

Dated: January 29, 1999.

**Susan H. Wayland,**

*Acting Assistant Administrator for  
Prevention, Pesticides and Toxic Substances.*

[FR Doc. 99-2781 Filed 2-4-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-3230-6]

### Proposed Agreement Pursuant to 122(g)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act for the MacGillis & Gibbs / Bell Lumber & Pole Site

**AGENCY:** Environmental Protection  
Agency ("EPA").

**ACTION:** Notice; Request for public  
comment.

**SUMMARY:** In accordance with 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1984, as amended ("CERCLA"), notification is hereby given of a proposed administrative agreement concerning the MacGillis & Gibbs / Bell Lumber & Pole Superfund Site at 440 Fifth Avenue N.W. in New Brighton, Minnesota (the "Site"). EPA proposes to enter into this agreement under the authority of 122(g)(1)(B) of CERCLA. The proposed agreement has been executed by Hypro Corporation ("Hypro").

EPA listed the Site on the National Priorities List in 1984 after initial investigations revealed the presence of hazardous substances, including wastes associated with pentachlorophenol and creosote-based wood treating processes at the Site. EPA selected a final remedy for the Site in 1994, which included a groundwater extraction and treatment phase. Since then, EPA has incurred response costs mitigating an imminent and substantial endangerment to human health or the environment present or threatened by hazardous substances present at or near the Site, including hazardous substances migrating with an aquifer to the east of the Site. Hypro owns real property to the east of the Site and situated above an aquifer contaminated with hazardous substances associated with the Site. Hypro has represented to EPA that it did not generate, treat, store or dispose of any hazardous substances at the Site and did not transport any hazardous substances to the Site, and has not permitted the contamination or contributed to it. Under the proposed agreement, Hypro will grant access to its

real property to the EPA and, upon assignment, the State of Minnesota, for the purpose of installing, operating and maintaining an extraction well cluster and related equipment for use in connection with the groundwater phase remedy at the Site. Hypro waives any claims against the Superfund for reimbursement of costs and for any potential claims under the Constitution for diminution of its property value resulting from the presence of the groundwater extraction equipment. EPA agrees to give Hypro protection from third-party claims under CERCLA for contribution and a covenant not to sue, subject to standard reopeners.

For thirty days following the date of publication of this notice, the Environmental Protection Agency will receive written comments relating to this proposed agreement. EPA will consider all comments received and may decide not to enter this proposed agreement if comments disclose facts or considerations which indicate that the proposed agreement is inappropriate, improper or inadequate.

**DATES:** Comments on the proposed agreement must be received by EPA on or before March 8, 1999.

**ADDRESSES:** Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604-3590, and should refer to: In the Matter of Hypro Corporation, New Brighton, Minnesota, U.S. EPA Docket No. V-W-99-C-524.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Williams, U.S. Environmental Protection Agency, Office of Regional Counsel, C-14J, 77 West Jackson Boulevard, Chicago, Illinois, 60604-3590, (312) 886-0814.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois, 60604-3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

**Authority:** The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. Sections 9601-9675.

**William E. Muno,**

*Director, Superfund Division, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-6226-9]

### Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity To Comment Regarding Northeast Public Sewer District, Fenton, Missouri

**AGENCY:** Environmental Protection  
Agency (EPA).

**ACTION:** Notice of proposed  
administrative penalty assessment and  
opportunity to comment regarding  
Northeast Public Sewer District, Fenton,  
Missouri.

**SUMMARY:** EPA is providing notice of  
opportunity to comment on the  
proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On December 31, 1998, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7630, the following complaint:

In the Matter of, the Northeast Public Sewer District, City of Fenton, Missouri; EPA Docket No. CWA-VII-99-0003.

The Complaint proposes a penalty of Five Thousand Dollars (\$5,000) for discharge of sludge to Saline Creek in violation of the National Pollutant Discharge Elimination System (NPDES) permit and Sections 301(a) and 402 of the Clean Water Act.

**FOR FURTHER INFORMATION CONTACT:** Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or