

Judge Won't Reopen Alto Maipo Ch. 11 Claims Challenge

By **Rick Archer**

Law360 (February 16, 2022, 4:06 PM EST) -- A New York bankruptcy judge Wednesday denied a request by creditors of Chilean hydroelectric venture Alto Maipo for more time to challenge the claims of the company's secured lenders but did give them two more weeks to file new claims against the company.

Following a virtual hearing, Judge Karen Owens said that pushing the claims deadline back would not derail Alto Maipo's Chapter 11 schedule but that there was no legal justification for the unsecured creditor committee's request to restart the already-expired period for challenging the secured lenders' liens.

Alto Maipo began Chapter 11 bankruptcy proceedings in November, laying blame on an unaccommodating electricity market and climate change, which stopped glacier snowmelt from reaching the waterways that were supposed to power the hydroelectric project.

The company said it had reached a restructuring agreement with some of the holders of its more than \$2 billion in debt.

On Feb. 3 the unsecured creditors' committee filed a motion asking Judge Owens to reopen the by-then-expired period for challenging the validity of liens against Alto Maipo, arguing that the committee had not been appointed until Jan. 31 and would need another 60 days to conduct proper due diligence.

"This might be the first and only attempt to see if there is any value for the unsecured creditors," committee counsel Lynn Harrison said at the hearing, noting that unsecured creditors would recover nothing under the current proposed Chapter 11 plan.

Both Alto Maipo and the senior lenders **objected**, arguing that they could find no prior instance of a court restarting a lapsed challenge period but had found cases where courts have ruled that the creation of a committee is not sufficient grounds to restart.

"There are simply no facts or circumstances that justify the court making new law," Alto Maipo counsel Luke Barefoot said.

After Judge Owens agreed with this argument, the parties moved on to the committee's separate motion to move the bar date for filing claims against Alto Maipo, which had been Wednesday, back to April 2.

Committee counsel James Irving said the committee had statements from four creditors who said they had not received notice and that no unsecured claims had been filed at the time the committee was formed.

"We believe this is indicative of a larger notice problem," he said.

Alto Maipo, however, argued it had served all identified creditors and published notice, and that the lack of claims could be explained by the fact that Alto Maipo is not an operating or public-facing company.

"They simply have very few creditors," Barefoot said.

He also argued that the 45-day extension requested by the committee would make it impossible to meet the May 17 plan confirmation deadline in the restructuring agreement, and under questioning from Judge Owens, Barefoot said mid-March was the latest the bar date could be and keep the case on schedule.

After saying she had thought the 30-day bar period originally requested by the debtor was "a little quick," Judge Owens extended the date to March 2, saying the delay would not harm the debtors.

"I can't ignore the postal delays that do exist and the fact the postal system was stressed over the holidays," she said.

Alto Maipo Delaware LLC is represented by Luke A. Barefoot, Richard J. Cooper, Miranda Herzog, Jack A. Massey and Richard C. Minott of Cleary Gottlieb Steen & Hamilton LLP and S. Alexander Faris and Sean T. Greecher of Young Conaway Stargatt & Taylor LLP.

The unsecured creditors are represented by Sam J. Alberts, David F. Cook and Lynn P. Harrison III of Dentons US LLP, James R. Irving of Dentons Bingham Greenebaum LLP, Carlos Urzua and Gonzalo Varela of Dentons Larrain Rencoret SpA and Kevin M. Capuzzi, Jennifer R. Hoover and John C. Gentile of Benesch Friedlander Coplan & Aronoff LLP.

The senior lenders are represented by Marissa Alcalá, Derek Cash, Christy Rivera, Andrew R. Rosenblatt and Eric C. Daucher of Norton Rose Fulbright US LLP, Matthew B. McGuire of Landis Rath & Cobb LLP and Andrew Rosenblatt of Chadbourne & Parke LLP.

The case is In re: Alto Maipo Delaware LLC, case number 1:21-bk-11507, in the U.S. Bankruptcy Court for the District of Delaware.

Additional reporting by Isaac Monterose. Editing by Rich Mills.