

C/007/020 Incoming  
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**DIV. OF OIL, GAS & MINING**

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

15 In Re: ) Chapter 11  
16 )  
17 AMERICA WEST RESOURCES, INC., *et al.*, ) Jointly Administered Under  
18 Debtors. ) Case No. BK – 13-10865 bam  
19 ) **NOTICE OF ENTRY OF ORDER**  
20 ) **[DKT. NO. 165]**

21 **PLEASE TAKE NOTICE** that the Court in the above-captioned case entered the attached *Order*  
22 *Authorizing Procedure for (I) Rejection or Assumption and Assignment of Executory Contracts and*  
23 *Unexpired Leases and (II) Setting Forth Cure Amounts*, and approved the attached *Notice* relating to the  
24 Order [Dkt. No. 165, entered 3/11/2013].

**DATED** this 12th day of March, 2013.

FLASTER/GREENBERG P.C.

BY: /s/ Steven D. Usdin

Steven D. Usdin, Esq. (Admitted Pro Hac Vice)  
William J. Burnett, Esq. (Admitted Pro Hac Vice)  
Eric J. Van, Esq. (Nevada Bar No. 10259)

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*Bruce A. Markell*

Honorable Bruce A. Markell  
United States Bankruptcy Judge



Entered on Docket  
March 11, 2013

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In Re:	)	Chapter 11
	)	
AMERICA WEST RESOURCES, INC., <i>et al.</i> ,	)	Jointly Administered Under
	)	Case No. BK – 13-10865 bam
Debtors.	)	
	)	<b>ORDER AUTHORIZING</b>
	)	<b>PROCEDURE FOR (I) REJECTION</b>
	)	<b>OR ASSUMPTION AND</b>
	)	<b>ASSIGNMENT OF EXECUTORY</b>
	)	<b>CONTRACTS AND UNEXPIRED</b>
	)	<b>LEASES AND (II) SETTING FORTH</b>
	)	<b>OF CURE AMOUNTS</b>

Debtors, America West Resources, Inc.; Hidden Splendor Resources, Inc.; America West Marketing, Inc.; and America West Services, Inc. d/b/a Wildcat Loadout (each a “Debtor,” and collectively, the “Debtors”) filed a *Motion for Order Authorizing Procedure for (i) Rejection or Assumption and Assignment of Executory Contracts and Unexpired Leases and (ii) Setting Forth of Cure Amounts* (the “Motion”) [ECF No. 68], which came on for hearing before this Court on March 6, 2013 at 10:00 a.m. All appearances were duly noted on the record at the hearing on this Motion.

The Court having reviewed the Motion and all matters submitted therewith; and upon consideration of the Motion and any response thereto; and notice of the Motion having been proper; the Court having stated its findings of fact and conclusions of law at the hearing; and good cause appearing therefor;

**IT IS HEREBY ORDERED** as follows:

1 1. The Motion is granted.

2 2. The Court hereby approves the form of *Notice of Proposed (i) Rejection or Assumption*  
3 *and Assignment of Executory Contracts and Unexpired Leases and (ii) Cure Amounts for Assumed*  
4 *Contracts* (the “Contract Notice”), attached hereto as Exhibit 1, and all procedures for the assumption  
5 and assignment of executory contracts and unexpired leases set forth therein, including but not limited  
6 to the following procedures for the Sale of the Assets of the Debtors:<sup>1</sup>

7  
8 (a) To the extent that any entity that is party to a Contract with the Debtor  
9 listed on Exhibit 2 to the Motion objects to the Cure Amounts shown with  
10 respect to their Contract; such party must file a written objection (a “Cure  
11 Objection”) prior to March 28, 2013 at 5 p.m. PDT (the “Cure Objection  
12 Deadline”).

13  
14 (b) Any Cure Objection must state the specific defaults alleged by the  
15 objecting party, as well as the amount alleged necessary to cure the  
16 default. If a timely Cure Objection for a given Contract is not filed, and  
17 that Contract is assumed and assigned, the holder of the Contract will  
18 receive the Cure Amount listed on Exhibit 2 to the Motion in the manner  
19 provided in the final Asset Purchase Agreement entered into between the  
20 Successful Bidder and the Debtors.

