

debts GAC and Hyer received under a plan of reorganization confirmed in 1993 does not bar the United States from pursuing its CERCLA claims against them.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Stipulation and Agreement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States of America et al. v. The Ed Krewatch Partnership, et al.*, DJ No. 90-11-3-07224.

The proposed Stipulation and Agreement may be examined at the office of the United States Attorney, District of Delaware, 1201 N. Market Street, Wilmington, DE and at the Region III Office of the Environmental Protection Agency, 1650 Arch St., Philadelphia, PA 19103. During the public comment period, the Stipulation and Agreement may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Stipulation and Agreement may 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 \$7.25 (25 cents per page reproduction cost) payable to the U.S. Treasury. In all correspondence, please refer to the case by its title and DOJ Ref. # 90-11-3-07224.

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

[FR Doc. 03-12054 Filed 5-14-03; 8:45 am]

BILLING CODE 4410-15-M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Between the United States and Wisconsin Electric Power Company Under the Clean Air Act

Under 28 C.F.R. 50.7, notice is hereby given that on April 29, 2003, a proposed consent decree ("Consent Decree") between Wisconsin Electric Power Company ("Wisconsin Electric") and the United States, Civil Action No. 2003V00451, was lodged with the

United States District Court for the Eastern District of Wisconsin.

The Consent Decree would resolve claims asserted by the United States against Wisconsin Electric pursuant to Sections 113(b) and 167 of the Clean Air Act (the "Act"), 42 U.S.C. 7413(b) and 7477, seeking injunctive relief and the assessment of civil penalties for WE's violations of:

(a) The Prevention of Significant Deterioration provisions in Part C of Subchapter I of the Act, 42 U.S.C. 7470-92;

(b) The nonattainment New Source Review provisions in Part D of Subchapter I of the Act, 42 U.S.C. 7501-7515;

(c) The federally-enforceable State Implementation Plan developed by the State of Michigan (the "Michigan SIP"); and

(d) The federally-enforceable State Implementation Plan developed by the State of Wisconsin (the "Wisconsin SIP").

The complaint filed by the United States alleges, among other things, that between approximately 1982 and the present, Wisconsin Electric modified and thereafter operated certain coal-fired electricity generating units at its Oak Creek Generating Station in Milwaukee County, Wisconsin, without first obtaining a PSD permit authorizing the construction and without installing the best available technology to control emissions of sulfur dioxide, nitrogen oxides, and particulate matter, as required by the Act, applicable federal regulations, and the Michigan and Wisconsin SIPs. These major modifications included, but were not limited to, replacement of economizers, induced draft fans, waterwall tubes, reheaters and superheaters on one or more units at the Oak Creek Generating Station. These modifications resulted in significant net emissions increases, as defined by 40 CFR 52.2(b)(3)(i), of one or more of the following pollutants: NO<sub>x</sub>, SO<sub>2</sub>, and PM.

The complaint also alleges, upon information and belief, that Wisconsin Electric undertook similar major modifications at one or more of its other facilities—namely, the Presque Isle Generating Station in Marquette County, Michigan, the Pleasant Prairie Generating Station in Kenosha County, Wisconsin, the Port Washington Generating Station in Ozaukee County, Wisconsin, and the Valley Generating Station in Milwaukee County, Wisconsin—which resulted in significant net emissions increases, as defined by 40 CFR 52.21(b)(3)(i), of one or more of the following pollutants: NO<sub>x</sub>, SO<sub>2</sub>, and PM.

The proposed Consent Decree would require Wisconsin Electric to reduce SO<sub>2</sub>, NO<sub>x</sub>, and PM emissions across its coal-fired system through the installation of state-of-the-art pollution control technologies and the retirement of certain units. In addition, the proposed Consent Decree would require Wisconsin Electric to spend no less than \$20 million to implement the TOXECON Project at its Presque Isle Power Plant, which is designed to implement and explore innovative ways to reduce mercury and PM emissions from coal-fired power plants, as a means of mitigating the harm caused by the alleged violations. Finally, the proposed Consent Decree would require Wisconsin Electric to pay a \$3.2 million civil penalty.

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 v. Wisconsin Electric*, D.J. Ref. No. 90-5-2-1-07493.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Wisconsin, Federal Courthouse, 517 East Wisconsin Ave., Milwaukee, Wisconsin 53202, and at U.S. EPA Region V, 77 West Jackson Blvd., Chicago, IL 60604-3507. 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 in the amount of \$18.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

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[FR Doc. 03-12053 Filed 5-14-03; 8:45 am]

BILLING CODE 4410-15-M