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11
12 IN THE UNITED BANKRUPTCY COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14 NORTHERN DIVISION

15 In re:

Case No. ND 02-12255-RR

16
17 HALACO ENGINEERING
COMPANY,

18 Debtor

19 }
20 } **PROOF OF CLAIM**
21 } **AND CLAIM FOR**
22 } **ADMINISTRATIVE EXPENSE OF**
23 } **UNITED STATES ON BEHALF**
24 } **OF THE U.S. ENVIRONMENTAL**
25 } **PROTECTION AGENCY,**
26 } **THE U.S. DEPARTMENT OF**
27 } **COMMERCE, AND THE**
28 } **U.S. DEPARTMENT OF**
29 } **INTERIOR**

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1. The United States files this Proof of Claim and Claim for Administrative Expense (“Claim”) at the request of the U.S. Environmental Protection Agency (“EPA”), the National Oceanic and Atmospheric Administration of the Department of Commerce (“NOAA”), and the Fish and Wildlife Service of the Department of Interior (“FWS”). This Claim relates to the recovery of environmental response costs incurred or obligated, or that will be incurred or

1 obligated, under the Comprehensive Environmental Response, Compensation and Liability Act
2 ("CERCLA"), 42 U.S.C. §§ 9601 et seq., as amended, and for natural resource damages and
3 assessment and oversight costs, for which Halaco Engineering Company ("Debtor") is liable with
4 respect to the Halaco Site located at 6200 Perkins Road in Oxnard, Ventura County, California
5 ("the Site"). The Halaco Site includes a 26.3 acre parcel (the "WMU") owned by the Debtor and
6 containing a large waste management unit and a 10.69 acre parcel ("the Smelter") leased by the
7 Debtor where Debtor's recycling operations were conducted and office buildings are located.
8 This Claim is filed as a general unsecured claim except to the extent of any secured/trust interest
9 in insurance proceeds received by Debtor on account of environmental liability to the United
10 States and to the extent administrative expense priority exists relating to property of the estate,
11 post-petition violations of law (if any), or otherwise.

12 2. Debtor is liable to reimburse the United States for the costs (plus interest) of
13 actions taken or to be taken by the United States in response to releases and threatened releases
14 of hazardous substances at the Site. Debtor is liable to the United States pursuant to Section
15 107(a) of CERCLA, 42 U.S.C. § 9607(a), with respect to the Site, because there have been
16 releases or threats of releases of hazardous substances at the Site and Debtor is the owner of the
17 WMU and was owner and operator of the WMU and the operator of the Smelter at the time of
18 disposal of hazardous substances at the Site.

19 3. Response costs have been and will be incurred by EPA at the Site not inconsistent
20 with the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42
21 U.S.C. § 9605, and set forth at 40 C.F.R. § 300, as amended. Other potentially responsible
22 parties ("PRPs") may, along with the Debtor, also be jointly and severally liable to the United
23 States under CERCLA with respect to these Facilities. EPA has incurred unreimbursed response
24 costs to date of at least \$221,707 with respect to the Site, including approximately \$123,120.59
25 since the filing of Debtor's Chapter 11 petition. The Debtor is therefore liable to the United
26 States for at least these amounts plus interest.

27 4. EPA anticipates that additional response activities will be necessary, and
28 additional costs will be incurred, at the Site for which the Debtor, jointly and severally with other

1 PRPs, is liable, including but not limited to the implementation of a time-critical removal action
2 to address hazardous substances at the Site presenting an endangerment to human health and the
3 environment, the preparation and execution of a sampling and analysis plan for the Site, and the
4 completion of an integrated site assessment to determine whether it is appropriate to recommend
5 proposing this Site for listing on the National Priorities List. The United States currently
6 estimates that these additional response actions will cost approximately \$1,429,082. This
7 estimate may be reduced if EPA is successful in negotiating an agreement for the performance of
8 the removal action by PRPs other than Debtor. In addition, EPA may incur additional response
9 costs to perform or to oversee the implementation of a Remedial Investigation/Feasibility Study
10 and Remedial Design of response action to address environmental conditions at the Site. Should
11 EPA select a remedial action for the Site, the cost of such work is uncertain at this time, but
12 could be many millions of dollars.

13 5. Debtor is liable to NOAA and FWS, jointly and severally with other PRPs,
14 pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for injury to, destruction of, or loss
15 of natural resources, including the reasonable costs of assessing such injury, destruction, or loss
16 at or near the Site. Debtor operated a scrap metal recycling business at the Site. The Site is
17 adjacent to the coastal sand dunes and estuarine wetlands of Ormond Beach including Ormond
18 Beach Lagoon. The Site is a facility within the meaning of the statute. There have been releases
19 or threats of releases of hazardous substances at the Site that have affected NOAA trust
20 resources, including the surface waters of the Ormond Beach Lagoon and Ormond Beach
21 Wetlands, potentially impairing federally endangered Chinook salmon and marine mammals that
22 use the marine and estuarine habitats near the Site; and FWS trust resources, including species
23 listed under the Endangered Species Act, specifically the California Least Tern, the Snowy
24 Plover, the Tidewater Goby, and the Salt Marsh Birdsbeak. These species are present in the
25 surface waters of the Ormond Beach Lagoon and the Ormond Beach Wetlands or in the sandy
26 beach areas proximate to the Halaco facility.

27 6. NOAA has incurred at least \$61,266.68 in response costs since the filing of
28 Debtor's Chapter 11 petition in connection with the Site and anticipates incurring additional

1 response costs in connection with the Site, for which the Debtor, jointly and severally with other
2 PRPs, is liable, including, but not limited to, NOAA natural resource damage assessment costs,
3 which could cost \$359,000 or more, and natural resource restoration costs. FWS has incurred at
4 least \$16,284.16 in response costs since the filing of Debtor's Chapter 11 petition in connection
5 with the Site and anticipates incurring additional response costs in connection with the Site, for
6 which the Debtor, jointly and severally with other PRPs, is liable, including, but not limited to,
7 FWS natural resource damage assessment costs, which could cost \$370,240 or more, and natural
8 resource restoration costs . Restoration or replacement of injured natural resources relating to the
9 Site could cost many millions of dollars. The Debtor is therefore liable to the United States for at
10 least these amounts plus interest.

11 7. No judgments against the Debtor have been rendered with respect to the liabilities
12 referred to in this Claim.

13 8. This claim reflects the known liability of the Debtor to the United States on behalf
14 of EPA, NOAA, and FWS. The United States reserves the right to amend this claim to assert
15 subsequently discovered liabilities. This Claim is without prejudice to any right under 11 U.S.C.
16 § 553 to set off, against this claim, debts owed (if any) to the Debtor by this or any other federal
17 agency.

18 9. The United States has not perfected any security interest on its claim against the
19 Debtor.

20 10. As noted above, this claim is filed as a general unsecured claim except to the
21 extent of any secured/trust interest in insurance proceeds received by Debtor on account of
22 environmental liability to the United States and to the extent administrative expense priority
23 exists relating to property of the estate, including future response costs incurred or restoration
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1 performed, on property of the estate, post-petition violations of law (if any), or otherwise. The
2 United States reserves its right to supplement its Proof of Claim and Claim for Administrative
3 Expense at the appropriate time with further information that may become available.

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5 Respectfully submitted,

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12 By:

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that, on the 6th day of July 2006, a courtesy copy of the foregoing PROOF OF CLAIM AND CLAIM FOR ADMINISTRATIVE EXPENSE and was caused to be served on the parties or attorneys listed below by sending a copy thereof by Federal Express Overnight Delivery addressed to the following:

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