IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:	)	CASE NO. 13-40813
	)	CHAPTER 11
D & L ENERGY, INC.	)	
	)	JUDGE KAY WOODS
Debtor and Debtor-in-Possession	)	
	)	
DEBTOR	)	
	)	
IN RE:	)	
	)	
PETROFLOW, INC.	)	
	)	
An Ohio Corporation	)	
(Employer Tax I.D. No. 34-1533026)	)	
	)	
DEBTOR	)	

MEMORANDUM IN SUPPORT OF
CHAPTER 11 PETITION AND FIRST DAY MOTIONS

In support of the Chapter 11 petitions and first day motions filed in the above captioned Chapter 11 cases, the Debtors, D&L Energy, Inc. ("D&L") and Petroflow, Inc. ("Petroflow") (collectively the "Debtors") state as follows:

PART I

BACKGROUND

1. On April 16, 2013 (the "Petition Date"), Debtors filed their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

2. The Debtors are operating their business as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. To date, no trustee, examiner, or official committee of unsecured creditors has been appointed.

Summary of Capital Structure and Historical Business Operations

3. D&L is a "C" corporation formed under the laws of the State of Ohio, with its primary business operations being located at 2761 Salt Springs Road, Youngstown, Ohio 44509. D&L was originally formed by David DeChristofaro, Ben Lupo, and James Beshara in 1986 to be a conventional oil and gas well operator and producer, primarily targeting oil and gas reserves in the Clinton Sandstone formation throughout Northeast Ohio and Northwest Pennsylvania. D&L currently has three (3) shareholders, Ben Lupo ("Lupo") (80.76% shareholder), Susan Faith ("Faith") (15% shareholder), and Holly Serensky Lupo ("Serensky Lupo") (4.24% shareholder), all of whom have deposited their D&L stock into the D & L Energy, Inc. Voting Trust dated July 7, 2008 (the "D&L Voting Trust"). Nicholas C. Paparodis ("Paparodis") is the current Trustee of the D&L Voting Trust and is the acting CEO and President of D&L. Kathy Kaniclides ("Kaniclides") is the acting Secretary and Treasurer of D&L. Currently, Serensky Lupo is the sole director of D&L.

4. Under the basic terms of the D&L Voting Trust, upon the issuance of the voting trust certificates, each shareholder surrendered legal title to all shares represented by the stock certificates to the D&L Voting Trust and/or the corresponding Trustee of the Voting Trust, including the voting, consenting and other rights provided for under D&L's code of regulations and articles of incorporation. Although the shareholders were divested of legal title to the shares, pursuant to the terms of the D&L Voting Trust Agreement, the shareholders retained their respective beneficial interests to the shares and received voting trust certificates (in proportion to their ownership of stock in D&L) in exchange for their deposit of the stock certificates.

5. As part of its operations, D&L has been involved in a number of joint ventures and limited partnerships that drill, own and operate conventional oil and gas wells throughout Northeast Ohio and Northwest Pennsylvania. Typically these joint ventures and limited partnerships would hire D&L for the drilling of the well(s), which D&L performed through its wholly owned subsidiary, Petroflow, Inc. (affiliated to D&L through common ownership from 1986 – its formation – until 2008 and a wholly owned subsidiary of D&L since 2008), and in return, D&L would receive a turn key price, profit would depend on cost less the turn key price. Once the well(s) were completed and operational, D&L would then be retained by the joint ventures or limited partnerships to manage and operate the wells, for which it receives a manager's fee, typically based upon a percentage of the gross revenues of the well(s). D&L manages and operates approximately 580 conventional oil and gas wells throughout Northeast Ohio and Northwest Pennsylvania. Additionally, if D&L participated in the joint venture or limited partnership, it receives a percentage of the net revenues of the well(s) owned by such joint venture or limited partnership, commonly referred to as a "working interest percentage."

