

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	
PES Administrative Services, LLC, ¹)	Chapter 11
)	Case No. 19-11629 (LSS)
)	
Debtors.)	(Jointly Administered)
)	(Formerly Jointly Administered
)	under Lead Case: PES Holdings,
)	LLC, Case No. 19-11626)
)	

**STIPULATION REGARDING THE ALLOWANCE OF
GENERAL UNSECURED CLAIM**

The Liquidating Trust,² on behalf of Philadelphia Energy Solutions Refining and Marketing, LLC (“PESRM”) and North Yard Logistics, L.P. (“North Yard”) and the United States of America, on behalf of the United States Environmental Protection Agency, (the “EPA” and together with the Liquidating Trust, the “Parties”) hereby stipulate and agree as follows:

WHEREAS, PESRM was bound by the March 20, 2006 Global Consent Decree entered in *United States et al v Sunoco, Inc.*, No. 2:05-cv-02866-PBT (E.D. Pa.), as amended by the Fourth Amendment to the Global Consent Decree [Dkts. 36-1, 38] (the “Global Consent Decree”), which was terminated by order of the court dated October 16, 2021;

WHEREAS, on June 21, 2019, PESRM suffered a large-scale catastrophic incident involving an explosion at the alkylation unit at their Girard Point refining Facility (the “June 21 Girard Point Incident”);

¹ The Reorganized Debtors in these chapter 11 cases, along with the last four digits of each Reorganized Debtor's federal tax identification number, are: PES Holdings, LLC (8157); North Yard GP, LLC (5458); North Yard Logistics, L.P. (5952); PES Administrative Services, LLC (3022); PES Energy Inc. (0661); PES Intermediate, LLC (0074); PES Ultimate Holdings, LLC (6061); and Philadelphia Energy Solutions Refining and Marketing LLC (9574). On March 28, 2022, the Court entered an order [Docket No. [1900]] closing the chapter 11 cases of the Reorganized Debtors other than Case No. 19-11629 (LSS), PES Administrative Services, LLC.

² Capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Plan (as defined herein) or the Settlement Agreement (as defined herein), as applicable.

WHEREAS, on July 21, 2019 (the “Petition Date”), each of the above-captioned Debtors filed a voluntary petition for relief in the United States Bankruptcy Court for the District of Delaware (the “Court”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code” and such proceedings thereunder, the “Chapter 11 Cases”);

WHEREAS, on January 14, 2020, the EPA filed Proof of Claim No. 342 (the “EPA PESRM Proof of Claim”) against Debtor PESRM and Proof of Claim No. 15 against Debtor North Yard (the “EPA North Yard Proof of Claim”) seeking, among other things, a claim for payment of a civil penalty pursuant to Section 113(e) of the Clean Air Act (“CAA”), 42 U.S.C. §7413(e), for PESRM’s and North Yard’s alleged violations of Section 112(r) of the CAA, 42 U.S.C. §7412(r), (collectively the “EPA 112(r) Claim”). The EPA 112(r) Claim addressed herein does not address paragraphs 18-38 of the EPA PESRM Proof of Claim, nor does it address those matters settled in the June 9, 2020 Consent Decree and Environmental Settlement Agreement (“RINS Settlement”), nor does it address those matters settled in the December 23, 2020 Stipulation regarding the Allowance of EPA’s Administrative Expense and Unsecured Claims arising under CERCLA and stipulated penalties under the Global Consent Decree (“December 2020 Stipulation”). This Stipulation does not modify the RINS Settlement, the December 2020 Stipulation, or the Confirmation Order;

WHEREAS, on February 13, 2020, the Court entered the *Order Confirming the Fourth Amended Joint Chapter 11 Plan of PES Holdings, LLC and its Debtor Affiliates* [Docket No. 1004] (the “Confirmation Order”), thereby confirming the *Fourth Amended Joint Chapter 11 Plan of PES Holdings, LLC and its Debtor Affiliates* [Docket No. 1004-1] (the “Plan”);

WHEREAS, Paragraph 119 of the Confirmation Order has various provisions relating to the United States, including subparagraph xii relating to any right of setoff or recoupment of the United States;

WHEREAS, on June 26, 2020, the Effective Date of the Plan occurred, and the Debtors emerged from their Chapter 11 Cases;

WHEREAS, the Parties have engaged in good faith settlement negotiations to resolve the EPA 112(r) Claim, and the Parties desire to memorialize certain understandings and agreements they have reached with respect thereto; and

WHEREAS, the Liquidating Trust, acting on behalf of PESRM and North Yard, has determined that the compromise set forth herein is fair, reasonable, and in the best interests of the Debtors, the Debtors' estates, the Reorganized Debtors, PESRM, North Yard, and the foregoing parties' creditors, and parties in interest, and the terms and conditions set forth herein are fair, reasonable, and consistent with the Bankruptcy Code.

NOW, THEREFORE, without the adjudication or admission of any issue of fact or law, the Parties hereby stipulate and agree, and upon the Court's approval, it shall be ordered and binding on all parties in interest as follows:

1. The foregoing recitals are hereby incorporated by reference into this Stipulation.
2. EPA shall have an Allowed General Unsecured Claim for the EPA 112(r) Claim against PESRM in the amount of \$4,200,000 and against North Yard in the amount of \$26,724. EPA's Allowed General Unsecured Claims shall be Allowed General Unsecured Claims under Class 5 of the Plan and EPA shall receive a pro rata share of the Distribution Proceeds consistent with the March 13, 2020 Distribution Proceeds Election made by the United States on behalf of EPA. In addition, as to the difference between the amount the EPA receives on its Allowed

General Unsecured Claims from Distribution Proceeds and the amount of its Allowed General Unsecured Claims, the United States reserves any right of setoff in accordance with Paragraph 119 of the Confirmation Order.

