

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980

Under 42 U.S.C. 9622(d)(2) and 28 CFR 50.7, notice is hereby given that on April 7, 2008, two proposed Consent Decrees in *United States v. Industrial Excess Landfill, Inc.*, Civil Action Number 5:89-CV-1988 (consolidated with *State of Ohio v. Industrial Excess Landfill, Inc.*, Civil Action Number 5:91-CV-2559), were lodged with the United States District Court for the Northern District of Ohio.

The first Consent Decree resolves claims against Charles and Merle Kittinger and Kittinger Trucking Company (the "Kittinger Decree"), brought by the United States on behalf of the U.S. Environmental Protection Agency ("EPA") under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9607, for response costs incurred and to be incurred by the United States in responding to the release and threatened release of hazardous substances at the Industrial Excess Landfill Superfund Site ("Site") in Uniontown, Ohio, as well as CERCLA and other claims related to the Site brought by the State of Ohio. Under the Kittinger Decree, defendants Merle and Charles Kittinger and the Kittinger Trucking Company will pay the United States \$954 in reimbursement of past costs and the State of Ohio \$46 in reimbursement of response costs.

The second Consent Decree resolves claims against Industrial Excess Landfill, Inc.; Hybud Equipment Corporation; and Hyman Budoff ("Budoff Decree"), brought by the United States on behalf of the EPA under section 107 of CERCLA, 42 U.S.C. 9607, for response costs incurred and to be incurred by the United States in responding to the release and threatened release of hazardous substances at the Site, as well as CERCLA and other claims related to the Site brought against the Budoff Defendants by the State of Ohio. Under its Consent Decree, the Budoff Defendants will pay \$210,000 to the United States and the State of Ohio in reimbursement of response costs. The Budoff Decree also requires the Budoff Defendants to attempt to sell two different real estate parcels, the Site and a neighboring parcel, and turn over the proceeds to the United States and the State of Ohio, as well as agree to restrictive environmental covenants.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to 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. Industrial Excess Landfill, Inc.*, DOJ Ref. # 90-11-3-247/2.

Each Consent Decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 801 West Superior Avenue, Suite 400, Cleveland, Ohio 44113, and the Region 5 Office of the Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois 60604. During the public comment period, the Consent Decrees may also be examined on the following Department of Justice Web site, to http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Kittinger Decree and Budoff 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), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree library, please specify whether requesting the Kittinger Decree, the Budoff Decree, or both, and please enclose a check payable to the U.S. Treasury in the amount of \$6.25 for the Kittinger Decree, \$17.25 for the Budoff Decree, or \$23.50 for both Decrees (for reproduction costs of 25 cents per page).

William D. Brighton,

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

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DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act

Notice is hereby given that on March 31, 2008, a proposed Consent Decree ("Consent Decree") in *United States v. T.L. Diamond & Co., Inc. et al.*, Civil Action No. 08-3079 was lodged with the United States District Court for the Central District of Illinois.

In this action the United States sought, pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), the recovery of response costs from T.L. Diamond & Co., Inc. ("TLD") and Mr. Theodore L. Diamond ("Mr. Diamond"), the President of TLD (collectively the "Settling Defendants") incurred or to be incurred by the United States for response activities undertaken in response to the release and threatened release of hazardous substances from a facility located in the City of Hillsboro, Montgomery County, Illinois, known as the Eagle Zinc Superfund Site (the "Site"). The Consent Decree requires the Settling Defendants collectively to pay \$750,000 in reimbursement of response costs at the Site. The Consent Decree further requires TLD to provide access to the Site and to agree to an restrictive environmental covenant on the Site. The Consent Decree includes a covenant not to sue under sections 106 and 107 of CERCLA and under section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973.

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 or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044-7611, and should refer to in *United States v. T.L. Diamond & Co., Inc. et al.*, D.J. Ref. 90-11-3-08502. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney for the Central District of Illinois, 318 South 6th Street, Springfield, IL 62701, and at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. During the public comment period the Consent Decree, may also be examined on the following Department of Justice website, to http://www.usdoj.gov/enrd/Consent_Decrees.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), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check