6. D&L has also been involved in the drilling, construction, operation and ownership of saltwater injection wells in the State of Ohio. Saltwater injection wells are used to dispose of the saltwater brine produced during the drilling of oil and gas wells. In return, D&L receives a percentage of the cost to complete the saltwater injection well and facility (e.g. 10% of the completion cost). D&L has also served as the manager and operator of at least one saltwater injection well, receiving a manager's fee based upon a percentage of the gross revenues of the saltwater injection well. D&L has invested in several saltwater injection wells with other limited liability company members.

7. More recently, D&L's operations have involved the leasing and marketing of oil and gas leases throughout Northeast Ohio and Northwest Pennsylvania. Historically, D&L acquired oil and gas leases to drill conventional oil and gas wells on, either as part of a joint venture or limited partnership. If assigned to a joint venture or limited partnership, D&L would typically retain an overriding royalty interest in the assigned lease, entitling it to a certain percentage of the gross revenues from the well(s) located on the lease. Due to the development of hydrofracturing technology (i.e. "fracking") and the discovery of oil and gas reserves in the Utica and Marcellus Shale formations in Ohio and Pennsylvania, over the past several years D&L has been involved in marketing and selling the "deep rights" to its oil and gas leases. The term "deep rights" commonly refers to those formations below the top of the Queenston Shale formation, or its stratigraphic equivalent. In a typical "deep rights" sale, D&L receives both a payment based upon an established price per acre, and an overriding royalty on the oil and gas leases assigned in the sale. D&L has also marketed the "deep rights" of its joint venture and limited partnership partners in exchange for a certain percentage of the final purchase price.

8. Between 2011 and 2012, D&L sold portions of its "deep rights" to various purchasers for gross proceeds in excess of $17,000,000.00. The proceeds from the sale of these "deep rights" were utilized for various purposes, including payment of outstanding liabilities and reinvestment in other assets of the D&L, such as saltwater injection/disposal wells. D&L currently owns some or all of the "deep rights" to approximately 17,000 acres of real estate. D&L's interest in these "deep rights" has substantial value as the average sale price for the "deep rights" pertaining to one acre of real estate is in excess of $2,300.00.

9. As previously mentioned above, Petroflow is an Ohio corporation which is a wholly owned subsidiary of D&L. Although Petroflow was originally intended as, and did for a time act as the drilling arm of D&L, Petroflow's operations became substantially integrated with that of D&L. As of the date of the filing of these petitions, Petroflow has ceased all operations and has, for all intents and purposes, been integrated into D&L. In this regard, Petroflow has no current income, no bank accounts, no employees and all of the company's assets and liabilities were assumed by D&L prior to the filing of the bankruptcies. Petroflow filed a separate bankruptcy petition in order to relieve it from claims and/or litigation it anticipates arising in the near future.

10. D&L currently employs 18 hourly and/or salaried employees. Petroflow has no current employees. Gross revenues, excluding any amount received by way of a sale of Debtors' assets, for Debtor's business are projected to be approximately $2,206,800.00 for the 2013 fiscal year. D&L believes it has assets valued in excess of $50,000,000.00.

Events Leading to the Filing of the Present Chapter 11 Case

11. The Debtors have faced a series of unanticipated operational and market challenges that have adversely affected their operations and cash flows. Specifically, in early 2013, the then-principal of D&L (i.e. Lupo) was accused of violating the U.S. Clean Water Act by allegedly instructing agents/employees of a separate entity (i.e. Hardrock Excavating) to dump waste water in an improper manner. Amid these allegations, Lupo resigned from the D&L in his capacity as an officer and as a director. Although Lupo technically retained his 80.76% ownership

interest in the stock certificates/voting trust certificates, as of February 2013, Lupo assigned all of his voting rights/proxy to Serensky Lupo – effectively relinquishing all of his dealings/interactions with D&L. Paparodis is currently the sole director and president and CEO of Petroflow. In addition to the liabilities associated with the clean up process and the loss of good will, it has come to Debtors' attention that Faith, Lupo or others may have improperly diverted funds of the Debtors to other business entities owned or operated by one or more of these individuals for little or no consideration.

