

[FR Doc. 04-28441 Filed 12-28-04; 8:45 am]

BILLING CODE 4210-27-C

## DEPARTMENT OF THE INTERIOR

### U.S. Fish and Wildlife Service

#### Notice of Availability, Draft Restoration Plan and Environmental Assessment

**AGENCY:** Fish and Wildlife Service, U.S. Department of the Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service), on behalf of the U.S. Department of the Interior (DOI), National Oceanic and Atmospheric Administration (NOAA), and New York State Department of Environmental Conservation (New York), as natural resource trustees, announces the release for public review of the Draft Restoration Plan and Environmental Assessment (RP/EA) for the Love Canal, 102nd Street, and Forest Glen Mobile Home Subdivision Superfund sites. The Draft RP/EA presents a preferred alternative, consisting of a variety of restoration projects, that compensates for impacts to natural resources caused by contaminant releases and remedial activities associated with the three mentioned sites.

**DATES:** Written comments must be submitted on or before February 15, 2005.

**ADDRESSES:** Requests for copies of the RP/EA may be made to: U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, New York 13045.

Written comments or materials regarding the RP/EA should be sent to the same address.

**FOR FURTHER INFORMATION CONTACT:**

Anne L. Secord, Environmental Contaminants Program, U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, New York 13045. Interested parties may also call 607-753-9334 or e-mail [Anne\\_Secord@fws.gov](mailto:Anne_Secord@fws.gov) for further information.

**SUPPLEMENTARY INFORMATION:** During the period of March 1996 through December 2000, natural resource damage settlements were achieved for the Love Canal, 102nd Street, and Forest Glen Mobile Home Subdivision Superfund sites. NOAA was a settling Trustee with DOI on all three settlements; the State of New York was a settling Trustee for the 102nd Street and Forest Glen settlements. These three sites discharged a variety of hazardous chemicals into wetlands, uplands,

streams, and rivers in Niagara County, including the Niagara River, Cayuga Creek, East Gill Creek, Bergholtz Creek, and Black Creek. Chemical releases and remedial activities at the three sites adversely affected natural resources such as warmwater fish, migratory birds, amphibians, and reptiles. The funds available from these settlements for restoration activities total approximately \$1.3 million.

A combined restoration initiative is proposed to allow for a larger, more effective and meaningful resource restoration.

The RP/EA is being released in accordance with the Compensation, and Liability Comprehensive Environmental Response Act (CERCLA) of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 *et seq.*), the Natural Resource Damage Assessment Regulations found at 43 CFR part 11, and the National Environmental Policy Act. It is intended to describe the Trustees' proposals to restore natural resources injured at the sites and evaluate the potential impacts of each.

The RP/EA describes a number of habitat restoration and protection alternatives and discusses the environmental consequences of each. Restoration efforts which have the greatest potential to restore natural resources and services that were injured by contaminants or remedial activities are preferred. Based on an evaluation of the various restoration alternatives, the preferred alternative consists of a suite of restoration projects, including wetland restoration and protection, grassland restoration, stream restoration, urban stream/river restoration, common tern habitat restoration, walleye propagation, oak savannah restoration, and further contaminant characterization.

Interested members of the public are invited to review and comment on the RP/EA. Copies of the RP/EA are available for review at the Service's New York Field Office at 3817 Luker Road, Cortland, New York. Additionally, the RP/EA will be available for review at the following Web site (<http://nyfo.fws.gov>) and at the Niagara Falls Library. Written comments will be considered and addressed in the final RP/EA at the conclusion of the restoration planning process.

Comments, including names and home addresses of respondents, will be available for public review during regular business hours. Individual respondents may request confidentiality. If you wish us to withhold your name and or address from public review or from disclosure under the Freedom of Information Act,

you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

**Author:** The primary author of this notice is Anne Secord, U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, New York 13045.

**Authority:** The authority for this action is the CERCLA of 1980 as amended, commonly known as Superfund, (42 U.S.C. 9601 *et seq.*), and the Natural Resource Damage Assessment Regulations found at 43 CFR part 11.

Dated: November 30, 2004.

**Dawn Comish,**

*Acting Regional Director, Region 5, U.S. Fish and Wildlife Service, U.S. Department of the Interior, DOI Designated Authorized Official.*

[FR Doc. 04-28498 Filed 12-28-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Amendment to Approved Tribal-State Compact.

**SUMMARY:** This notice publishes the Approval of the Amendment to the Tribal-State Compact between the Puyallup Tribe of Indians and the State of Washington.

