

this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on June 2, 2003, based on a complaint filed by Energizer Holdings, Inc. and Eveready Battery Company, Inc., both of St. Louis, Missouri. 68 FR 32771 (June 2, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1-12 of U.S. Patent No. 5,464,709 ("the '709 patent"). The complaint and notice of investigation named 26 respondents and were later amended to include an additional firm as a respondent. The investigation has been terminated as to claims 8-12 of the '709 patent. Several respondents have been terminated from the investigation for various reasons.

On June 2, 2004, the ALJ issued his final ID finding a violation of section 337. He also recommended the issuance of remedial orders. A number of the remaining respondents petitioned for review of the ID. Complainants and the Commission investigative attorney filed oppositions to those petitions. On July 9, 2004, the Commission issued a notice that it had determined to review the ALJ's final ID in its entirety. In that notice, the Commission requested written submissions on the issues on review (noting issues and questions it particularly sought briefing on), as well as on remedy, the public interest, and bonding. Complainants, respondents, and the Commission investigative attorney filed written submissions.

Having considered the record in this investigation, including the written submissions on the issues on review and on remedy, the public interest, and bonding, the Commission has determined to terminate this investigation with a finding of no violation of section 337. Specifically, the Commission has determined that the asserted claims are invalid for indefiniteness. The Commission has determined to take no position on the other issues raised in this investigation. Finally, the Commission has determined to deny as moot the May 21, 2004, motion of respondent Ningbo Baowang Battery Co. Ltd. to terminate the investigation as to it, as well as its motion to reopen the evidentiary record.

This action is taken under the authority of section 337 of the Tariff Act

of 1930, as amended (19 U.S.C. 1337), and sections 210.41-.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.41-.51).

By order of the Commission.

Issued: October 1, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-22601 Filed 10-6-04; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 23, 2004, a proposed Settlement Agreement (the "Agreement") in In re: Farmland Industries, Inc., *et al.*, Case No. 02-50557, was lodged with the United States Bankruptcy Court for the Western District of Missouri.

In this settlement the United States resolves the Environmental Protection Agency's claim for cost recovery for costs to be incurred remediating environmental contamination at the Obee Road Superfund Site in Hutchinson, Kansas. Farmland Industries, Inc. has been identified as a responsible party under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") in connection with this Site, and civil penalties under CERCLA, the Clean Water Act, and the Clean Air Act against Farmland Industries, Inc. The Settlement Agreement provides that the United States will have an allowed general unsecured claim of \$940,000, in settlement of the above-described claim. The United States previously has recovered from Farmland its past costs incurred at the Obee Road Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Settlement Agreement. 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 In re: Farmland Industries, Inc., *et al.*, Case No. 02-50557, Bankruptcy Court for Western District of Missouri, D.J. Ref. #90-5-1-1-06976/3.

The Settlement Agreement may be examined at the Office of the United States Attorney, 400 E. 9th Street, Kansas City, MO 64106, and at U.S. EPA Region 7, 901 N. 5th Street, Kansas City,

Kansas 66101. During the public comment period, the Settlement Agreement may also be examined on the following Justice Department Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Settlement Agreement 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 \$1.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Catherine R. McCabe,**

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

[FR Doc. 04-22525 Filed 10-6-04; 8:45 am]

**BILLING CODE 4410-15-M**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of the Proposed Consent Decree Between the United States, The State of Maryland, The Commonwealth of Virginia, Mirant Mid-Atlantic, LLC and Mirant Potomac River, LLC

Notice is hereby given that on Monday, September 27, 2004, a proposed Consent decree ("proposed Decree") in *United States and State of Maryland v. Mirant Mid-Atlantic, LLC and Mirant Potomac River, LLC* ("Mirant"), Civil Action No. 1:04CV1136, was lodged with the United States District Court for the Eastern District of Virginia.

In this civil enforcement action under the federal Clean Air Act ("Act"), the United States alleges that in 2003, Mirant, an electric utility, failed to comply with a provision in the Operating Permit for the Potomac River Generating Station that limited that plant's NO<sub>x</sub> emissions to 1,019 tons of NO<sub>x</sub> during the ozone season. The complaint seeks both injunctive relief and a civil penalty.

The proposed Decree lodged with the Court addresses this violation at the Potomac river Generating Station (located in Alexandria, Virginia) by requiring relief at that plant, as well as at three other Mirant coal-fired electric generating facilities: the Chalk Point Generating Plant (in Prince George's County, Maryland); the Morgantown Generating Plant (in Charles County, Maryland); and the Dickerson Generating Plant (in Montgomery County, Maryland).