

Form JDG11 (10/09)

**United States Bankruptcy Court
Western District of Michigan**
One Division Ave., N.
Room 200
Grand Rapids, MI 49503

IN RE: Debtor (name used by the debtor in the last 8 years, including married, maiden, trade, and address):

Debra L Boyd
6070 Carriage Hill Dr., Apt
24
East Lansing, MI 48823
SSN: xxx-xx-2575

Debtor

Case Number 12-00451-jtg

Chapter 7

Honorable John T. Gregg

NOTICE TO PARTIES IN INTEREST OF HEARING

YOU ARE HEREBY NOTIFIED that a hearing will be held at the United States Bankruptcy Court, U. S. Post Office & Courthouse Bldg., 315 W. Allegan, Room 101, Lansing, MI 48933 on **December 2, 2014** at **10:00 AM** to consider and act upon the following matter:

Trustee's Motion to Sell Mineral Rights Located in Mobile County, Alabama

If you want the court to consider your views on this matter, attend the hearing on the date stated above.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. (If you do not have an attorney, you may wish to consult one.)

You or your attorney may wish to file a written response to the motion explaining your position. Any response shall be mailed to the Clerk of the United States Bankruptcy Court, One Division Ave., N., Grand Rapids, Michigan 49503, and should be received by the Clerk at least 7 (seven) days before the above hearing date. A copy of your responses should also be mailed upon the opposing party and his/her attorney.

If you or your attorney do not take these steps, the court may decide to grant the relief sought in the motion and may enter an order granting relief requested.

DANIEL M. LAVILLE
CLERK OF BANKRUPTCY COURT

Dated: October 27, 2014

/s/ _____
Kim Davis
Deputy Clerk

A copy of this notice returned to Scott A. Chernich, Esq. on October 27, 2014 for service upon the mailing matrix.

NOTICE IS HEREBY GIVEN THAT THE COURT MAY, in its discretion, orally continue or adjourn the above hearing on the record in open court. If this occurs, parties in interest will not be given further written notice of the continued or adjourned hearing. If an entity is not present at the originally scheduled hearing, information regarding the time, date and place of an orally continued or adjourned hearing may be accessed through the Bankruptcy Court's web site (www.miwb.uscourts.gov) provided the person has a PACER login and password, or by visiting the clerk's office of the United States Bankruptcy Court located at One Division Ave., N., 2nd Floor, Grand Rapids MI 49503. Information about a PACER login and password may be obtained by either calling PACER service center between 8:00 a.m. and 5:00 p.m. Monday through Friday, CST at (800) 676-6856 or via its web site at <http://pacer.psc.uscourts.gov>

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

IN RE: Hon. John T. Gregg
DEBRA L. BOYD, Case No. 12-00451 jtg
Debtor: Chapter 7

**CHAPTER 7 TRUSTEE'S MOTION
TO OBTAIN AUTHORITY TO SELL MINERAL RIGHTS LOCATED
IN MOBILE COUNTY, ALABAMA, TO APPROVE AUCTION PROCEDURES
AND TO PAY ESTATE INCOME TAXES DUE FROM SALE OF THE MINERAL
RIGHTS AND REQUEST FOR HEARING**

Chapter 7 Trustee, Scott A. Chernich ("Trustee"), by his attorneys, Foster, Swift, Collins & Smith, PC, for his Motion to Obtain Authority to Sell the Mineral Rights Located in Mobile County, Alabama pursuant to 11 U.S.C. § 363 of the Bankruptcy Code and Bankruptcy Rule 6004, to Approve Auction procedures, to Pay the Estate Income Taxes Due From the Sale of the Mineral Rights and Request for Hearing, states as follows:

1. Debtor, Debra L. Boyd ("Debtor") converted from a Chapter 13 proceeding to one under Chapter 7 of the Bankruptcy Code on February 22, 2013.
2. The Trustee was appointed the Chapter 7 Trustee at the first meeting of creditors held on April 11, 2013.
3. Among the assets of her estate, the Debtor lists an interest in mineral rights located in Mobile County, Alabama ("Mineral Rights") with a fair market value of approximately \$87,000.00.

4. The Trustee is informed and believes that there are no liens or encumbrances on the Mineral Rights. The Trustee is claiming the equity net of the Debtor's exemptions as property of the bankruptcy estate.

Proposed Sale under 11 U.S.C. § 363

5. The Trustee intends to sell the following described Mineral Rights: Each and every mineral, mineral interest, royalty interest, non-participating royalty interest, gas and mineral lease, and every interest of every description whatsoever in leased, unleased, producing, non-producing, produced and stored, severed and unsecured interests in oil, gas and other minerals of every conceivable type and description, including any rights of way or easements, if any, as may be owned by the Debtor, legally or equitably, pre-petition, if any, for property located in Mobile County, Alabama, including but not limited to, the bankruptcy estate's interest in the following described units included in a transfer schedule attached as **Exhibit A** and made a part hereof. The mineral interests herein conveyed include:

.00043537 and a .00026122 royalty interest in the Hatter's Pond Unit 15-6, Tract 1500; and

.00347224 and a .00208334 royalty interest in the Hatter's Pond Unit, Tract 2200; and

.00043537 and a .00026122 royalty interest in the Hatter's Pond Unit 15-6, Tract 1500 TIPS; and

.00347224 and a .00208334 royalty interest in the Hatter's Pond Unit, Tract 2200 TIPS.

