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General Moly CASE SUMMARY: General Moly RSA Provides for Business Combination With Resource Capital Fund

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Portfolio Company Avanti Kitsault Mine Fri 11/20/2020 09:50 AM

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Relevant Documents:

Voluntary Petition First Day Declaration **DIP Financing Motion**

Press Release First Day Hearing Agenda Continue reading for our First Day team's analysis of General Moly's chapter 11 filing and Request a Trial for access to the above documents and analysis as well as our coverage of thousands of other stressed/distressed debt situations.

Summary General Moly is a molybdenum exploration, development and mining company

Attributes filing to "extreme market volatility, uncertainty over the ongoing Covid-19 crisis, and

a weak pricing environment for moly," which stymied prepetition sale efforts

New Moly and Bruce Hansen would provide \$1.4 million in unsecured DIP financing on superpriority claim basis General Moly, Inc., a Lakewood, Colo.-based company engaged in the exploration, development and mining of properties primarily containing the mineral molybdenum filed for chapter 11 protection on Wednesday in the Bankruptcy Court for the District of Colorado. The case is premised on a restructuring support agreement supported by "major stakeholders," which envisions a business combination between the reorganized debtor and Avanti Kitsault Mine, Ltd. (a wholly-owned portfolio company of Resource Capital Fund IV L.P. and Resource Capital Fund VI L.P.) to form a new moly resource development business.

Avanti Kitsault's principal asset is a 100% interest in the Kitsault moly mine located in northern British Columbia. The transaction would include DIP financing of \$1.4 million to be provided by New Moly LLC and Bruce Hansen (the company's former CEO and a "significant" bondholder) on an unsecured, superpriority basis. The DIP financing would be used "to fund this chapter 11 case, as well as fund ongoing care and maintenance obligations during the chapter 11 case and an exit from bankruptcy." The debtor's remaining creditors (mostly bondholders) would obtain recovery either through cash payments or equity in the merged entity. The RSA is supported by creditors representing more than two-thirds of the debtor's outstanding debt and other parties in interest.

"This chapter 11 plan strategy," the debtor says, has the support of POS-Minerals Corporation, or POSCO (Mt. Hope Project 20% joint-venture

partner), "without whose support the transaction would not be possible, and the support of the Debtor's two largest bondholders, Bruce D. Hansen and Steve Mooney." The debtor says it intends to "promptly" file a plan of reorganization and disclosure statement. The first day hearing is set for today, Friday, Nov. 20, at 4 p.m. ET. The company reports \$1 million in assets and \$10 million in liabilities. The company's prepetition capital structure includes: • Secured debt: None

• Unsecured debt: \$10 million (\$8.6 million is owed to at least 14 bondholders with the remaining debt consisting of trade debt and severance claims.) • Equity: General Moly is a publicly traded company, formerly trading on the NYSE and currently trading on the Toronto Stock Exchange under the GMO trading symbol and on the OTC exchange under the GMOL symbol. According to the company's press release, trading on the TSX has

(headquartered in Shenzhen, China); Hanlong USA; AMO Holding 7 S.A.; and Bruce D. Hansen.

There is no third-party debt at either the Mt. Hope Project or Kobeh Valley Ranch. However, POSCO has a \$33.6 million return of capital contribution payment that is due Dec. 31, 2020 and there is also a change of control put option in favor of POSCO that could result in a payment of approximately \$275 million to return contributions made by POSCO to Eureka for the Mt. Hope Project. POSCO is an RSA party and has agreed to

been suspended since Nov. 17. Holders of 5% or more of the debtors' voting securities consist of: AMER International Group Co., Ltd.

The company attributes the bankruptcy filing to liquidity issues that were exacerbated by the initial refusal of the debtor's largest shareholder, AMER International Group Co., to fund \$10 million of equity financing for issuance of water permits for the Mt. Hope project. The debtor pursued various strategic alternatives but these efforts were met with limited interest from third parties due to "extreme market volatility, uncertainty over the ongoing COVID-19 crisis, and a weak pricing environment for moly." As its liquidity position worsened, the debtor eyed DIP financing options and even braced for a potential chapter 7 filing before the current proposal materialized.

