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VIA EMAIL: cw@g-etg.com

Ms. Claire Woods
Director of Environmental Justice Policies and
Senior Attorney
Greenfield Environmental Multistate Trust LLC

Re: Tronox Incorporated Tort Claims Trust

Dear Ms. Woods:

We represent the Tronox Incorporated Tort Claims Trust (“Tort Trust”). The Trustee of that Tort Trust has referred to us your June 28, 2022 email to Ms. Katie Hosty for response.

The Tort Trust was established pursuant to an order of the United States Bankruptcy Court for the Southern District of New York (the “Court”) in the chapter 11 bankruptcy proceedings of Tronox Incorporated (“Tronox”) to receive and process claims against Tronox for personal injury or property damage. It has no relationship whatsoever with the Multistate Environmental Trust that is charged with handling the environmental cleanup of the Tronox site in Columbus, MS, as the Tort Trust and the Multistate Environmental Trust differ in purpose, governance, structure, and funding.

The Tort Trust is required to process and pay personal injury and property damage claims against Tronox Incorporated in accordance with the Court-approved Trust Distribution Procedures (the “Procedures”), which are available on the Tort Trust’s website: <http://www.tronoxorttrust.com>. Those Procedures established the following categories of claims and the procedures for administering and paying the claims in those categories:

- Category A: Asbestos Claims and Future Tort Claims
- Category B: Indirect Environmental Claims
- Category C: Property Damage Claims
- Category D: Non-Asbestos Toxic Exposure Claims

A separate fund is established for each of these Categories. None of the funds established for any of the Categories is sufficient to pay in full all of the claims that have been or are expected to be allowed in that Category. The Procedures provide that claims that are allowed by the Tort Trust in each Category are to receive a *pro rata* share of the funds designated for payment of claims in that Category.

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The filing deadline for Categories B, C, and D has passed. The Tort Trust has processed those claims and has made partial distributions to the holders of allowed claims in those Categories. Final distributions to those Categories must await a final determination of the *pro rata* distributions that are payable to claimants in those Categories.

The Tort Trust began receiving Category A Future Tort Claims (“FTC”) in December of 2012, and as of this writing has received over 38,000 from dozens of states, a number that far exceeds the number that were expected at the time the Tort Trust was established. In June of 2016, the Tort Trust sought instructions from the Court as to the standards and procedures the Tort Trust should use in handling this deluge of FTCs. The Court provided those instructions in an Order entered on January 19, 2017 (“Instructions Order”). A copy of that Instructions Order can be found on the Tort Trust’s website.

Implementing the instructions provided by the Court in its Instructions Order, by 2017 the Tort Trust had mailed 17,322 Determination Notices to individuals who had filed FTCs -- 6,243 of those Determination Notices provided notice that the claimant’s Future Tort Claim had been allowed, and 11,079 indicated that the claim had been disallowed. By 2018, more than 4,000 individuals who received one of those Determination Notices filed motions with the Court challenging the Tort Trust’s determination of their FTC (“FTC Motion”). While the Court was reviewing each of those individual motions, claims processing was paused to determine whether the Court would require a change in the Tort Trust’s processing of claims. On March 10, 2021, the Court issued a 2,339 page decision (a copy of which is available on the Tort Trust’s website) that ruled on each of those Motions (“Decision”), which explains in detail the background and purpose of the Tort Trust, as well as pertinent developments since the Trust’s establishment. As a result of that Decision, approximately 1,000 FTCs have been referred back to the Tort Trust for further processing.

The Tort Trust continues to process FTCs on a rolling basis, and so far has processed over 21,000 FTCs. More than 17,500 FTCs are in various stages of claims processing. For the vast majority of those remaining claims, the determination process requires several steps because most of the claim forms that individuals submit are deficient in the information provided. Individuals whose claim forms are deficient are issued a “Defect Notice” with 30 days to submit a cure. If the claimant responds to the Defect Notice, but the claim is still deficient, they receive a second Defect Notice and an additional 30 days to cure the remaining defects. If the claimant fails to cure the defects after the second Defect Notice, then a Determination Notice denying the claim is issued. The Tort Trust is currently issuing Defect Notices in batches of 1,500 every two weeks. The Tort Trust estimates that it will be able to issue Determination Notices to all currently filed FTCs by the end of 2022.

As mentioned above, the Court-approved Procedures require that FTCs receive a *pro rata* share of the funds available for Category A claims. Of course, in order to determine an individual FTC claimant’s appropriate *pro rata* share, the Tort Trust must determine the total claim value of all allowed FTCs. Based solely upon the number of Category A claims that have been received to date, the Tort Trust is currently projecting that claims that are allowed in Category A, including

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FTCs, will receive less than one percent (1%) of their allowed claim amount, i.e. a claimant with an allowed FTC in the amount of \$1,000 will receive a distribution of less than \$10.

In light of the small and diminishing distributions projected for FTCs, the Tort Trust is making every effort to efficiently process the remaining claims with minimal expense. To that end, we have placed all information relevant to FTC holders on the Tort Trust's website, which is regularly updated and contains the most pertinent information regarding the status of overall claims. Accordingly, we direct general inquiries to that website, our email inbox at tronoxorttrust@epiqglobal.com or to the Tort Trust's helpline at 800-753-2480. The Tort Trust also files annual reports with the Court, which are available on the Trust's website. The Court is well aware of the status of the Tort Trust's handling of FTCs, and the Tort Trust's policy of directing all inquiries to the Tort Trust's website to avoid any risk of miscommunication or misunderstanding.

As I believe Ms. Hosty has explained to you in the past, we do not believe that participation in public meetings to answer the questions of individuals in the many cities where holders of FTCs reside is consistent with the Tort Trust's efforts to handle FTCs in the most efficient manner possible. This holds true also for the members of the Trust Advisory Committee. TAC members can provide no information on the general status of administration of FTCs or on the status of any particular FTC other than what is provided on the Tort Trust's website.

Best regards,

KEATING MUETHING & KLEKAMP PLL

By: 

Robert G. Sanker

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CC: Ms. Katie Hosty

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