6. Under 11 U.S.C. § 363(b), the Trustee, after notice and a hearing, may sell property of the estate.

7. The Trustee received an offer to purchase the Mineral Rights from Chiderbri Minerals, L.P. of Bldg. 2, Suite 204, 9310 Broadway, San Antonio, Texas, 78217 and Patterson Royalties, LLC of 622 W. Rhapsody, Suite A, San Antonio, Texas 78216-2607 for \$18,848.00,

("Purchasers"). The Purchasers are each purchasing 50% of the Mineral Rights. The Asset Purchase Agreement entered into between the Trustee and Purchasers is attached as **Exhibit B**.

8. The Trustee believes that the Mineral Rights should be sold to the Purchasers for \$18,848.00, because:

- a. the Mineral Rights are a depleting asset and continue to reduce in value each day;
- b. the purchase price is based on a current market study conducted by Purchasers and based upon current prices in the industry;
- c. oil prices are down approximately 25% in the last few months;
- d. Purchasers are in the business of buying Mineral Rights, and therefore, have expertise in determining the value of the Mineral Rights; and

9. The Purchasers are not related to or affiliated with the Debtor or the Trustee.

10. The Trustee requests authority to sell the Mineral Rights free and clear of all interests under 11 U.S.C. § 363.

Debtor's Exemptions

11. The Debtor exempted \$11,648.00 of the equity pursuant to 11 U.S.C. § 522(d)(5).

12. The Debtor has been receiving monthly royalty checks since the date of conversion and, to date, has received royalty checks totaling \$10,060.18 post-petition. Debtor exempted \$11,648.00 in the Mineral Rights pursuant to 11 U.S.C. § 522(d)(5). After the deduction of royalty checks received post-petition and post-conversion, the Debtor is owed \$1,587.82 in exemptions.

Terms of Auction Sale

13. The Trustee is also requesting a hearing on this Motion and will conduct a sale in open Court according to the following sales procedures:

a. The initial bid shall be that contained in the Offer to Purchase in the amount of \$18,848.00.

b. The Trustee may receive competing bids for the Mineral Rights; provided, however, that no bid shall be accepted by the Trustee unless the bid exceeds the offer to purchase price by not less than \$500.00. Each subsequent bid made thereafter shall be in minimum increments of \$500.00.

c. Any third party wishing to bid at the hearing conducted by the Bankruptcy Court with respect to the sale shall be required to submit to the Trustee, no later than three (3) days prior to the hearing date, the sum of \$500.00 in immediately available funds as an earnest money deposit in the event that the third party is the successful bidder at the sale.

d. The third party bidder will be required to enter into an Asset Purchase Agreement, a copy of which is attached as **Exhibit C**, and will have done all of its due diligence and be prepared to finalize the purchase of the Mineral Rights upon entry of an Order approving the sale of the Mineral Rights.

e. The Purchasers shall be afforded an opportunity to over bid any bid received from a qualified third party bidder.

f. The Purchasers and/or third party purchaser will be responsible for the 2013 and 2014 ad valorem taxes.

g. The effective date of the Assignment will be the first day of the month in which the Order approving the sale is entered with the Court. All royalties currently being held in a suspended account and royalties owed before the first day of the month in which the Order approving the sale is entered with the Court are property of the Bankruptcy estate.

14. The Trustee reserves the right to reject any and all bids, and all bids are subject to the approval of the Bankruptcy Court.

15. The purchase price must be paid in full to the Trustee in certified funds at the time of closing.

16. The sale of the Mineral Rights shall be on an "AS IS, WHERE IS" basis without representation or warranty, express or implied, of any kind, nature or description, including any warranty by description or of merchantability, habitability, usability or fitness for any particular purpose. The Trustee shall not be required to inspect, test or report on the condition of the Mineral Rights or of the existence of any possible defects in the Mineral Rights. The Trustee specifically makes no representation or warranty as to the validity, enforceability, or transferability of the Mineral Rights. All bidders must perform their own due diligence, including but not limited to title searches.

17. The Mineral Rights shall be transferred free and clear of all liens or claims thereon, with the interest of any party asserting a lien or claim thereon attaching to the proceeds of the sale in the same order, rank, validity and priority as they presently may exist on the Mineral Rights.

18. The Trustee reserves the right, but is not required, to select an alternate or "back up" bid in the event that a closing of the sale to the winning bidder does not occur.

19. The Trustee believes that conducting an auction sale in this manner is commercially reasonable under the circumstances and will generate the highest return for the bankruptcy estate.

Estate Income Taxes

20. The Trustee has determined that the sale of the Mineral Rights will cause a taxable event.

21. Because the Mineral Rights may sell at a higher price, the Trustee does not have exact Federal and State tax figures. However, the Trustee's accountant estimates that Federal taxes will be approximately \$868.00 and State of Michigan taxes will be approximately \$626.00.

Conclusion

22. After paying the administrative claims of the estate and the balance of the Debtor's exemption, the Trustee estimates that there will be a distribution to allowed unsecured claims.

23. A copy of the proposed Order Granting Trustee's Motion to Sell Real Estate is attached as **Exhibit D**.

WHEREFORE, the Trustee requests that an order be entered with the Court:

- A. scheduling a hearing to hold a Courthouse auction; and
- B. granting his motion to obtain authority to sell the Mineral Rights in Mobile County, Alabama as described above to the Purchasers, Chiderbri Minerals, L.P. and Patterson Royalties, LLC or any third party bidder; and
- C. allowing the Trustee to enter into an Assignment of the Mineral Rights with Purchasers Chiderbri Minerals, L.P. and Patterson Royalties, LLC or any third party bidder; and

- D. allowing the Trustee to pay the Debtor her remaining exemption of \$1,587.87;
and
- E. to pay the Estate Income Taxes Due from the sale of the Mineral Rights; and
- F. granting the Trustee any such other and further relief as may be just and proper.

Respectfully submitted,

FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for the Chapter 7 Trustee



Dated: October 23, 2014

By: /s/Scott A. Chernich
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