12. As a result of Lupo's alleged actions, the Debtors were forced to incur substantial clean up costs in order to comply with federal and state authorities and various environmental regulations. In addition to the substantial monetary liabilities associated with the clean up process, the Debtors' general business reputations have suffered greatly as well and have resulted in decreased business operations/revenues. Since the dumping allegations first came to light, the Debtors have cut unnecessary costs in order to remain competitive within the industry, including reducing their number of employees. The Debtors have also begun the liquidation process of certain assets of D&L – namely, marketing the shares of D&L's interest in certain saltwater injection disposal wells (the "Disposal Wells"). However, even with considerable cost cutting efforts and the potential liquidation of assets, due to the substantial monetary liabilities associated with the clean up process and other related litigation, the Debtors (and more specifically, D&L, as Petroflow has effectively ceased its operations) cannot continue to operate without the protections of the bankruptcy court.

13. Debtors filed the present voluntary Chapter 11 Proceeding as a result of the liabilities associated with the alleged Clean Water Act violations, loss of good will of the Debtors, significant new litigation and as a result of the suspected diversion of funds from Debtors.

PART II

First Day Pleadings

The Case Administration Motions

a. Additional Time to File Schedules & Statements

14. The Debtors have filed a motion seeking an order extending the time for filing the Schedules and Statements for an additional 14 days (for a total of 28 days from the Petition Date), through and including Tuesday, May 14, 2013. Debtors have taken great effort to review all relevant information/documents and to attempt to draft all of the Debtors' Schedules and Statements prior to filing, however to date they are not in a position to file the same due to the extremely complicated nature of Debtors' business and the sheer volume of documents/records. At this time, the Debtors estimate that an extension of 14 additional days (for a total of 28 days) will provide sufficient time to prepare and file the Schedules and Statement.

b. Joint Administration of Cases

15. The Debtors have filed a motion seeking the entry of an order, pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 1015(b), authorizing the joint administration of D&L and Petroflow's cases for procedural purposes only. The Debtors believe that the statutory requirements for joint administration of D&L and Petroflow's cases have been met and the relief

requested in Debtors' motion is appropriate. This is especially true in light of the facts that: (a) D&L has assumed all of Petroflow's assets and liabilities; (b) Petroflow has ceased all operations and no longer has any employees or income, and (c) Petroflow and D&L were substantially integrated entities prior to the filing of the bankruptcies.

c. Motion to Maintain Trust and PPM Bank Accounts

16. Prior the commencement of this case, in the ordinary course of business, D&L maintained a production trust account at Huntington National Bank, account number ending in 2669 (the "Trust Account") to manage and operate wells owned by certain Joint Ventures.

17. In addition to operating and managing the wells owned by the Joint Ventures, D&L manages four limited partnerships; D&L Energy 2007-A Ltd., D&L Energy 2008-A Ltd., D&L Energy 2009-A Ltd., and D&L Energy 2010-A Ltd. D&L is an authorized signor, as operator and manager, for the following accounts (the "PPM Accounts") which are held in the name of the individual partnerships:

D&L Energy 2007-A Ltd.	Huntington checking –x7812
D&L Energy 2008-A Ltd.	Huntington checking –x4453
D&L Energy 2009-A Ltd.	Huntington checking –x7809
D&L Energy 20010-A Ltd.	Chase checking –x9384

18. The Trust Account is a pass through trust account in which all oil & natural gas production revenue is financially managed and accounted for. Funds enter the account from purchasers of the oil & natural gas supply generated from wells managed and operated by D&L. All expenses for operating the wells are netted against the revenue generated in this account and D&L distributes the remaining funds in its fiduciary capacity to well investors, landowners, royalty owners and carried interest holders. The incoming funds are earmarked upon receipt as payable to investors, landowners, royalty owners, and carried interest holders and one-hundred (100%) percent of the funds deposited are distributed monthly.

19. Similar to the Trust Account, D&L is obligated to hold, manage, collect and receive production income from oil and gas partnership wells in which D&L is the operator and manager (the "PPM's") and distribute the same to partners after payment of necessary expenses incident to the operation and management of the PPM's.

