

for public use conditions under 49 CFR 1152.28 must be filed by February 15, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Jo A. DeRoche, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Ave., N.W., Suite 800, Washington, DC 20005.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

WWNJ has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 31, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 20, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
Secretary.

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the New Source Performance Standards for Petroleum Refineries and the Regulation for the Control of Atmospheric Pollution alleged in the complaint to have been violated.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Caribbean Petroleum Corporation*, D.O.J. Ref. 90-5-2-1-1848.

The proposed Consent Decree may be examined at the Region II Office of the United States Environmental Protection Agency, 26 Federal Plaza, New York, NY 10278 and at the Environmental Enforcement Section Document Center, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202 624-0892). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$6.25 (25 cents per page reproduction cost) made payable to Consent Decree Library.

**Bruce S. Gelber,**

Acting Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

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comply with specified emissions limits and operating practices until issuance of the permit, to comply with the terms of its boiler permit, and to pay a civil penalty of \$600,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; and refer to *United States v. Masonite Corporation*, DOJ Ref. # 90-5-2-1-1847.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102; at the Region IX office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$8.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

**Joel M. Cross,**

Acting Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that on January 11, 1995, a proposed Consent Decree in *United States v. Caribbean Petroleum Corporation*, Civil No. 95-1028(PG), was lodged with the United States District Court for the District of Puerto Rico. The proposed Consent Decree settles the United States' claims that the defendant had violated provisions of the Clean Air Act. The defendant operates a crude oil refinery located in Bayamon, Puerto Rico.

Under the terms of the Consent Decree, the defendant will pay a \$350,000 civil penalty. The defendant will also be required to comply with the terms of the fuel oil and gas limitations and record-keeping requirements of its PSD Permit and with those provisions of

### Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States v. Masonite Corporation*, Civil Action No. C 95 0189 DLJ (N.D. Cal.), was lodged on January 17, 1995 with the United States District Court for the Northern District of California. In the complaint in that action, the United States seeks from defendant Masonite Corporation ("Masonite") civil penalties and injunctive relief under Section 113(b) of the Clean Air Act (the "Act"), 42 U.S.C. 7413(b), for Masonite's failure to obtain a prevention of significant deterioration permit before commencing construction activities for a major modification to its Ukiah, California facility and for violations of a permit governing operations of a boiler at the facility.

The proposed consent decree requires Masonite to obtain a PSD permit, to

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Consistent with the policies expressed in Section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9622(d)(2)(B), and 28 C.F.R. § 50.7, notice is hereby given that on January 10, 1995, a proposed Consent Decree in *United States v. Alaskan Battery Enterprises, Inc.*, Civil Action No. A92-606 (D. Alaska), was lodged with the United States District Court for the District of Alaska. This Consent Decree resolves the United States' claims in this action against Sears, Roebuck and Co. ("Sears") regarding its liability under Sections 107(a) and 113(g) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(g), for

response costs incurred by the United States in connection with the Alaskan Battery Enterprises Superfund Site in Fairbanks, Alaska. The Decree also resolves the counterclaims brought by Sears against the United States.

The Decree requires, *inter alia*, that Sears reimburse the United States' response costs in the amount of \$664,759.00 plus prejudgment interest from May 1, 1994 through the date of payment. Sears is obligated, ten days after entry of the Decree, to stipulate to the dismissal with prejudice of its counterclaims against the United States; the United States is obligated, ten days after all payments have been received, to dismiss its claims against Sears with prejudice, however the Decree does contain a reopener that permits the United States to institute additional proceedings to require that Sears perform further response actions or to reimburse the United States for additional costs of response in certain situations. The Decree provides Sears the contribution protection afforded by Section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2).

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Alaskan Battery Enterprises, Inc.*, D.J. No. 90-11-3-726A.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Alaska, Room 253, Federal Building and U.S. Courthouse, 222 West Seventh Avenue, Anchorage, Alaska 99513-7567; the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (Tel: 202-624-0892). A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of \$5.75 (25 cents per page reproduction cost) payable to Consent Decree Library.

**Joel Gross,**

*Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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**Antitrust Division**

**U.S. v. Vision Service Plan; Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b) through (h), that a proposed Final Judgment, a Stipulation, and a Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. Vision Service Plan*, Case No. 1:49CV02693.

The Complaint in the case alleges that Vision Service Plan (VSP) entered into so-called "most favored nation" agreements with its panel doctors in unreasonable restraint of trade, in violation of section 1 of the Sherman Act, 15 U.S.C. 1, by effectively restricting the willingness of panel doctors to discount fees for vision care services and substantially reducing discounted fees for vision care services.

The proposed Final Judgment eliminates VSP's most favored nation clause and enjoins VSP from engaging in other actions that would limit future discounting by its participating doctors.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Gail Kursh, Chief; Professions & Intellectual Property Section, Department of Justice, Antitrust Division; 600 E Street, NW., Room 9300; Washington, DC 20530 (telephone: (202) 307-5799).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

**In the United States District Court for the District of Columbia**

United States of America, c/o Antitrust Division, Department of Justice, 600 E Street, NW., Washington, DC 20530, Plaintiff, vs. Vision Service Plan, 3333 Quality Drive, Ranch Cordova, CA 95670, Defendant. Case Number 1:94CV02693. Judge: Thomas Penfield Jackson. Deck Type: Antitrust. Date Stamp: 12/15/94.

**Complaint**

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable and other relief against the defendant named herein, and complains and alleges as follows:

*I*

**Jurisdiction and Venue**

1. This Complaint is filed by the United States under section 4 of the Sherman Act, 15 U.S.C. 4, as amended, to prevent and restrain a continuing violation by the Defendant of section 1 of the Sherman Act, 15 U.S.C. 1.

2. The Defendant transacts business and is found within the District of Columbia, within the meaning of 15 U.S.C. 22.

*II*

**Defendant**

3. Vision Service Plan ("VSP"), is a California not-for-profit corporation with its principal place of business in Rancho Cordova, California. The Defendant offers vision care insurance plans. To obtain services for covered patients, the Defendant enters into agreements with member optometrists and ophthalmologists in private practice (panel doctors), that govern their provision of vision care services to VSP patients.

4. Whenever this Complaint refers to any corporation's act, deed, or transaction, it means that such corporation engaged in the act, deed, or transaction by or through its members, officers, directors, agents, employees, or other representatives while they actively were engaged in the management, direction, control, or transaction of its business or affairs.

*III*

**Concerted Action**

5. Various firms and individuals, not named as defendants in this Complaint, have participated with the Defendant in the violation alleged in this Complaint, and have performed acts and made statements in furtherance thereof.

*IV*

**Trade and Commerce**

6. At material times, the Defendant has engaged in the business of underwriting or administering vision care insurance plans ("VSP plans") in 42 states (46 effective January 1, 1995) and the District of Columbia. The Defendant obtains vision care services for persons covered by VSP plans by establishing panels of contracting doctors, who each sign and agree to comply with the Panel Doctor's Agreement with VSP, which, among other things, governs payment for covered services rendered to VSP patients. The Defendant contracts with approximately 17,000 panel doctors.

7. At material times, the Panel Doctor's Agreement between each panel