



**SO ORDERED,**

**Judge Jamie A. Wilson  
United States Bankruptcy Judge  
Date Signed: August 21, 2025**

**The Order of the Court is set forth below. The docket reflects the date entered.**

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE:**

**EL DORADO GAS & OIL, INC., *et al.*,<sup>1</sup>**

**CASE NO. 23-51715-JAW**

**DEBTORS.**

**CHAPTER 11**

**ORDER GRANTING THE TRUSTEE'S MOTION FOR SUBSTANTIVE  
CONSOLIDATION OF THE DEBTORS AND EL DORADO OIL & GAS, INC.**

This matter came before the Court for hearing on August 19, 2025 (the “Hearing”), on the Motion for Substantive Consolidation of the Debtors and El Dorado Oil & Gas, Inc. (the “Motion”) Dkt. #1379) filed by Dawn M. Ragan (the “Trustee”), the duly appointed chapter 11 trustee for El Dorado Gas & Oil, Inc. (“El Dorado”), and Hugoton Operating Company, Inc. (“Hugoton”), and in that capacity, the Independent Manager of the debtor, Bluestone Natural Resources II – South Texas, LLC (“Bluestone”), and the Independent Director of the debtor World Aircraft, Inc. (“World Aircraft,” and together with El Dorado, Hugoton, and Bluestone, the “Debtors”) for the entry of an order approving the substantive consolidation of Hugoton, El Dorado, Bluestone, and World Aircraft, as the Debtors, along with El Dorado Oil & Gas, Inc. (“EDOG”) (collectively, the “Entities”), pursuant to 11 U.S.C. § 105; Bracken Group’s Objection to Trustee’s Motion for

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<sup>1</sup> Jointly administered with *In re Hugoton Operating Company, Inc.*, Case No. 23-51139-JAW; *In re Bluestone Natural Resources II – South Texas, LLC*, Case No. 24-50223-JAW; and *In re World Aircraft, Inc.* Case No. 24-50224-JAW.

Substantive Consolidation of the Debtors and El Dorado Oil & Gas, Inc. (the “Objection”) (Dkt. #1473) filed by the Bracken Group<sup>2</sup>; and the Trustee’s Reply in Support of the Motion for Substantive Consolidation of the Debtors and El Dorado Oil & Gas, Inc. (the “Reply”) (Dkt. #1489).

The Trustee was represented by R. Michael Bolen, Nancy Lee Ribaud, and Katherine Hopkins. Sarah Beth Wilson appeared on behalf of the Bracken Group. David L. Curry, Jr. and Jack A. Crawford, Jr. appeared on behalf of First Service Bank (“FSB”). Abbie Marbury appeared on behalf of the United States Trustee (the “UST”). The Trustee was the only witness.

### DISCUSSION

The Court begins by noting that substantive consolidation has been contemplated since the beginning of the case. In fact, the debtor-in-possession (“DIP”) for El Dorado filed the first motion for substantive consolidation on January 26, 2024, alleging that El Dorado and Hugoton “have historically co-mingled funds.” (Dkt. #152; Hr’g at 10:44-10:45 (Aug. 19, 2025)).<sup>3</sup> That motion was pending until May 2, 2025, when it was withdrawn without prejudice to allow for the filing of the present Motion by the Trustee. (Dkt. #1323). The Trustee’s Motion, similar to the DIP’s motion, alleges co-mingling of assets but also asserts numerous other grounds based on her own investigations. Substantive consolidation has been on the table<sup>4</sup> in this bankruptcy case almost since the petition for relief was filed on December 22, 2023. (Hr’g at 10:40; World Ag Order at 3).

Substantive consolidation is part of the Court’s general equitable powers under 11 U.S.C. § 105(a). *S.I. Acquisition, Inc. v. Eastway Delivery Serv., Inc. (In re S.I. Acquisition, Inc.)*, 817

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<sup>2</sup> The “Bracken Group” includes: K.S. Bracken Limited Partnership; Kay S. Bracken; Bracken 1984 Children’s Trust for the Benefit of A. Bracken; Bracken 1984 Children’s Trust for the Benefit of H. Bracken; Bracken 1984 Children’s Trust for the Benefit of R. Bracken; Bracken 1984 Children’s Trust for the Benefit of J. Bracken; Bracken Children’s Trust; Bracken Partners, Ltd.; Robert A. Bracken; S. Evans, Ltd.; Glenda Bracken; Estate of Sally Fischer; Rocking Fork Royalty Ltd.; Nancy A. Bracken; Estate of John Prince; Mary Jon Bryan; PLC O&G Properties, LP; Marshall Trust No. 1; and Price Partners, LLC.

<sup>3</sup> Because the Hearing was not transcribed, citations are to the timestamp of the audio recording.