20. Continuation of the Trust Account and PPM Accounts in their current form are essential to maintaining the stability of the Debtors' financial structure and their fiduciary duties to the Beneficiaries and partners while operating in chapter 11. All production revenue funds arising from the operation and management of the Joint Ventures and PPM's are processed through these accounts. Production revenues are the bloodline of the operations of the Debtors. Many individuals who have interests in the wells would be adversely impacted by the inevitable delay created by closing this account. The Debtors have fiduciary duties and/or contractual obligations to these parties and delaying the process would arguably force the Debtors into a position of breach.

21. By preserving the Trust Account and PPM Accounts in their current form business continuity would be achieved and the Debtors would be able to avoid the operational and administrative paralysis that would accompany the closing and reestablishment of a new Trust Account and PPM Accounts. As such, the relief requested herein is in the best interests of the Debtors' estates and all parties in interest. The Debtors believe that this will assist the Debtors in their effort to maximize the value of the assets of the estates.

d. Waiver of Local Rules

22. The Debtors have filed a motion seeking the waiver of Local Bankruptcy Rules 9013-1(a), 9013-2(a) and 9013-2(d). Debtors have also provided applicable statutory authority and case law within its First Day Motions. Therefore, providing a memorandum in support of each First Day Motion would be duplicative. Additionally, the Debtors have filed several First Day Motions citing Unreported Orders. These Unreported Orders are voluminous, support well-established propositions of law, and are adequately described in the First Day Motions. Accordingly, Debtors believe that it is appropriate to waive Local Bankruptcy Rules 9013-1(a), 9013-2(a) and 9013- 2(d).

e. Expedited Hearing on the First Day Pleadings

23. Given the importance of the relief sought in the First Day Pleadings to the Debtors' ability to continue its business operations, the Debtors requested the entry of an order scheduling an expedited hearing on the First Day Pleadings.

24. The Case Administration Motions have been filed in order to allow the Debtors to transition into their role as debtor in possession in the least disruptive manner and to administer the estate in a streamlined and efficient manner. This process will

conserve the resources of the estate and allow the Debtors to concentrate on their reorganization efforts.

Prepetition Claims Motions

a. Motion to Prohibit Utilities from Cancelling Services

25. The Debtors have requested the Court to enter an order, pursuant to sections 105(a), 362, 365, 366, 503(b), and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), (i) prohibiting utility companies from altering, refusing, or discontinuing services on account of pre-petition invoices and (ii) establishing procedures for determining requests for additional assurance from utility creditors. Although the Debtors made their best efforts to make timely payments to all of the utility companies, and is generally current on said payments prior to the date of filing, as of the Petition Date, the Debtors may have become behind on certain of their payments to the utility companies.

26. The Debtors request the entry of an order: (i) prohibiting the utility companies from altering, refusing, or discontinuing utility services to, or discriminating against the Debtors on account of amounts outstanding prior to the Petition Date or any perceived inadequacy of the Debtors' proposed adequate assurance; (ii) determining that the utility companies have been provided with adequate assurance of payment within the meaning of the Bankruptcy Code; (iii) approving the Debtors' proposed procedures for determining requests for additional or different adequate assurance of payment to Utility Companies for future utility services; (iv) establishing procedures for the Utility Companies to seek to opt out of the Debtors' proposed

adequate assurance procedures; and (v) determining that the Debtors are not required to provide any additional adequate assurance beyond that proposed.

27. The Debtors intend to pay all post-petition obligations owed to the utility companies in a timely manner, as it expects to have sufficient cash flow to pay all post-petition obligations as they come due. In addition, the Debtors propose to provide a deposit equal to one (1) month of utility service to any utility company requesting such a deposit in writing. Given these assurances, Debtors believe that the relief requested in this motion is warranted.

b. Employee Wages and Benefits

28. The Debtors' workforce currently includes 18 full-time and/or part-time hourly and salaried employees, (collectively, the "Employees").

29. Any delay or disruption in the provision of employee benefits or the payment of compensation will imperil the Debtors' relationship with the Employees and irreparably impair workforce morale. At this critical stage, the Debtors simply cannot risk the substantial disruption of business operations that would inevitably result from any decline in workforce morale attributable to the Debtors' failure to make prepetition compensation payments in the ordinary course of business.

