

Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 2, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 2, 2005. On March 16, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 18, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: October 18, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-23613 Filed 10-20-04; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

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

Notice is hereby given that on October 6, 2004, a proposed Consent Decree in United States and the *State of Colorado v. Asarco, Inc.*, an action for injunctive relief and the reimbursement of response costs pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, was lodged with the United States District Court for the District of Colorado, Civil Action No. 04-RB-2070 (CBS).

In this action, the United States and the State of Colorado sought injunctive relief to require defendant to perform certain remedial actions at the Vasquez Boulevard/Interstate 70 Superfund Site, located in Denver, Colorado, and to reimburse the United States and the State of Colorado for response costs incurred at the Site. Pursuant to the proposed Consent Decree, Asarco will remove and dispose of contaminated soils from 100 residential properties within the Site, and reimburse the United States and the State of Colorado for future response costs incurred at the Site.

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, Environmental and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to United States and the *State of Colorado v. Asarco, Inc.*, D.J. Ref. DJ# 90-11-3-138/7.

The Consent Decree may be examined at U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)),

fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check made payable to the United States Treasury in the amount of \$10.25 for the Consent Decree only or \$109.75 for the Consent Decree plus Appendices (25 cents per page reproduction cost).

**Robert Brook,**

*Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division, United States Department of Justice.*

[FR Doc. 04-23498 Filed 10-20-04; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

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

Notice is hereby given that on September 29, 2004, a proposed Consent Decree in *United States of America, The State of New Mexico, and The New Mexico Office of Natural Resources Trustee v. The Burlington Northern and Santa Fe Railway Company*, Civil Action No. CIV-04-1101 JH RHS, was lodged with the United States District Court for the District of New Mexico.

In this action the United States, on behalf of the United States Department of the Interior, the United States Fish and Wildlife Service ("DOI"), and the Attorney General of the State of New Mexico, on its own behalf and on behalf of The State of New Mexico and The New Mexico Office of Natural Resources Trustee ("NMONRT"), sought damages from The Burlington Northern and Santa Fe Railway Company ("BNSF") for injury to, destruction and loss of natural resources, under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9607(a), resulting from the release of hazardous substances from the AT & SF Albuquerque Superfund Site, located in Albuquerque, Bernalillo County, New Mexico. The Complaint alleges that hazardous substances, including PCP, zinc chloride, creosote and its constituents, were released from a wood treatment plant owned and operated by Defendant BNSF's predecessor to the environment, resulting in injury to wildlife habitat and groundwater resources. The Consent Decree provides for BNSF to pay a total of \$1.09 million to resolve the claims alleged in the Complaint. The Consent Decree also resolves BNSF's claim that the Federal government is partially responsible for

the injury, destruction and loss of natural resources due to alleged Federal control of the facility during World War I, by requiring the United States to pay a total of \$10,000. Of the total payments of \$1.1 million, a total of \$1,061,192.60 is to be paid into two separate Court Registry trust accounts: (1) \$400,000 for use by DOI and NMNRT jointly to plan and implement projects designed to restore, replace, and/or acquire the equivalent of injured habitat resources; and (2) \$661,192.60 for use by NMNRT to plan and implement projects designed to restore, replace, and/or acquire the equivalent of injured ground water resources. The remainder of the \$1.1 million is to be paid to reimburse costs incurred to assess the injury to, destruction and loss of natural resources, as follows: (1) \$11,625.32 to DOI; (2) \$26,101.04 to NMNRT; and (3) \$1,081.04 to the New Mexico Office of the Attorney General.

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, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States et al. v. The Burlington Northern and Santa Fe Railway Company*, D.J. Ref. 90-11-2-07889/1.

The Consent Decree may be examined at the Office of the United States Attorney, District of New Mexico, 201 Third St. NW., Ste. 900, Albuquerque, NM 87102. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC. 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Thomas A. Mariani, Jr.,**

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

[FR Doc. 04-23495 Filed 10-20-04; 8:45 am]

BILLING CODE 4410-15-M

## DEPARTMENT OF JUSTICE

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

Notice is hereby given that on September 29, 2004, a proposed Consent Decree in *United States of America, and the State of New Mexico v. The Burlington Northern and Santa Fe Railway Company*, Civil Action No. CIV-104-1102 RB WDS, was lodged with the United States District Court for the District of New Mexico.

In this action the United States, on behalf of the United States Environmental Protection Agency ("EPA"), and the State of New Mexico, on behalf of the New Mexico Environment Department, sought abatement of an imminent and substantial endangerment resulting from, and recovery of response costs incurred and to be incurred in response to releases of hazardous substances from the AT & SF Albuquerque Superfund Site, located in Albuquerque, Bernalillo County, New Mexico, under Sections 106(a) and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9606(a) and 9607(a). The Complaint alleges that hazardous substances, including PCP, zinc chloride, creosote and its constituents, were released from a wood treatment plant owned and operated by Defendant The Burlington Northern and Santa Fe Railway Company's ("BNSF") predecessor, resulting in contamination of soil and groundwater, including a plume of dense non-aqueous phase liquid ("DNAPL") in the upper zone of the Santa Fe formation aquifer. The Consent Decree requires BNSF to remediate soil and groundwater contamination, including the DNAPL plume, by implementing the remedial action for the Site selected by EPA in its June 2002 Record of Decision. The Consent Decree also requires BNSF to reimburse EPA for past response costs of \$324,980.74 and to pay response costs incurred in the future by EPA and New Mexico in connection with the Site. The Consent Decree also resolves BNSF's claim that the federal government is partially responsible for Site remediation due to alleged federal control of the facility during World War I, by requiring the United States to pay BNSF \$590,000.

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,

Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States et al. v. The Burlington Northern and Santa Fe Railway Company*, D.J. Ref. 90-11-2-07889.

The Consent Decree may be examined at the Office of the United States Attorney, District of New Mexico, 201 Third Street NW., Ste. 900, Albuquerque, NM 87102, and at U.S. EPA Region 6, 1445 Ross Avenue, Ste. 1200, Dallas TX 75202. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please specify whether you would like a copy of the Consent Decree either with or without its appendices. For a copy of the Consent Decree with appendices enclose a check in the amount of \$78.50 (25 cents per page reproduction cost) payable to the U.S. Treasury. For a copy of the Consent Decree without appendices enclose a check in the amount of \$23.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Thomas A. Mariani, Jr.,**

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

[FR Doc. 04-23496 Filed 10-20-04; 8:45 am]

BILLING CODE 4410-15-M

## DEPARTMENT OF JUSTICE

### Notice of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. ConocoPhillips Company*, Civ. No. H-04-3813, DOJ #90-5-1-1-07664, was lodged in the United States District Court for the Southern District of Texas on October 4, 2004. The Consent Decree resolves the liability of the named defendant to the United States for violations of section 301 of the Clean Water Act, 33 U.S.C. 1311. The claim arises from the defendant's discharge of effluent from a wastewater treatment facility at its Sweeny Refinery in Old Ocean, Texas,