

responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 23, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8-12028 Filed 5-29-08; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given pursuant to the Clean Air Act (the "Act"), 42 U.S.C. 7413(g), and 28 CFR 50.7, that on May 15, 2008, a proposed Consent Decree, in *United States v. Michigan Sugar Co.*, Civil No. 08-12125 (E.D. Mich.), was lodged with the United States District Court for the Eastern District of Michigan, Bay City, Michigan Division. In this action, the United States sought injunctive relief and civil penalties against Michigan Sugar for violations of the Prevention of Significant Deterioration ("PSD") provisions of the Act, 42 U.S.C. 7470-7492, and the Plan Requirements for Nonattainment Areas ("NSR") of the Act, 42 U.S.C. 7501-7515, and the federally approved and enforceable Michigan SIP. Michigan Sugar commenced construction of a new natural gas-fired Pulp Dryer No. 3 at its Bay City Facility in 1984 without obtaining a PSD permit that addressed carbon monoxide ("CO") emissions as required by section 165 of the Act, 42 U.S.C. 7475, 40 CFR 52.21(I), and the Michigan SIP. At the same time, because Bay County was nonattainment for ozone, Michigan Sugar failed to obtain

an NSR permit that addressed volatile organic compounds ("VOC") emissions, as required by section 173 of the Act, 42 U.S.C. 7503, and R 336.1201 of the Michigan Air Pollution Control Rules that are part of the federally enforceable Michigan SIP. Further, in 1995, Michigan Sugar increased its annual hours of operation at its Bay City facility beyond the federally enforceable permit conditions for all its Pulp Dryers, Nos. 1, 2, and 3, triggering emissions increases, without obtaining a PSD permit addressing CO emissions, and an NSR permit addressing VOC emissions as required by the Act, federal regulations and the Michigan SIP.

Under the Consent Decree, Michigan Sugar shall: (1) Operate and maintain a Steam Dryer (or alternative non-air pollutant emitting sugar beet pulp drying technology) for processing sugar beet pulp at its Bay City Facility; (2) permanently shut down and decommission its three natural gas-fired Pulp Dryers on a schedule that commenced in December 2007 and will end in May 2014; (3) submit application(s) for a Title V permit modification and/or other appropriate permits under the Act for its Bay City Facility and cooperate fully with Michigan Department of Environmental Quality ("MDEQ") officials processing the application(s); (4) comply with terms and conditions of the MDEQ approved permit(s); and, (5) pay a civil penalty of \$210,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed 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 United States Department of Justice, P.O. Box 7611, Washington, DC 20044-7611, and should refer to *United States v. Michigan Sugar Co.*, Civil No. 08-12125 (E.D. Mich.), and DOJ Reference No. 90-5-2-1-08726.

The proposed Consent Decree may be examined at: (1) The Office of the United States Attorney for the Eastern District of Michigan, Bay City, Michigan Division, 101 First St., Suite 200, Bay City, MI 48708 (989-895-5712); and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Blvd., Chicago, IL 60604-3507 (contact: Nidhi O'Meara (312-886-0568)).

During the public comment period, the proposed Consent Decree may also be examined on the following U.S. Department of Justice Web site, <http://www.usdoj.gov/enrd/>

Consent Decrees.html. A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, 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 no. (202) 514-1547. In requesting a copy from the Consent Decree Library, please refer to the referenced case and DOJ Reference Number and enclose a check in the amount of \$9.25 for the Consent Decree and Appendix A (37 pages, at 25 cents per page reproduction costs), made payable to the U.S. Treasury or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

William D. Brighton,

*Environmental Enforcement Section,
Environment and Natural Resources Division.*
[FR Doc. E8-12037 Filed 5-29-08; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Settlement

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Settlement in the case of *United States v. Gerke Excavating, Inc.*, Case Number 03-C-0074-C (W.D. Wis.), was lodged with the United States District Court for the Western District of Wisconsin on May 15, 2008.

This proposed Settlement concerns a complaint filed by the United States against Gerke Excavating, Inc., pursuant to sections 309(b) and (d) of the Clean Water Act ("CWA"), 33 U.S.C. 1319(b) and (d), for civil penalties and injunctive relief resulting from the discharge of pollutants into waters of the United States without a permit, in violation of sections 301(a) and 404 of the CWA, 33 U.S.C. 1311(a) and 1344. The proposed Settlement incorporates Gerke's previous agreement to an injunction and to restore the impacted areas, a stipulation that CWA jurisdiction exists over the impacted area, and a civil penalty.

The Department of Justice will accept written comments relating to this proposed Settlement for thirty (30) days from the date of publication of this Notice. Please address comments to Leslie K. Herje, Assistant United States Attorney, Civil Division Chief, P.O. Box 1585, Madison, Wisconsin 53701-1585, and refer to *United States v. Gerke Excavating, Inc.*