**EFFECTIVE DATE:** December 29, 2004.

**FOR FURTHER INFORMATION CONTACT:** George T. Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Deputy Principal Assistant Secretary—Indian Affairs, Department of Interior, through his delegated authority, has approved the Third Amendment to the Tribal-State Compact for Class III Gaming between

the Puyallup Tribe of Indians and the State of Washington, which was executed on November 16, 2004.

This Amendment authorizes the Tribe to conduct Class III gaming activities on fee land (the Fife Property) within the Tribe's reservation boundaries.

Dated: December 22, 2004.

**Michael D. Olsen,**

*Acting Principal Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. 04-28506 Filed 12-28-04; 8:45 am]

**BILLING CODE 4310-4N-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR 50.7, notice is hereby given that on December 14, 2004, a proposed Consent Decree in *United States v. Alcan Aluminum Corp.*, Civil No. 04-1435, was lodged with the United States District Court for the Northern District of New York.

This action concerns the Tri Cities Barrel Superfund Site (Site), which is located in Fenton, New York. In this action, the United States asserted claims against Alcan Aluminum Corp: (1) under section 106(b)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9606(b)(1), for civil penalties for Alcan's failure to comply with an administrative order issued by the U.S. Environmental Protection Agency (EPA) which required Alcan to participate and cooperate with a group of parties who are performing the remedy for the Site under a Remedial Design/Remedial Action consent decree; and (2) under section 107(a) of CERCLA, 42 U.S.C. 9607(a), for recovery of response costs incurred regarding the Site. The proposed consent decree embodies an agreement with Alcan to pay \$600,000 of EPA's past response costs, to pay 80% of all future response costs, up to a \$800,000 cap, and to pay a \$360,000 civil penalty. The decree provides Alcan with a covenant not to sue under sections 106(b)(1) and 107(a) of CERCLA.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC

20044-7611, and should refer to *United States v. Alcan Aluminum Corp.*, D.J. No. 90-11-3-1514/2.

The Consent Decree may be examined at the Office of the United States Attorney, 445 Broadway, Albany, NY 12207, and at the Region II Office of the U.S. Environmental Protection Agency, Region II Records Center, 290 Broadway, 17th Floor, New York, NY 10007-1866. During the public comment period, the Consent Decree also may be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$5.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Catherine R. McCabe,**

*Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 04-28536 Filed 12-28-04; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Macaulay*, Case No. 3:04-23209, was lodged with the United States District Court for the District of South Carolina on December 8, 2004. This proposed Consent Decree concerns a complaint filed by the United States against the Defendants pursuant to section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendants for filling wetlands without a permit.

The proposed Consent Decree requires the defendants to pay a civil penalty and restore the impacted wetland to its natural grade and contour. The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to Emery Clark, Assistant United States Attorney, United States Attorney's Office, Wachovia Building, Suite 500, 1441 Main Street, Columbia, South

Carolina 29201 and refer to *United States v. Macaulay*, Case No. 3:04-23209.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of South Carolina, 901 Richland Lane, Columbia, South Carolina.

In addition the proposed Consent Decree may be viewed on the World Wide Web at <http://www.usdoj.gov/enrd/open.html>.

**Stephen Samuels,**

*Assistant Chief, Environmental Defense Section, Environment and Natural Resources Division.*

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**BILLING CODE 4410-15-M**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Fee Adjustments for Testing, Evaluation, and Approval of Mining Products

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Notice of fee adjustments.

**SUMMARY:** This notice revises our [MSHA Approval and Certification Center (A&CC)] user fees. Fees compensate us for the costs that we incur for testing, evaluating, and approving certain products for use in underground mines. We based the 2005 fees on our actual expenses for fiscal year 2004. The fees reflect changes both in our approval processing operations and in our costs to process approval actions.

**DATES:** This fee schedule is effective from January 1, 2005, through December 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Steven J. Luzik, Chief, Approval and Certification Center (A&CC), 304-547-2029 or 304-547-0400.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 8, 1987 (52 FR 17506), we published a final rule, 30 CFR part 5—Fees for Testing, Evaluation, and Approval of Mining Products. The rule established specific procedures for calculating, administering, and revising user fees. We have revised our fee schedule for 2004 in accordance with the procedures of that rule and include this new fee schedule below. For approval applications postmarked before January 1, 2005, we will continue to calculate fees under the previous (2004) fee schedule, published on December 30, 2003.