

letter from NOAA Fisheries indicating that NOAA had reviewed the draft EIS. The letter contained specific comments regarding the presence of the federally endangered shortnose sturgeon, federal candidate species Atlantic sturgeon, and the American shad within the study area during some periods of the year. However, NOAA Fisheries concluded that the detailed discussion of impacts to the river were discussed adequately in the draft EIS, and that no consultation will be required as part of the federal permit process. The letter recommended the use of BMPs to minimize turbidity and other water quality impacts. These letters can be found in appendix I of the final EIS. After initial engagement of USFWS with a consultation letter, USFWS sent an initial response letter on June 11, 2010, regarding the project. The letter noted that the federally listed Indiana bat and bog turtle could be affected by the permit if specific permit conditions were not met. Migratory birds were also addressed, and USFWS provided recommendations on the draft Avian Protection Plan provided by PSE&G. Recommendations for all species included seasonal restrictions, mitigation measures, and additional surveys. NPS received a response to the preliminary alternatives newsletter from USFWS on September 3, 2010, and an additional response on October 21, 2010, with potential impacts of each alternative on federally listed species and suggested recommendations regarding listed species. In a letter dated January 10, 2011, NPS requested more information from USFWS on any federally listed species within the vicinity of the proposed alternatives within the park. The NPS sent a letter to the USFWS on November 16, 2011, requesting comments on the draft Biological Assessment and draft EIS for informal consultation. The USFWS replied to the letter, indicating that the USFWS could not provide advice on the need for formal consultation and noting that the USFWS could not commit to completing consultation by May 2, 2012, as requested. The letter from the USFWS provided some comments on impacts and options on concluding consultation. Another letter received from the USFWS on January 31, 2012, included comments on the draft EIS and on impacts to the bog turtle, Indiana bat, bald eagle, and other migratory birds. The draft Biological Assessment was sent to USFWS on May 21, 2012. Comments were received and the final Biological Assessment was sent to USFWS on June 29, 2012. In a letter dated July 6, 2012, USFWS concurred

with the finding by NPS that the preferred alternative was not likely to adversely affect endangered species on NPS lands. These letters and the Final Biological Assessment can be found in appendix I of the final EIS.

In a letter dated February 7, 2011, NPS invited USFWS to become a cooperating agency for this EIS. On March 14, 2011, USFWS responded and agreed to become a cooperating agency, pending a formal Interagency Agreement, and on April 1, 2011, NPS sent a request to USFWS to formalize the Interagency Agreement. The agreement was signed on December 5, 2011.

#### Conclusion

The above factors and considerations warrant implementing alternative 2 as described and analyzed in the final EIS for Appalachian National Scenic Trail, Delaware Water Gap National Recreation Area, and Middle Delaware National Scenic and Recreational River and this Record of Decision. All practical means to avoid and minimize environmental harm from implementation of the selected alternative have been incorporated, as described in the final EIS and this Record of Decision. The alternative selected for implementation will not impair park resources or values and will allow the NPS to preserve park resources and provide for their enjoyment by future generations. This Record of Decision is not the final agency action for those elements of the decision that require the issuance of a permit or additional ROW. Final agency action to implement this decision will occur when a permit and ROWs incorporating these terms are completed and issued to the applicants.

#### Record of Decision Attachments

The Record of Decision contains two attachments: A Non-Impairment Determination and the Final Statement of Findings. These attachments are available on the NPS Planning, Environment, and Public Comment System (PEPC). The links to these attachments are provided below.

Attachment A: Non-Impairment Determination

<http://parkplanning.nps.gov/document.cfm?parkID=220&projectID=25147&documentID=49997>

Attachment B: Final Wetland and Floodplain Statement of Findings

<http://parkplanning.nps.gov/document.cfm?parkID=220&projectID=25147&documentID=49997>

Dated: October 2, 2012.

**Dennis R. Reidenbach,**  
Regional Director, Northeast Region, National Park Service.

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## DEPARTMENT OF JUSTICE

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

On October 10, 2012, the Department of Justice lodged a proposed Supplemental Consent Decree with the United States District Court for the District of Massachusetts in the lawsuit entitled, *United States and Massachusetts v. AVX Corporation*, Civil Action No. 83-3882-Y.

In 1983, the United States and Massachusetts commenced suit against AVX Corporation (“AVX”) alleging that AVX was liable to the governments for natural resource damages and later amended the suit to seek response costs under the Superfund statute and other legal authorities. That litigation against AVX was concluded when the governments entered into a Consent Decree with AVX in 1992, resolving AVX’s liability subject to the governments’ rights to further pursue the claims under a reservation of rights under CERCLA that authorizes the governments to seek additional relief based on unknown conditions or new information and another reservation of rights that allows the governments to seek additional relief from AVX should certain response costs exceed \$130.5 million (“reopeners”). This Supplemental Consent Decree resolves AVX’s liability for response costs and injunctive relief under both the unknown conditions/new information and cost-related reopeners under the 1992 Consent Decree. Upon entry of the Supplemental Consent Decree, the Unilateral Administrative Order (“UAO”) issued, pursuant to Section 106 of CERCLA, by EPA Region 1 on April 18, 2012 (whose “effective date” has currently been delayed until November 1, 2012) will be withdrawn. Mediated negotiations between the governments and AVX that were conducted following EPA’s issuance of the UAO resulted in the Supplemental Consent Decree.

Under the terms of the Supplemental Consent Decree, AVX Corporation will pay an additional \$366.25 million with interest (in addition to the \$59 million, plus interest, that AVX paid for

response costs in the 1992 Consent Decree) in three payments spanning two years and will provide financial assurance to secure the required payments. The governments will release their claims for all response costs and injunctive relief without new "reopeners" under Sections 106 and 107 of CERCLA, among other alleged claims. The governments retain their rights to additional relief for natural resource damages pursuant to a reservation of rights in the 1992 Consent Decree.

The publication of this notice initiates a 30-day period for public comment on the Supplemental Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Massachusetts v. AVX Corporation*, D.J. Ref. No. 90-11-2-32/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the 30-day comment period, a person may request an opportunity for a public meeting in the affected area in accordance with Section 7003 of RCRA, 42 U.S.C. 6973, regarding the Decree's covenant not to sue under Section 7003. The 30-day comment period may not be extended if a request for a meeting is not timely received to allow for the submission of comments within 30 days. During the public comment period, the Supplemental Consent Decree may be examined and downloaded at this Justice Department Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). We will provide a paper copy of the Supplemental Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$19.50 (25 cents per page reproduction cost) payable to the United

States Treasury. For a paper copy without the exhibits, the cost is \$6.50.

**Ronald G. Gluck,**

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

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**DEPARTMENT OF LABOR**

**Office of the Secretary**

**Senior Executive Service; Appointment of Members to the Performance Review Board**

Title 5 U.S.C. 4314(c)(4) provides that Notice of the Appointment of the individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register**.

The following individuals are hereby appointed to serve on the Department's Performance Review Board:

**Permanent Membership**

Chair—Deputy Secretary—Seth D. Harris.

Vice-Chair—Assistant Secretary for Administration and Management—T. Michael Kerr.

Alternate Vice-Chair—Acting Director, Human Resources Center—Sydney T. Rose.

Executive Secretary—Acting Director, Executive Resources—Kim L.H. Green.

**Rotating Membership**

ASP Kathleen E. Franks, Director, Office of Regulatory and Programmatic Policy—*appointment expires on 09/30/13*

EBSA Sharon S. Watson, Director, Office of Participant Assistance—*appointment expires on 9/30/13*

EBSA Jonathan Kay, Regional Director (New York)—*appointment expires on 9/30/14*

ILAB Marcia M. Eugenio, Director, Office of Child Labor, Forced Labor Human Trafficking—*appointment expires on 09/30/13*

OASAM Charlotte A. Hayes, Deputy Assistant Secretary for Policy—*appointment expires on 09/30/13*

OASAM Milton A. Stewart, Director, Business Operations Center—*appointment expires on 09/30/13*

OCFO Karen Tekleberhan, Deputy Chief Financial Officer—*appointment expires on 09/30/2014*

OLMS Stephen J. Willertz, Director, Office of Enforcement and International Union Audits—*appointment expires on 09/30/2013*

SOL Michael D. Felsen, Regional Solicitor, Boston—*appointment expires on 09/30/13*

SOL Deborah Greenfield, Deputy Solicitor—*appointment expires on 9/30/13*

SOL Jeffrey L. Nesvet, Associate Solicitor for Federal Employees' and Energy Workers' Compensation—*appointment expires on 09/30/14*

WHD Cynthia C Watson, Regional Administrator (Dallas)—*appointment expires on 09/30/14*

**FOR FURTHER INFORMATION CONTACT:** Ms. Kim Green, Acting Director, Office of Executive Resources, Room C5508, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Ave NW., Washington, DC 20210, telephone: (202) 693-7642.

Signed at Washington, DC on 4th day of October, 2012.

**Hilda L. Solis,**

*Secretary of Labor.*

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**DEPARTMENT OF LABOR**

**Employment and Training Administration**

[TA-W-81,204A]

**Alternative Management Resources, Inc., Doepker Group, Inc., D.B.A. Time Staffing, Inc., Personnel Management Group, Inc., Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through Employer Solutions Staffing Group, LLC, Select Staffing, and Strom Engineering Corporation, Working On-Site At Cooper Tire & Rubber Company, Findlay, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 27, 2012, applicable to workers and former workers of Alternative Management Resources, Inc., Doepker Group, Inc., D.B.A. Time Staffing, Inc., Personnel Management Group, Inc., Select Staffing, and Strom Engineering Corporation working on-site at Cooper Tire & Rubber Company, Findlay, Ohio (TA-W-81,204A). The Department's notice of determination was published in the **Federal Register** on February 8, 2012 (77 FR 6589).

At the request of a state workforce official, the Department reviewed the