

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:)	Chapter 11
)	Case No. 19-12269 (CSS)
MTE Holdings, LLC, <i>et al.</i>)	
)	Jointly Administered
)	
Debtors.)	
_____)	Related D.I. 1114 and 1115

MEMORANDUM ORDER

Before the Court is *Peter I. Shah’s Motion Application for Payment of Administrative Claim Pursuant to 11 U.S. Code § 503* (D.I. 1114; filed on May 26, 2020) (the “Motion”); the Debtors’ objection to the Motion (D.I. 1313; filed on July 13, 2020) (the “Objection”); and *Peter I. Shah’s Motion Application to Allow ECF Filings* (the “ECF Filings Motion”) (D.I. 1115; filed on May 26, 2020). This matter is properly before the Court: the Court has jurisdiction, pursuant to 28 U.S.C. §§ 157 and 1334; venue is proper in this District, pursuant to 28 U.S.C. §§ 1408 and 1409; this is a “core” proceeding, pursuant to § 157(b)(2); and the Court has the judicial power to enter a final order. The Court, having heard the evidence and the statements by the parties at the hearing duly noticed and held on July 20, 2020;¹ hereby FINDS, ORDERS, and DECREES as follows:

¹ See Transcript of Hearing held on July 20, 2020 (D.I. 1348).

BACKGROUND

1. On October 22, 2019, MTE Holdings LLC filed a voluntary petition of relief under chapter 11 of the Bankruptcy Code in this Court. On October 23, 2019, Olam Energy Resources I LLC and MTE Partners LLC filed voluntary petitions for relief under chapter 11. The remaining debtors, including MDC Energy LLC (“MDC”), filed their chapter 11 petitions on November 8, 2019.

A. Procedural History

2. Mr. Shah is the owner of real property, lots 31, 32, 33, and 34, Section 8, Block C-18 in Reeves County, Texas (Property ID 15281) (the “Shah Property”).

3. Pursuant to certain lease agreements, MDC leases the mineral rights, such as those for oil and gas interests, beneath the surface of the Shah Property. In accordance with its rights as lessee, MDC advised Mr. Shah in July 2019 that it would require access to the Shah Property to, among other things, build a tank battery (the “Tank Battery”) and a network of pipelines in support of its oil and gas drilling activities.

4. In response to MDC’s notice, Mr. Shah asserted that MDC has no right of access to his property and sought exorbitant payments to consent to MDC’s exercise of its rights. To resolve the dispute, MDC offered Mr. Shah \$30,000. Mr. Shah rejected the offer.

5. On February 11, 2020, Mr. Shah sent a letter to the Court, accusing MDC of attempting to strong-arm him and demanding an emergency injunction to prevent MDC from entering onto and operating on his property (the “Letter”). Mr. Shah attached to the Letter correspondence detailing settlement negotiations with MDC and his damages claim.

6. On February 18, 2020, the Court held a telephonic hearing on Mr. Shah's request for an immediate injunction to prevent MDC from entering his property. The Court explained that sending the Letter to chambers was not the proper procedure for requesting a temporary or preliminary injunction and also explained that Mr. Shah could choose to file an administrative expense claim for damages resulting from the installation of the Tank Battery.

7. On February 25, 2020, Mr. Shah filed his *Motion for Allowance and Immediate Payment of Administrative Claim Pursuant to 11 U.S. Code § 503* (the "Original Motion") seeking an administrative claim of \$50,000 for the construction of the Tank Battery.²

8. On March 24, 2020, the Debtors filed their objection to Original Motion.³

9. On March 31, 2020, Mr. Shah filed his first *Brief in Support* of the Original Motion,⁴ and on April 27, 2020, Mr. Shah filed his *Additional Brief in Support*.⁵

10. On May 4, 2020, the Court held a hearing on the relief sought by the Original Motion.⁶

11. On May 26, 2020, Mr. Shah submitted (1) the Motion seeking an administrative claim of \$436,350 for the 145.45 RODs⁷ of pipeline constructed on the Shah Property, and (2) the ECF Filings Motion.

² D.I. 653.

³ D.I. 802.

⁴ D.I. 860.

⁵ D.I. 998.

⁶ See Transcript of Hearing held on May 4, 2020 (D.I. 1076).

⁷ 1 ROD = 16.5 Feet.

12. On June 8, 2020, the Court entered a final order, denying Mr. Shah's Original Motion because Mr. Shah failed to establish that he suffered any cognizable harm under either Texas law or the Bankruptcy Code (the "June 8 Order").⁸

13. On June 16, 2020, Mr. Shah filed his *Additional Briefing in Support* of the Motion,⁹ and on July 13, 2020, the Debtors filed their Objection.

