

Dated: December 5, 2002.

Peter W. Preuss,

Director, National Center for Environmental Research.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7422-2]

New Hanover County Burn Pit Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into an Administrative Order on Consent pursuant to section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended regarding the New Hanover County Burn Pit Superfund Site located in Wilmington, New Hanover County, North Carolina. This agreement is made and entered into by EPA and by Axel Johnson, Inc., Sprague Energy Corporation, and Unocal Corporation ("Settling Parties"). EPA will consider public comments on the proposed settlement for 30 days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. EPA, Region 4, Sam Nunn Atlanta Federal Center, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303. (404) 562-8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

Dated: November 26, 2002.

Anita L. Davis,

Acting Chief, CERCLA Program Services Branch, Waste Management Division.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7421-7; CWA-HQ-2002-6001; EPCRA-HQ-2002-6001; CAA-HQ-2002-6001; RCRA-HQ-2002-6001]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding NEXTEL Communications, Inc., et al. and NII Holdings, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 30, 2002, EPA published in the **Federal Register** information concerning a proposed settlement with NEXTEL Communications Inc., et al. and NII Holdings, Inc. The purpose of this correction is to provide additional information about this settlement. EPA has entered into a consent agreement with NEXTEL Communications, Inc., and its subsidiaries, and NII Holdings, Inc., collectively referred to as "NEXTEL", to resolve violations of the Clean Water Act ("CWA"), the Clean Air Act ("CAA"), the Resource Conservation and Recovery Act ("RCRA"), and the Emergency Planning and Community Right-to-Know Act ("EPCRA") and their implementing regulations.

The Administrator is hereby providing public notice of this consent agreement and final order and providing an opportunity for interested parties to comment on the CWA portions, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C).

NEXTEL failed to prepare Spill Prevention Control and Countermeasure ("SPCC") plans for forty-eight facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. NEXTEL failed to obtain the appropriate operating permits or exemptions at eight facilities in violation of CAA section 110, 42 U.S.C. 7410, and various state implementation plan ("SIP") requirements for emergency generators. EPA, as authorized by CAA section 113(d)(1), 42 U.S.C. 7413(d)(1), has assessed a civil penalty for these violations. NEXTEL failed to file an emergency planning notification with the State Emergency Response Commission ("SERC") and to provide the name of an emergency contact to the Local Emergency Planning Committee ("LEPC"). NEXTEL failed to submit Material Safety Data Sheets ("MSDS") or a list of chemicals to the LEPC, the SERC, and the fire

department with jurisdiction over each facility for seventy-five facilities in violation of EPCRA section 311, 42 U.S.C. 11021. At sixty-six facilities, NEXTEL failed to submit an Emergency and Hazardous Chemical Inventory form to the LEPC, the SERC, and the fire department with jurisdiction over each facility in violation of EPCRA section 312, 42 U.S.C. 11022. EPA, as authorized by EPCRA section 325, 42 U.S.C. 11045, has assessed a civil penalty for these violations. NEXTEL failed to make a hazardous waste determination and improperly disposed of hazardous waste at one facility in violation of 9 VAC 20-60-261(A), (40 CFR 261.5(g)(1) and (g)(3)). NEXTEL violated RCRA section 9003(d), 42 U.S.C. 6991b(d) and 30 TAC sections 334 and 37.801, when the insurance policy for underground storage tanks failed to use the terms "corrective action" or "sudden, non-sudden or accidental release" to describe coverage for four facilities. At one facility NEXTEL failed to notify the State or local agency or department of the existence of an underground storage tank in violation of RCRA section 9002(a), 42 U.S.C. 6991(a)(1). NEXTEL failed to follow all of the relevant underground storage tank regulations in violation of RCRA section 9003, 42 U.S.C. 6991b at one facility.

DATES: Comments are due on or before January 13, 2003.

ADDRESSES: Send written comments to the Docket Office, Enforcement and Compliance Docket and Information Center (2201T), Docket Number EC-2002-021, U.S. Environmental Protection Agency, EPA West, 1200 Pennsylvania Avenue NW., Room B133, Washington, DC 20460 (in triplicate if possible.)

Please use a font size no smaller than 12. Comments may also be sent electronically to docket.oeca@epa.gov or faxed to (202) 566-1511. Attach electronic comments as a text file and try to avoid the use of special characters and any forms of encryption. Please be sure to include the Docket Number EC-2002-021 on your document.

In person, deliver comments to U.S. Environmental Protection Agency, EPA West, 1301 Constitution Avenue, NW., Room B133, Washington, DC 20460. Parties interested in reviewing docket information may do so by calling (202) 566-1512 or (202) 566-1513. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Beth Cavalier, Multimedia Enforcement Division (2248-A), U.S. Environmental Protection Agency, 1200 Pennsylvania