<sup>4</sup> See also Order Denying Without Prejudice First Service Bank’s Motion for Entry of an Order (I) Extending the Automatic Stay under 11 U.S.C. § 362 and (II) Granting Related Relief (the “World Ag Order”) (Dkt. #1162).

F.2d 1142, 1145 n.2 (5th Cir. 1987) (“The bankruptcy court has authority to order *de facto* disregard of the corporate form through [substantive] consolidation.”); 2 COLLIER ON BANKRUPTCY ¶ 105.09[1][b] (16th ed. 2025). The Fifth Circuit Court of Appeals has acknowledged that bankruptcy courts have authority to order substantive consolidation but has not yet adopted its own criteria for determining when substantive consolidation is appropriate. *In re Permian Producers Drilling, Inc.*, 263 B.R. 510, 517-18 (W.D. Tex. 2000). Two major factors that courts consider are: (1) whether creditors dealt with the debtors before bankruptcy as if they were the same entity and (2) whether the affairs of the debtors after the bankruptcy are so intertwined that the time and expense necessary to identify and allocate their assets and liabilities would likely erode the recovery of those assets. *See Union Savs. Bank v. Augie/Restivo Baking Co. (In re Augie/Restivo Baking Co.)*, 860 F.2d 515, 518 (2d Cir. 1988).

The Court, having reviewed the Motion, Objection, Reply, and the 50 exhibits entered into evidence, and having considered the testimony of the Trustee,<sup>5</sup> finds that substantive consolidation is in the best interests of the Debtors, their estates, and their creditors. Notwithstanding that substantive consolidation is an “extreme and unusual” remedy, the Court has no hesitation in granting the Motion. *Kartar Gandy Ltd. P’ship (In re Gandy)*, 299 F.3d 489, 499 (5th Cir. 2002).

## **FINDINGS AND CONCLUSIONS<sup>6</sup>**

A. This Court has jurisdiction over the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334. Notice of the Motion was proper under the circumstances.<sup>7</sup>

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<sup>5</sup> In addition to her extensive professional experience, the Trustee has a bachelor’s degree in accounting and a master’s degree in business administration and is familiar with generally accepted accounting principles and tax accounting. (World Ag Order at 10; Hr’g at 1:15). Her testimony evidenced a thorough investigation of the financial status of the Entities and was unimpeached at the Hearing.

<sup>6</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact, when appropriate. See FED. R. BANKR. P. 7052. The testimony relied upon by the Court for its findings of fact and conclusions of law is contained in the audio recording of the Hearing.

<sup>7</sup> This Motion was served on “(a) [First Service Bank]; (b) the [UST]; (c) Drew McManigle, as the chapter 11 trustee in the Escambia Cases; (d) all of the Debtor’s creditors; (e) all mineral interest owners; (f) federal, state, and local

B. Consideration of the Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (O).

C. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

D. The creditors of the Entities viewed the Entities as a single economic unit when providing goods and/or services and/or engaging in business with the Entities. (Hr’g at 10:46, 10:51, 10:59-11:00, 11:15, 11:17-11:19, 11:37, 12:54).

E. The affairs of the Entities are so entangled that substantive consolidation for the purpose of administering estate assets and making distributions would benefit all creditors. (Hr’g at 10:47-10:49, 1:04, 2:44); *see In re Coleman*, Case No. 07-00515-NPO (Bankr. S.D. Miss. May 4, 2007), Dkt. #44.

F. The forensic accounting and litigation costs to segregate individual assets and liabilities would be detrimental to creditors because the Trustee would expend more time and resources trying to disentangle the Entities’ affairs than she would recover due to the poor record keeping practices of the Entities and the comingling of the assets. (Hr’g at 10:56, 11:01-11:03, 11:22, 1:03, 2:51). Further, it is highly unlikely that the Entities could be successfully disentangled at this juncture regardless of the costs. (Hr’g at 10:49, 12:55, 1:00-1:03). Moreover, the disentanglement would involve not only the Entities but also potentially over a hundred other companies formed and managed by the same owner, Tom Swarek (“Swarek”), because of the undocumented flow of money. (Hr’g at 10:49-10:50; 12:46-12:48).

G. There is an absence of separate financial reporting and record keeping between the Entities. (Hr’g at 10:46, 10:55-10:57, 11:01-11:03, 11:13, 11:22-11:25, 11:32).

H. Swarek controlled the Entities prior to the appointment of the Trustee. (Hr’g at 10:51-

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taxing authorities; (g) all other parties in interest in these cases; and (i) all known creditors of [EDOG].” (Dkt. #1379 at 25).

10:52, 11:12-11:13, 11:34). The Debtors are wholly owned (either directly or indirectly) subsidiaries of El Dorado, and El Dorado sometimes conducted business in the name of EDOG, creating a unity of interests and ownership between the Entities. (World Ag Order at 12; Hr'g at 10:50-10:52, 11:14, 11:28-11:29, 11:34).

I. Intercorporate obligations and guaranties exist among the Entities. (Hr'g at 10:56-10:57, 10:59-11:00, 11:13, 11:25, 11:35, 12:52). The largest secured creditor, First Service Bank, supports substantive consolidation. (Hr'g at 12:52-1:00).

J. Ascertaining ownership of the assets of each Debtor would be futile given the comingling of funds and the Debtors' practice of paying for assets but titling assets in the name of another notwithstanding the origin of the payment. (Hr'g at 11:01, 11:09-11:11; World Ag Order at 9). In the Objection, the Bracken Group supposes that substantive consolidation will prejudice its claims against El Dorado because the Trustee has been unable to ascertain the assets and liabilities of each Debtor. (Dkt. #1473 at 5). This speculative harm does not outweigh the numerous present harms remedied by substantive consolidation and is eclipsed by the fact that disentanglement (even if possible) will cost more than the Entities can afford. *See In re ADPT DFW Holdings, LLC*, 574 B.R. 87, 100 (Bankr. N.D. Tex. 2017). In this Court's view, the only way to ensure equitable treatment of all creditors is through substantive consolidation. As the Trustee explained at the Hearing, her inability to determine the assets and liabilities of each Debtor is the very reason why she requests substantive consolidation. (Hr'g at 12:59). She also testified that she did not believe substantive consolidation would adversely impact the Bracken Group's purported liens on the AWP sale proceeds.<sup>8</sup> (Hr'g at 1:06; Dkt. #1473 at 4).

K. The Debtors failed to practice any meaningful corporate governance, and the merging of

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<sup>8</sup> The Court makes no finding in this Order as to the existence, validity, or priority of the Bracken Group's purported liens.

business activities ultimately resulted in the Entities becoming indistinguishable. (Hr’g at 10:56, 11:01-11:02, 11:21-11:23; World Ag Order at 10).

L. El Dorado/EDOG was the primary source of cash and resources for the Entities. (Hr’g at 10:56-10:57, 11:09).

M. EDOG has no independent business separate from El Dorado. (Hr’g at 11:21, 12:50). Hugoton provides services only to the Entities. (Hr’g at 10:52-10:54). Bluestone and World Aircraft have no independent, if any, business operations and primarily are only the named owners of certain assets. (Hr’g at 10:53, 11:07, 12:50). It is undisputed that El Dorado most likely funded the purchase of the assets held by Bluestone and World Aircraft. (Hr’g at 11:05-11:08, 12:51). None of the Entities operated independently – they operated at the direction of El Dorado/EDOG. (Hr’g at 11:27, 11:33).

**IT IS, THEREFORE, ORDERED THAT:**

1. The Motion is granted pursuant to 11 U.S.C. §§ 1123(a)(5)(C) and 105(a).
2. The Objection is overruled.
3. The bankruptcy estates of El Dorado, Hugoton, World Aircraft, and Bluestone, as the Debtors, are substantively consolidated along with EDOG with the results that the assets and liabilities of and claims against the Entities, respectively, are consolidated for purposes of administration of the estates and distribution of assets to creditors. The case number in *In re El Dorado Gas & Oil, Inc.* No. 23-51715-JAW shall be the “surviving” case number, and the caption shall be as follows:

IN RE:

CASE NO. 23-51715-JAW

EL DORADO GAS & OIL, INC., *et al.*,<sup>9</sup>

CHAPTER 11

DEBTORS.

(Substantively Consolidated)

4. Notwithstanding the foregoing, nothing in this Order is intended to nor shall be construed as impacting the legal and corporate structures of the Entities nor affecting pre- and post-petition creditor liens and lien rights or the collateral subject thereto.
5. The terms of this Order and the relief granted therein are effective immediately.
6. To the extent that this Order is inconsistent with any prior order or pleading, the terms of this Order shall govern.
7. This Court hereby expressly retains jurisdiction over all persons and entities to enforce the terms of this Order and to adjudicate any and all disputes in connection herewith.

**##END OF ORDER##**

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<sup>9</sup> The Debtors in these substantively consolidated cases are: *In re El Dorado Gas & Oil, Inc.*, Case No. 23-51715-JAW; *In re Hugoton Operating Company, Inc.*, Case No. 23-51139-JAW; *In re Bluestone Natural Resources II – South Texas, LLC*, Case No. 24-50223-JAW; and *In re World Aircraft, Inc.* Case No. 24-50224-JAW.