



4410-15

DEPARTMENT OF JUSTICE

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

On November 14, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of New York in the lawsuit entitled United States v. Beazer East, Inc. et al., Civil Action No. 17-1165.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The United States' complaint names Beazer East, Inc., CBS Corporation, Chemung County, the City of Elmira, the Elmira Water Board, Hardinge Inc., Toshiba America Inc., the Town of Horseheads, and the Village of Horseheads, as defendants. The complaint requests recovery of costs and injunctive relief related to responding to releases of hazardous substances at or from the Fourth Operable Unit ("OU4") of the Kentucky Avenue Wellfield Superfund Site located in the Village of Elmira Heights, the Town of Horseheads, and the Village of Horseheads, New York. Under the proposed Consent Decree, the nine Settling Defendants agree to perform the remedy selected by the Environmental Protection Agency ("EPA") for OU4 and pay the United States' future response costs related to OU4. The Statement of Work, included as Appendix B to the Decree, provides the framework for implementation of the cleanup plan as set forth in the Record of Decision ("ROD") signed by the Regional Administrator for Region 2 of EPA in September 2016. The State of New York concurred with respect to the selected remedy. The selected remedy calls for the construction of a nine-acre cap over the footprint of Koppers Pond, with the cap comprised of a geotextile membrane covered by a six-inch layer of soil and sand. Institutional controls will also be imposed to control activities and use at OU4 to preserve the integrity of the cap. The Remedial

Design, Remedial Action, and Operations and Maintenance at OU4 are estimated to cost approximately \$1.9 million and the Settling Defendants will pay any United States Future Response Costs related to OU4. The United States has provided all of the Settling Defendants with a covenant not to sue under Sections 106 and 107(a) of CERCLA, relating to OU4, subject to certain reservations.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to United States v. Beazer East, Inc., et al., Civil Action No. 17-1165, D.J. Ref. No. 90-11-2-1224/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by 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 U.S. DOJ – ENRD P.O. Box 7611 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 \$22.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits the cost is \$14.50.

ROBERT E. MAHER, JR.
Assistant Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division

[FR Doc. 2017-25147 Filed: 11/20/2017 8:45 am; Publication Date: 11/21/2017]