

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 NMONRT 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 NMONRT 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 NMONRT; 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), 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.

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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), 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.

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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,