

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

SITE REMEDIATION AND WASTE MANAGEMENT

OFFICE OF NATURAL RESOURCE RESTORATION

**Notice to Receive Interested Party Comments on Proposed Consent Decree in the Matter of
New Jersey Department of Environmental Protection, et al. v. Atlantic Richfield Co., et al.,
No. 08-CIV-00312**

Take notice that the New Jersey Department of Environmental Protection (Department) hereby gives notice of a proposed Consent Decree concerning a settlement with Duke Energy Merchants, LLC (Duke), which can be contacted via its attorneys: James Wedeking, Esq., Sidley Austin LLP, 1501 K Street, N.W., Washington D.C. 20005.

The Department instituted this lawsuit in June 2007 against nearly 50 companies alleging that they were responsible for contamination of waters of the State of New Jersey with the gasoline additive methyl tertiary butyl ether (MTBE). The defendants include MTBE manufacturers and refiners and major-brand marketers of gasoline containing MTBE. The defendants also include companies within the chain of distribution of gasoline containing MTBE in the State of New Jersey. The Department alleges that it has identified over 5,000 sites where MTBE has been detected in the waters of the State. The State seeks monetary damages as well as cleanup of the MTBE in the waters of the State.

Under the proposed Consent Decree, Duke has agreed to settle alleged liability for past cleanup and removal costs and damages by paying \$1,700,000 to the Department. In addition, the Department would release and covenant not to sue Duke and certain related entities for claims under the (i) common law and (ii) statutory or other theories of products liability with

respect to MTBE discharges into waters of the State of New Jersey that occurred prior to the effective date of the Consent Decree. This settlement only concerns MTBE contamination and does not address contamination by any other hazardous substances, pollutants, or contaminants. Duke's remediation obligations, if any, are not affected by this settlement.

This Consent Decree would constitute a judicially approved settlement under the New Jersey Spill Act, N.J.S.A. 58:10-23.11f(b), and the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9613(f)(2), for the purpose of providing protection from contribution actions or claims for matters addressed in this Consent Decree.

A copy of the proposed Consent Decree is available for inspection via the Internet at <http://www.nj.gov/dep/srp/legal/> and <http://www.nj.gov/dep/nrr/settlements/> and at the Department's Office of Record Access office at 401 East State Street, Trenton, New Jersey. Requests to inspect a paper copy of the proposed Consent Decree should be directed to records.custodian@dep.nj.gov.

Written comments on the entry of this Consent Decree may be submitted electronically to MTBESettlement@dep.nj.gov, referencing "MTBE Duke Settlement" in the subject line of the e-mail. Electronically submitted comments must be provided as portable document format (PDF) files. Alternatively, comments may be submitted in hard copy to:

Office of Record Access
NJDEP
Attn: MTBE Duke Settlement Comments
P.O. Box 420, Mail Code 401-06Q
Trenton, NJ 08625-0420

All comments must be submitted within 30 calendar days of the date of this public notice. The Department will consider all comments received and may decide to withdraw or withhold

consent to the entry of the Consent Decree if comments received disclose facts or considerations that show that the Consent Decree is inappropriate, improper or inadequate.