

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI – ST. LOUIS

In Re:

PATRIOT COAL CORPORATION

Debtor

Case No. 12-51502 KSS
Chapter 11

**THE MICHIGAN DEPARTMENT OF TREASURY'S OBJECTION TO THE
DEBTOR'S PROPOSED CHAPTER 11 PLAN**

The Michigan Department of Treasury (Department), through its counsel Attorney General Bill Schuette and Assistant Attorney General Nate Gambill, objects to the confirmation of the debtor's proposed Chapter 11 Plan for the following reasons:

1. To be confirmed, the Debtor's proposed plan must "provide adequate means for the plan's implementation, such as curing or waiving any default." 11 USC § 1123(a)(5)(G). Currently, however, the proposed plan does not appear to contain any default language. If the Debtor elects to pay the Department's priority tax claim as required by 11 USC § 1129(a)(9)(C) rather than paying it in full shortly after the Effective Date, and defaults on its § 1129(a)(9)(C) installment payments, then Article 14 of the proposed plan would likely require the Department to reopen the Debtor's case before this Court in order to collect the Department's priority tax claim. But reopening a closed bankruptcy case is costly and time consuming.

2. To ensure that the proposed plan complies with that requirement in 11 USC § 1123(a)(5)(G) to adequately address default, the Department recommends adding the following default language to the proposed Plan:
 - a. If the Debtor fails to make an installment payment due to any Creditor as required under the confirmed Plan, and if the Debtor's failure to make such payment is not cured within 30 days of a notice of default, the Creditor may exercise all rights and remedies available under non-bankruptcy law to collect the full amount of its claims without further notice to or action by the Bankruptcy Court.

REQUEST FOR RELIEF

The Department requests that the Court deny confirmation of the Debtor's proposed plan.

Respectfully submitted:

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Attorney General

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