B. Factual History

14. Prior to performing construction upon the Shah Property, MDC provided Mr. Shah with a draft Surface Use Agreement dated November 10, 2019. The Surface Use Agreement itemized MDC's planned construction and specifically included the installation of both the Tank Battery and the pipe network. Mr. Shah attached the Surface Use Agreement as Exhibit B to this Motion and as Exhibit A to his Original Motion.

15. In his Original Motion, Mr. Shah sought an administrative claim for postpetition construction of the Tank Battery. That motion was denied in the June 8 Order. Now, Mr. Shah seeks an administrative claim for postpetition construction of the pipe network. Mr. Shah also claims, for the first time in this Motion, that MDC does not have a valid mineral lease to the Shah Property. Additionally, Mr. Shah seeks to make use of the Court's Electronic Filing System ("ECF System"), pursuant to his ECF Filings Motion.

⁸ D.I. 1169, at ¶ 13 ("Here, Mr. Shah has failed to show that MDC 'substantially interfered with' or 'precluded' Mr. Shah's rights by constructing a Tank Battery" under the applicable Texas law which "gives a large measure of deference to the lessee's view of reasonableness.") (quoting *Vest v. Exxon Corp.*, 752 F.2d 959, 960-61 (5th Cir. 1985)).

⁹ D.I. 1187.

ANALYSIS

A. Claim Preclusion (*Res Judicata*)

16. Claim preclusion is a legal doctrine which provides that “[a] final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that [prior] action.”¹⁰ The purpose of claim preclusion is to “relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and, by preventing inconsistent decisions, encourage reliance on adjudication.”¹¹ Claim preclusion fulfills its purpose by barring claims which could have been brought in the prior suit.¹² The doctrine also serves a “vital public interest beyond any individual judge’s *ad hoc* determination of the equities in a particular case.”¹³ As such, “[t]here is simply no principle of law or equity which sanctions the rejection by a federal court of the salutary principles of *res judicata*” when applicable.¹⁴

17. Claim preclusion applies where there is “(1) a final judgment on the merits in a prior suit[, (2) involving] the same parties or their privies, and (3) a subsequent suit based on the same cause of action.”¹⁵ “A determination of whether two cases have ‘the same

¹⁰ *Yellow Pages Photos, Inc. v. Dex Media, Inc. (In re Dex Media, Inc.)*, 595 B.R. 19, 33 (D. Del. 2018) (quoting *Churchill v. Star Enters.*, 183 F.3d 184, 194 (3d Cir. 1999)).

¹¹ *Id.* (quoting *Davis v. Wells Fargo*, 824 F.3d 333, 341–42 (3d Cir. 2016)).

¹² *Id.* (quoting *Elkadrawy v. Vanguard Grp., Inc.*, 584 F.3d 169, 173 (3d Cir. 2009)).

¹³ *D’Agostino v. Appliances Buy Phone, Inc.*, 633 F. App’x 88, 92 (3d Cir. 2015) (quoting *Federated Dep’t Stores, Inc. v. Moitie*, 452 U.S. 394 (1981)).

¹⁴ *Id.*

¹⁵ *In re Dex Media, Inc.*, 595 B.R. at 33 (quoting *Sims v. Viacom, Inc.*, 544 F. App’x 99, 1010 (3d Cir. 2013)).

cause of action' for purposes of claim preclusion '[t]urns on the essential similarity of the underlying events giving rise to the various legal claims' in both actions."¹⁶

18. Each of the requirements for claim preclusion are presently before the Court. First, the Court entered a final judgment on the merits when it issued the June 8 Order denying Mr. Shah's Original Motion.¹⁷ Second, the same parties involved in Mr. Shah's Original Motion are involved in this Motion, and are involved in the same orientation. Third, both the Original Motion and this Motion seek administrative claims for postpetition construction on the Shah Property. Importantly, the Original Motion dealt with the construction of a Tank Battery. But, as MDC argues, the pipe network is necessary in order to make use of the Tank Battery. Indeed, the *Schlumberger Oilfield Glossary*, upon which the Fifth Circuit has relied,¹⁸ defines a "tank battery" as "[a] group of tanks that are connected to receive crude oil production from a well or a producing lease," inside of which, "the oil volume is measured and tested before pumping the oil *into a pipeline system*."¹⁹ Because the pipe network was a necessary, obvious, and foreseeable consequence of the Tank Battery's construction—and one about which Mr. Shah had notice, pursuant to the Surface Use Agreement—its construction clearly turns on

¹⁶ *Id.* at 34 (quoting *Churchill v. Star Enterprises*, 183 F.3d 184, 194 (3d Cir. 1999)).

