

et al., Civil Action No. 93-335 LON, was lodged on November 15, 1996, with the U.S. District Court for the District of Delaware. The proposed consent decree would settle an action that the United States brought on behalf of the U.S. Environmental Protection Agency under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9607(a), against Johnson Controls, Inc. ("JCI"), for recovery of response costs incurred by the United States in connection with the Wildcat Landfill Superfund Site, located in Kent County, Delaware, near the City of Dover ("the Site"). The consent decree would also resolve the claims that JCI brought in this action under Section 113(f)(1) of CERCLA, 42 U.S.C. 9613(f)(1), against third-party defendants the City of Dover, Delaware, the U.S. Department of Defense, ILC Dover, Inc., ILC Industries, Inc., J.C. Penney Co., Inc., General Foods Corp., and Sherwin-Williams Co., alleging that those parties were liable to reimburse JCI for an equitable share of any response costs for which JCI was found liable to reimburse the United States relating to the Site. Under the terms of the consent decree, the \$550,000 in funds that the Settling Defendants (JCI and each of the third-party defendants) collectively have paid into an escrow account pending finalization of this proposed settlement, plus interest, will be paid to the United States to reimburse the EPA Hazardous Substance Superfund.

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 of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Johnson Controls, Inc. v. City of Dover, Delaware, et al.*, D.J. No. 90-11-3-595. In addition, pursuant to Section 7003(d) of RCRA, 42 U.S.C. 6973(d), any member of the public who desires a public meeting in the area affected by the proposed consent decree in order to discuss the proposed consent decree prior to its final entry by the court may request that such a meeting be held. Any such request for a public meeting should be sent to the same address and bear the same reference as indicated above for submission of comments.

The proposed consent decree may be examined at the office of the U.S. Attorney for the District of Delaware, 1201 Market Street, Suite 1100, Wilmington, DE 19899-2046; the Region

III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA 19107; and at the Consent Decree Library, 1120 G Street NW., 4th floor, Washington, DC 20005. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of \$7.75 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Walker Smith,

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

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Notice of Lodging; Second Modification of the Partial Consent Decree on Remediation Between United States, State of New York and Occidental Chemical Corporation Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, 38 Fed. Reg. 19029, and Section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. § 9622(d), notice is hereby given that on November 15, 1996, a proposed Second Modification of the Partial Consent Decree on Remediation between United States, State of New York and Occidental Chemical Corp. was lodged with the United States District Court for the Western District of New York in *United States v. Occidental Chemical Corporation, et al. (Love Canal)*, Civil Action No. 79-990(JTC).

The Love Canal litigation was commenced in 1979 seeking injunctive relief and cost recovery in connection with the disposal by Occidental of hazardous substances at the Love Canal Landfill Site near Niagara Falls, New York. On March 19, 1996, the Court entered a Consent Decree pursuant to which the United States will recover a total of \$137 million (plus interest) in response costs incurred in connection with the Site. On July 1, 1994, the Court approved a Consent Judgment between New York State and Occidental under which Occidental agreed, *inter alia*, to perform operation and maintenance (O&M) of the remedy at the Site and to pay \$98 million in settlement of the State's claim. The instant Decree will not affect either of these prior settlements.

The Second Modification modifies the Partial Consent Decree on Remediation (PCD), which was previously entered on September 20, 1989. Under the original PCD, all wastes from the Love Canal site were to be incinerated. Subsequent regulations provide that certain wastes with low levels of toxicity can be landfilled at licensed facilities. The Second Modification to the PCD would, upon entry by the Court, authorize Occidental to landfill some Love Canal wastes in accordance with applicable regulations and incinerate remaining wastes. The Second Modification will retain the standards for thermal destruction contained in the original Decree. These standards are more stringent than are otherwise required under current regulations. These changes are described in greater detail in the Explanation of Significant Differences (ESD), which was prepared by the United States Environmental Protection Agency (EPA), and which accompanies, and is a part of, the Second Modification. The instant Decree, if approved by the Court, will resolve all outstanding remedial issues in the Love Canal litigation.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree Modification. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Occidental Chemical Corporation*, D.J. Ref. 90-5-1-1-1229.

The proposed Decree Modification may be examined at the Office of the United States Attorney, Western District of New York at Federal Centre, 138 Delaware Avenue, Buffalo, New York 14202; the offices of EPA—Region II at 290 Broadway, New York, New York 10007-1866; and at the Consent Decree Library at 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892. A copy of the proposed Decree Modification may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclosed a check in the amount of \$5.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce S. Gelber,

Principal Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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