

DEPARTMENT OF JUSTICE**Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act**

In accordance with the policy of the Department of Justice, notice is hereby given that a proposed consent decree in *United States v. Western Processing Co., et al.*, Civ. Nos. C83-252M and C89-214M, was lodged with the United States District Court for the Western District of Washington, on November 25, 2002. That action was brought against defendants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for payment of past response costs incurred, and future response costs to be incurred, by the United States and the State of Washington at the Western Processing Superfund Site in Kent, Washington. (The site is being cleaned up and most past costs have already been recovered pursuant to several prior settlements.) This decree requires Union Oil Company of California (d/b/a Unocal) ("Unocal") and RSR Corporation (RSR) to pay: (1) \$474,447.16 to the United States, which represents 95% of the remaining United States' past response costs at this site incurred from January 1, 1997 through June 30, 1998 (including interest); (2) \$100,000 to the State of Washington for its past response costs; and (3) 95% of all response costs incurred by the United States and the State at the site after June 30, 1998 (upon being billed for such costs).

Five minor generators of hazardous substance are paying RSR and Unocal a total of \$450,000 to resolve their liability for past and future response costs at the site. Finally, the United States, on behalf of the Air Force, Army, Coast Guard, and Navy, will pay RSR and Unocal \$118,000 to resolve any remaining liability it may have at the site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States v. Western Processing Co., et al.*, D.J. Ref. 90-7-1-233.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of Washington, 3600 Seafirst 5th Avenue Plaza, 800 5th Avenue, Seattle,

Washington 98104; and at the Region X office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044-7611. In requesting a copy, please enclose a check in the amount of \$14.75 (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States v. Western Processing Co., et al.*, D.J. Ref. 90-7-1-233.

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DEPARTMENT OF JUSTICE**Drug Enforcement Administration**

[Docket Nos. 01-12; 01-13]

Indace, Inc., c/o Seegott, Inc.; Malladi, Inc. Suspension of Shipments

On January 25, 2001, the then-Administrator of the Drug Enforcement Administration (DEA) issued an Order to Suspend Shipment to Indace, Inc. c/o Seegott, Inc. (Indace) of Elgin, Illinois, notifying it that pursuant to 21 U.S.C. 971, DEA had ordered the suspension of a shipment of 3,000 kilograms of ephedrine hydrochloride, a listed chemical, from India into the United States. Indace indicated in its request for importation that the listed chemical was intended for further shipment to PDK Laboratories, Inc. (PDK) of Hauppauge, New York. The Order to Suspend Shipment stated that DEA concluded that the listed chemical may be diverted to the clandestine manufacture of a controlled substance based on the appearance of products manufactured from imports of ephedrine and pseudoephedrine destined for PDK at illicit manufacturing sites.

On January 26, 2001, the then-Administrator of the Drug Enforcement Administration (DEA) issued an Order to Suspend Shipment to Malladi, Inc., (Malladi) of Edison, New Jersey, notifying it that pursuant to 21 U.S.C. 971, DEA had ordered the suspension of a shipment of 3,000 kilograms of ephedrine hydrochloride, a listed chemical, from India into the United States. Malladi indicated in its request for importation that the listed chemical was intended for further shipment to

PDK laboratories, Inc. (PDK) of Hauppauge, New York. The Order to Suspend Shipment stated that DEA concluded that the listed chemical may be diverted to the clandestine manufacture of a controlled substance based on the appearance of products manufactured from prior imports of ephedrine and pseudoephedrine destined for PDK at illicit manufacturing sites.

On February 8, 2001, PDK requested a hearing in both matters, asserting standing as a Respondent pursuant to a ruling in *PDK Laboratories Inc. v. Reno, et al.*, 134 F.Supp.2d24 (D.D.C. 2001). DEA complied with the court's ruling, and both matters were docketed before Administrative Law Judge (ALJ) Gail A. Randall.

On March 8, 2001, the ALJ issued an order consolidating both matters for hearing purposes. Neither Indace nor Malladi requested a hearing in these matters. Following prehearing procedures, a hearing was held in Arlington, Virginia on March 26-30, April 5-6, April 11-13, and April 16-17, 2001. At the hearing, PDK and the Government called witnesses to testify and introduced documentary evidence. After the hearing, both parties filed proposed findings of fact, conclusions of law, and argument.

On April 5, 2002, the ALJ issued a consolidated Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge recommending that both the suspensions be lifted, and the importers be allowed to complete the shipments. On April 25, 2002, the Government filed Exceptions to the ALJ's Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision. In response, on May 21, 2002, PDK filed PDK's Response to the Exceptions Filed by the Government. Subsequently, on June 5, 2002, the ALJ transmitted the record of these proceedings as her report to the Deputy Administrator for final action pursuant to 21 CFR 1313.57.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1313.57, hereby issues his final order regarding the Indace and Malladi suspensions of shipments based upon findings of fact and conclusions of law hereinafter set forth. The Deputy Administrator is issuing one final order regarding both suspension cases since the same findings of fact and conclusions of law apply to both suspensions. Except as hereafter noted, the Deputy Administrator rejects, in its entirety, the Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge