

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION**

<b>IN RE:</b>	)	
<b>COAL RIVER RESOURCES, INC., et. al.</b>	)	<b>Chapter 11 Case No.</b>
<b>Debtors</b>	)	<b>7-04-00988</b>
<b>Re: Steven R. Mullins Excavating, Inc.</b>	)	<b>Jointly Administered</b>

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**MEMORANDUM DECISION**

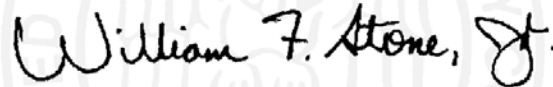
The matter dealt with in this Memorandum Decision is the Debtor’s Motion to Sell and the objection to same filed by Baker Hughes Mining Tools (“Baker Hughes”). By a separate order the Court has granted the Motion to Sell and denied the objection of Baker Hughes, although the Court has incorporated some of the points made by Baker Hughes in its revision of the order requested by the Debtor. This Decision will seek to explain the Court’s reasoning for its decision.

The point in contention between the parties is not the advisability of the sale itself, the good business judgment of the Debtor in proposing the same being readily apparent after the hearing on the Motion, but whether the Court should impose any conditions regarding the use of the net sale proceeds by the Debtor as urged by counsel for Baker Hughes. After consideration of the arguments and authorities offered by counsel for the parties, the Court concludes that there is no sufficient showing before the Court that the Debtor-in-possession’s control over its working capital should be taken over by the Court. The Court does believe, however, that full disclosure to creditors of all relevant information is critical. Accordingly, it has accepted counsel’s suggestion that this Court order that the Amended Disclosure Statement due to be filed on or before April 15, 2005 incorporate information about this transaction and the

Debtor's intended use of the proceeds so that creditors can be fully advised of these developments and can take such action as they may determine appropriate to protect their interests. By saying this the Court does not wish to imply that it believes that any such action appears needed, but just that it is the creditors principal responsibility after being informed to file such motions or other pleadings as they believe necessary under the facts and the law to present squarely to the Court the relief which they seek. If a creditor has reason to doubt the merit of the Debtor's continued operation of its business and/or its judgment as the best way to utilize its working capital, such questions, as a general matter at least, should be addressed in the context of the plan confirmation process or a motion to dismiss or convert the case, not by the Court seeking to impose an escrow upon such working capital as an element of its approval of a motion to sell some of its equipment.

The Clerk is requested to send copies of this Memorandum Decision to the Debtor, Debtor's counsel, counsel for the parties which filed a response to the Debtor's Motion, and Margaret K. Garber, Esq., counsel for the United States Trustee.

This 8<sup>th</sup> day of April, 2005.



William F. Stone, Jr.

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UNITED STATES BANKRUPTCY JUDGE

