

## Levee System Evaluation

### No Action Alternative

The No Action Alternative was evaluated as the single alternative action to the Proposed Action. The No Action Alternative will retain the current configuration of the Lateral A/Retamal Dike System, with no impacts to biological and cultural resources, land use, community resources, or environmental health issues. In terms of flood protection, however, current containment capacity under the No Action Alternative may be insufficient to fully control Rio Grande flooding under severe storm events, with associated risks to personal safety and property.

### Proposed Action

#### Biological Resources

Improvements to the Lateral A/Retamal Dike Levee would require vegetation removal. The approximate removal is 151 acres of herbaceous vegetation, 3 acres of Mesquite-Acacia woodland, and 8 acres of Texas Ebony-Anacua forest. Given its small extent, woodland removal would have a minimum impact on wildlife habitat. No significant effects are anticipated for any of the 25 threatened and endangered species with potential habitat near the right-of-way (ROW). None of 17 wetlands located within the ROW are located within the construction corridor and would be impacted by the potential levee expansion. Indirect impacts to wetlands near the corridor will be avoided, as required, by modification of the levee expansion alignment.

#### Cultural Resources

Improvements to the Lateral A/Retamal Levee system may adversely affect known archaeological resources, by mechanical excavation or by burial under the expanded levee footprint. Resources potentially affected include nine areas with a high probability to contain historic or prehistoric archaeological materials, and two known archaeological sites. Historic-age resources would also be affected, primarily structures associated with irrigation canals along the levee. These resources are the levee, canals, weir gates, standpipes, bridges, and residential structures. Several of the historic-age resources identified are located landside of the levee, across irrigation canals, and will not be adversely affected or minimally affected.

#### Water Resources

Improvements to the levee system would increase flood containment

capacity to control the design flood event with a negligible increase in water surface elevation. Levee footprint expansion would not affect water bodies.

#### Land Use

The expansion would take place almost completely within the ROW. Removal of approximately 3 acres of woodlands from natural resources management areas would be required. Levee expansion would affect less than 1 acre of active agricultural areas. Two irrigation canals along the levee would be temporarily affected by construction activities. There is a minimum potential for impacts on urban areas since no residential developments are located near the levee.

#### Community Resources

In terms of socioeconomic resources, the influx of federal funds into Hidalgo County from the levee improvement would have a positive local economic impact limited to the construction period; the impact would represent less than 1 percent of the annual county employment, income and sales values. No adverse impacts to disproportionately high minority and low-income populations were identified for construction activities. Moderate utilization of public roads is required during construction; a temporary increase in access road use would be required for equipment mobilization to staging areas.

#### Environmental Health Issues

Estimated air emissions of five criteria pollutants during construction represent less than 0.7 percent of the Hidalgo County annual emissions inventory. There would be a moderate increase in ambient noise levels due to excavation and fill activities. No long-term and regular exposure is expected above noise threshold values. A database search identified no waste storage or disposal sites within the expanded levee footprint and its vicinity.

#### Best Management Practices and Mitigation

Engineering design measures will be used, including optimization of the levee expansion alignment to avoid impacts on wooded vegetation, wetlands, and other natural resources. Riverside expansion will be used for a majority of the Lateral A/Retamal Dike Levee System. During construction, best management practices will include development of a storm water pollution prevention plan to minimize impacts of receiving waters, and use of sediment

barriers and soil wetting to minimize erosion.

To protect vegetation, the construction corridor may be re-vegetated with herbaceous or woody vegetation, as agreed with the natural resources management organization where the corridor is located. Final surveys prior to the start of the project would determine the types and amounts of vegetation to be removed, and separation between construction corridor and boundaries of wetlands. To protect wildlife, construction activities will be scheduled to occur, to the extent possible, outside the bird migratory season.

If buried cultural materials are encountered during construction, work would cease and notification given to the State Historic Preservation Officer. Mitigation actions recommended by the Texas Historical Commission (THC) for potential impacts to historical or archaeological resources will be specified in a Memorandum of Agreement between THC and the USIBWC.

#### Availability

Single hard copies of the Draft Environmental Assessment and Finding of No Significant Impact may be obtained by request at the above address. Electronic copies may also be obtained from the USIBWC Home Page at <http://www.ibwc.state.gov>.

Dated: December 29, 2006.

