

TRACY HOPE DAVIS
United States Trustee for Region 2
U.S. Department of Justice
Office of the United States Trustee
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New York, New York 10004
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By: Andrea B. Schwartz, Esq.
Trial Attorney

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re	:	Chapter 11
	:	
PATRIOT COAL CORPORATION,	:	Case No. 12-12900 (SCC)
<u>et al.</u> ,	:	
	:	Jointly Administered
Debtors.	:	
	:	
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**UNITED STATES TRUSTEE’S
PROPOSED FINDINGS OF FACT REGARDING MOTION,
PURSUANT TO 28 U.S.C. § 1412 AND FED. R. BANKR. P. 1014(a)(1), TO
TRANSFER VENUE OF THESE CASES IN THE INTEREST OF JUSTICE**

TO: THE HONORABLE SHELLEY C. CHAPMAN,
UNITED STATES BANKRUPTCY JUDGE:

Tracy Hope Davis, the United States Trustee for Region 2 (the “United States Trustee”), by and through her counsel, respectfully submits these proposed findings of fact regarding the United States Trustee’s motion, pursuant to Section 1412 of title 28, United States Code and Rule 1014(a)(1) of the Federal Rules of Bankruptcy Procedure, to transfer venue of these cases in the interest of justice. (ECF No. 406).¹

¹ Unless otherwise indicated, all citations to “ECF No. ____” shall refer to the Court’s docket for Case No. 12-12900 (SCC). Citations to “Stip. ____” shall refer to the Stipulation of Facts for the Purposes of a Hearing on the Motions to Transfer Venue. (ECF No. 546). Citations to the “341(a) Mtg Tr. ____” shall refer to the transcript of the Bankruptcy Code Section 341(a) Meeting in the Matter of Patriot Coal Corporation conducted on August 23, 2012, previously submitted as Exhibit A to the Supplemental

1. On June 1, 2012, PCX Enterprises, Inc. (“PCX”) was incorporated under the laws of the State of New York. (Stip. ¶ 3(a)).
2. On June 14, 2012, Patriot Beaver Dam Holdings, LLC (“Patriot Beaver Dam”) was formed under the laws of the State of New York. (Stip. ¶ 3(b)).
3. Both PCX and Patriot Beaver Dam were formed to ensure that the provisions of 28 U.S.C. § 1408(1) were satisfied, and for no other purpose. (Stip. ¶ 3(d)).
4. On July 9, 2012, PCX and Patriot Beaver Dam filed voluntary petitions for relief under chapter 11 of Title 11 in the United States Bankruptcy Court for the Southern District of New York. (Case No. 12-12898, ECF No. 1; Case No. 12-12899, ECF No. 1).
5. In the section of their respective petitions titled “Information Regarding the Debtor – Venue,” PCX and Patriot Beaver each marked the box stating “Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.” (Id.).
6. On July 9, 2012, Patriot Coal Corporation and 96 of its affiliates (collectively, the “Remaining Patriot Coal Debtors”) filed voluntary petitions for relief under chapter 11 of Title 11. (Case Nos. 12-12900, 12-12902 through 12-12911, 12-12913 through 12-12914, and 12-12916 through 12-12999).
7. In the section of their respective petitions titled “Information Regarding the Debtor – Venue,” each of the Remaining Patriot Coal Debtors marked the box stating “There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.” (Case Nos. 12-12900, 12-12902 through 12-12911, 12-12913

Declaration of Andrea B. Schwartz dated August 31, 2012. (ECF No. 510). Citations to the Supplemental Declaration of Andrea B. Schwartz dated August 31, 2012 shall be referred to as “Schwartz Supp. Decl. ____). All documents cited herein have been admitted into evidence by stipulation. (Stip. ¶ 1).

through 12-12914, and 12-12916 through 12-12999, ECF No. 1). The petitions for the Remaining Patriot Coal Debtors do not assert any other basis for venue. (Id.).

8. On August 23, 2012, counsel to the United States Trustee conducted the meeting of creditors (the “§ 341(a) Meeting”) in the Debtors’ bankruptcy cases. (Schwartz Supp. Decl. ¶ 2).

9. Mark Schroeder, the senior vice president and chief financial officer of the Debtors testified on behalf of the Debtors at the § 341(a) Meeting. (341(a) Mtg Tr. 5 and throughout the entire transcript).

10. Mr. Schroeder was represented by counsel at the § 341(a) Meeting. (341(a) Mtg Tr. 4-5).

11. Neither PCX nor Patriot Beaver Dam has any business operations or employees. (341(a) Mtg Tr. 22-23; 39-40).

12. Neither PCX nor Patriot Beaver Dam has an office in New York. (341(a) Mtg Tr. 25; 39).

13. The principal asset of PCX in New York is \$97,985 that was opened at a branch of Capital One Bank located in New York. The principal asset of Patriot Beaver Dam is a certificate evidencing 100% membership interest in Beaver Dam Coal Company, LLC, held by counsel to the First Out DIP Agent in New York. (Stip. ¶ 3(c)).

14. The Debtors' Monthly Operating Report for the month ending July 31, 2012 reflect total cash assets for the Debtors on an aggregate basis exceeding \$539 million, and total assets exceeding \$3.7 billion. (ECF No. 474).

Dated: New York, New York
October 5, 2012

Respectfully submitted,

TRACY HOPE DAVIS
UNITED STATES TRUSTEE

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