

Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 2, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 2, 2005. On March 16, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 18, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: October 18, 2004.

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 Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on October 6, 2004, a proposed Consent Decree in United States and the *State of Colorado v. Asarco, Inc.*, an action for injunctive relief and the reimbursement of response costs pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, was lodged with the United States District Court for the District of Colorado, Civil Action No. 04-RB-2070 (CBS).

In this action, the United States and the State of Colorado sought injunctive relief to require defendant to perform certain remedial actions at the Vasquez Boulevard/Interstate 70 Superfund Site, located in Denver, Colorado, and to reimburse the United States and the State of Colorado for response costs incurred at the Site. Pursuant to the proposed Consent Decree, Asarco will remove and dispose of contaminated soils from 100 residential properties within the Site, and reimburse the United States and the State of Colorado for future response costs incurred at the Site.

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, Environmental and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to United States and the *State of Colorado v. Asarco, Inc.*, D.J. Ref. DJ# 90-11-3-138/7.

The Consent Decree may be examined at U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202. During the public comment period, the Consent Decree may also 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, 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 number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check made payable to the United States Treasury in the amount of \$10.25 for the Consent Decree only or \$109.75 for the Consent Decree plus Appendices (25 cents per page reproduction cost).

**Robert Brook,**

*Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Division, United States Department of Justice.*

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## DEPARTMENT OF JUSTICE

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

Notice is hereby given that on September 29, 2004, a proposed Consent Decree in *United States of America, The State of New Mexico, and The New Mexico Office of Natural Resources Trustee v. The Burlington Northern and Santa Fe Railway Company*, Civil Action No. CIV-04-1101 JH RHS, was lodged with the United States District Court for the District of New Mexico.

In this action the United States, on behalf of the United States Department of the Interior, the United States Fish and Wildlife Service ("DOI"), and the Attorney General of the State of New Mexico, on its own behalf and on behalf of The State of New Mexico and The New Mexico Office of Natural Resources Trustee ("NMONRT"), sought damages from The Burlington Northern and Santa Fe Railway Company ("BNSF") for injury to, destruction and loss of natural resources, under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9607(a), resulting from the release of hazardous substances from the AT & SF Albuquerque Superfund Site, located in Albuquerque, Bernalillo County, New Mexico. The Complaint alleges that hazardous substances, including PCP, zinc chloride, creosote and its constituents, were released from a wood treatment plant owned and operated by Defendant BNSF's predecessor to the environment, resulting in injury to wildlife habitat and groundwater resources. The Consent Decree provides for BNSF to pay a total of \$1.09 million to resolve the claims alleged in the Complaint. The Consent Decree also resolves BNSF's claim that the Federal government is partially responsible for