¹⁷ See June 8 Order ("and that this Court has the judicial power to enter a *final order*[.]") (emphasis added).

¹⁸ See *Zenergy, Inc. v. Performance Drilling Co.*, 603 F. App'x 289, 291–92 (5th Cir. 2015) (relying in footnotes 1 and 2 on the *Schlumberger Oilfield Glossary* to define the terms "operator" and "contractor"); *U.S. v. Transocean Deepwater Drilling, Inc.*, 767 F.3d 485, 500 (5th Cir. 2014) (Jones, J., dissenting) (citing in footnotes 3 and 4 of the dissent to the *Schlumberger Oilfield Glossary* to define the terms "casing" and "wellhead").

¹⁹ *Schlumberger Oilfield Glossary*, https://www.glossary.oilfield.slb.com/en/Terms/t/tank_battery.aspx (Last visited July 22, 2020) (emphasis added).

essentially similar events to those which gave rise to Mr. Shah's Original Motion. As such, the elements of claim preclusion are clearly met. Thus, the Court must deny Mr. Shah's Motion.

B. Issue Preclusion (Collateral Estoppel)

19. Related to the concept of claim preclusion is issue preclusion, which "generally refers to the effect of a prior judgment in foreclosing successive litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment, whether or not the issue arises on the same or different claim."²⁰ The purpose of issue preclusion is to "reduce the costs of multiple lawsuits, facilitate[] judicial consistency, conserve[] judicial resources, and encourage[] reliance on adjudication."²¹

20. Issue preclusion applies where "(1) the issue sought to be precluded is the same as that involved in the prior action; (2) the issue was actually litigated; (3) there was a valid and final judgment; and (4) the determination was essential to the prior judgment."²²

21. Each element of issue preclusion is likewise presently before the Court. First, in this Motion, as in the Original Motion, the issue is whether Mr. Shah is entitled to an administrative expense claim for postpetition surface entries, damages, construction, and other activities performed by MDC under its lease. Second, the above issue was actually

²⁰ *In re AmeriServe Food Distribution, Inc.*, 315 B.R. 24, 35 (Bankr. D. Del. 2004).

²¹ *Dici v. Com. Of Pa.*, 91 F.3d 542, 547 (3d Cir. 1996) (internal quotations omitted).

²² *In re Selheimer & Co.*, 319 B.R. 395, 402 (Bankr. E.D. Pa. 2005) (citing *National Railroad Passenger Corp. v. Pennsylvania Pub. Util. Comm'n*, 288 F.3d 519, 525 (3d Cir.2002)).

litigated on May 4, 2020. Third, and as mentioned above, the June 8 Order provides final judgment denying Mr. Shah's Original Motion. Fourth, the Court's determination that Mr. Shah failed to satisfy his burden under Texas law was essential in the June 8 Order because it was fully dispositive. Furthermore, the Court has already acknowledged in the June 8 Order that MDC is the mineral lessee to the Shah Property.²³ Thus, Mr. Shah's instant claim is collaterally estopped.²⁴

C. ECF Filings Motion

22. Mr. Shah also moves for the opportunity to file documents on the Court's ECF System. In support of his ECF Filings Motion, Mr. Shah relies on an April 1, 2020 statement made by the United States District Court for the District of New Jersey regarding its ECF procedure for *pro se* litigants in light of COVID-19. But this Court is not that court and that statement does not provide for ECF accounts for *pro se* filers. Rather, it established an email address to which filings may be sent. Here, the Court's Administrative Procedures for Electronically Filed Cases (the "ECF Procedures") clearly state that non-attorneys "shall be entitled to an ECF system password to permit the filing of a limited scope of documents such as *Reaffirmation Agreements* and *Requests for Service Notices*."²⁵ Mr. Shah is a *pro se* litigant and a non-attorney. As such, he is not entitled to

²³ June 8 Order, at ¶ 11.

²⁴ Nonetheless, the Court notes the utmost respect to the Court exercised by Mr. Shah throughout these proceedings.

²⁵ United States Bankruptcy Court for the District of Delaware, Administrative Procedures for Electronically Filed Cases, <https://www.deb.uscourts.gov/sites/default/files/clerks-office-procedures/administrative%20procedures%20for%20electronically%20filed%20cases.pdf> (Last visited July 21, 2020) (procedure 2.B "Registration").

file the documents he wishes to file via the ECF System. Nonetheless, the Clerk of Court will provide Mr. Shah with an email address to which he can send future filings.

CONCLUSION

For the reasons set forth above, both the Motion and the ECF Filings Motion are DENIED.



Christopher S. Sontchi
Chief United States Bankruptcy Judge

Dated: July 30, 2020