

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act and EPCRA

On December 9, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of California in the lawsuit entitled *United States and San Joaquin Valley Unified Air Pollution Control District v. Kern Oil & Refining Co.*, Civil Action No. 2:19-cv-02460-KJM-CKD.

This case involves claims for alleged violations of Section 111 of the Clean Air Act (“CAA”), 42 U.S.C. 7411 and Section 313 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. 11023 (“EPCRA”), with respect to Kern Oil’s petroleum refinery (“Facility”) located in Bakersfield, California. The complaint seeks injunctive relief and civil penalties stemming from Kern Oil’s failure to meet new source performance standards monitoring and reporting requirements under the CAA and failure to meet hazardous substance reporting requirements under EPCRA. The settlement requires Kern to pay a civil penalty of \$500,000 that will be divided evenly with the United States and San Joaquin Valley Unified Air Pollution Control District and requires Kern Oil to comply with all monitoring and reporting requirements and other injunctive relief geared towards ensuring the Facility remains in compliance with the law. Additionally, the settlement requires Kern Oil to perform two supplemental environmental projects, estimated to cost at least \$100,000 each, for which Kern Oil will purchase and operate for five years an infrared gas-imaging camera and purchase emergency responder equipment for the Kern County Public Health Services Department and the Kern County Fire Department.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al. v. Kern Oil and Refining Co.*, D.J. Ref. No. 90-5-2-1-10464/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$11.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Lori Jonas,
Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.
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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

On November 25, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Colorado in the lawsuit entitled *United States of America v. Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc.*, Civil Action No. 1:17-CV-00168-WJM-NYM.

In January 2017, the United States, on behalf of the United States Environmental Protection Agency (“EPA”) filed a complaint against Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc. (“Settling Defendants”) seeking reimbursement of response costs incurred under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. 9607(a), for response actions at or in connection with the release or threatened release of hazardous substances at Operable Unit 1 (“OU1”) of the Nelson Tunnel/Commodore Waste Rock Pile Superfund Site (“Site”). The United States also

sought a declaration of Settling Defendants’ liability, pursuant to Section 113(g) of CERCLA for all future response costs to be incurred by the United States in connection with the OU1 Site.

In September 2017, Pioneer filed a counterclaim against the United States alleging that the United States is liable under Sections 107 and 113 of CERCLA, 42 U.S.C. 9607 and 9613, as both an owner of OU1 at the time that hazardous substances were disposed of at OU1 and a current owner of OU1. Settling Defendants in their counterclaims sought a judgment against the United States for the United States’ equitable share of costs incurred and that may, in the future, be incurred as a result of the release or threatened release of hazardous substances at the OU1 Site.

The proposed Consent Decree requires Settling Defendants to pay \$5,775,000 for past and future response costs incurred by the United States in connection with the Site. The proposed Consent Decree also requires Settling Federal Agencies, the United States, on behalf of the United States Department of Interior and the United States Department of Agriculture, on behalf of the United States Forest Service (“USFS”), to pay EPA \$425,000 for past and future response costs incurred in connection with OU1 at the Site. Future response costs associated with the OU2 remedial action will be resolved through a memorandum of understanding or interagency agreement between the USFS and EPA. The proposed consent decree will resolve all CERCLA claims alleged in this action by the United States against Settling Defendants and any potential liability within the meaning of Sections 107 and 113 of CERCLA, 42 U.S.C. 9607 and 9613(f)(2), for Settling Federal Agencies.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Pioneer Natural Resources Company and Pioneer Natural Resources USA, Inc.*, D.J. Ref. No. 90-11-3-10841/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>