



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The  
Comprehensive Environmental Response,  
Compensation, and Liability Act  
and  
Notice of Availability and Request for Comments on  
Draft Restoration Plan and Environmental Assessment

On June 29, 2017, the Department of Justice lodged a proposed Consent Decree and Draft Restoration Plan / Environmental Assessment (“RP/EA”) with the United States District Court for the District of Minnesota in the lawsuit entitled *United States, Minnesota, and Wisconsin v. XIX, LLC; Honeywell International, Inc.; and Domtar, Inc.*, Civil Action No. 017-cv-02368.

The proposed Consent Decree will resolve a claim for natural resource damages at the St. Louis River / Interlake / Duluth Tar (“SLRIDT”) Superfund Site brought by the governments under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9607. The SLRIDT Site consists of 255 acres of land and river embayments located primarily in Duluth, Minnesota, and extends into the St. Louis River. The filed complaint alleges that the three Defendants are liable under CERCLA for industrial discharges of polycyclic aromatic hydrocarbons (“PAHs”) at the SLRIDT Site during the first half of the 20<sup>th</sup> Century. PAHs were identified in river sediments throughout the Site in sufficient concentrations to cause injury to many types of natural resources, including vegetation, fish and birds. In addition, PAH-contaminated natural resources resulted in the loss of recreational fishing and tribal use services.

Under CERCLA, federal, state, and tribal natural resource trustees have authority to seek compensation for natural resources harmed by hazardous industrial waste and by-products

discharged into the St. Louis River. The natural resource trustees here include the U.S. Department of the Interior, acting through the U.S. Fish and Wildlife Service and the Bureau of Indian Affairs; the U.S. Department of Commerce, acting through the National Oceanic and Atmospheric Administration; the Fond du Lac Band of Lake Superior Chippewa; the 1854 Treaty Authority, representing the Grand Portage Band of Lake Superior Chippewa and the Bois Forte Band of Chippewa; the Minnesota Pollution Control Agency; the Minnesota Department of Natural Resources; and the Wisconsin Department of Natural Resources (collectively, the “Trustees”).

Under the proposed Consent Decree, the Defendants will pay \$8.2 million of which \$6,476,742 will fund Trustee-sponsored natural resource restoration projects in accordance with the RP/EA and \$1,723,258 will provide reimbursement for costs incurred by the Trustees in assessing the scope of natural resource damages. The RP/EA presents the restoration projects proposed by the Trustees to restore natural resources injured by hazardous substances released in and around the SLRIDT site.

Consistent with the natural resource damages assessment and restoration (“NRDAR”) regulations, 43 CFR part 11, and the National Environmental Policy Act of 1969 (“NEPA”), as amended, 42 U.S.C. 4321-4347 et seq., and its implementing regulations at 40 CFR parts 1500-1508, the Trustees evaluated a suite of five alternatives for conducting the type and scale of restoration sufficient to compensate the public for natural resource injuries and service losses. Based on selection factors including location, technical feasibility, cost effectiveness, provision of natural resource services similar to those lost due to contamination, and net environmental consequences, the Trustees identified a preferred alternative.

Under the preferred alternative, the Trustees would conduct enhancement/restoration of shallow sheltered embayment at Kingsbury Bay, which includes recreational access and cultural education opportunities; implement watershed protection at Kingsbury Creek; and restore wild rice in the St. Louis River estuary.

The publication of this notice opens a period for public comment on the Consent Decree and RP/EA.

Comments on the Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States Minnesota, and Wisconsin v. XIK, LLC; Honeywell International, Inc.; and Domtar, Inc.*, D.J. Ref. No. 90-11-3-07875. All comments on the Consent Decree must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

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

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the 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, D.C. 20044-7611

Please enclose a check or money order for \$41.75 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy of the Consent Decree without the attached RP/EA, the cost is \$9.25. For a paper copy of only the RP/EA, the cost is \$32.50.

Comments on the RP/EA should be addressed to Ronald Wieland, Minnesota Department of Natural Resources, and reference “SLRDIT RP/EA” in the subject line. All comments on the RP/EA must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

| <i>To submit comments:</i> | <i>Send them to:</i>   |
|----------------------------|--|
| By e-mail                  | Ronald.Wieland@state.mn.us   |
| By mail                    | Ronald Wieland<br>Minnesota Department of Natural Resources<br>500 Lafayette Road North<br>St. Paul, MN 55155. |

During the public comment period, the RP/EA may be examined and downloaded at this U.S. Fish and Wildlife Service Midwest Region Natural Resource Damage Assessment website: <https://www.fws.gov/Midwest/es/ec/nrda/index.html>. As described above, a paper copy of the RP/EA may be obtained from the Department of Justice as part of the Consent Decree upon written request and payment of reproduction costs.

Randall M. Stone  
Acting Assistant Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division

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