



NOTICE

DEPARTMENT OF JUSTICE

NOTICE OF LODGING OF PROPOSED CONSENT DECREE UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

On September 9, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Colorado in the lawsuit entitled *United States of America v. Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc.*, Civil Action No.1:17-CV-00168-WJM-NYM.

The lawsuit was commenced in January 2017, when the United States, on behalf of the United States Environmental Protection Agency (“EPA”), filed a complaint against Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc. (“Settling Defendants”) seeking reimbursement of response costs incurred under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9607(a), for response actions at or in connection with the release or threatened release of hazardous substances at Operable Unit 1 (“OU1”) of the Nelson Tunnel/Commodore Waste Rock Pile Superfund Site (“Site”). The United States also sought a declaration of Settling Defendants’ liability, pursuant to Section 113(g) of CERCLA for all future response costs to be incurred by the United States in connection with the OU1 Site. A remedial action at Operable Unit 2 (“OU2”) of the Site is also ongoing. The filed Complaint was for OU1 response costs only.

In September 2017, Pioneer filed a counterclaim against the United States alleging that the United States is liable under Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, as both an owner of OU1 at the time that hazardous substances were disposed of at OU1 and a current owner of OU1. Settling Defendants in their counterclaims sought a judgment against the

United States for the United States' equitable share of costs incurred and that may, in the future, be incurred as a result of the release or threatened release of hazardous substances at the OU1 Site.

The proposed Consent Decree will resolve all CERCLA claims and counterclaims alleged in this action. In addition, the proposed Consent Decree will resolve CERCLA claims relating to OU2, as detailed below.

The proposed Consent Decree requires Settling Defendants to pay \$5,775,000 for past and future response costs incurred by the United States in connection with OU1 and OU2 at the Site. In return, the United States provides a covenant not to sue and contribution protection to Settling Defendants for past and future response costs in connection with the Site as a whole, which includes OU1 and OU2. These covenants extend only to Settling Defendants and are conditioned upon the satisfactory performance by Settling Defendants of their obligations under the proposed Consent Decree.

The proposed Consent Decree also requires Settling Federal Agencies, the United States, on behalf of the United States Department of Interior and the United States Department of Agriculture, on behalf of the United States Forest Service ("USFS"), to pay EPA \$425,000 for past and future response costs incurred in connection with OU1 at the Site and past response costs incurred in connection with OU2 at the Site. Future response costs to be incurred by EPA and the USFS in connection with the CERCLA response action(s) at OU2 will be resolved through a memorandum of understanding or interagency agreement between the USFS and EPA. In return for the payment from Settling Federal Agencies, EPA provides a covenant to not take administrative action against Settling Federal Agencies to recover past and future response costs in connection with OU1 at the Site and past response costs in connection with OU2 at the Site.

These covenants only extend to Settling Federal Agencies and are also conditioned upon the satisfactory performance by Settling Federal Agencies of their obligations under the proposed Consent Decree.

Under the terms of the proposed Consent Decree, Settling Defendants further covenant not to sue and agree not to assert any claims or causes of action against the United States for past and future response costs incurred in connection with the Site. Settling Federal Agencies also agree not to assert any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund with respect to past and future response costs incurred in connection with OU1 at the Site and past response costs incurred in connection with OU2 at the Site.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc.*, D.J. Ref. No. 90-11-3-10841/1. 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 \$9.25 (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 \$6.50

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