



NOTICE

DEPARTMENT OF JUSTICE

NOTICE OF LODGING OF PROPOSED CONSENT DECREE  
UNDER THE  
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND  
LIABILITY ACT (CERCLA)

On August 20, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Montana in the lawsuit entitled *United States and the State of Montana v. BNSF Railway Company*, Civil Action No. 9:20-cv-00126-DLC.

The proposed Consent Decree would resolve claims the United States and State of Montana have brought pursuant to Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607(a), against the BNSF Railway Company (“BNSF”) related to the Operable Unit 6 (“OU6”) of the Libby Asbestos Superfund Site in Lincoln County, Montana.

The Consent Decree requires BNSF to implement an operation and maintenance plan, a health and safety plan, and institutional controls to minimize risk to railroad workers and the surrounding community from low levels of asbestos within OU6. BNSF has paid the costs EPA incurred in overseeing implementation of the OU6 Record of Decision. The proposed Consent Decree requires BNSF to pay future costs incurred at OU6.

The Consent Decree provides BNSF and certain related persons covenants not to sue relating to the OU6 under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

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 and the State of Montana v. BNSF Railway*

*Company*, D.J. Ref. No. 90-11-2-07106/9. 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 \$92.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$8.25.

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