witco's alleged breach of the Agreement, which is governed by the laws of the State of California. Pursuant to California's Code of Civil Procedures, an action founded upon a contract must be brought within four years. The Debtors contend that because the Agreement was rejected by GBOS on June 29, 2001 during its bankruptcy proceeding, Witco's breach, if any, occurred upon the rejection of the Agreement.

Accordingly, the Debtors submit that California's four-year statute of limitations has expired and the Oildale Claim should be expunged.

Alternatively, the Debtors believe that any and all obligations under the Agreement were discharged pursuant to the First Amendment. The First Amendment included specific language that allowed Witco to freely assign the Agreement and provided that upon such assignment, Witco would be discharged of any and all obligations under the Agreement. In addition, the Second Amendment constituted Oildale's written acknowledgment of GBOS as a capable successor under the Agreement.

The Debtors also contend that even if Witco was not fully and completely discharged of its obligations under the Agreement when it assigned the Agreement to GBOS in 1997, the Second Amendment constituted a novation that extinguished any remaining liability. A novation is the substitution of a new obligation for an existing one that can arise where there are new parties to the agreement. A novation wholly extinguishes the earlier contract. The Debtors believe that the Second Amendment was a novation because (i) GBOS was substituted as one of the contracting parties in place of Witco and (ii) the Second Amendment made material modifications to the terms of the Agreement.

In sum, the Debtors believe that the Oildale Claim should be expunged in its entirety because (i) the statute of limitations has passed to assert a claim for breach of the Agreement, (ii) the First Amendment discharged any and all of Witco's remaining obligations under the Agreement and (iii) the Second Amendment constituted a novation that wholly extinguished any and all of Witco's remaining obligations.

A Hearing on the Oildale Objection has been scheduled for July 13, 2010 at 9:45 a.m. with a corresponding objection deadline of July 6, 2010 at 4:00 p.m.