

and CERCLA response costs and to comply with extensive injunctive relief measures, including the creation of a non-spray buffer zone on the northern and a portion of the western perimeter of the Farm which will vary in width up to 173 feet. In December 2004, the United States filed a Motion to Enforce the Consent Decree and for stipulated penalties in that the United States alleged that Defendants violated certain provisions of the Consent Decree including the requirement that Defendants remove or relocate mango trees and banana trees from the buffer zone area, and replace them with plantain trees which would not be sprayed.

The United States and Defendants have reached a proposed agreement to resolve the United States' Motion to Enforce the Consent Decree and its request for stipulated penalties, which Settlement Agreement requires Defendants, *inter alia*, to remove or relocate the mango trees they were required to remove or relocate under the Decree by April 1, 2006, which schedule will allow Defendants to transplant the mango trees elsewhere at the Farm, and to replace them with bananas or plantains. The Settlement Agreement authorizes the Farm to plant, in two perimeter areas, an extra row of neem trees as a barrier instead of planting bananas or plantains. The Settlement Agreement allows Defendants to apply low-toxicity pesticides in limited circumstances and under application restrictions in buffer zone areas to address an outbreak of Sigatoka Negra. The Settlement Agreement also requires the Farm to pay a stipulated penalty of \$50,000 over a one year period, plus interest.

The proposed Settlement Agreement may be examined at the office of the United States Attorney, Federal Building Room 452, Carlos Chardon Avenue, Hato Rey, PR 00918, and at two offices of the Environmental Protection Agency, Region II: EPA, 290 Broadway, 17th floor, New York, NY 10007-1866 or EPA, Caribbean Environmental Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon, Stop 22, Santurce, Puerto Rico, 00907-4127. During the public comment period, the Settlement Agreement may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the proposed Settlement Agreement may also be obtained by mail from the Consent Decree Library, PO 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 no. (202) 514-1547, referencing DOJ No. 1-1700/1. For a copy of the proposed Settlement Agreement including the signature pages and attachments, in requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of \$3.50 payable to the U.S. Treasury.

**Ronald G. Gluck,**

*Assistant Chief, Environmental Enforcement Section, Environmental & Natural Resources Division.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Amendment to Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Under 28 CFR 50.7, notice is hereby given that on September 2, 2005, three proposed Consent Decrees were lodged with the United States District Court for the Eastern District of Pennsylvania in *U.S. v. Union Corps., et al.*, Civil Action No. 80-1589, DJ #90-11-2-1183A.

The consent decrees propose to resolve the liability of Defendants Irvin G. Schorsch and John B. Schorsch, and Third Party Defendants Baltimore Gas and Electric Company, Consolidated Edison Company of New York, Inc., Jersey Center Power & Light Company, Long Island Lighting Company d/b/a LIPA, Metropolitan Edison Company, Orange and Rockland Utilities, PECO Energy Company, Potomac Electric Power Company, PP&L Electric Utilities Corporation, Public Service Electric and Gas Company, and Virginia Power Company ("the Utilities") under the Comprehensive Environment Response, Compensation and Liability Act, 42 U.S.C. 9606 and 9607, and the Resource Conservation and Recovery Act "RCRA"), 42 U.S.C. 6973, *et seq.* at the Metal Bank Superfund Site, located in Philadelphia, Pennsylvania ("the Site").

The consent decree would globally settle this action. The Utilities would implement the Revised Remedial Plan for the Site, which has been approved by EPA, Region 3, and is attached to the Consent Decrees as an appendix, the implementation of which would be overseen by EPA. EPA would make available to the Utilities the moneys received and to be received from Outsourcing Solutions, Inc., under an

earlier settlement with the corporate defendants in bankruptcy, which is expected to total \$13.235 million. Irvin Schorsch would pay \$9 million, \$5.5 million of which would be paid to the United States and \$3.5 million would be paid to the Utilities, and he would also guarantee up to \$2 million of OSI's payments. John Schorsch would pay \$600,000, \$50,000 of which would be paid to the United States and \$550,000 would be paid to the utilities. Finally, the Utilities would pay all costs for the remedy, excluding oversight costs, not otherwise provided for and will indemnify Defendant Irvin G. Schorsch for any liability for cost overruns for work done under the revised remedial plan or under reopeners for future work needed at the site in connection with the site remediation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Amendment. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *U.S. v. Union Corp., et al.*, Civil Action No. 80-1589 (E.D.Pa.).

The Consent Decrees may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Philadelphia, Pennsylvania. During the public comment period, the Amendment may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.htm>. A copy of the Amendment 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 \$47.75 payable to the U.S. Treasury. In requesting a copy exclusive of exhibits and defendants' signatures, please enclosed a check in the amount of \$8.25 payable to the U.S. Treasury.

**Robert Brook,**

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

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