

by the fact that five Morrison & Forester attorneys were involved in the disclosure.

This is the second breach within a two year period of an APO issued in a section 337 investigation by attorneys with the firm of Morrison and Foerster. The earlier breach occurred in Inv. No. 337-TA-419, Certain Excimer Laser Systems for Vision Correction Surgery and Components Thereof and Methods for Performing Such Surgery, Inv. No. 337-TA-419, Notice of June 4, 1999.

Morrison & Foerster is very experienced in Commission practice. However, the current breach and the recent prior breach demonstrate a disturbing and unacceptable pattern of failure to safeguard information released under APO. CBI received from private parties plays an important role in Commission investigations. The Commission's ability to obtain such information depends on the confidence of the submitting parties that their confidential information will be protected.

The authority for this action is conferred by section 337(n) of the Tariff Act of 1930, 19 U.S.C. 1337(n) and by §201.15 (a) of the Commission's rules of practice and procedure (19 CFR 201.15 (a)).

By order of the Commission.

Issued: February 13, 2002.

**Marilyn R. Abbott,**

*Acting Secretary.*

[FR Doc. 02-3942 Filed 2-14-02; 8:45 am]

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## DEPARTMENT OF JUSTICE

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

Under the Policy set out at 28 CFR 50.7, notice is hereby given that on January 24, 2002, a proposed Consent Decree (Decree) in *United States of America v. PSEG Fossil LLC*, Civil Action No. 02CV340, was lodged with the United States District Court for the District of New Jersey. This enforcement action under the Clean Air Act involves alleged violations of requirements intended to prevent the significant deterioration of air quality under the Environmental Protection Agency's "New Source Review" Program. The United States and the State of New Jersey sought injunctive relief and civil penalties from PSEG Fossil LLC ("PSEG"), which owns and operates the coal-fired electric generating stations known as Unit 2 of the Hudson Electricity Generating Station in Hudson County, New Jersey; Units 1 and 2 of the

Mercer Electricity Generating Station in Mercer County, New Jersey; and Unit 2 of the Bergen Electricity Generating Station in Bergen County, New Jersey. The United States and New Jersey alleged that PSEG failed to comply with the requirements of the Clean Air Act at these facilities by failing to seek permits prior to making major modifications to parts of these facilities and by failing to install appropriate pollution control devices to control emissions of air pollutants—specifically, sulfur dioxide, nitrogen oxides, and particulate matter—from these facilities.

The proposed Decree requires PSEG to undertake various activities at the Hudson, Mercer, and Bergen Units in order to reduce the emission of air pollutants, including the following measures: that installation and operation of state-of-the-art equipment to control PSEG's emissions of nitrogen oxides, sulfur dioxide, and particulate matter; the optimization and operation of PSEG's existing pollution control equipment; limitations on the use of certain fuels; and the surrender of certain emission allowances. The Decree also requires PSEG to undertake a series of environmentally beneficial projects, valued at \$6 million, and to pay a civil penalty of \$1.4 million.

The Department of Justice will receive comments relating to the proposed 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, Department of Justice, P.O. Box 7611, Washington, DC 20044-7611, and refer to *United States v. PSEG Fossil LLC*, DOJ Case Number 90-5-2-1-1866/1.

The proposed Consent Decree may be examined at the office of the United States Attorney for the District of New Jersey, 970 Broad Street, Newark, New Jersey 07102, and at the Region 2 office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007. A copy of the proposed Consent Decree may also be obtained by mailing a request to the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044-7611, or by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 616-6584; phone confirmation no. (202) 514-1547. In requesting a copy, please reference *United States v. PSEG Fossil LLC*, DOJ Case Number 90-5-2-1-1866/1, and enclose a check in the amount of

\$17.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**W. Benjamin Fisherow,**

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

[FR Doc. 02-3803 Filed 2-14-02; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Notice of Lodging Proposed Consent Decree; Corrected Notice

In accordance with Department Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Specialty Minerals, Inc., Thomas Foley, Jr. and Dorothy K. Foley*, Civil Action No. 3:01CV1853 (RNC) (D. Conn.), was lodged with the United States District Court for the District of Connecticut on October 3, 2001. This notice corrects an inadvertent error in the notice published on January 7, 2002, at 67 FR 758. That Notice improperly referred to the property owner as "John J. Foley, Jr.," instead of Thomas Foley, Jr. This proposed Consent Decree concerns a complaint filed by the United States against Specialty Minerals, Inc., Thomas Foley, Jr. and Dorothy K. Foley, pursuant to Sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344, and imposes civil penalties against Defendant, Specialty Minerals, Inc., for the unauthorized discharge of dredged or fill material into waters of the United States located in wetlands adjacent to a tributary of Blackberry River, located in North Canaan, Connecticut.

The proposed Consent Decree requires the payment of civil penalties, in addition to the performance of onsite mitigation and partial restoration at the site of the violation.

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 Brenda M. Green, Assistant United States Attorney, United States Attorney's Office, 157 Church Street, 23rd Floor, New Haven, Connecticut 06510 and refer to *United States v. Specialty Minerals, Inc., Thomas Foley, Jr. and Dorothy K. Foley*, DJ #90-5-1-1-05702.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of

Connecticut, 141 Church Street, New Haven, Connecticut, 06510.

