

the Department of Justice. 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 \$7.50 (@ 25 cents per page reproduction cost) 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.

**Robert Brook,**

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

[FR Doc. 2011-26539 Filed 10-13-11; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

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

Notice is hereby given that on September 21, 2011, a proposed Consent Decree ("CD") in *US and WVDEP v. City of Welch*, Civil Action No. 1:11-cv-00647, was lodged with the United States District Court for the Southern District of West Virginia, Charleston Division.

The United States filed a complaint concurrently with the CD. In the new action, the United States sought injunctive relief and civil penalties against the City (the "City") of Welch in West Virginia and the Welch Sanitary Board (the "Board") for violations of Sections 309 and 402 of the Clean Water Act ("CWA"), 33 U.S.C. 1319 and 1342. The United States alleged that by failing to comply with effluent limits, failing to develop and implement a Long Term Control Plan ("LTCP"), and failing to comply with Nine Minimum Control requirements of the National Pollutant Discharge Elimination System ("NPDES") permit, the City was in violation of the CWA and its NPDES permit.

The CD resolves the alleged violations by mandating a series of injunctive relief. The CD instructs the City to establish an enforceable schedule for controlling the combined sewer overflows and correcting the effluent limitation violations. The City will comply with a mutually agreed upon schedule as part of the LTCP. It will certify that all existing and future contracts are designed, constructed, and will operate in accordance with the CD

and the NPDES permit. The City will also submit a report on the status of any overflows from the Combined Sewer System ("CSS") and their duration and frequency, by June 30, 2016.

Additionally, the City will submit semiannual progress reports to the EPA and the State. The City will submit a plan to identify and eliminate sources of excess inflow and infiltration within 60 days of the CD being lodged. Six months after the CD is lodged, the City will submit a Nine Minimum Controls Plan to EPA and a Treatment Plant Plan to the Plaintiffs. In addition to injunctive relief, the City will pay a civil penalty of \$5,000, divided evenly between the United States and the State of West Virginia. There will also be stipulated penalties for periods of noncompliance, ranging from \$1,000 to \$8,000 per day per violation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the CD. 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 and West Virginia Department of Environmental Protection v. City of Welch*, D.J. Ref. 90-5-1-1-813/1.

During the public comment period, the CD may also be examined on the following Department of Justice Web site, to [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the CD 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 emailing 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. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of \$12.00 payable to the U.S. Treasury or, if requesting by email or fax, forward a check in that amount to the Consent Decree Library at the address given above.

**Robert Brook,**

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

[FR Doc. 2011-26540 Filed 10-13-11; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree regarding the United States' claims against Defendants in *United States v. Philip A. Smith, et al.*, Case No. 3:10-cv-05364-BHS, was lodged with the United States District Court for the Western District of Washington on October 6, 2011.

This proposed Consent Decree concerns a complaint filed by the United States against Philip A. Smith and Kimberly G. Smith, pursuant to Section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) and (d), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves allegations against the Defendants by requiring Philip A. Smith to pay a contingent civil penalty if certain circumstances arise.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Kent E. Hanson, U.S. Department of Justice, P.O. Box 23986, Washington, DC 20026-3986 and refer to *United States v. Philip A. Smith, et al.*, DJ #90-5-1-1-18599.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Western District of Washington, 1717 Pacific Avenue, Room 3100, Tacoma, WA 98402-3200. In addition, the proposed Consent Decree may be viewed at [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html).

**Cherie L. Rogers,**

*Assistant Section Chief, Environmental Defense Section, Environment & Natural Resources Division.*

[FR Doc. 2011-26517 Filed 10-13-11; 8:45 am]

**BILLING CODE P**

## 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 30, 2011, a proposed Consent Decree in *United States of America v. Newmont USA Limited and Dawn*