

Fred Moon

From: mow_bkecf@mow.uscourts.gov
Sent: Friday, September 04, 2020 12:52 PM
To: Fred Moon
Subject: 18-61082-can7 Miscellaneous Order

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**U.S. Bankruptcy Court
Western District of Missouri**

Notice of Electronic Filing

The following transaction was received from Graham, Beth entered on 9/4/2020 at 12:51 PM CDT and filed on 9/4/2020

Case Name: Legacy Quartz Sand Company, LLC
Case Number: 18-61082-can7
Document Number: 32

Docket Text:

Order of the Court

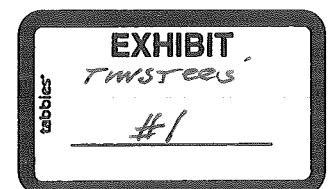
Order Sustaining Ch. 7 Trustee's Motion to Sell Property Identified as Form 1, Item #1: 123.5 Acres M/L Of Unimproved Real Estate At Or Near 12628 Cadle Road, Licking, Dent County, Missouri, Including Any Mineral Right Interest: Tax Parcels, (T-1: 42.20 Acres M/L) 17-3.0-06-0-005-000 And (T-2: 81.30 Acres M/L) 17-3.0-06-0-00-002-000, At Public Auction Sale With Aid of An Auctioneer . Signed on 9/4/2020.

The moving party is to serve this order on parties not receiving electronic notice but entitled to notice pursuant to Fed. R. Bankr. P. 2002, Local Rule 2002-1 and other applicable law.
File the Certificate of Service and relate it to the **order** category.

(Related document(s)[28]) (Graham, Beth)

The following document(s) are associated with this transaction:

Document description:Main Document
Original filename:LegacyQuartzSandCoLLCOrderToSell 123.pdf



Electronic document Stamp:

[STAMP bkecfStamp_ID=972439925 [Date=9/4/2020] [FileNumber=26205285-0]
[42c9739b562cb846673a0e6a45be828246a19431f9000c5f211f91e1ce91294c1cbe
3aa2d0ffc8f0d74bc22fd62d4191d4f62dd4b6fdeea26929a38bc121d9b8]]

18-61082-can7 Notice will be electronically mailed to:

Ryan D. Kiliany on behalf of Debtor 1 Legacy Quartz Sand Company, LLC
rdk@troppitomiller.com, as@troppitomiller.com

Fred Charles Moon
FCMoon@Moon-Attorneys.com, MO08@ecfcbis.com

Fred Charles Moon on behalf of Trustee Fred Charles Moon
FCMoon@Moon-Attorneys.com, MO08@ecfcbis.com

Danny R. Nelson on behalf of Creditor Wilson Mining, LLC
dan.nelson@kutakrock.com, Julie.chorice@kutakrock.com

18-61082-can7 Notice will not be electronically mailed to:

Kollmeier Auctioneer

,

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

In Re:)
)
Legacy Quartz Sand Company, LLC) Case No. 18-61082-CAN-7
)
Debtor.)

**ORDER SUSTAINING [DOC. #28] CHAPTER 7 TRUSTEE'S MOTION AND
APPLICATION TO SELL REAL PROPERTY IDENTIFIED AS FORM 1, ITEM #1:
123.5 ACRES M/L OF UNIMPROVED REAL ESTATE AT OR NEAR 12628 CADLE
ROAD, LICKING DENT COUNTY, MISSOURI, INCLUDING ANY MINERAL RIGHT
INTEREST: TAX PARCELS, (T-1: 42.20 ACRES M/L) 17-3.0-06-0-00-005-000 AND
(T-2: 81.30 ACRES M/L) 17-3.0-06-0-00-002-000, AT PUBLIC AUCTION SALE WITH
THE AID OF AN AUCTIONEER PURSUANT TO 11 U.S.C. SECTION 363(f)**

On this 3rd day of September, 2020, Fred Charles Moon, the duly appointed Chapter 7 Trustee of the bankruptcy estate of the Debtor LLC, Legacy Quartz Sand Company, LLC, Bankruptcy Case No. 18-61082-CAN-7, pursuant to a Notice of Selection and Appointment dated September 27th, 2018, having moved and applied in [doc. #28] to this Court for its Order allowing the Chapter 7 Trustee to sell real property of the estate at private sale with the aid of an auctioneer pursuant to 11 U.S.C. section 363(f), and no timely objections having been filed by the due date of September 2nd, 2020, and no adverse interest appearing, and the Court being fully advised in the premises, finds the Debtor herein, to-wit: Legacy Quartz Sand Company, LLC, was organized as a Delaware limited liability company on September 19th, 2016, and registered as a foreign limited liability company with the Office of the Missouri Secretary of State on September 19th, 2016, (FL001417693), that the following described real property is property of the bankruptcy estate of the above named Debtor LLC, Legacy Quartz Sand Company, LLC, and constitutes a substantial asset of the estate that should be liquidated to benefit the estate:

Form 1, Item #1: 123.5 m/l acres of unimproved real estate at or near 12628 Cadle Road, Licking, Dent County, Missouri, including any mineral right interest: Tax