**Brenda M. Green,**

*Assistant U.S. Attorney, U.S. Attorney's Office.*

[FR Doc. 02-3802 Filed 2-14-02; 8:45 am]

BILLING CODE 4410-15-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

[Civil No. 01-01696 GK]

#### Public Comments and Response on Proposed Final Judgment in United States v. Premdor Inc., et al.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States of America hereby publishes below the comment received on the proposed Final Judgment in *United States v. Premdor Inc., et al*, Civil Action No. 01-01696 GK, filed in the United States District Court for the District of Columbia, together with the United States' response to the comment.

Copies of the comment and response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW., Washington, DC 20530, Telephone: (202) 514-2481, and at the office of the Clerk of the United States District Court for the District of Columbia, E. Barrett Prettyman United States Courthouse, Room 1225, 333 Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

**Constance K. Robinson,**

*Director of Operations and Merger Enforcement.*

United States of America, 1401 H Street, NW., Suite 3000, Washington, DC 20530, Plaintiff, v. Premdor Inc., 1600 Britannia Road East, Mississauga, Ontario, Canada L4W 1J2, Premdor U.S. Holdings, Inc., One North Dale Mabry Highway, Suite 950, Tampa, Florida 33609, International Paper Company, 400 Atlantic Street, Stamford, Connecticut 06921, and Masonite Corporation, 1 South Wacker Drive, Chicago, Illinois 60606, Defendants.

#### Plaintiff's Response to Public Comment

The United States, pursuant to the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)-(h), hereby responds to the single public comment received, attached hereto as Exhibit A, regarding the proposed Final Judgment in this case.

#### I. Background

On August 3, 2001, the United States filed a Complaint alleging that the

proposed acquisition of the Masonite business of International Paper Company ("IP") by Premdor Inc. ("Premdor") would substantially lessen competition in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. The Complaint alleges that Premdor and IP, through its subsidiary Masonite Corporation ("Masonite"), are two of the three largest firms involved in the production of interior molded doors. As alleged in the Complaint, the transaction will substantially lessen competition in the development, manufacture and sale of interior molded doorskins and interior molded doors in the United States, thereby harming consumers. Accordingly, the Complaint seeks among other things: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) permanent injunctive relief that would prevent defendants from carrying out the acquisition or otherwise combining their businesses or assets.

At the same time the Complaint was filed, the United States also filed a proposed, stipulated Final Judgment and Hold Separate Stipulation and Order that would permit Premdor to acquire the Masonite business, provided that Premdor divests its Towanda, Pennsylvania doorskin manufacturing facility, along with intellectual property, research capabilities and other assets needed to be a viable doorskin manufacturer. The proposed Final Judgment orders defendants to divest the Towanda facility to an acquirer approved by the United States. Defendants must complete the divestiture within 150 calendar days after the filing of the Complaint in this matter, or within 120 calendar days after the closing of Premdor's acquisition of the Masonite business, whichever is earlier. If defendants do not complete the divestiture within the prescribed time, then, under the terms of the proposed Final Judgment, this Court will appoint a trustee to sell the Towanda facility.

The Hold Separate Stipulation and Order and the proposed Final Judgment require defendants to preserve, maintain and continue to operate the North American operations of the Masonite business as an independent, ongoing, economically viable competitive business, with the management, sales and operations held separate from Premdor's other operations. The Hold Separate Stipulation and Order allows the defendants to submit to the United States a plan for partitioning the Towanda facility from the remainder of Masonite's North American operations. The United States has approved defendants' partition plan, and in

accord with the Hold separate Stipulation and Order, Premdor now controls all of Masonite's North American operations other than the Towanda facility and other partitioned assets. The partitioned assets will continue to be held separate until they are divested to a suitable acquirer.

The United States and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. In compliance with the APPA, the United States filed the Competitive Impact Statement ("CIS") on August 3, 2001. The Complaint, proposed Final Judgment and the CIS were published in the **Federal Register** on August 28, 2001. The 60 day comment period required by the APPA expired with the United States having received only one public comment, from Lifetime Doors, Inc. In light of the recent disruption to mail delivery, the United States published a supplemental notice in the **Federal Register** on Dec. 21, 2001, and in the Washington Post from December 19, 2001 to December 25, 2001. The supplemental notice extended the comment period required by the APPA by fifteen days. The fifteen day supplemental comment period has now expired with the United States having received no additional public comments.

#### II. Response to the Public Comment

##### A. Legal Standard Governing the Court's Public Interest Determination

The Tunney Act directs the Court to determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e). In making that determination, the "court's function is not to determine whether the resulting array of rights and liabilities is one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest." *United States v. Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.), cert. denied, 510 U.S. 984 (1993). The Court should evaluate the relief set forth in the proposed Final judgment and should enter the Judgment if it falls within the government's "rather broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); accord *United States v. Associated Milk Producers*, 534 F.2d 113, 117-18 (8th Cir.), cert. denied, 429 U.S. 940 (1976). The Court should review the proposed Final judgment "in light of the violations charged in the complaint and \* \* \* withhold approval only (a) if any of the terms appear