Brown (case number 20-17493). <u>Background</u> The debtor says it is the "only pure-play, western-exchange traded moly stock." Molybdenum is used primarily in steel manufacturing and also has uses in the oil and gas, chemical and petrochemical industries. General Moly is a holding company with two non-debtor, wholly-owned

owns the water rights granted by the state of Nevada that are leased to the Mt. Hope Project. The Mt. Hope Project is based on a lease from Mount Hope Mines Inc. that provides Eureka with the opportunity to develop private land and patented and non-patented mining claims from the U.S. Bureau of Land Management for the development and mining of moly at the Mt. Hope Project site. Eureka pays an annual advance royalty payment of \$500,000 to maintain the lease in good standing, and future production royalty payments, offset by prior and advance royalty payments, will be owed to Mount Hope Mines once the Mt. Hope Project is in operation.

operation, though continued development is unlikely to begin until a future date when moly prices are supportive of project financing." As such,

the Mt. Hope Project and general and administrative expenses of the debtor. General Moly's other primary asset is Kobeh Valley Ranch, which

the debtor is currently a non-revenue generating entity that is cash flow negative due to ongoing care and maintenance funding requirements for

Facing a potential chapter 7 bankruptcy filing given its dwindling cash position and limited interest from third party buyers, in August 2020, the debtor received a proposal from Resource Capital Funds that led to the current transaction. From September to early November, the debtor

Kobeh Valley Ranch LLC

a Nevada LLC

water rights lease

POSCO Canada Ltd.

a company incorporated

under the laws of British Columbia, Canada

utilized a dual-track process in its restructuring efforts that included the possibility of either (a) a prenegotiated chapter 11 filing with DIP financing from RCF or (b) a chapter 7 liquidation with no postpetition financing. In early November 2020, the debtor's advisors made proposals to two parties - RCF and a consortium of other mining interests. Ultimately, only RCF provided the necessary elements of an acceptable proposal. The debtor's corporate organizational structure is below:

> General Moly Inc. (GMI) a Delaware Corporation

> > Nevada Moly LLC

a Delaware LLC

80% owned by NMLLC and

20% by POS-Minerals operator of Mt. Hope Project

wholly owned by GMI wholly owned by GMI owner of water rights Eureka Moly LLC a Delaware LLC

POS-Minerals Corp.

a Delaware Corporation subsidiary of POSCO Canada

Ltd.

The debtor's largest unsecured creditors are listed below:



10 Largest Unsecured Creditors

EMLLC would continue to pursue the sale of all assets, with a waterfall of proceeds as provided in a separate term sheet with POSCO which provides that:

Moly and 20% to POSCO."

\$7.5 million.

interest in New Moly and an option to purchase Kobeh Valley Ranch in favor of Mount Hope Mines. Treatment of Claims and Interests The term sheet provides for the following proposed claims treatment:

> DIP Facility (as defined below) in the amount of \$1,400,000, together with interest, fees and expenses, shall be paid in full by distribution to the DIP Lenders of Common Equity in Reorganized Moly. The Common Equity in Reorganized Moly

> a) Bondholders with claims in aggregate less than \$50,000

b) All other Bondholders ("Majority Bondholders"),

estimated to have claims totaling \$8,427,274, shall be paid 75% of aggregate claims by distribution to the Majority

Bondholders of Common Equity in Reorganized Moly. The Common Equity in Reorganized Moly shall be exchanged for Membership Interests in New Moly as described below;

paid 75% of aggregate claims in cash upon confirmation of

Pennington and Rogers, are estimated to be \$397,250 ("Employee Claims"). The Employee Claims shall be paid 75% of aggregate claims in cash (\$297,938) or 75% by

for Membership Interests in New Moly as described below.

and shall be settled by the execution of consulting contracts with New Moly whereby Messrs. Pennington and Rogers

f) Pennington and Rogers employment claims total \$409,830,

c) All Trade Creditors ("Trade Creditors") shall have been

d) Claims of General Moly employees, other than Hansen,

("Small Bondholders") estimated to have claims of \$129,184 shall be paid, at their election, 75% of aggregate claims in cash (\$96,888) or 75% by distribution to the Small Bondholders of Common Equity in Reorganized Moly. The Common Equity in Reorganized Moly shall be exchanged for Membership Interests in New Moly as described below;

"first, until the Accrued Interest (as defined below) has been paid in full and the capital contributed by POSCO (the 'Contributed Capital') has been

returned in full, (a) 80% to POSCO to be applied first as payment of the Accrued Interest and then as return of the Contributed Capital ('RoCC')

and (b) 20% to POSCO as a preferred distribution that is not treated as payment of the Accrued Interest or RoCC; and thereafter, 80% to Nevada

The POSCO term sheet also provides that cash sweeps following asset sales would be allowed once the EMLLC reserve account reaches a balance of