Parcels, (T-1: 42.20 acres m/l) 17-3.0-06-0-00-005-000 and (T-2: 81.30 acres m/l) 17-3.0-06-0-00-002-000, and legally described as follows:

Beginning at the Southeast Corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Six (6), Township Thirty Two (32) North, Range Seven (7) West, Run North One Hundred (100) yards, thence West down the bluff to Pigeon Creek crossing the creek eight (8) yards South of a double elm tree, thence West with ditch and fence to the county road as now located, thence South along County Road to the line between Section Six (6) and Seven (7), thence continue South and East along County Road to Bean Creek, thence in a Southeasterly direction along Bean Creek to Pigeon Creek, thence North and East along Pigeon Creek on said line to the true point of beginning, all the above land being located in Sections Six (6) and Seven (7) Township Thirty Two (32) North, Range Seven (7) West.

SUBJECT to any and all rights-of-way, easements, restrictions, reservations and covenants of record; and

SUBJECT to the terms and conditions of the transmission line easement in favor of Sho-Me Power Corporation , by instrument filed November 29th, 1960, in Book 111 at Page 141, of the deed records of Dent County, Missouri, and any encroachments or limitations it may make on the subject property; and

SUBJECT to the terms and conditions as set forth in the easement deed by court order in settlement of landowner action in favor of Sho-Me Power Electric Cooperative, et al. recorded on December 13th, 2019, as Instrument #20192269, of the deed records of Dent County, Missouri; and

SUBJECT zoning ordinances and regulations of Dent County, Missouri;

SUBJECT to streams, riparian rights, boundary changes caused by accretion and avulsion, and the title to any filled in lands not otherwise shown by the public records; and

SUBJECT to the rights of the public, State of Missouri, County of Dent, in and to the part of the premises in question if any taken or used for highway or road purposes and subject to any and all easements, public or private, including easements of record.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Chapter 7 Trustee's Motion and Application [doc. #28] to Sell Property Identified as Form 1, Item #1: 123.5 Acres M/L of Unimproved Real Estate at or near 12628 Cadle Road, Licking, Dent

County, Missouri, Including Any Mineral Right Interest: Tax Parcels, (T-1: 42.20 Acres M/L) 17-3.0-06-0-00-005-000 and (T-2: 81.30 Acres M/L) 17-3.0-06-0-00-002-000), at Public Auction Sale with the Aid of an Auctioneer Pursuant To 11 U.S.C. Section 363(f), be and is hereby sustained; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court approves and authorizes the Chapter 7 Trustee's sale pursuant to 11 U.S.C. Section 363(f) of the above-described real property of the estate, Form 1, Item #1: 123.5 acres m/l of unimproved real estate at or near 12628 Cadle Road, Licking, Dent County, Missouri, including any mineral right interest: Tax Parcels, (T-1: 42.20 acres m/l) 17-3.0-06-0-00-005-000 and (T-2: 81.30 acres m/l) 17-3.0-06-0-00-002-000 and improvements thereon as a single tract, together with applicable easements, if any, at public auction sale, by Bob Kollmeier Auctions, Robert (Bob) Kollmeier, Auctioneer, on Saturday, the 19th day of September, 2020 at 1:00 p.m. (C.S.T), with on-line bidding and at the property site (auction sign) located approximately (.6) six-tenths miles south of 12628 Cadle Road (east side), Licking, Dent County, Missouri, Dent County, Missouri, and which real estate is legally described as follows:

Form 1, Item #1: 123.5 m/l acres of unimproved real estate at or near 12628 Cadle Road, Licking, Dent County, Missouri, including any mineral right interest: Tax Parcels, (T-1: 42.20 acres m/l) 17-3.0-06-0-00-005-000 and (T-2: 81.30 acres m/l) 17-3.0-06-0-00-002-000, and legally described as follows:

Beginning at the Southeast Corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Six (6), Township Thirty Two (32) North, Range Seven (7) West, Run North One Hundred (100) yards, thence West down the bluff to Pigeon Creek crossing the creek eight (8) yards South of a double elm tree, thence West with ditch and fence to the county road as now located, thence South along County Road to the line between Section Six (6) and Seven (7), thence continue South and East along County Road to Bean Creek, thence in a Southeasterly direction along Bean Creek to Pigeon Creek, thence North and East along Pigeon Creek on said line to the true point of beginning, all the above land being located in Sections Six (6) and Seven (7) Township Thirty Two (32) North,

Range Seven (7) West.