21  
22 (c) To the extent that any entity that is party to a Contract with the Debtor  
23 listed on Exhibit 2 to the Motion objects to the potential assumption and  
24 assignment of their Contract in connection with the Sale, or the potential  
25 rejection of their Contract if it is not assumed and assigned to the  
26 Successful Bidder in connection with the Sale, such party must make an  
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<sup>1</sup> All undefined capitalized terms used herein shall have the meaning set forth in the Motion.

1 objection (an "Assumption/Rejection Objection") by: (i) filing a written  
2 objection before the Sale Hearing, and/or (ii) appearing at the Sale  
3 Hearing and setting forth the Assumption/Rejection Objection in person at  
4 the Sale Hearing.

5 (d) The results of the Auction may not be made available to holders of  
6 Contracts until the Sale Hearing or shortly before the Sale Hearing, and  
7 the Debtors may not file a notice setting forth the Successful Bidder and  
8 any Contracts that will be assumed and assigned until after the Sale  
9 Hearing is completed. Therefore, holders of Contracts may not be  
10 informed whether or not their Contract will in fact be assumed and  
11 assigned to the Successful Bidder until the Sale Hearing. However, they  
12 will not have the opportunity to file an objection after the Sale Hearing.  
13 Holders of Contracts may prospectively file an Assumption/Rejection  
14 Objection at any time prior to the date of the Auction, without knowledge  
15 of the identity of the Successful Bidder or whether their Contract will be  
16 rejected or assumed and assigned.

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18  
19 (e) To the extent the Debtors do not seek to assume and assign any particular  
20 Contract as part of any Sale, such Contract shall be deemed rejected  
21 pursuant to Section 365 of the Bankruptcy Code, and such rejection will  
22 be deemed to have occurred as of the date that this Court enters an Order  
23 approving this Motion.

24  
25 (f) The Debtors reserve the right to seek hearing on any Cure Objection or  
26 Assumption/Rejection Objection on an expedited basis, including upon an  
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1 order shortening time or by hearing via telephonic appearance, as  
2 necessary to resolve such objection prior to the Sale Hearing.

3 (g) Any unresolved issues in any Cure Objection or Assumption/Rejection  
4 Objection will be heard at the Sale Hearing.

5 (h) Failure to timely file and serve a Cure Objection by the Cure Objection  
6 Deadline or to set forth an Assumption/Rejection Objection by the Sale  
7 Hearing shall forever bar the holder of a Contract from asserting a Cure  
8 Objection or an Assumption/Rejection Objection, respectively.  
9

10 4. Within two business days after entry of this Order, the Debtors shall serve the Contract  
11 Notice upon all counterparties to all executory contracts and unexpired leases set forth in the Contract  
12 Notice.

13 **IT IS SO ORDERED.**

14  
15  
16 PREPARED AND SUBMITTED:

17  
18 FLASTER/GREENBERG P.C.

19  
20 By: \_\_\_\_\_

21 Steven D. Usdin, Esq.  
22 William J. Burnett, Esq.  
23 Eric J. Van, Esq.  
24 4 Penn Center, 2nd Floor  
25 1600 J.F.K. Boulevard  
26 Philadelphia, PA 19103  
27 *Counsel for the Debtors*  
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**LR 9021 CERTIFICATION**

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In accordance with LR 9021, counsel submitting this document certifies that the Order accurately reflects the Court's ruling and that:

- The Court waived the requirement of approval under LR 9021.
  - No party appeared at the hearing or filed an objection to the Motion.
  - I have delivered a copy of this proposed Order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]
- Pursuant to the Court's direction, a copy of the proposed form of Notice was served upon all parties appearing at the hearing. No party disapproved of the form of Notice.
- I certify that this is a case under Chapter 7 or 13, that I have served a copy of this Order with the Motion pursuant to LR 9014(g), and that no party has objected to the form or content of the Order.

