

Friday, September 5, 2014

Mineral Park mine files for bankruptcy protection

Hubble Ray Smith
Miner Staff Reporter

Friday, September 5, 2014

CHLORIDE - Mineral Park copper mine has filed for Chapter 11 bankruptcy reorganization and obtained an interim order from U.S. Bankruptcy Court for the District of Delaware to continue utility service, according to documents filed Aug. 27.

The court granted a motion prohibiting utility providers from "altering, refusing or discontinuing" service for at least the next 20 days. Uninterrupted utility services are critical to Mineral Park for the purpose of continuing operations at the mine, court documents noted.

Within the 20-day timeframe, Mineral Park must deposit \$1.04 million into a new and separate account that will be maintained with a minimum balance estimated at two weeks' cost of utility services. It's called "adequate assurance deposits."

Mineral Park's average monthly usage of utilities comes to \$2.09 million, including \$1.3 million paid to BP Energy for natural gas, \$503,299 to Unisource for mine site power and \$103,805 to Pioneer Valley Water Co. for fresh water.

A final hearing is scheduled for Sept. 23, with any objections to be filed by Sept. 16.

The parties may come to an agreement before the hearing, said Gilbert Hamberg, a Pennsylvania utilities attorney representing Pioneer Valley Water Co.

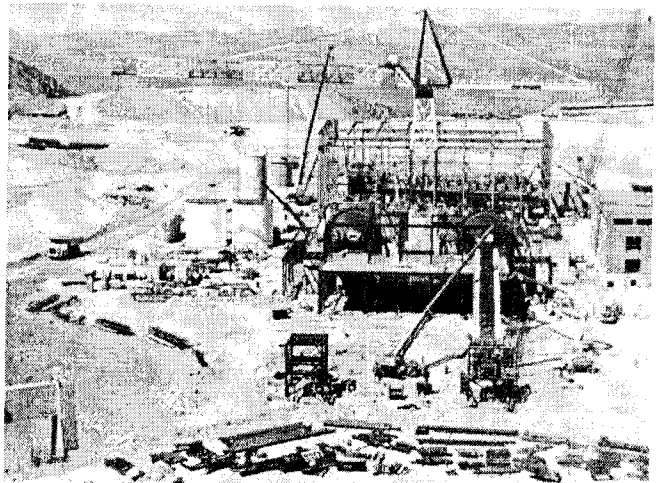
"Very frequently these issues are settled and it never gets to bankruptcy court," he told The Miner in a telephone interview Wednesday.

The water company, based in Golden Valley, has three options, he said. It can do nothing, request a meeting with the debtors or file an objection.

"What we want and what typically happens is the parties get together and reach a settlement. That's the stage we're at now," Hamberg said.

Pioneer Valley manager Bobby Wood said Mineral Park is not behind on payments and the billing for August usage was just mailed out.

"We have a great relationship with Mineral Park," Wood said. "They help us out whenever we



The Mineral Park mine is pictured in a 2012 file photo. (JC AMBERLYN/Miner)

need it like providing electricians to do work for us. What is concerning is our electric bill due for water pumped to the mine. We have to look out for our customers first. If we get in trouble and have to pay those bills, that could hurt us financially."

Mineral Park Inc., a wholly owned subsidiary of Vancouver, B.C.-based Mercator Minerals, is operating as debtors in possession in accordance with the U.S. Bankruptcy Code, according to court documents. No request has been made to appoint a trustee or examiner in the case.

The company does not expect any interruption in operations, said James O'Neill, attorney for Mercator Minerals in Delaware. Lenders have agreed to fund operations in accordance with the budget set by the court, he said.

"As is normal practice in Chapter 11 cases, the company sought and obtained an order to establish procedures for handling deposit requests made by utility companies," O'Neill said via e-mail. "The court approved the company's request and the company will set up and fund adequate assurance deposit account within the next 20 days."

Hamberg, who has represented more than 90 utility companies in bankruptcy cases, said the concept of "adequate assurance" was established in 1978 under section 366 of the Bankruptcy Code. It prohibits a utility from cutting off gas, water, electricity, phone and other services solely due to unpaid pre-petition charges as long as adequate assurance deposits are made as sort of a "security deposit."

In past bankruptcies, utility companies wanted those charges paid in full before other creditors are paid and the company gets sold. In one case, utilities lost a "snootful of money" after the court determined the debtor was good for the billings and no assurance deposit was required, he said.

"As far as adequate assurance goes, you have to provide utilities for the first 20 days after the bankruptcy is filed. At the same time, we're going to allow utilities to ask for adequate assurance. In Arizona, the Arizona Corporation Commission allows utilities to assess 2½ times the monthly bill," Hamberg said.

Mercator had been trying to reach an agreement with a syndicate of lenders to extend their forbearance beyond Aug. 15. The company is actively considering alternatives, including selling the company. Several interested parties have delivered proposals that the board believes would be in the best interest of shareholders.

"Unfortunately, the MPI (Mineral Park) lenders did not constructively engage with the company or our financial advisor," Mercator Chief Executive Officer Bruce McLeod said in an Aug. 26 statement.

There's no guarantee Mineral Park will be successful in bankruptcy reorganization, McLeod said. Failure by the company to achieve its financing and restructuring goals will likely result in the company going bankrupt, he said.

"The company does not intend to disclose further details regarding these matters until the board of directors determines that disclosure is appropriate," the executive added.

Mineral Park is an open-pit copper mine with an estimated 20-year life as of 2013. It can produce up to 50,000 tons of ore a day following an expansion completed in 2011. The mine laid off about 40 workers, roughly 10 percent of its workforce, in September 2013 and missed two deadlines on a \$4.8 million principal payment.

Mercator Minerals stock was down to 3 cents a share on the TSX (Toronto Stock Exchange) before trading was suspended Aug. 26.

Mineral Park started copper production under the Duval Corp. in 1963, producing 12,000 tons of ore a day. The mine was acquired by Cyprus Mining Co. in 1986 and by Equatorial Mining of Australia in 1997. Mercator purchased the mine in 2003.

Related Links:

">Content © 2014

">Software © 1998-2014 **Iup! Software**, All Rights Reserved