



David L. Bissett

David L. Bissett
United States Bankruptcy Judge

Dated: May 2nd, 2024

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

IN RE:)	
)	
BEN'S CREEK OPERATIONS WV, LLC)	Case No.: 2:24-bk-20079
)	Chapter 11
Debtor,)	
)	
v.)	
)	
BEN'S CREEK CARBON, LLC)	Case No.: 2:24-bk-20078
)	Chapter 11
Debtor,)	
)	
v.)	
)	
BEN'S CREEK LAND WV, LLC)	Case No.: 2:24-bk-20077
)	Chapter 11
Debtor.)	
)	
)	
JULIE A. SU, ACTING SECRETARY OF LABOR,)	
UNITED STATES DEPARTMENT OF LABOR,)	
)	
Plaintiff,)	
)	
v.)	Adv. Pro. No.: 2:24-ap-2006
)	
BEN'S CREEK OPERATIONS WV LLC.)	
)	
Defendant.)	
)	

TEMPORARY RESTRAINING ORDER

AND NOW on this 2nd, day of May, 2024, the Court hereby ENJOINS Ben's Creek Operations WV LLC, including its agents, attorneys, employees, and all those in active concert or participation with Ben's Creek Operations WV LLC (collectively, "Defendant") as follows for fourteen (14) days from the entry of this Order:

1. Defendant is enjoined and restrained from violating 11 U.S.C. §§ 363(f) and 549 in any of the following manners: Defendant shall not transport, offer for transportation, ship, deliver, sell, or otherwise place into commerce, any goods worked on, processed, and/or produced by any employee whom Defendant failed to pay the minimum wage and required overtime, including but not limited to coal located at Glen Alum, 178-192 Alum Creek Road, Matewan, West Virginia 25678;

2. Per Federal Rule of Civil Procedure 65(c) and Federal Rule of Bankruptcy Procedure 7065, Plaintiff, Julie A. Su, Acting Secretary of Labor, United States Department of Labor, is not required to give security.

The Court further finds that failing to enter this order would result in the following irreparable harms:

1. such shipment and movement of goods will make use of the channels and instrumentalities of interstate commerce to spread and perpetuate an unfair method of competition and interfere with the orderly and fair marketing of goods in commerce;
2. Defendant's employees will be subject to continued loss of wages, such that they will be unable to afford the necessities of daily living, including food, shelter, and routine utility payments associated therewith;
3. Plaintiff will be prevented from fulfilling the function of her office, in that Defendant will be at liberty to violate the FLSA and the Acting Secretary prevented from taking official action to prevent that violation.
4. This matter is not subject to the automatic stay provisions of 11 U.S.C. § 362.