

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

JAMES WORTH BAXTER,

Debtor.

Case No. A04-01154-DMD
Chapter 7

**Filed On
8/30/07**

**MEMORANDUM REGARDING WHITE DESERT
PROOF OF CLAIM**

The trustee's objection to the claim of White Desert Transport, LLC duly came before the court for hearing on August 28, 2007. White Desert's original claim was for \$23,072.06. The objection sought to limit the claim to \$16,920.52. At the hearing the trustee revised his objection. Under his revised objection, White Desert's claim would be allowed in the sum of \$18,580.06. The difference of \$4,492.00 in the parties' positions arises out of fuel charges the debtor seeks to impose against the claimant.

Robert Bradford, principal of White Desert, testified that Mr. Baxter agreed to pay for 755 gallons of pit fuel White Desert used in shipping the debtor's salt throughout the state. Bradford also charged fuel at Tesoro for \$814.30 on Baxter's account. Bradford agrees that the Tesoro charges should be deducted from his claim. Baxter denies that he agreed to pay for any fuel charges. He contends that fuel was furnished to Bradford simply because Bradford was broke and could not pay for it on his own. Kevin Blake, another trucker employed by Baxter, paid for his own fuel. Based on Blake's corroborating testimony, I conclude that all fuel charges, including pit fuel, are proper deductions from the claim.

Baxter seeks a deduction of \$4,492.00 for fuel charges. I get a different amount. Bradford acknowledges charging 288.9 gallons at a Tesoro through an account in Baxter's name. Those charges total \$814.30. Bradford also admits using 755 gallons of pit fuel. He thought Baxter's cost was \$2.60 a gallon. Baxter did not refute this number. At this rate, Baxter's pit fuel charges total \$1,963.00. Deductions for fuel charges are \$814.30 plus \$1,963.00 for a total of \$2,777.30, leaving White Desert with a net claim of \$20,294.76. An appropriate order will be entered.

DATED: August 29, 2007.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: G. Spraker, Esq.
R. Bradford of White Desert
K. Battley, Trustee
U.S. Trustee

08/30/07