RCF would form New Moly and contribute its interest in Avanti Kitsault. Initial ownership of New Moly following the contribution of both Avanti

Kitsault and Reorganized Moly to New Moly is expected to be: (a) RCF: 65.1%; (b) Mooney: 23.7%; and (c) Hansen: 8.3%. These amounts are

The New Moly operating budget is expected to require funding of \$2 million per year for the initial two years. Funding for New Moly would be

provided as common equity, and membership interest holders would have the right, but not the obligation, to fund their pro rata fully diluted

ownership percentage of any capital calls. RCF would fund its pro rata amount and any amounts not subscribed for other holders of membership

interests for a period of two years with minimum funding commitment of \$3.4 million, and Bruce Hansen would commit to fund \$900,000 over

subject to adjustment depending on whether "certain minor Bondholders elect to convert into equity in New Moly."

shall be exchanged for Membership Interests in New Moly as described below. The DIP Facility shall have a super-priority claim status pursuant to the terms set forth in the DIP Loan Agreement which shall be reflected in the RSA.

distribution to the Employee Claims Common Equity in Reorganized Moly upon confirmation of the Plan. The Common Equity in Reorganized Moly shall be exchanged for Membership Interests in New Moly as described below; e) Hansen claims include (i) an employment claim of \$247,500, and a bondholder claim of \$1,397,724, for a total claim of \$1,645,224 (the "Hansen Claim"). The Hansen Claim shall be paid 75% of the claim amount by distribution to Hansen of Common Equity in Reorganized Moly. The Common Equity in Reorganized Moly shall be exchanged

> U.S. RCF IV, RCF VI, Individuals Reorganized RCF IV CAD RCF VI CAD LLC Debtholders U.S. DRE U.S. DRE NewCo U.S. LLC Avanti Kitsault Mine General Moly, Inc.

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Debtor's Chief r² advisors Thomas M. Kim Denver Restructuring Officer Joel O. Benson Counsel to New Moly, Davis Graham Christopher L. Richardson as DIP Agent and Denver & Stubbs Majority DIP Lender Adam L. Hirsch Bryan Cave Counsel to Kobeh Charles D. Maguire, Jr. Denver Valley Ranch Leighton Paisner Counsel to POSCO Susan L. Oakes Holland & Hart Denver Office of the **United States Trustee** Alison E. Goldenberg Denver U.S. Trustee Debtor's Claims Agent Sheryl Betance Stretto Irvine, Calif. Supporting creditors include New Moly and Bruce Hansen, Steven Mooney and certain other noteholders of General Moly. Additional RSA support parties are POSCO (the EMLLC joint venture partner holding a 20% interest in EMLLC) and Mount Hope Mines Inc. (the lessor of the Mount Hope

including a deferral of advance royalty payments and elimination of interim financing payments, in exchange for an option to convert into an

the initial two-year period.

Administrative expenses and professional fees - paid in cash per budget and engagement agreements and approval of the Bankruptcy Court. 2) General Unsecured Creditors: ("General Unsecured Creditors") are estimated to be as follows and settled as

described below:

the Plan;

1) Administrative Priority Claims:

will be entitled to receive their respective claim amounts in four equal quarterly installment payments during the first year after consummation of the Plan in exchange for their providing consulting services to New Moly to assist in the transition of the business of Reorganized Moly. The total cash consideration offered to General Unsecured Creditors shall not exceed \$400,000. General Moly Preferred shares – cancelled 4) General Moly Common shares - cancelled

The debtors also filed a related motion to establish critical path for confirmation process. **DIP Financing Motion** The debtor is seeking approval to borrow up to \$1.4 million in DIP financing (\$400,000 on an interim basis) on an unsecured, superpriority basis from New Moly LLC, as DIP agent and majority DIP lender, and Bruce Hansen as minority DIP lender. New Moly LLC would fund 71.43% and Bruce Hansen would fund 28.57% of the DIP facility. "As a member of the bidding group," Bruce Hansen was excluded from all decisions by the debtor with respect to the DIP credit agreement, the debtor says. The DIP financing bears interest at 12% (plus 2% for the default interest rate), and matures on the earliest of 35 days after entry of the interim order if the final order has yet to be entered, the conversion of the chapter 11 case to chapter 7 and other customary events. The DIP proceeds may be used to fund this chapter 11 case and bankruptcy-related costs and expenses, fund the debtor's working capital and general corporate expense requirements, including ongoing care and maintenance requirements, as well as its exit from chapter 11. The debtor would pay all out of pocket expenses incurred by the DIP lenders, which would be added and capitalized to the outstanding principal balance of the DIP facility. The carveout for professional fees is \$25,000. The proposed budget for the use of the DIP facility is HERE. The DIP financing is subject to the following milestones: • Interim DIP order: entered by Nov. 23 • Plan and disclosure statement: filed by Dec. 4 • Final DIP order: entered within 25 days after entry of the interim order • Enter into RSA "definitive documentation": by Jan. 6 • Disclosure statement approval: by Jan. 6 • Plan confirmation: entered by Feb. 12

