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Grupo Mexico Unit to Get \$15 Million for EPA ‘Improprieties’

Laurel Brubaker Calkins Dec. 12, 2012

-- Grupo Mexico SAB's Asarco LLC unit will receive \$15 million from the U.S. Environmental Protection Agency to resolve allegations of "improprieties" in the agency's handling of lead contamination at a former smelter site in Omaha, Nebraska.

Asarco had accused the EPA of destroying evidence that would have shown that lead contaminating an Omaha residential neighborhood came partly from peeling house paint and not solely from the company's former smelter operations. The EPA agreed to the settlement without admitting any wrongdoing, according to a joint motion filed today in federal bankruptcy court in Corpus Christi, Texas.

As part of the accord, Asarco will drop its request for the U.S. judge overseeing its bankruptcy case to reconsider \$219.5 million the company paid the EPA over pollution at the Omaha site. The company paid a total of \$1.8 billion in 2009 to resolve air and water pollution at more than 100 sites nationwide, marking the largest environmental bankruptcy in U.S. history, according to the EPA.

"The settlement resolves all civil actions between Asarco and the United States," Gregory Evans, Asarco's lawyer, said in a phone interview today. Evans declined to comment further.

In the court filing, the government said it disputed Asarco's allegations of fraud or misconduct and agreed to the settlement "solely in the interest of reasonable compromise and avoidance of continued expense associated with the dispute."

Criminal Probe

The agreement doesn't resolve the continuing criminal investigation into possible obstruction of justice by the EPA regional official who coordinated the Omaha project. This federal probe was disclosed by Asarco in a June court filing, upon which the EPA declined to comment at the time.

Wyn Hornbuckle, a spokesman for the U.S. Justice Department, declined in an e-mail today to comment on either the joint motion seeking the judge's approval for the settlement or the status of the criminal probe.

The case is In Re Asarco LLC, 05-21207, U.S. Bankruptcy Court, Southern District of Texas (Corpus Christi).

--Editors: Peter Blumberg, Stephen Farr