



TEAMSTERS

Borden Bankruptcy Update

Rome Aloise, Dairy Conference Director

June 26, 2020

The last few weeks have been busy with developments in the Borden bankruptcy case. While much of the back and forth between interested buyers occurred behind the scenes, on Monday, June 15, Borden announced that an entity called New Dairy Opco, LCC was named as the successful bidder for Borden. As reported in news articles and later confirmed in subsequent filings and discussions with us, New Dairy is an entity created by existing lender and private equity firm, KKR, and a specialty food/dairy private equity firm by the name of Capitol Peak Partners.

Teamsters Dairy Conference representatives had an initial conversation with Capitol Peak's founder, Gregg Engles, on Thursday, June 18. Engles informed us that Capitol Peak would be the controlling entity and taking over day-to-day management of the business. Engles further stated that they would not seek to reject our CBAs but did want to sit down with us to discuss some yet-to-be-identified issues prior to the sale being finalized in mid-July.

Capitol Peak/KKR filed its sales agreement (officially known as the asset purchase agreement or "APA") between Capitol Peak/KKR and Borden late Sunday, June 21. That sales agreement contained items that were detrimental to the integrity of your collective bargaining agreements. We already had an objection on file to the sales motion because CP/KKR never formally indicated their intentions on assuming our collective bargaining agreements. There was a hearing on Tuesday, June 23 for the bankruptcy judge to consider approving the APA. The main objection was ours.

Our bankruptcy counsel did an excellent job in court. The judge denied approving the sale motion as written on Tuesday and indicated he'd convene another hearing on Friday, June 26 to issue his final ruling. The judge strongly suggested he wanted the parties (the buyers and the union) to resolve all the outstanding issues by then.

Shortly thereafter, on Wednesday, June 24, Teamsters Dairy Conference representatives had a call with Borden and Capitol Peak to resolve the issues. On that call, Engles indicated that the company **WOULD** assume the collective bargaining agreements as is. The new company will be assuming all employees on the seniority list as it is under the current agreements. This is very good news and is a direct result of our solidarity and the recognition of the value of our members' contribution to making the new company a success.

While our issues are now resolved, there are a few other hurdles Capitol Peak needs to clear for the transaction to be approved and finalized. Those issues should be addressed in the coming weeks and the transaction is tentatively scheduled to be finalized on Monday, July 20.

There are some local unions which have contracts that are set to expire soon (within the next month or so). Those locals should reach out to management now for extensions. If locals encounter any problems please contact the Dairy Conference.

For further updates, please see www.teamster.org/divisions/dairy.