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The debtor also filed various standard first day motions, including the following:

• Motion to set the general bar date as Dec. 21 to file proofs of claim

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In September 2020, the debtor and Pathfinder Minerals LLC closed on a sale of the debtor's wholly owned subsidiary Liberty Moly LLC, inclusive of its wholly owned subsidiaries Moly Royalty, Inc., Net Smelter Royalty, Inc. and Copper Royalty, Inc., and all assets that constitute the Liberty Project for \$2 million in cash and an additional \$1 million payable on the commissioning of a production plant of any metal commodity at the Liberty Project. The debtor retains a 3% net smelter return royalty on any moly production. The liquidity provided by the sale of the Liberty Project assets allowed the debtor to sustain operations while negotiations with Resource Capital Funds continued. The debtor is represented by Markus Williams Young & Hunsicker in Denver as counsel and XMS Capital Partners as financial advisor. Thomas Kim of R2 Advisors serves as the debtor's chief restructuring officer. Stretto is the claims agent. The case has been assigned to Judge Elizabeth E.

various adjustments to the return of capital contribution and the change of control put as part of the RSA.

subsidiaries, Nevada Moly, LLC and Kobeh Valley Ranch, LLC. The debtor's primary asset is its 80% interest in the Mt. Hope Project (held by Nevada Moly), which is considered one of the world's largest and highest-grade moly deposits, according to the debtor. Nevada Moly owns an 80% joint venture interest in Eureka Moly, LLC, the operator of the Mt. Hope Project. POS-Minerals, a subsidiary of "major" South Korean steel company POSCO, owns the remaining twenty percent 20% joint venture interest in Eureka. The company is engaged in the exploration, development and mining of properties containing molybdenum, or moly, a metallic element used primarily as an alloy agent in steel manufacturing to increase steel strength, resistance to corrosion and extreme temperature performance. The current focus of General Moly's operations is the Mt. Hope Project, which "has received all its major permits for the future development and

Events Leading to the Bankruptcy / Prepetition Restructuring Efforts Water permits issued in July by Nevada for the development of the Mt. Hope Project triggered a \$10 million equity financing commitment by AMER, the debtor's largest shareholder, which the debtor says was refuted by AMER before the parties settled for a \$4.3 million commitment. When AMER initially disputed its equity purchase obligation, the debtor's existing liquidity problems were exacerbated, leading to issuance of its first "bankruptcy warning" in August 2019.

Through April 2020, the debtor and advisors evaluated strategic alternatives, including debt, DIP financing, equity and/or sale options. Despite these efforts, there was no interest from third party investors. The debtor also pursued financingl from POSCO, the debtor's South Korean jointventure partner for the Mt. Hope Project, but POSCO declined further investment in the debtor and declined to purchase a larger membership interest from the debtor in Eureka Moly (the Mt. Hope operator).

The case representatives are as follows:

Restructuring Support Agreement Project mineral rights to EMLLC). POSCO would defer the return of capital contribution, grant a one-time waiver to the change of control put and modify certain governance provisions under the EMLLC operating agreement.

The RSA also provides that Mount Hope Mines would agree, subject to definitive documentation, to a mutually satisfactory lease amendment

The RSA contemplates a management and employee equity compensation plan that would vest on an exit of New Moly at the current valuation, providing for no more than a 10% dilution to membership interests, with up to 2.5% to 3% to be initially reserved for reorganized Moly and Avanti Kitsault management that remain involved in New Moly. Members of New Moly would consist of the current owners of Avanti Kitsault plus the DIP lenders and common equity in reorganized Moly. The new board would initially consist of five members appointed by interest holders. The proposed newco structure follows:

Management Incentive Plan

• Motion to waive the requirement to file a list of equityholders • Application to employ R2 Advisors to provide the CRO • Application to employ Markus Williams Young & Hunsicker as counsel • Application to appoint Stretto as claims agent

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