**Allen Thomas,**

*Attorney Advisor.*

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## JUDICIAL CONFERENCE OF THE UNITED STATES

### Hearing of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

**ACTION:** Notice of cancellation of open hearing.

**SUMMARY:** The public hearing on proposed amendments to the Federal Rules of Bankruptcy Procedure, scheduled for January 22, in Washington, DC, has been canceled. [Original notice of hearing appeared in the **Federal Register** of October 2, 2006.]

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502-1820.

Dated: December 22, 2006.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on December 21, 2006, a proposed Consent Decree was lodged with the United States District Court for the District of Columbia in the case of *United States v. DaimlerChrysler AG and Mercedes-Benz USA, LLC*, Civil Action No. 1:06CV02172.

In this action, the United States filed a complaint alleging that DaimlerChrysler AG and Mercedes-Benz USA, LLC ("Defendants") failed to timely file emission-defect information reports ("EDIRs") with the U.S. Environmental Protection Agency, as required by 40 CFR 85.1903, with respect to the following emission-related defects in Mercedes-Benz vehicles: (1) Defects in mass the airflow sensor on certain 1998-2000 vehicles, (2) defects in the underfloor catalytic converter on 1998-2003 models with M112 and M113 engines, (3) defects in the fuel filler cap on certain 1998-2003 vehicles, (4) defects in the underhood catalysts on certain 1999-2001 M-class vehicles, (5) defects in the air pump of certain 2002-2006 vehicles, (6) defects in the fuel tank pressure sensor on certain 2001 vehicles, (7) defects in the ignition cable of certain 2001-2002 vehicles, and (8) defects in the ignition module of certain 2001 vehicles. The complaint seeks civil penalties and injunctive relief pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.* (the "Act").

The proposed Consent Decree settles the United States' claims for injunctive relief and civil penalties under the Act with respect to the violations alleged in the complaint, as well as with respect to any failure of the Defendants to timely file EDIRs with respect to (1) defects in the underhood and underfloor catalytic converters on 2000 S-Class and C1-Class Mercedes-Benz vehicles and (2) defects in the inner funnel of the catalyst for certain 2004-2005 Mercedes-Benz vehicles. The proposed Consent Decree requires the Defendants to pay \$1.2 million in civil penalties to the United States and to implement a Supplemental Emission-Related Defect

Monitoring, Investigation, and Reporting Protocol.

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, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. DaimlerChrysler AG*, D.J. Ref. 90-5-2-1-08769. A copy of the comments should also be sent to Donald Frankel, Trial Attorney, Environmental Enforcement Section, Department of Justice, Suite 616, One Gateway Center, Newton, MA 02458.

The Consent Decree may be examined at the Office of the United States Attorney, District of Columbia, Judiciary Center Building, 555 Fourth Street, NW., Washington, DC 20530. 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/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.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 of the Consent Decree from the Consent Decree Library, please enclose a check in the amount of \$9 (25 cents per page reproduction cost) payable to the U.S. Treasury (if the request is by fax or e-mail, forward a check to the consent Decree library at the address stated above).

**Karen Dworkin,**

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

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**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA")

Consistent with Section 122(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d), and 28 CFR 50.7, notice is hereby given that on December

21, 2006, a proposed Partial Consent Decree with Flowserve Corporation in *United States v. Ferguson Harbour Service Inc. et al.*, No. 3:03-CV-1266 (S.D. Miss.), was lodged with the United States District Court for the Southern District of Mississippi.

In this action, the United States seeks to recover from various defendants, pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, the costs incurred and to be incurred by the United States in responding to the release and/or threatened release of hazardous substances at and from the Industrial Pollution Control Site in Jackson, Hinds County, Mississippi. Under the proposed Consent Decree, Defendant Flowserve Corporation will pay \$50,000 to the Hazardous Substances Superfund in reimbursement of the costs incurred by the United States 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 Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Ferguson Harbour Service Inc. et al.* (Consent Decree with Flowserve Corporation, DOJ Ref. No. 90-11-3-06625/5).

The Consent Decree may be examined at U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303 (contact Matthew Hicks, Esq. (404) 562-9670). 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/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, 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 refer to *United States v. Ferguson Harbour Service Inc. et al.* (Consent Decree with Flowserve Corporation, DOJ Ref. No. 90-11-3-06625/5), and enclose a check in the amount of \$5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward