



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Clean Water Act (CWA), and the Oil Pollution Act (OPA) and Notice of Availability of Draft Restoration Plan/Environmental Assessment of Restoration Project Incorporated into Proposed Consent Decree

On January 14, 2021, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District Washington in the lawsuit entitled *United States of America, State of Washington, Suquamish Tribe, and Muckleshoot Indian Tribe v. Vigor Industrial, LLC and Exxon Mobil Corp.*, Civil Action No. 21-44 (W.D. Wash.).

The complaint asserts claims against Vigor Industrial, LLC and Exxon Mobil Corp. (Defendants) for natural resource damages by the United States on behalf of the National Oceanic and Atmospheric Administration and the Department of the Interior; the State of Washington; the Suquamish Tribe; and the Muckleshoot Indian Tribe (collectively, the Natural Resource Trustees) pursuant to the section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9607(a); section 311 of the Clean Water Act (CWA), 33 U.S.C. 1321; section 1002(b) of the Oil Pollution Act (OPA), 33 U.S.C. 2702(b); and the Washington Model Toxics Control Act (MTCA), RCW 70.105D.

The proposed Consent Decree resolves claims alleged against the Defendants for natural resource damages caused by releases and discharges of hazardous substances and oil from the Vigor Shipyards facility, currently owned and operated by Vigor Industrial, LLC, and formerly owned and operated by Exxon Mobil Corp., to the Lower Duwamish River in and near Seattle, Washington. The settlement requires Defendants to construct, monitor, and maintain in perpetuity two habitat restoration projects at the Vigor Shipyards facility, creating more than three acres of off-channel habitat for injured natural resources. The settlement also requires

Defendants to pay their equitable share of assessment costs incurred by the Natural Resource Trustees, totaling \$815,816.59. The Defendants will receive covenants not to sue under the statutes listed in the complaint and proposed Consent Decree for specified natural resource damages.

The Natural Resource Trustees have developed a Draft Restoration Plan and Environmental Assessment (“RP/EA”) for the Vigor Shipyards habitat restoration projects, the two restoration projects incorporated into the Consent Decree. The Draft RP/EA proposes to select the Vigor Shipyards habitat restoration projects as two of the projects to address injuries to natural resources in the Lower Duwamish River.

The publication of this notice opens a period for public comment on the proposed Consent Decree and the Draft RP/EA. Comments on the proposed Consent Decree should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and should refer to United States of America, State of Washington, Suquamish Tribe, and Muckleshoot Indian Tribe v. Vigor Industrial, LLC and Exxon Mobil Corp., Civil Action No. 21-44 (W.D. Wash.). 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 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

When requesting a copy of the Consent Decree please enclose a check or money order in the amount of \$44.75 (25 cents per page reproduction cost) payable to the United States Treasury.

The publication of this notice also opens a period for public comment on the Draft RP/EA. The Trustees will receive comments relating to the Draft RP/EA for a period of thirty (30) days from the date of this publication. A copy of the Draft RP/EA is available electronically at <https://www.fws.gov/wafwo/>. A copy of the Draft RP/EA may also be obtained by mail from:

Assistant Solicitor
Environmental Restoration Branch
Office of the Solicitor
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Please reference: Draft RP/EA related to United States et al. v. Vigor Consent Decree.

When requesting a copy of the Draft RP/EA please enclose a check in the amount of \$9.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Comments on the draft RP/EA may be submitted electronically to jeff_krausmann@fws.gov. Additionally, written comments on the Draft RP/EA should be addressed to:

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