3. This Stipulation fully resolves the EPA 112(r) Claim. In addition, with respect to the EPA 112(r) Claim, this Stipulation shall also resolve any civil liability for EPA's 112(r) Claim of the Liquidating Trust on behalf of PESRM and North Yard and the Debtors' and Liquidating Trust's successors and assigns, officers, directors, employees, and trustees, but only to the extent that the alleged liability of the successor or assign, officer, director, employee, or trustee of any Debtor or the Liquidating Trust is based solely on its status as and in its capacity as a successor or assign, officer, director, employee, or trustee of any Debtor or the Liquidating Trust. This Stipulation does not pertain to any matters other than those expressly specified herein. Notwithstanding anything to the contrary herein, the United States specifically reserves, and this Stipulation is without prejudice to: (i) any action to enforce any term of this Stipulation; (ii) paragraphs 18-38 of the EPA PESRM Proof of Claim; and (iii) any criminal liability. The Parties expressly reserve their rights under and with respect to the RINS Settlement, the December 2020 Stipulation, and under the Plan and Confirmation Order.

4. The Parties agree that there is no need for potential injunctive relief/corrective actions under the CAA by the Liquidating Trust on behalf of PESRM and North Yard in light of the cessation of operations at and demolition of PESRM's Philadelphia Refinery and the North Yard.

5. By entering into this Stipulation, the Liquidating Trust on behalf of PESRM and North Yard does not admit any liability or wrongdoing to the United States, or any of its agencies or instrumentalities, provided, however, that the Liquidating Trust on behalf of PESRM and North

Yard agrees to the Allowed General Unsecured Claim in Paragraph 2 which EPA asserted as a claim for payment of civil penalty. The Liquidating Trust on behalf of PESRM and North Yard also makes no admission of fact or law regarding the allegations in the EPA 112(r) Claim.

6. None of the agreements, statements, stipulations, findings, notices, or actions in connection with this Stipulation shall be deemed an admission of the EPA 112(r) Claim allegations. The Liquidating Trust on behalf of PESRM and North Yard denies that it violated or was not in compliance with any of the cited federal statutory provisions and regulations and maintains that it has been and remains in compliance with all applicable statutes and regulations.

7. The Parties agree that the entry of this Stipulation, its terms or any act performed hereunder, including any of the agreements, statements, stipulations, findings, notices, and actions taken in connection with this Stipulation, including any payments to the United States, are not an admission or evidence of any wrongdoing, fault, omission or liability or of the validity of any Party's claims, defenses, or assertions (provided, however, that the Liquidating Trust on behalf of PESRM and North Yard agrees to the Allowed General Unsecured Claim in Paragraph 2 which EPA asserted as a claim for payment of civil penalty).

8. This Stipulation is subject to the approval of the Court. The Parties further acknowledge and agree that if this Stipulation is not approved in the form executed by the Parties: (a) the arrangement contemplated herein shall be null and void and of no effect; (b) nothing contained in this Stipulation shall be deemed an admission of liability or culpability on behalf of any Party; and (c) this Stipulation shall not be construed to support the validity of any claim, defense or contention made or asserted by or against any Party.

9. Upon approval of this Stipulation by the Court, Omni Management Group, Inc. is hereby authorized and directed to update the official claims register to reflect the relief granted by this Stipulation and the order approving this Stipulation.

10. This Stipulation contains the entire agreement between the Parties with respect to the EPA 112(r) Claim and represents the Parties' mutual understandings, and supersedes all prior written arrangements, whether in oral or written form, with respect to the EPA 112(r) Claim, but this Stipulation does not in any manner modify, the RINS Settlement, the December 2020 Stipulation, the Plan, or the Confirmation Order.

11. This Stipulation shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, successors, and permitted assigns including, for the avoidance of doubt, with respect to PESRM and North Yard and the Liquidating Trust (as defined in the Plan).

12. The Parties are authorized to take all actions necessary to effectuate the relief set forth in this Stipulation. Furthermore, the signatories for the Parties each certify that he or she is authorized to enter into the terms and conditions of this Stipulation, and to execute and bind such party to this Stipulation. The Court shall retain jurisdiction to resolve any and all disputes arising from or related to this Stipulation. Each of the Parties irrevocably consents for all purposes of this Stipulation to the jurisdiction of the Court and agrees that venue is proper in the Court.

13. This Stipulation shall be lodged with the Court for a period of not less than 30 Days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Stipulation disclose facts or considerations indicating that the Stipulation is inappropriate, improper, or inadequate. PESRM and North Yard consent to entry of this Stipulation without further notice and agree not to withdraw from or oppose entry of this

Stipulation by the Court or to challenge any provision of the Stipulation, unless the United States has notified PESRM and North Yard in writing that it no longer supports entry of the Stipulation.

14. This Stipulation shall be effective and enforceable for all purposes immediately upon the Court's entry of an order approving this Stipulation.

15. The Parties each represent to the other that they have taken all actions necessary and have full authority to enter into this Stipulation.

16. This Stipulation may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same agreement.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF and in agreement herewith, by and through their undersigned counsel, the Parties have executed this Stipulation as of the date set forth below.

Dated: September 30, 2024
Wilmington, Delaware

/s/ Ruben Gomez
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