SUBJECT to any and all rights-of-way, easements, restrictions, reservations and covenants of record; and

SUBJECT to the terms and conditions of the transmission line easement in favor of Sho-Me Power Corporation , by instrument filed November 29th, 1960, in Book 111 at Page 141, of the deed records of Dent County, Missouri, and any encroachments or limitations it may make on the subject property; and

SUBJECT to the terms and conditions as set forth in the easement deed by court order in settlement of landowner action in favor of Sho-Me Power Electric Cooperative, et al. recorded on December 13th, 2019, as Instrument #20192269, of the deed records of Dent County, Missouri; and

SUBJECT zoning ordinances and regulations of Dent County, Missouri;

SUBJECT to streams, riparian rights, boundary changes caused by accretion and avulsion, and the title to any filled in lands not otherwise shown by the public records; and

SUBJECT to the rights of the public, State of Missouri, County of Dent, in and to the part of the premises in question if any taken or used for highway or road purposes and subject to any and all easements, public or private, including easements of record.

with closing through the Hiatt Land Title LLC, 610 S. Grand Ave., Houston, MO 65483 or as determined in the sole discretion of the Chapter 7 Trustee; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Chapter 7 Trustee be and is hereby authorized to sell said real estate, Form 1, Item #1: 123.5 acres m/l of unimproved real estate at or near 12628 Cadle Road, Licking, Dent County, Missouri, including any mineral right interest: Tax Parcels, (T-1: 42.20 acres m/l) 17-3.0-06-0-00-005-000 and (T-2: 81.30 acres m/l) 17-3.0-06-0-00-002-000 and improvements thereon, free and clear of all secured claims or lien claims, if any; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all allowed secured claims or lien claims, if any, shall be transferred to the gross auction sale proceeds derived from

the sale of the above-described real property; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court authorizes the Chapter 7 Trustee's designated Title Company, as closing agent for the Chapter 7 Trustee, to pay from the gross auction proceeds allowed secured claims, if any, of any enforceable lien claim holders of record; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Debtor LLC's real estate [Form 1, Item #1] shall be sold free and clear of the lien claims, if any, of the Dent County Missouri Treasurer/Collector of Revenue and that said real estate tax lien claims, if any, shall be transferred to the gross auction sale proceeds derived from the sale of the above described real estate, Form 1, Item #1; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court authorizes the Chapter 7 Trustee's designated Title Company, as closing agent for the Chapter 7 Trustee, to pay from the gross auction sale proceeds of the above described real property prior to distribution to the estate, the allowed lien claim(s) of the Dent County Missouri Treasurer/Collector of Revenue for unpaid real estate taxes, including applicable penalties and interest, including pro-rata real estate taxes for 2020, if required under the applicable real estate contract or any Special Agreements Addendum; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Chapter 7 Trustee be and is hereby authorized to transfer the title to the above described real estate without a determination as to the priority of lien attachment to said proceeds, which order of priority shall be determined at a later date either by motion filed by the Chapter 7 Trustee, or by the lien holder requesting such determination with respect to their priority interests in the proceeds derived from said sale; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court authorizes the Chapter 7 Trustee's public auction sale of the Debtor LLC's real estate [Form 1, Item #1] and empowers the Chapter 7 Trustee to execute any and all documents necessary to effectuate the sale and to transfer the Debtor LLC's interest in the property described above to the purchaser(s), including any mineral right interest, and including reservation of any necessary easements and granting and reserving any necessary easements and right-of-ways, including but not limited to ingress and egress easements and roadway easements, either by grant or by separate easement agreement; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as a part of said sale, the Court does hereby authorize and approve the payment from the gross auction sale proceeds, the closing costs and title commitment expenses of the Chapter 7 Trustee's designated Title Company, to-wit: Hiett Land Title Company, LLC, as administrative priority expenses under 11 U.S.C. Section 507 (a)(1); and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court, as part of said sale, does hereby approve the payment from the gross auction sale proceeds, the auctioneer's commissions and expenses, including on-line bidding costs, advertising and other expenses, as administrative expenses under 11 U.S.C. section 507(a)(1) in the amount determined by the rate as set out in the Court's order entered June 10th, 2020 [doc. #22] approving employment of the auctioneer; and

IT IS FURTHER, ORDERED, ADJUDGED AND DECREED the Chapter 7 Trustee be and is hereby released and discharged from any liability thereon with respect to the purchaser(s) and any subsequent transferee with respect to Lead-Based Paint and Lead-Based Paint Hazards on the premises to be sold; and

IT IS FURTHER, ORDERED, ADJUDGED AND DECREED that the Court sustains the request for affirmative relief contained in Chapter 7 Trustee's Motion and Application [doc. #28] to Sell Property Identified as Form 1, Item #1: 123.5 Acres M/L of Unimproved Real Estate at or near 12628 Cadle Road, Licking, Dent County, Missouri, Including Any Mineral Right Interest: Tax Parcels, (T-1: 42.20 Acres M/L) 17-3.0-06-0-00-005-000 and (T-2: 81.30 Acres M/L) 17-3.0-06-0-00-002-000), at Public Auction Sale with the Aid of an Auctioneer Pursuant To 11 U.S.C. Section 363(f) [doc. #28], and confirms the relief requested therein and incorporates said Motion and relief requested therein by reference, including its file document number with the Office of the United States Bankruptcy Clerk, Western District of Missouri.

SO ORDERED.

September 4, 2020

DATE

/s/ Cynthia A. Norton

THE HONORABLE CYNTHIA A. NORTON
U. S. BANKRUPTCY COURT JUDGE
WESTERN DISTRICT OF MISSOURI

ORDER PREPARED BY:

Fred Charles Moon

Chapter 7 Trustee