



4410-15

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decrees 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 December 12, 2017, the Department of Justice lodged three proposed Consent Decrees with the United States District Court for the Eastern District of Wisconsin in the lawsuit entitled *United States and Wisconsin v. Tecumseh Products Co.; Thomas Industries, Inc.; and Wisconsin Public Service Corp.*, Civil Action No. 2:17-cv-01728. The Draft Restoration Plan / Environmental Assessment (“RP/EA”) is attached to each proposed Consent Decree.

The proposed Consent Decrees will resolve claims for natural resource damages at the Sheboygan River & Harbor Superfund Site (“Sheboygan River Site”) brought by the governments under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9607. The Sheboygan River Site consists of the lower 14 river miles of the Sheboygan River and adjacent floodplain areas. The filed complaint alleges that the three Defendants are liable under CERCLA for historical industrial discharges of polychlorinated biphenyl (“PCB”) and/or polycyclic aromatic hydrocarbon (“PAH”) compounds at the Sheboygan River Site. PCBs and PAHs were identified in river sediments throughout the Site in sufficient concentrations to cause injury to many types of natural resources, including invertebrates, fish, amphibians, birds, and mammals. In addition, PCB and PAH-contaminated natural resources resulted in the loss of recreational fishing services.

Under CERCLA, federal and state natural resource trustees have authority to seek compensation for natural resources harmed by hazardous industrial waste and by-products discharged into the Sheboygan River. The natural resource trustees here include the U.S.

Department of the Interior, acting through the U.S. Fish and Wildlife Service; the U.S. Department of Commerce, acting through the National Oceanic and Atmospheric Administration; and the Wisconsin Department of Natural Resources (collectively, the “Trustees”).

Under the proposed Consent Decrees, the Defendants will pay a combined \$4,523,000, of which \$2,532,500 will fund Trustee-sponsored natural resource restoration projects in accordance with the RP/EA, \$1,295,500 will be paid to Sheboygan County as partial reimbursement for costs it incurred in acquiring the Amsterdam Dunes restoration project area, and \$695,000 will provide reimbursement for costs incurred by the Trustees in assessing the scope of natural resource damages incurred. The RP/EA presents the restoration projects proposed by the Trustees to restore natural resources and services injured by hazardous substances released in and around the Sheboygan River site.

Consistent with the CERCLA natural resource damages assessment and restoration (“NRDAR”) regulations, 43 C.F.R. part 11, and the National Environmental Policy Act of 1969 (“NEPA”), as amended, 42 U.S.C. § 4321 et seq., and its implementing regulations at 40 C.F.R. parts 1500-1508, the Trustees evaluated a suite of three 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 envision conducting wetland and riparian restoration; wetland, riparian, and ecologically-associated upland preservation; and recreational

enhancement projects within the Sheboygan River Basin within Sheboygan County. This would include preservation and potential restoration of Amsterdam Dunes and Willow Creek.

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

Comments on the Consent Decrees should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Wisconsin v. Tecumseh Products Co.; Thomas Industries, Inc.; and Wisconsin Public Service Corp.*, D.J. Ref. No. 90-11-2-06440/1. All comments on the Consent Decrees 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 Decrees may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide paper copies of the Consent Decrees and/or the RP/EA 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 \$46.75 (25 cents per page reproduction cost) payable to the United States Treasury. For paper copies of the Consent Decrees without the attached RP/EA, the cost is \$20.50. For a paper copy of only the RP/EA, the cost is \$26.25.

Comments on the RP/EA should be addressed to Betsy M. Galbraith, and reference “Sheboygan 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:

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| <i>To submit comments:</i> | <i>Send them to:</i>   |
| By e-mail                  | betsy_galbraith@fws.gov  |
| By mail                    | Betsy M. Galbraith<br>Sheboygan River Natural Resource<br>Trustee Coordinator<br>2661 Scott Tower Drive<br>New Franken, WI 54228 |

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/SheboyganHarbor.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.

Randal M. Stone,  
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Environment and Natural Resources Division.

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