

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF NATURAL RESOURCE RESTORATION

Notice to Receive Interested Party Comments on Proposed Natural Resource Damages Consent Decree in the Matter of the American Cyanamid Superfund Site in Somerset County, *United States of America and New Jersey Department of Environmental Protection v. Wyeth Holdings, LLC*

Take notice that the New Jersey Department of Environmental Protection (“DEP,” “Department,” or “NJDEP”), together with the United States of America, on behalf of the United States Department of Commerce, acting by and through the National Oceanic and Atmospheric Administration, and the United States Department of the Interior, acting by and through the United States Fish and Wildlife Service (collectively, the “Trustees”) hereby give notice of a proposed Consent Decree to resolve claims for damages to natural resources at the site described below (referred to as the “American Cyanamid Superfund Site” or “the Site”):

The former American Cyanamid Company Superfund Site, encompassing approximately 435 acres, located in the Township of Bridgewater and the Borough of Bound Brook, Somerset County, New Jersey. The Site is also known and designated as Block 305, Lot 2; Block 340, Lot 2; Block 342, Lot 2; and Block 343, Lot 1 in the Township of Bridgewater and Block 1, Lot 37.01 in the Borough of Bound Brook. The Site was assigned Program Interest No. 001000.

The NJDEP hereby proposes to enter a Consent Decree with the United States and Wyeth Holdings, LLC (the Settling Defendant) to resolve certain claims pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9607, and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. (Spill Act).

The contamination at the Site was allegedly caused as a result of waste storage and disposal impoundments at the Site that contain or contained hazardous substances, including volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and/or metals. Investigations also found hazardous substances, including VOCs, SVOCs, polychlorinated biphenyls, and metals in soils at the Site, and that the groundwater underlying the Site contains metals and VOCs, such as benzene, chlorobenzene, ethylbenzene, and xylene. This contamination led the United States Environmental Protection Agency to add the American Cyanamid Site to the National Priorities List of Superfund Sites in 1983. Remedial activities were begun by American Cyanamid with oversight by the NJDEP, and continued by Wyeth Holdings until Pfizer, Inc. purchased Wyeth Holdings and assumed responsibility for remediation activities at the Site. Pfizer is currently conducting the remedial activities pursuant to the EPA oversight and with the NJDEP providing technical support.

Consistent with its authorities as the trustee of New Jersey's natural resources, the NJDEP had filed an action in the United States District Court for the District of New Jersey, which included claims pursuant to the Spill Act, alleging that the Settling Defendant is liable to the public for injuries to the natural resources of the State due to their discharges of hazardous substances and pollutants. The NJDEP later filed a motion to consolidate its action with a similar pending action by the United States brought pursuant to the United States's authority as natural resource trustee. The Settling Defendant has previously entered into partial settlement agreements with the Trustees,

including settlement of in-river injuries to the Raritan River, and with NJDEP, including settlement of natural resource damages claims related to injury to groundwater. See 48 N.J.R. 2168(b); 52 N.J.R. 1029(a).

The Trustees analyzed the EPA's investigation data and other available data to assess potential injuries to Natural Resources and their ecological value related to release of hazardous substances at or near the Site, including releases of hazardous substances from the Site impacting terrestrial areas including floodplain, riparian, upland, and wetland areas that were beyond the scope of the previous "in-river" Consent Decree. Following the Trustees' development of a Restoration Plan and Environmental Assessment, the Trustees and the Settling Defendant agreed to settle its remaining liability for ecological harms caused by discharges at and from the Site through performance of restoration projects, which are detailed in an Appendix attached to the Consent Decree.

The proposed Consent Decree would be executed by the NJDEP, consistent with its authority pursuant to the Spill Act, and its obligations and authorities as the trustee of New Jersey's natural resources. N.J.S.A. 58:10-23.11a et seq.; 58:10-23.11u; and 13:1D-150. Pursuant to the proposed Consent Decree, the Settling Defendant will perform ecological restoration projects as detailed in the Appendix attached to the Consent Decree, including wetlands restoration at the Duke Farms property located in Hillsborough Township, Somerset County, upstream of the American Cyanamid Superfund Site. The restoration project will benefit the public by establishing approximately 109 acres of wetland area and vernal pools, for a total of 112 acres of habitat enhancement in Somerset County.

In consideration of the commitment to natural resource restoration and public trust benefits described herein, the prior agreements resolving other liability related to the Site, and the extent

of natural resource injuries and consequent valuation of the natural resource damages at issue, the NJDEP, as trustee of the State's natural resources, believes that the proposed terms of this Consent Decree are fair, reasonable, faithful to the intent of the aforementioned statutes, and in the public interest. The Settling Defendant has agreed to pay past and future oversight costs to the NJDEP's Office of Natural Resource Restoration, including \$28,775 in costs already incurred and \$50,000 in future oversight costs. All settlement funds recovered for natural resource damages, less the costs of the suit, legal, and administrative fees, will be held in the NJDEP's dedicated natural resource damage account subject to legislative appropriation for specific natural resource restoration activities, in accordance with the New Jersey State Constitution, Article VIII, Section 2, Paragraph 9.

It is the intent of the NJDEP and the Settling Defendant that this Consent Decree constitutes an administratively approved settlement for which the NJDEP is seeking public comment pursuant to N.J.S.A. 58:10-23.11e2 for matters addressed in this Consent Judgment. It is the intent of the NJDEP, the United States, and the Settling Defendant that this Consent Decree constitutes an administratively approved settlement within the meaning of N.J.S.A. 58:10-23.11f.a(2)(b) of the Spill Act for the purpose of providing protection from contribution actions or claims for matters addressed in the proposed Consent Decree.

A copy of the proposed Consent Decree is available for inspection online at <http://www.nj.gov/dep/nrr/settlements/index.html> and at the NJDEP Office of Record Access at 401 East State Street, Trenton, New Jersey. Requests to inspect a paper copy of the proposed Consent Decree should be directed to records.custodian@dep.nj.gov. Interested persons may submit comments on the entry of this Consent Decree to the Office of Natural Resource Restoration at onrr@dep.nj.gov, or by mail at Office of Natural Resource Restoration, NJDEP,

501 East State Street, Mail Code 501-03, PO Box 420, Trenton, NJ 08625-0420. All comments must be submitted within 60 calendar days of the date of this public notice. The NJDEP will consider all comments received and may decide to withdraw or withhold consent to the entry of the Consent Decree if comments received disclose facts or considerations that demonstrate that the Consent Decree is inappropriate, improper, or inadequate.