



## DEPARTMENT OF JUSTICE

### **Notice of Lodging of Proposed Consent Decree under the Comprehensive Environmental Response, Compensation, and Liability Act and Request for Comments on Draft Restoration Plans and Environmental Assessments**

On February 11, 2020, the Department of Justice lodged a proposed Consent Decree and two draft Restoration Plan and Environmental Assessments (“RP/EAs”) with the United States District Court for the Eastern District of Missouri in the lawsuit entitled *United States and State of Missouri v. The Doe Run Resources Corporation, et al.*, Civil Action No. 4:20-cv-00234.

The United States and State of Missouri asserted claims in this case under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9607, and Section 644.096, Rev. Stat. Mo., of the Missouri Clean Water Law, seeking to recover natural resource damages (NRD) in response to releases of hazardous substances resulting from historic lead mining, milling, and smelting operations at eleven facilities located in the Viburnum Trend, a portion of the Southeast Missouri Lead Mining District, and at the Herculaneum Lead Smelter in Jefferson County, Missouri. The proposed Consent Decree resolves these claims against The Doe Run Resources Corporation (“Doe Run”) (in its own capacity and on behalf of The Doe Run Company, a former Missouri general partnership, St. Joe Minerals Company, and St. Joseph Lead Company), the Buick Resource Recycling Facility, LLC, and Homestake Lead Company of Missouri (“Homestake”) (in its own capacity and on behalf of The Doe Run Company, a former Missouri general partnership).

Under CERCLA, federal and state natural resource trustees have authority to seek compensation for natural resources harmed by hazardous substances released to the environment from historic lead mining, milling, and smelting operations in the Viburnum Trend and at the

Herculaneum Lead Smelter. 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 Agriculture, acting through the U.S. Forest Service, and the State of Missouri, Department of Natural Resources (the “Trustees”).

Under the Proposed Consent Decree, Doe Run will perform natural resource restoration work in accordance with the RP/EAs on approximately 2,080 acres of land and 10 miles of streams, and will donate approximately 1,100 acres of ecologically significant property, in addition to reimbursing certain future restoration and implementation costs of the Trustees. Homestake will pay a total of \$1.9 million to the Trustees for past assessment costs and future restoration and implementation costs and will provide funding and financial assurance for a portion of Doe Run’s restoration measures. The United States will grant a covenant not to sue or to take administrative action against the Settling Defendants for NRD pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and Section 311 of the Clean Water Act, 33 U.S.C. § 1321.

The RP/EAs present the restoration projects proposed by the Trustees to restore natural resources injured by hazardous substances released in and around the Viburnum Trend and the Herculaneum Lead Smelter. Consistent with the natural resource damages assessment and restoration (“NRDAR”) regulations, 43 CFR Part 11, and the National Environmental Policy Act of 1969 (“NEPA”), as amended, 42 U.S.C. 4321–4347 et seq., and its implementing regulations at 40 C.F.R. Parts 1500–1508, the Trustees evaluated a suite of alternatives in each RP/EA 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 in each RP/EA.

The preferred alternative for the Viburnum Trend includes restoration of injured stream reaches, enhanced closure of areas impacted by tailings impoundments, restoration and revegetation of injured soils, and the transfer and protection of ecologically significant property to the Trustees or their designees. The preferred alternative for the Herculaneum Lead Smelter calls for the transfer and protection of ecologically significant property to the Trustees or their designees.

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

Comments on the Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Missouri v. The Doe Run Resources Corporation, et al.*, D.J. Ref. No. 90-11-3-10845/1. All comments must be submitted no later than forty-five (45) 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 \$47.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy of the Consent Decree without the exhibits and signature pages, the cost is \$12.00. For a paper copy of the RP/EAs only, the cost is \$17.00.

Comments on the RP/EA should be addressed to Dave Mosby, and reference “Viburnum Trend and Herculaneum RP/EAs” in the subject line. All comments on the RP/EAs must be submitted no later than forty-five (45) days after the publication date of this notice.

Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	Dave_Mosby@fws.gov
By mail	Dave Mosby U.S. Fish and Wildlife Service 101 Park DeVille Dr., Suite A Columbia, MO 65203

During the public comment period, the RP/EAs may be examined and downloaded at this U.S. Fish and Wildlife Service Midwest Region Natural Resource Damage Assessment Web site: <https://www.fws.gov/midwest/es/ec/nrda/SEMONRDA/index.html>. As described above, a paper copy of the RP/EAs may be obtained from the Department of Justice as part of, or separately from, the Consent Decree upon written request and payment of reproduction costs.

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