

United States Bankruptcy Court  
District of Delaware



CHIEF JUDGE BRENDAN LINEHAN SHANNON

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March 16, 2016

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Re: In re: New Gulf Resources, LLC, et al.  
Case No. 15-12566 (BLS)  
Docket Nos. 228 and 344

Dear Counsel:

On February 1, 2016, I issued a letter [Docket No. 228] advising the parties that I had read and agreed with Judge Walrath's opinion in *Boomerang Tube, Inc.* It was my position that this disposed of the open "*Asarco*" issue in Baker Botts' retention application, but I was happy to afford counsel the opportunity to submit a brief on the question. Baker Botts L.L.P.'s Brief in Support of the Debtors' Application for Entry of an Order Authorizing the Retention and Employment of Baker Botts L.L.P. as Counsel for the Debtors and Debtors in Possession [Docket No. 344] was timely filed on March 2, 2016.

Having reviewed the brief and the original application, I stand by my earlier determination that the structure proposed by Baker Botts runs afoul of the holdings in *Asarco* and *Boomerang Tube*. While I acknowledge the creative approach to the issue, I do not find that there is a meaningful distinction between the Fee Premium proposed here and the matters considered and ruled upon in *Boomerang Tube*.

Given this disposition, there is no need for a further submission by the Office of the United States Trustee. Counsel shall confer and promptly submit a form of order consistent with this ruling.

Very truly yours,

  
Brendan Linehan Shannon  
Chief United States Bankruptcy Judge

BLS/jmw