



NOTICE

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Bankruptcy Settlement Agreement Resolving Environmental Protection Agency Claims Under the Comprehensive Environmental Response, Compensation And Liability Act

On September 29, 2020, the Department of Justice lodged a proposed Settlement Agreement with the United States Bankruptcy Court for the Western District of New York (the “Bankruptcy Court”) in the matter of *In re: Tonawanda Coke Corporation*, Case No. 18-12156, among the United States on behalf of the Environmental Protection Agency (“EPA”), Debtor Tonawanda Coke Corporation, the Official Committee of Unsecured Creditors, and the New York State Department of Labor (“New York DOL”).

The proposed Settlement Agreement resolves the proof of claim filed by the United States on behalf of EPA, asserting a general unsecured claim for (a) \$2,002,200 in stipulated penalties under a consent decree between the United States and Debtor in *United States et al. v. Tonawanda Coke Corp.*, 1:15-cv-00420 (W.D.N.Y.), and (b) \$11,826.14 in response costs incurred prior to the October 15, 2019, bankruptcy petition date under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, performing the initial stages of a time-critical removal action to address the release and threatened release of hazardous substances at the Debtor’s coke manufacturing facility in Tonawanda, New York (“TCC Site”).

The proposed Settlement Agreement also resolves the United States’ Motion for Allowance of Administrative Expense Claim, Doc. No. 282, which was amended, Doc. No. 422, asserting an administrative claim in the amount of \$5,531,521.10, under Section 503(b)(1) of the

Bankruptcy Code, 11 U.S.C. § 503(b)(1), relating to response costs incurred after the Petition Date addressing releases and threatened releases of hazardous substances at the TCC Site.

The proposed Settlement Agreement provides the United States an allowed administrative expense claim in the amount of \$930,000 plus 83.7% of certain additional funds in the estate. In addition, the proposed Settlement Agreement provides the United States an allowed general unsecured claim of \$11,826.14 with respect to pre-petition response costs and \$2,002,200 with respect to stipulated penalties.

The proposed Settlement Agreement also provides certain recovery rights for New York DOL based on its claims under the New York State Worker Adjustment and Retraining Notification Act, New York Labor Law §§ 860-860-I and certain recovery rights for general unsecured creditors based on general unsecured claims filed in the bankruptcy.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments on the proposed resolution of the United States' claims set forth in the Settlement Agreement. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, and should refer to *In re: Tonawanda Coke Corporation*, DOJ Ref. # 90-5-2-1-09994/1. All comments must be submitted no later than thirty days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: <http://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$5.25 (25 cents per page reproduction cost) payable to the United States Treasury.

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