

“Ninestar Respondents”), as well as Mipo America Ltd. (“Mipo America”) and Mipo International, Ltd (collectively, the “Mipo Respondents”). On March 18, 2008, Epson filed a third enforcement complaint against two proposed respondents: Ribbon Tree USA, Inc. (dba Cana-Pacific Ribbons) and Apex Distributing Inc. (collectively, the “Apex Respondents”). On June 23, 2008, the Commission determined that the criteria for institution of enforcement proceedings were satisfied and instituted another formal enforcement proceeding and named the two proposed respondents as the enforcement respondents. On September 18, 2008, the ALJ issued Order No. 37, consolidating the two proceedings.

On April 17, 2009, the ALJ issued his Enforcement Initial Determination (EID) in which he determined that there have been violations of the Commission’s cease and desist orders and consent order and recommended that the Commission impose civil penalties for such violations. The Ninestar Respondents filed a timely petition for review. The Commission considered the EID, the petition for review, the responses thereto, and other relevant portions of the record and determined not to review the EID on June 19, 2009.

The Commission then requested separate briefing concerning the imposition of civil penalties for violation of the cease and desist orders and a consent order. Epson, the Ninestar Respondents, and the Commission investigative attorney filed written submissions and responses thereto.

Based upon its consideration of the EID, the submissions of the parties, and the entire record in this proceeding, the Commission adopts the EID’s analysis concerning civil penalties, except as otherwise noted or supplemented in its order and opinion (to be issued later). However, while the Commission adopts the EID’s recommended penalty with respect to the Mipo Respondents and the Apex Respondents, the Commission has determined to impose a lesser penalty on the Ninestar Respondents.

Accordingly, and subject to final adjudication of any appeal of the same, the Commission has determined to impose a civil penalty in the amount of \$11,110,000 against the Ninestar Respondents, jointly and severally. Against the Mipo Respondents, the Commission has determined to impose a civil penalty in the amount of \$9,700,000 jointly and severally, and the Commission has determined to impose a civil penalty in the amount of \$700,000 jointly and severally against the Apex Respondents.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.75 of the Commission’s Rules of Practice and Procedure (19 CFR 210.75).

Issued: August 17, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on August 17, 2009, a proposed Consent Decree in *United States v. City Of Portsmouth, New Hampshire*, Civil Action No. 1:09–cv–283, was lodged with the United States District Court for the District of New Hampshire.

In this action, the United States seeks, *inter alia*, injunctive relief in relation to discharges by the City of Lebanon, New Hampshire (City) from its combined sewer overflows (CSOs) and wastewater treatment facility, in violation of the City’s National Pollutant Discharge Elimination System Permit issued under the Clean Water Act, 33 U.S.C. 1251, *et seq.* The Consent Decree requires the City, among other things, to control discharges from the CSO outfalls, propose a schedule for construction of a secondary wastewater treatment facility for approval by the United States Environmental Protection Agency, and upon inclusion of the schedule in the Consent Decree, comply with the construction schedule.

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, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States v. City of Portsmouth, New Hampshire*, D.J. Ref. 90–5–1–09308.

The Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, 53 Pleasant Street, Concord, NH, and at U.S. EPA Region 1, 1 Congress Street, Boston, MA. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, to <http://>

[www.usdoj.gov/enrd/ConsentDecrees.html](http://www.usdoj.gov/enrd/ConsentDecrees.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 \$18.75 (25 cents per page reproduction costs of Consent Decree and Appendices) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree in *United States v. Waste Management of Wisconsin, Inc., et al. Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)*

Notice is hereby given that on August 17, 2009, a proposed Consent Decree was lodged with the United States District Court for the Eastern District of Wisconsin in *United States v. Waste Management of Wisconsin, Inc., et al.*, Case No. 09–cv–0135. The Consent Decree between the United States, on behalf of the U.S. Environmental Protection Agency (“U.S. EPA”), and the settling defendants relates to certain liabilities under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. 9601 *et seq.*, in connection with the Watertown Tire Fire Site in Watertown, Wisconsin (the “Site”). Under the proposed Consent Decree, the settling defendants are required to pay \$1,000 and pursue insurance proceeds in ongoing State court litigation to reimburse costs incurred by U.S. EPA in connection with the Site.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S.