

certain prior art and her construction of additional terms in these claims, should the Commission adopt complainant's claim construction over the ALJ's. Complainant did not petition for review of the ALJ's conclusions as to claim 37. Respondent filed a contingent petition for review identifying as issues for consideration should the Commission decide to review the ID certain aspects of the ALJ's construction of claims 13, 15, 16, 17, 23, and 37, application of the doctrine of equivalents, and conclusions as to invalidity and inequitable conduct. The Commission investigative attorney (IA) petitioned for review of the ALJ's alternative basis for finding no domestic industry as erroneous as a matter of law. On May 20, 1999, respondent, complainant, and the IA filed responses to the petitions for review.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission determined not to review the ID, except that the Commission determined to take no position as to the ALJ's findings as to the following issues: (1) The invention date of the 525 patent; (2) the prior art status of the Oak/Brooktree combination under 35 U.S.C. 102(a); (3) the prior art status of the Bindlish 864 patent under 35 U.S.C. 102(e); (4) the invalidity of claim 37 of the 525 patent as anticipated by the Bindlish 864 prior art patent under 35 U.S.C. 102(e); and (5) the non-enablement of claims 13, 15, 16, 17, and 23. With respect to the ID's finding that complainant failed to satisfy the technical prong of the domestic industry requirement in part because claim 13 is invalid for indefiniteness, the Commission clarifies that it understands the ID to mean that complainant cannot meet the burden of demonstrating the practice of an indefinite claim. The Commission thereby adopted the ID, with the exceptions noted, as its final determination.

The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42-210.43 of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.42-.43).

Copies of the public version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202-205-2000.

Issued: July 19, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-18843 Filed 7-22-99; 8:45 am]

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DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act and Oil Pollution Act of 1990

Notice is hereby given that a consent decree in *United States v. Carlos R. Leffler, Inc.*, Civil Action No. 99-3027 (E.D. Pa) was lodged with the court on June 15, 1999.

The proposed decree resolves claims of the United States against Carlos R. Leffler, Inc. under Section 311 of the Clean Water Act, as amended by the Oil Pollution Act of 1990, 33 U.S.C. 1321, for failure to timely prepare and submit EPA plans for the prevention, control and cleanup of potential oil spills for twelve of its oil storage facilities in Pennsylvania. The decree requires Carlos R. Leffler to pay a penalty of \$435,000.00 to the Oil Spill Liability Trust Fund and to spend a minimum of \$110,000.00 for the donation and enhancement of approximately fifteen acres of wetlands and uplands in Walker Township, Juniata County, Pennsylvania.

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, Department of Justice, Washington, DC 20530, and should refer to *United States v. Carlos R. Leffler, Inc.*, Civil Action No. 99-3027, DOJ Ref. #90-5-1-1-4452.

The proposed consent decree may be examined at the United States Department of Justice, Environment and Natural Resources Division, Consent Decree Library, 1120 G Street, NW, 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, NW, 4th floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$7.50 (25 cent per page reproduction cost), payable to the Consent Decree Library.

Walker Smith,

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

[FR Doc. 99-18812 Filed 7-22-99; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

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

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. FMC Corporation*, Civil Action No. 5:99-CV-0054, was lodged on July 9, 1999 with the United States District Court for the Western District of Virginia. The United States filed this action pursuant to Sections 106 & 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9606 & 9607 at the Avtex Fibers Superfund Site in Front Royal, Virginia.

Before it closed in 1989, the Avtex plant in Front Royal was the largest rayon manufacturing facility in the United States and is now the largest Superfund site in the Commonwealth of Virginia. The plant is a 440 acre facility that is located directly adjacent to the Shenandoah River in the town of Front Royal. The site is contaminated with a variety of hazardous substances including PCBs, arsenic, lead, cadmium, chromium, zinc and carbon disulfide as the result of rayon manufacturing operations conducted at the site over the course of 50 years. The consent decree requires FMC to pay \$9.1 million for past and interim responses costs incurred by EPA at the Avtex Site. In addition, FMC has agreed to perform future response work at the site, with a value of \$62.7 million (in 1998 dollars) and pay for EPA's oversight of the clean up. Finally, FMC has agreed to oversee and participate in the removal of abandoned buildings and structures at the Avtex plant. This additional future work is not covered under CERCLA but will enable the property to be redeveloped or reused.

The Department of Justice will receive, for a period of 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, Department of Justice, Washington, DC 20530, and should refer to: *United States v. FMC Corporation*, DOJ Ref. #90-11-3-372A.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Virginia, Office of the U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, Pa., and at the Consent Decree Library, 1120 G Street, NW, 3rd

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, NW, 3rd Floor, Washington, DC 2005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$37.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

*Chief, Environmental Enforcement Section
Environment and Natural Resources Division.*
[FR Doc. 99-18810 Filed 7-22-99; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 9, 1999 a proposed Consent Decree in *United States and Cheyenne River Sioux Tribe v. Homestake Mining Company of California*, Civil Action No. 97-5100, and *State of South Dakota v. Homestake Mining Company of California*, Civil Action No. 97-5078 (consolidated) was lodged with the United States District Court for the District of South Dakota in Rapid City.

The Consent Decree settled federal, state, and tribal natural resource damage and trustee response costs claims associated with contamination resulting from deposits of millions of tons of tailings from Homestake's mining operations. Since the late 1870's Homestake has operated a gold mine in Lead, South Dakota. In their respective claims, the United States, the Cheyenne River Sioux Tribe, and the State of South Dakota alleged that tailings deposited into Whitewood Creek caused injuries to natural resources in the Cheyenne River Basin, and sued Homestake under CERCLA Section 107, 42 U.S.C. 9607, the Clean Water Act Section 311(f), 33 U.S.C. 1321(f), and state nuisance law. Homestake asserted a variety of counterclaims against all plaintiffs, including the United States. This global settlement reached among Homestake, the United States, the Cheyenne River Sioux Tribe and the State of South Dakota, provides \$4 million to be shared equally among the United States, the State, and the Tribe, to be used for natural resource restoration. Additionally, the Tribe will receive 400 acres in the Black Hills to be used for non-commercial purposes, and \$500,000 for environmental

monitoring on the reservation, and the State will receive water rights in the Black Hills. The United States will receive \$500,000 for damage assessment costs and will enter into an agreement with Homestake to exchange BLM mine-contaminated land for clean land. All EPA response cost claims have been specifically reserved. In exchange for the covenants and releases provided to Homestake, Homestake will dismiss all of its counterclaims.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States and Cheyenne River Sioux Tribe v. Homestake Mining Company of California*, D.J. Ref. 90-11-3-1718.

The Consent Decree may be examined at the Office of the United States Attorney, 230 Phillips Avenue, Suite 600, Sioux Falls, South Dakota 57104-6321, the United States Attorney's Office, District of South Dakota, 515 9th Street, Rapid City, South Dakota 55701, the Office of the Attorney General, State of South Dakota, 500 East Capitol, Pierre, South Dakota, the Office of the Secretary of the Chairman of the Cheyenne Sioux River Tribe, Eagle Butte, South Dakota, and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624-0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005, (202) 624-0852. In requesting a copy, please enclose a check for the copy production of the decree (25 cents per page) payable to the Consent Decree Library.

Joel M. Gross,

*Chief, Environmental Enforcement Section,
Environment and Natural Resources Division.*
[FR Doc. 99-18811 Filed 7-22-99; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 C.F.R. 50.7, and section 113(g) of the Clean Air Act, 42 U.S.C. 7413(g), notice is hereby given that a proposed consent decree in *United States v. Department of Housing Preservation and Development of the*

City of New York, Civil Action No. CV-99-3781, was lodged on July 6, 1999, with the United States District Court for the Eastern District of New York. The proposed consent decree would settle a civil action that the United States brought on behalf of the United States Environmental Protection Agency under Section 113 of the Clean Air Act, 42 U.S.C. 7413, against the Department of Housing Preservation and Development of the City of New York ("the defendant") seeking civil penalties and injunctive relief to redress the defendant's alleged violations of Sections 112 and 114 of the Clean Air Act, 42 U.S.C. 7412, 7414, and the National Emission Standard for Hazardous Air Pollutants for asbestos, 40 C.F.R. part 61, subpart M ("the asbestos NESHAP"). Specifically, the United States' complaint alleged that the defendant violated these provisions by failing to notify EPA of the removal of asbestos during demolition operations the defendant contracted to have performed at 272 sites throughout New York City in or about 1993-95.

Under the terms of the proposed consent decree, the defendant (1) Must pay a civil penalty of \$110,000, and (2) will be enjoined to comply with the Clean Air Act and the asbestos NESHAP.

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, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Department of Housing Preservation and Development of the City of New York*, DOJ Ref. No. 90-5-2-1-2085.

The proposed consent decree may be examined at the office of the United States Attorney for the Eastern District of New York, One Pierrepont Plaza, 14th Floor, Brooklyn, New York 11201; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, D.C. (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, NW, 3rd Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$3.50 (25 cents