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Exhibit 1  
Contract Notice

1 both filed with the Bankruptcy Court and served on the Debtors on or before March 28, 2013 (the  
2 "Cure Objection Deadline") at the following addresses:

3	Flaster/Greenberg, P.C.	Sidhu Law Firm, LLC
4	Attn: William J. Burnett, Esq.	Attn: Ambrish S. Sidhu, Esq.
5	1600 John F. Kennedy Blvd., 2nd Floor	810 S. Casino Center Blvd., Suite 104
	Philadelphia, PA 19103	Las Vegas, NV 89101

6 PLEASE TAKE FURTHER NOTICE that if you do not timely file and serve a Cure Objection  
7 by the Cure Objection Deadline, then the Bankruptcy Court may refuse to allow you to speak  
8 regarding your proposed Cure Amount at the hearing on approval of the Sale to the Successful Bidder  
9 (the "Sale Hearing") and may rule against you without formally calling the matter at the Sale Hearing,  
10 upon which you will be forever barred from asserting a Cure Objection.  
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12 PLEASE TAKE FURTHER NOTICE that any Cure Objection must state the specific defaults  
13 alleged by you, as well as the amount you allege is necessary to cure the default. If you do not file a  
14 timely Cure Objection, and your Contract is assumed and assigned, you will receive the Cure Amount  
15 listed on Exhibit A in the manner provided in the final Asset Purchase Agreement entered into between  
16 the Successful Bidder and the Debtors. **ANY COUNTERPARTY THAT DOES NOT TIMELY**  
17 **OBJECT TO THE CURE AMOUNT LISTED ON EXHIBIT A SHALL BE DEEMED TO**  
18 **CONSENT TO THE CURE AMOUNT LISTED ON EXHIBIT A.**  
19

20 PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to seek hearing on any  
21 Cure Objection on an expedited basis, including upon an order shortening time or by hearing via  
22 telephonic appearance, as necessary to resolve such Cure Objection prior to the Sale Hearing.  
23

24 PLEASE TAKE FURTHER NOTICE that the Sale Hearing is scheduled to be held on April 4,  
25 2013, at 1:00 p.m. (Pacific Daylight Time), before the honorable Bruce A. Markell, United States  
26 Bankruptcy Judge in Courtroom No. 3, Foley Federal Building, 300 Las Vegas Boulevard South, Las  
27 Vegas, NV 89101. Any unresolved issues in any Cure Objection will be heard at the Sale Hearing.  
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**ASSUMPTION/REJECTION OBJECTIONS**

1 PLEASE TAKE FURTHER NOTICE that if you disagree with the potential assumption and  
2 assignment of your Contract in connection with the Sale, or the potential rejection of your Contract if it  
3 is not assumed and assigned to the Successful Bidder in connection with the Sale, you must make an  
4 objection (an "Assumption/Rejection Objection") by: (i) filing a written objection with the Bankruptcy  
5 Court and serving the objection on the Debtors at the addresses in the preceding paragraph before the  
6 Sale Hearing, and/or (ii) appearing at the Sale Hearing and setting forth the Assumption/Rejection  
7 Objection in person at the Sale Hearing.  
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9 PLEASE TAKE FURTHER NOTICE that if you do not timely file and serve an  
10 Assumption/Rejection Objection before the Sale Hearing, or raise an Assumption/Rejection Objection  
11 at the Sale Hearing, then the Bankruptcy Court may rule against you, upon which you will be forever  
12 barred from asserting an Assumption/Rejection Objection.  
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14 PLEASE TAKE FURTHER NOTICE that if you do not specifically state in your  
15 Assumption/Rejection Objection that you refuse to consent to the entry of final orders or judgment by  
16 the Bankruptcy Judge, your consent to the jurisdiction of the Bankruptcy Court to enter such final  
17 orders and/or judgment is implied.  
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19 PLEASE TAKE FURTHER NOTICE that the Auction will be held shortly before the Sale  
20 Hearing, and therefore the results of the Auction may not be made available to you until the Sale  
21 Hearing or shortly before the Sale Hearing, and the Debtors may not file a notice setting forth the  
22 Successful Bidder and any Contracts that will be assumed and assigned until after the Sale Hearing is  
23 completed. You may not be informed whether or not your Contract will in fact be assumed and  
24 assigned to the Successful Bidder until the Sale Hearing. However, you will not have the opportunity  
25 to file an objection after the Sale Hearing. **IF YOU INTEND TO OBJECT TO THE REJECTION**  
26 **OF YOUR CONTRACT, OR TO THE ASSUMPTION AND ASSIGNMENT OF YOUR**  
27 **CONTRACT TO THE SUCCESSFUL BIDDER, YOU MUST OBJECT AT OR BEFORE THE**  
28