30. Accordingly, the Debtors request the entry of an order authorizing, in accordance with their stated policies (as such polices may be modified from time to time) and in the Debtors' sole discretion, to pay: (a) certain prepetition wages, salaries, overtime pay, incentive pay, contractual compensation, sick pay, vacation pay, holiday pay and other accrued compensation (collectively, the "Prepetition Compensation") to Employees; (b) prepetition business expenses, including travel, lodging, and other

reimbursable business expenses (collectively, the "Prepetition Business Expenses") to Employees (c) prepetition contributions to, and benefits under, the Employees' benefit plans; (d) prepetition payroll deductions and withholdings with respect to Employees; and (e) all costs and expenses incident to the foregoing payments and contributions (including payroll-related taxes and processing costs).

31. In the instant case, the Debtors believe that the amount of prepetition wages, salaries and contractual compensation owing to or on account of any particular Employee will not exceed the sum of allowable as a priority claim under section 507(a)(4) or section 507(a)(5) of the Bankruptcy Code, as is apparent from Exhibit B which is attached to the motion.

c. Use of Cash Collateral

32. Due to a continuing commercial guarantee and corresponding security agreement and financing statements, which were executed by the former principal of the Debtors (i.e. Lupo), the Debtors (and substantially all of their assets) are likely indebted to The Huntington National Bank ("HNB"). As such, the Debtors have sought the entry of an order which allows them to use HNB's cash collateral (as that term is defined in § 363(a) of the Bankruptcy Code) in the ordinary operation of their business on a preliminary and interim basis and setting a hearing for continued use of such Cash Collateral and providing the Debtors' secured creditor, The Huntington National Bank ("HNB"), with "adequate protection" pursuant to § 363(e) of the Bankruptcy Code.

33. As of the date of the filing of this memorandum, the Debtors dispute certain liabilities which HNB may or may not believe the Debtors have guaranteed and assert

that the debts owed to HNB (and remainder of Debtors' creditors) are very small in proportion to the value of Debtors' revenues and assets – which Debtors believe are in excess of $50,000,000.00. Given this large equity cushion, Debtors believe HNB is sufficiently secured and adequately protected pursuant to §361 of the Bankruptcy Code. As such, the Debtors believe that the interim relief requested is appropriate and necessary for the successful reorganization of the Debtors' business.

Motions and Applications Pertaining to Professionals

a. Professional Retention Applications

34. The retention of certain chapter 11 professionals is essential to the Debtors' reorganization efforts. Accordingly, concurrently with, or shortly after, the filing of this Case, the Debtors have sought to retain various professionals to represent and assist it. Connected with the filing, the Debtors have requested the retention of Roderick Linton Belfance, LLP ("RLB") as general bankruptcy counsel. The Debtors believe that (a) RLB is well qualified to provide the services contemplated by their retention application, and (b) the services to be provided by RLB are necessary for the Debtors' reorganization.

35. Connected with the filing, the Debtors have requested the retention of Walter Haverfield, LLP ("W&H") as special counsel for environmental law issues and matters stemming therefrom. The Debtors believe that (a) W&H is well qualified to provide the services contemplated by their retention application, and (b) the services to be provided by W&H are necessary for the Debtors' reorganization.

36. Connected with the filing, the Debtors have requested the retention of Dennis Gartland & Niergarth ("DGN") as its accountant. The Debtors believe that (a) DGN is

well qualified to provide the services contemplated by their retention application, and (b) the services to be provided by DGN are necessary for the Debtors' reorganization.

37. The Debtors may find it necessary to seek to retain additional professionals to assist it as its Case progress, and as such, requests that the Court allow it to do so in the future.

CONCLUSION

WHEREFORE, the Debtors respectfully requests that the Court: enter an order granting the relief requested herein; and grant such other and further relief as the Court may deem proper.

Respectfully submitted,

Roderick Linton Belfance LLP

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