



## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

On September 19, 2019, the United States of America (“United States”), through attorneys for the Department of Justice, and the Commonwealth of Pennsylvania, Department of Environmental Protection (“PADEP”), lodged a proposed Consent Decree with the United States District Court for the Middle District of Pennsylvania in the lawsuit entitled *United States et al. v. Foster Wheeler Energy Corporation*, Civil Action No. 3:19-cv-01620-UN4.

In their Complaint, also filed on September 19, 2019, pursuant to Sections 106, 107(a), and 113(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9606, 9607(a), and 9613(g), and pursuant to Sections 507 and 1103 of the Hazardous Sites Cleanup Act, Act of October 18, 1988, P.L. 756, 35 P.S. §§ 6020.507 and 6020.1103 (“HSCA”), the United States and PADEP (“Plaintiffs”) allege that Defendant Foster Wheeler Energy Corporation (“FWEC”) is liable for cleanup costs incurred and to be incurred by the United States and PADEP in connection with the cleanup of the Foster Wheeler Energy Corporation/Church Road TCE Superfund Alternative Site (“Site”) in Mountain Top, Luzerne County, Pennsylvania. The Site includes a former industrial site used to manufacture and fabricate large pressure vessels that was formerly owned and operated by FWEC (the “Former FWEC Facility”). The Site also includes any areas at which hazardous substances released at or from this facility have come to be located, including an area of groundwater contamination located south and southwest of the Former FWEC Facility and encompassing approximately 295 acres of mixed land use (mainly residential), which extends from east to west along Church Road and Watering Run, and eight surrounding industrial properties located immediately south and west of the Former FWEC Facility.

The proposed Consent Decree resolves all allegations asserted in the Plaintiffs' Complaint and provides for FWEC to pay to the United States Environmental Protection Agency ("EPA") \$950,000.00 in past response costs incurred with respect to the Site, and to pay to PADEP \$56,051.21 in past state response costs incurred with respect to the Site. These payments are due within thirty (30) days after the Consent Decree becomes effective as a judgment, if it is entered by the Court. The proposed Consent Decree also requires FWEC to pay the United States' and PADEP's future response costs and to perform the Interim Remedy selected in EPA's Interim Record of Decision for the Site. In exchange, FWEC receives from both Plaintiffs covenants not to sue for the interim remedial work performed and payment of past and future federal and state response costs, subject to certain reservations and limitations.

The publication of this notice opens a federal 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 et al. v. Foster Wheeler Energy Corporation*, D.J. Ref. No. 90-11-3-12044. All comments must be submitted no later than 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                  | <u><a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a></u>        |
| 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 \$39.50 (0.25 cents per page reproduction cost) payable to the United States Treasury for a copy of the full Consent Decree with appendices. For a paper copy without the appendices, the cost is \$12.00.

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