1 **SALE HEARING, EVEN THOUGH THE SUCCESSFUL BIDDER WILL NOT BE**  
2 **DETERMINED UNTIL THE AUCTION OCCURS AND YOUR CONTRACT WILL NOT**  
3 **HAVE BEEN CHOSEN FOR REJECTION OR ASSUMPTION AND ASSIGNMENT UNTIL**  
4 **THE AUCTION OCCURS.** You may prospectively file an Assumption/Rejection Objection at any  
5 time prior to the date of the Auction, without knowledge of the identity of the Successful Bidder or  
6 whether your Contract will be rejected or assumed and assigned.  
7

8 PLEASE TAKE FURTHER NOTICE that upon the assumption and assignment of any  
9 Contracts, the Debtors will be relieved of all liability arising out of the assumption and assignment of  
10 such Contracts pursuant to section 365(k) of Title 11 of the United States Code (the "Bankruptcy  
11 Code").

12 PLEASE TAKE FURTHER NOTICE that the Sale Hearing is scheduled to be held on April 4,  
13 2013, at 1:00 p.m. (Pacific Daylight Time), before the honorable Bruce A. Markell, United States  
14 Bankruptcy Judge in Courtroom No. 3, Foley Federal Building, 300 Las Vegas Boulevard South, Las  
15 Vegas, NV 89101.  
16

17 PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to seek hearing on any  
18 Assumption/Rejection Objection filed prior to the Sale Hearing on an expedited basis, including upon  
19 an order shortening time or by hearing via telephonic appearance, as necessary to resolve such  
20 Assumption/Rejection Objection prior to the Sale Hearing.  
21

22 PLEASE TAKE FURTHER NOTICE that nothing in the Bid Procedures Order, the Contract  
23 Order, or this Notice requires the Debtors to assume and assign any particular Contract as part of any  
24 Sale. The Debtors will offer to prospective bidders a list of all Contracts, and qualified bidders  
25 participating in the Auction will set forth a list of the Contracts that they will seek to have the Debtors  
26 assume and assign as part of the Sale. Any proposed assumption and assignment of any Contract will  
27 only occur in connection with the Sale if the Debtors receive an acceptable bid for the Assets that  
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1 requires such assumption and assignment. Any Contracts which are assumed and assigned by the  
2 Debtors will be assumed and assigned to the Successful Bidder in the manner provided in the final  
3 Asset Purchase Agreement entered into between the Successful Bidder and the Debtors.

4 PLEASE TAKE FURTHER NOTICE that to the extent the Debtors do not seek to assume and  
5 assign any particular Contract as part of any Sale, such Contract shall be deemed rejected pursuant to  
6 Section 365 of the Bankruptcy Code, and such rejection will be deemed to have occurred as of the date  
7 of the Contract Order.  
8

9 PLEASE TAKE FURTHER NOTICE that nothing in the Bid Procedures Order, the Contract  
10 Order, or this Notice shall be deemed a representation by the Debtors that each Contract is in fact an  
11 executory contract or unexpired lease. The Debtors reserve all rights to assert that any particular  
12 Contract is not an executory contract or unexpired lease to the extent necessary.  
13

14 **DATED** this 11th day of March, 2013.

15 FLASTER/GREENBERG P.C.

16 BY: /s/ William J. Burnett

17 Steven D. Usdin, Esq. (Admitted Pro Hac Vice)

18 William J. Burnett, Esq. (Admitted Pro Hac Vice)

19 Eric J. Van, Esq. (Nevada Bar No. 10259)  
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