

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

April 20, 2016

Elisabeth A. Shumaker
Clerk of Court

WILLIAM REECE, DIANE REECE,
HERMAN TOLBERT, BENNETT
TANKSLEY, SUSAN HOLMES,
CHARLES TACKETT, as individuals and
as representatives for those seeking redress
for damages,

Plaintiffs - Appellants,

v.

AES CORPORATION, a Delaware
corporation; AES SHADY POINT, a
Delaware corporation; AES SHADY
POINT, LLC, a Delaware limited liability
company; MMHF, LLC, an Oklahoma
limited liability company, a/k/a Making
Money Having Fun, LLC, a/k/a Clean
Hydro Reclamation, a/k/a Clean Hydro
Evacuation, LLC; THUMBS UP RANCH,
LLC, an Oklahoma limited liability
company; DARYL J. JACKSON,
individually, d/b/a Daryl Jackson Trucking;
KEVIN J. JACKSON, an individual;
KENNETH JACKSON, an individual;
CHAD JACKSON, an individual;
MOUNTAIN MINERALS, INC., a
Delaware corporation; BRAZIL CREEK
MINERALS, INC., an Oklahoma
corporation; GCI MINING, an Oklahoma
corporation, d/b/a George Colliers, Inc.;
ASH GROVE RESOURCES, LLC, a
Kansas limited liability company;
MARINE COAL SALES COMPANY, a
Delaware corporation; FARRELL-
COOPER MINING COMPANY, an
Arkansas corporation; COAL CREEK
MINERALS, LLC, a Delaware limited

No. 14-7010
(D.C. No. 6:12-CV-00457-JH)
(E.D. Okla.)

liability company; MCCORKLE TRUCK LINE, INC., an Oklahoma corporation; HUNTER RIDGE COAL COMPANY, a Delaware corporation, a/k/a Anker Energy Corporation; STAR BULK, a Texas corporation, a/k/a PX Transportation, Inc.; SEECO, INC., an Arkansas corporation, a/k/a SWN Production Company, a/k/a Southwest Energy Production Company, Inc., a/k/a Southwest Oil & Gas Company; XTO ENERGY, INC., a Delaware corporation; R&J TRUCKING, INC., an Oklahoma corporation; CHESAPEAKE OPERATING, INC., an Oklahoma corporation; PETROHAWK OPERATING COMPANY, a Texas corporation; STEPHENS PRODUCTION COMPANY, an Arkansas corporation; HIGHLAND OIL & GAS, LLC, a Delaware limited liability company; CHOLLA PETROLEUM, INC., a Texas corporation; HANNA OIL & GAS COMPANY, an Arkansas corporation; ROSS PRODUCTION COMPANY, an Arkansas corporation, a/k/a Ross Production Co., a/k/a McCord Oil Company, a/k/a Ross Explorations, Inc.; SHIELDS OPERATING, INC., an Arkansas corporation; BP AMERICA PRODUCTION COMPANY, a Delaware corporation; HOGBACK EXPLORATION, INC., an Arkansas corporation; SEDNA ENERGY, INC., an Arkansas corporation; GRACO FISHING & RENTAL TOOLS, INC., an Oklahoma corporation; TXD TRANSPORT, LP, a foreign limited partnership; BEAR PRODUCTIONS, INC., an Oklahoma corporation; BIG MAC TANK TRUCKS, LLC, a Delaware limited liability company, a/k/a Oklahoma Big Mac Tank Trucks, LLC; B&B GAS WELL SERVICES, LLC, an Oklahoma limited liability company; MIKE KREBBS CONSTRUCTIONS,

INC., an Oklahoma corporation; BEAR TRANSPORTS, LLC, an Oklahoma limited liability company; INTERNATIONAL COAL GROUP, LLC, a Delaware limited liability company,

Defendants - Appellees,

and

BISHOP TRUCKING, an Oklahoma corporation,

Defendant.

ORDER AND JUDGMENT*

Before **HOLMES, MATHESON, and McHUGH**, Circuit Judges.

This matter comes on for consideration of the status report and the “Unopposed Motion to Apply Appellate Ruling” filed by Defendants/Appellees Marine Coal Sales Company, International Coal Group, LLC and Hunter Ridge Coal Company. Upon consideration thereof, the abatement of this appeal as to these defendants/appellees is lifted and the motion is granted. The bankruptcy court has lifted the automatic stay to allow these parties to seek to have this court’s February 9, 2016 decision made applicable to them. It is ordered that the February 9, 2016 Order and Judgment affirming the district court judgment applies to Defendants/Appellees Marine Coal Sales Company,

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

International Coal Group, LLC and Hunter Ridge Coal Company. *See Reece v. AES Corporation*, No. 14-7010 (10th Cir. Feb. 9, 2016).

The mandate with respect to these parties shall issue forthwith.

Entered for the Court

PER CURIAM