

Agency ("EPA"), among others, under the Federal Tort Claims Act, 28 U.S.C. 1346 ("FTCA"), for destroying vintage aircraft instruments owned by Preservation Aviation and stored at a facility in North Hollywood, California and at a facility at the Chino Airport at 7000 Merrill Avenue, Chino, California (the "Sites"). The United States filed a counterclaim against Preservation Aviation and Mr. Pearson under 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9607(a), for the costs of responding to a release and a threatened release of hazardous substances at and from the Preservation Aviation facility, including aircraft instruments containing radium-226, a hazardous substance. The counterclaim also sought treble punitive damages and fines pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. 9607(c)(3), and Section 106(b) of CERCLA, 42 U.S.C. 9606(b), based on the failure of Preservation Aviation, Inc. and Jeffrey Pearson to comply with a Unilateral Administrative Order issued by EPA. In addition, the counterclaim sought civil penalties for an alleged failure to respond to a request for information issued by EPA pursuant to Section 104(e) of CERCLA, 42 U.S.C. 9604(e)(2). The United States has no unreimbursed costs at the Chino Airport Site and did not file a counterclaim relating to the Chino Site.

Pursuant to the proposed consent decree the Plaintiffs and related corporate entities will give the United States a covenant not to sue for the Sites and dismiss their claims with prejudice. In return, the United States is giving a covenant not to sue for past and future response costs for the Sites and the penalty claims and will dismiss its claims with prejudice.

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](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 *Preservation Aviation, Inc. et al. v. United States et al.*, No. SACV 07-1219 SJO (AJWx) and DOJ #90-11-2-08809/1.

The consent decree may be examined at the Office of the United States Attorney for the Central District of California 300 North Los Angeles Street, Room 7516, Los Angeles, California 90012. 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 \$7.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Maureen Katz,**

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

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of a Consent Decree Under the the Clean Water Act

Notice is hereby given that on September 17, 2009, a proposed Consent Decree in *United States and State of Indiana v. City of Jeffersonville, Indiana*, Civil Action No. 09-cv-0125 was lodged with the United States District Court for the Southern District of Indiana.

In this action the United States and the State of Indiana seek civil penalties and injunctive relief for violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, in connection with the City of Jeffersonville's operation of its municipal wastewater and sewer system. The United States' and State of Indiana's Complaint alleges that Jeffersonville violated the Clean Water Act and Indiana law by: (1) Discharging untreated waste water from Jeffersonville's combined sewer system in a manner which violates the terms of the Clean Water Act and Indiana law; (2) discharging untreated waste water from Jeffersonville's separate sanitary sewer system in violation of the Clean Water Act and Indiana law; and (3) discharging pollutants from the final effluent of the Jeffersonville Wastewater Treatment Plant at levels exceeding pollutant limits set by the Clean Water Act and Indiana law.

Under the proposed Decree, the City will be required to remedy the deficiencies in the capacity, operation and maintenance of Jeffersonville's WWTP, combined sewer system, and sanitary sewer system at an approximate

cost of \$100-150 million. Jeffersonville must make these improvements by calendar year 2020 or, if Jeffersonville demonstrates a lack of financial capability, by calendar year 2025. In addition, the proposed Decree requires Jeffersonville to pay the United States a civil penalty of \$49,500 and the State of Indiana a civil penalty of \$8,250, and spend at least \$248,050 to build two constructed wetlands at an industrial site in the City of Jeffersonville and to improve stormwater drainage at a local park.

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](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 and State of Indiana v. City of Jeffersonville, Indiana*, D.J. Ref. 90-5-1-1-08723.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Indiana, 10 W. Market Street, Suite 2100, Indianapolis, IN 46204 (contact Assistant United States Attorney Tom Kieper (317/226-6333)), and at U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604-3590 (contact Associate Regional Counsel John Tielsch (312/353-7447)). During the public comment period, the proposed Consent Decree, may also be examined on the following Department of Justice Web site, to [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](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, 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 \$ 22.00 (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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