

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

In re)	Chapter 11
)	
FREEDOM INDUSTRIES, INC.)	
)	Case No. 14-20017-RGP
)	
Debtor.)	
)	

**FURTHER STATEMENT OF MARK WELCH, CHIEF RESTRUCTURING OFFICER
OF FREEDOM INDUSTRIES, INC., IN SUPPORT OF PLAN OF LIQUIDATION
AND REQUEST FOR EXPEDITED STATUS CONFERENCE**

As an alternative to conversion of the Freedom Industries bankruptcy case to a case under chapter 7 of the Bankruptcy Code or dismissal of the bankruptcy case, and the consequences that would most likely follow, the CRO requests that the Court schedule on an expedited basis a status conference in an effort to address these matters.

On May 8, 2015, Freedom Industries submitted an updated work plan under the VRP to WVDEP focused on, among other items, soil removal. The goal of the CRO in submitting the updated work plan was to encourage WVDEP to reinstitute discussions with the CRO regarding the steps necessary to finalize environmental undertakings at the Etowah River Terminal under the VRP, a program the CRO understood to exist for purposes of negotiating environmental remediation plans. Unfortunately, this goal has not been satisfied. The CRO does not expect that implementation of the updated work plan should require anywhere near the maximum range of funding that the updated work plan estimates may be required. WVDEP recently suggested in a pleading filed with this Court (Objection by Interested Party West Virginia Department of Environmental Protection To Debtor's Motion To Proceed With Plan Solicitation And Confirmation And Cross-Motion For Order Directing Remediation [Docket No. 793]) that the sum of \$1.0 million is required to finalize clean-up of the Etowah River Terminal. The plan of liquidation proposed by Freedom Industries dated April 30, 2015 (the "Plan") includes funding sufficient to cover the \$1.0 million remaining remediation figure suggested by WVDEP, provided that there is a reallocation of certain payments established under the Plan to environmental matters. The CRO submits that the CRO can amend the Plan with the support of those parties involved in its negotiation to provide for a reallocation of funds sufficient to allow Freedom Industries to finalize remediation efforts costing up to the \$1.0 million.

Today, Freedom has approximately \$47,000, an amount sufficient to pay its on-site remediation contractor for labor, manpower and water removal/disposition for accrued costs through the end of the current week. Thereafter, Freedom Industries has no further financial resources available to it absent concessions from non-debtor third parties. The CRO's interpretation of these circumstances is that in the absence of an alternative solution, at the conclusion of this week, the CRO will file a notice of conversion of the Freedom Industries case

to a case under chapter 7 of the Bankruptcy Code. Unless WVDEP were to revise the environmental obligations of Freedom Industries in the intervening period, the Office of the US Trustee will be tasked with attempting to appoint an interim chapter 7 trustee to a bankruptcy estate with ongoing environmental obligations and no money. Under these circumstances, it is most likely that WVDEP will be required to step in and address environmental matters at the Etowah River Terminal next week. As of this time, the CRO has no information that would allow for a seamless transition from the CRO to an alternative fiduciary.

Rather than taxpayers of the State of West Virginia being required to fund remediation obligations to the extent that they do exist, the CRO has developed an approach whereby Freedom Industries, under the continued guidance of the CRO, could continue to collect and dispose of water during the pendency of additional soil removal from the MCHM footprint to a point where WVDEP agrees that water collection is no longer required. The CRO has negotiated favorable accommodations with an environmental remediation firm for trucking and disposition of additional soil from the MCHM footprint. Although neither the CRO nor the licensed remediation specialist under the VRP (the "LRS") are of the opinion that further soil removal or water collection/disposition are actually necessary to protect the health, welfare and safety of the Charleston, WV community, the CRO and LRS appreciate that WVDEP has the final say in these matters. With this understanding, the CRO has negotiated revised accommodations with certain parties that are the sources of funding under the Plan for an amount of \$250,000 to be immediately funded to Freedom Industries. The \$250,000 would constitute an advance payment of certain settlement consideration otherwise contemplated under the Plan to be funded on what is defined as the "Effective Date" under the Plan. These proceeds would be earmarked exclusively for the purpose of addressing water collection/disposition and additional soil removal/disposition. Prior to funding the \$250,000 or modifying the Plan to reallocate a total of \$1.0 million for environmental matters, funding sources under the Plan, require (i) a clear and concise understanding of the uses of the \$1.0 million proposed by WVDEP to be allocated for environmental matters, (ii) an understanding that the \$1.0 million reallocated under the Plan for environmental purposes is the final amount deemed necessary for conclusion of environmental matters at the Etowah River Terminal, and (iii) an understanding that WVDEP will not stand in the way of a modified Plan allocating \$1.0 million for environmental matters moving forward in the confirmation process and will withdraw its objection to the Plan with those modifications.

With understandings of this nature, the sum of \$250,000 can promptly be funded into Freedom Industries for water collection/disposition and additional soil removal/disposition. Promptly thereafter, the Plan can be modified to address a reallocation of financial resources under the Plan sufficient to allow for the earmarked funding of \$250,000 and further funding of up to \$750,000 upon the Effective Date of the Plan for defined environmental purposes. Freedom Industries can address WVDEP's requirement for \$1.0 million of additional funding of environmental matters, but cooperation and collaboration are required in kind.

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Dated: May 12, 2015

Respectfully submitted

/s/ Mark Welch

Mark Welch
Chief Restructuring Officer of Freedom
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