

DEPARTMENT OF JUSTICE

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

Notice is hereby given that on September 12, 2011, a proposed modification ("Modification") to the Consent Decree in *United States v. City of Newburgh, et al.*, Civil Action No. 08 Civ. 7378 ("Consent Decree") was lodged with the United States District Court for the Southern District of New York.

The Modification resolves the claims of the United States, on behalf of the Environmental Protection Agency ("EPA"), under Sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9607 and 9613, against thirty-two potentially responsible parties (the "Other Settling Parties") who arranged for scrap metal containing hazardous substances to be transported to the Consolidated Iron and Metal Company Superfund Site (the "Site") for treatment or disposal. The Site is a former junkyard and scrap metal processing facility located in the City of Newburgh, New York. Consolidated Iron and Metal Company, Inc. ("Consolidated") operated the facility from the 1950s until 1999.

In the course of processing scrap metal materials, Consolidated contaminated the Site with hazardous substances, including lead, polychlorinated biphenyls and volatile organic compounds. Consolidated is now a defunct company.

The original 2009 Consent Decree provides that the five settling defendants who are parties to that Consent Decree (the "Defendants") may enter into settlements with other potentially responsible parties at the Site, and present such parties to EPA for potential inclusion in the Consent Decree by amendment or separate agreement. Pursuant to the Consent Decree, the Defendants entered into settlement agreements with the Other Settling Parties and presented these parties to EPA for inclusion in the Consent Decree. Pursuant to the Modification, the Other Settling Parties will pay \$200,400 to the United States, which represents 50 percent of the net settlement proceeds. The Other Settling Parties will receive contribution protection and a covenant not to sue from the United States for 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 Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to 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. City of Newburgh, et al.*, D.J. Ref. 90-11-3-07979/2.

The Modification may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at U.S. EPA Region 2, Office of Regional Counsel, 290 Broadway, New York, New York 10007-1866. During the public comment period, the Modification may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Modification 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 \$4.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

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

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DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulation of Settlement and Judgment Pursuant to the Clean Water Act

On August 31, 2011, a proposed Stipulation of Settlement and Judgment (the "Stipulation") in *United States v. The Links at Columbia, LP and Lindsey Construction Company, Inc.*, No. 2:11-cv-04232-NKL, was lodged with the United States District Court for the Western District of Missouri. Both defendants signed the proposed Stipulation.

In this action the United States sought a civil penalty for violations of the *Clean Water Act*, 33 U.S.C. 1251, *et seq.*, in the course of the defendants' construction of The Links at Columbia, a large residential development in

Columbia, Missouri. The Complaint alleged that the defendants violated conditions of National Pollutant Discharge Elimination System ("NPDES") storm water permits issued by the State of Missouri. Construction is complete.

By signing the proposed Stipulation, the defendants certify that they have ceased the violations alleged in the Complaint. In addition, the proposed Stipulation will require the defendants will pay a \$430,000 civil penalty for the violations.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the proposed Stipulation. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. The comments should refer to *United States v. The Links at Columbia and Lindsey Construction Company*, D.J. Ref. No. 90-5-1-1-09277.

During the public comment period, the proposed Stipulation may be examined at the Office of the United States Attorney, Western District of Missouri, Charles Evans Whittaker Courthouse, 400 East Ninth Street, Room 5510, Kansas City, Missouri 64106, or on the Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy may be obtained by mailing a request to the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. When requesting a copy by mail, please enclose a check payable to the U.S. Treasury in the amount of \$26.50 (25 cents per page reproduction cost). A copy may also be obtained by e-mailing or faxing a request to Tonia Fleetwood, tonia.fleetwood@usdoj.gov, fax number (202) 514-0097, phone confirmation number (202) 514-1547, and mailing a check for the reproduction cost to the Consent Decree Library.

Robert E. Maher, Jr.,

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

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