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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Amendment to Consent Decree Pursuant to the Resource Conservation and Recovery Act (RCRA)

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Amendment to Consent Decree entered on January 17, 2001 in *United States and State of Mississippi v. Morton International, Inc.*, Civil Action No. 1:00-CV-501 BrR, was lodged with the United States District Court for the Southern District of Mississippi, Biloxi Division on June 13, 2003.

The Consent Decree involved the settlement of claims brought by the United States and State pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA); the Safe Drinking Water Act (SDWA), 42 U.S.C. 300f *et seq.*; the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.*; the Clean Air Act (CAA), 42 U.S.C. 7401 *et seq.*; the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. 11001 *et seq.*; and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.* The complaint also contained claims brought under the Mississippi Solid Waste Disposal Act of 1974, Miss. Code Ann. 17-17-1 *et seq.*, the Mississippi Air and Water Pollution Control Law, Miss. Code Ann. 49-17-1 *et seq.*, and the organic act of the Commission and of the Mississippi Department of Environmental Quality (MDEQ), Miss. Code Ann. 49-2-1 *et seq.* and sought recovery of civil penalties and injunctive relief. The United States and State sought the assessment of civil penalties and injunctive relief. The proposed and agreed upon Amendment would modify the Consent Decree by substituting a drinking water supplemental environmental project (SEP) for a SEP which was no longer

viable due to the closing of the facility in Moss Point, Mississippi.

More specifically, the substitute SEP is a reverse osmosis treatment process for drinking water systems in Moss Point, Mississippi that is designed to improve the taste, color and odor of drinking water. The substitute SEP will provide substantial benefits to the community. Given the credit earned for the no longer viable SEP, Morton is obligated to spend \$9,434,537.00. If the reverse osmosis system costs less than \$9,434,537.00, Morton will pay the difference to the United States and State, unless the parties agree on an additional SEP to be funded with all or a portion of the balance.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. Each communication should refer on its face to *United States and State of Mississippi versus Morton International, Inc.*, DOJ No. 90-7-1-06413.

The proposed Amendment to Consent Decree may be examined at the Office of the United States Attorney, Southern District of Mississippi, 808 Vieux Marche, 2nd Floor, Biloxi, Mississippi 39530, and at the U.S. Environmental Protection Agency, Region 4 Office, 61 Forsyth Street, Atlanta, Georgia 30303. During the public comment period, the proposed Amendment may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>.

A copy of the proposed Amendment to Consent Decree may be obtained by (1) mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611; or by (2) faxing or emailing the request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), U.S. Department of Justice, fax number (202) 616-6584; phone confirmation (202) 514-1547. In requesting a copy, please forward the request and a check in the amount of \$6.25 (25 cents per page reproduction cost), made payable to the U.S. Treasury.

**Bruce S. Gelber,**

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## DEPARTMENT OF JUSTICE

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

Notice is hereby given, in accordance with that on June 18, 2003, the United States lodged a proposed Consent Decree with the United States District Court for the Western District of Wisconsin, *United States v. Northern States Power Co.*, a Wisconsin corporation, doing business, as Xcel Energy, Case No. 03-C-0330-C (W.D. Wis.), under the Clean Air Act ("CAA"). The proposed consent Decree resolves specific allegations and claims of the United States Against Northern States Power Co. ("NSP"), arising out of the company's operation of an electricity generating facility in La Crosse, Wisconsin. The French Island Plant is located on the Mississippi River at 200 South Bainbridge Street, La Crosse, La Crosse County, Wisconsin, which is within the Western District of Wisconsin.

The consent Decree requires NSP to install and operate pollution control equipment on each municipal waste combustor ("MWC") necessary to come into compliance with emission limits for large MWC's, with the exception the carbon monoxide ("CO") emission limitation. NSP has already installed a dry lime injection scrubber and pulse jet baghouse on each MWC, and installed a Selective Noncatalytic Reduction process to control nitrous oxide ("NO<sub>x</sub>") emissions. NSP has also installed continuous emission monitoring systems for both sulfur dioxide ("SO<sub>2</sub>") and NO<sub>x</sub> on each MWC. With the exception of the CO emission limitation, this pollution control equipment has brought NSP into compliance with pollutant emission limitations set forth in the large MWC regulations.

In addition, NSP will complete all training requirements no later than 6 months from the lodging date of the Consent Decree, and will comply with applicable recordkeeping and recording requirements. It has also agreed to implement a plan to minimize CO emissions during the pendency of the Decree.

NSP is currently unable to meet the large MWC CO emission limitation of 100 ppmv consistently. On July 8, 2002, NSP submitted a Petition to EPA's Administrator to modify the CO emission limitation in the large MWC regulations. The Consent Decree requires that, during the pendency of the petition, NSP undertake significant steps to minimize the potential for CO exceedences. NSP is also required to