

(b) The New Source Performance Standards ("NSPS") provisions of the Act, 42 U.S.C. 7411;

(c) Title V of the Act, 42 U.S.C. 7661 *et seq.*; and

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

EKPC operates three coal-fired power plants in Kentucky: The Spurlock Plant, located near Maysville, Kentucky, the Dale Plant, located near Winchester, Kentucky, and the Cooper Plant, located near Somerset, Kentucky. The complaint filed by the United States alleges that EKPC modified Spurlock Unit 2 and Dale Units 3 and 4 without complying with PSD (including the requirements to first obtain a PSD permit authorizing the modifications and to install and operate the best available technology to control emissions of sulfur dioxide ("SO<sub>2</sub>"), nitrogen oxides ("NO<sub>x</sub>"), and/or particulate matter ("PM")), and modified Dale Units 3 and 4 without complying the NSPS. The Complaint also alleges that EKPC violated Title V of the Act by failing to include the PSD and NSPS requirement triggered by its modifications in its Title V operating permits for the Spurlock and Dale plants. Finally, the Complaint alleges that EKPC illegally operated Spurlock Unit 2 at heat input capacities that were higher than allowed by its operating permit.

The proposed Consent Decree would require EKPC to reduce SO<sub>2</sub>, NO<sub>x</sub> and PM emissions at its plants through the installation and operation of state-of-the-art pollution control technologies and/or the retirement or re-powering of certain units. In addition, the proposed Consent Decree would require EKPC to install and operate wet electrostatic precipitators at its Spurlock Plant, which are designed to control sulfuric acid mist from coal-fired power plants, as a means of mitigating the harm caused by the alleged violations. Finally, the proposed Consent Decree would require EKPC to pay a \$750,000 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, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto: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. East Kentucky Power Cooperative*, D.J. Ref. No. 90-5-2-1-08085.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Kentucky, 260 West Vine Street, Suite 300, Lexington, Kentucky, 40507-1612, and at U.S. EPA Region IV, 61 Forsyth Street, SW., Atlanta, Georgia, 30303-8960. 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/Consent\\_Decrees.html](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](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 \$18.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 3, 2007, a proposed Remedial Design/Remedial Action Consent Decree ("Decree") in *United States v. Findett Real Estate Corp., et al.*, Civil Action No. 07-1215 was lodged with the United States District Court for the Eastern District of Missouri.

The Decree resolves claims of the United States and the State of Missouri against the settling defendants brought under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, ("CERCLA"), 42 U.S.C. 9601 *et seq.*, for declaratory relief, injunctive relief, and recovery of response costs incurred and to be incurred by the United States in connection with the release of hazardous substances at operable unit 3 ("OU3") of the Hayford Bridge Road Groundwater Site located in St. Charles, Missouri ("Site"). The Decree requires six of the settling defendants to perform the remedy selected by EPA for OU3

and the remaining settling defendants to pay their allocated share of the costs to implement the remedy, including EPA oversight costs. The work to be performed by the settling defendants at OU3 is expected cost about \$1.12 million.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto: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. Findett Real Estate Corp., et al.*, Civil Action No. 07-1215 (E.D. Missouri), D.J. Ref. 90-11-2-417/2.

The Decree may be examined at the Office of the United States Attorney, Eastern District of Missouri, 111 S. 10th Street, 20th Floor, St. Louis, Missouri 63102, and at U.S. EPA Region VII, 901 N. 5th Street, Kansas City, Kansas 66101. During the public comment period, the Decree, may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the 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](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 \$50.50 (25 cents per page reproduction cost) 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. In requesting a copy exclusive of exhibits and defendants' signatures, please enclose a check in the amount of \$12.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

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