this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 2, 2003, based on a complaint filed by Energizer Holdings, Inc. and Eveready Battery Company, Inc., both of St. Louis, Missouri. 68 FR 32771 (June 2, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain zero-mercury-added alkaline batteries, parts thereof, and products containing same by reason of infringement of claims 1–12 of U.S. Patent No. 5,464,709 (''the '709 patent''). The complaint and notice of investigation named 26 respondents and were later amended to include an additional firm as a respondent. The investigation has been terminated as to claims 8–12 of the '709 patent. Several respondents have been terminated from the investigation for various reasons.

On June 2, 2004, the ALJ issued his final ID finding a violation of section 337. He also recommended the issuance of remedial orders. A number of the remaining respondents petitioned for review of the ID. Complainants and the Commission investigative attorney filed oppositions to those petitions. On July 9, 2004, the Commission issued a notice that it had determined to review the ALJ's final ID in its entirety. In that notice, the Commission requested written submissions on the issues on review (noting issues and questions it particularly sought briefing on), as well as on remedy, the public interest, and bonding. Complainants, respondents, and the Commission investigative attorney filed written submissions.

Having considered the record in this investigation, including the written submissions on the issues on review and on remedy, the public interest, and bonding, the Commission has determined to terminate this investigation with a finding of no violation of section 337. Specifically, the Commission has determined that the asserted claims are invalid for indefiniteness. The Commission has determined to take no position on the other issues raised in this investigation. Finally, the Commission has determined to deny as moot the May 21, 2004, motion of respondent Ningbo Baowang Battery Co. Ltd. to terminate the investigation as to it, as well as its motion to reopen the evidentiary record.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.41–.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.41–.51).

By order of the Commission.

Issued: October 1, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–22601 Filed 10–6–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 23, 2004, a proposed Settlement Agreement (the ''Agreement'') in In re: Farmland Industries, Inc., *et al.*, Case No. 02–50557, was lodged with the United States Bankruptcy Court for the Western District of Missouri.

In this settlement the United States resolves the Environmental Protection Agency's claim for cost recovery for costs to be incurred remediating environmental contamination at the Obee Road Superfund Site in Hutchinson, Kansas. Farmland Industries, Inc. has been identified as a responsible party under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') in connection with this Site. and civil penalties under CERCLA, the Clean Water Act, and the Clean Air Act against Farmland Industries, Inc. The Settlement Agreement provides that the United States will have an allowed general unsecured claim of $940,000, in settlement of the above-described claim. The United States previously has recovered from Farmland its past costs incurred at the Obee Road Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Settlement Agreement. 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, and should refer to In re: Farmland Industries, Inc., *et al.,* Case No. 02–50557, Bankruptcy Court for Western District of Missouri, D.J. Ref. #90–5–1–1–06976/3.

The Settlement Agreement may be examined at the Office of the United States Attorney, 400 E. 9th Street, Kansas City, MO 64106, and at U.S. EPA Region 7, 901 N. 5th Street, Kansas City, Kansas 66101. During the public comment period, the Settlement Agreement may also be examined on the following Justice Department Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Settlement Agreement 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*), 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 $1.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Catherine R. McCabe,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–22525 Filed 10–6–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of the Proposed Consent Decree Between the United States, The State of Maryland, The Commonwealth of Virginia, Mirant Mid-Atlantic, LLC and Mirant Potomac River, LLC

Notice is hereby given that on Monday, September 27, 2004, a proposed Consent decree (''proposed Decree'') in *United States and State of Maryland* v. *Mirant Mid-Atlantic, LLC and Mirant Potomac River, LLC* (''Mirant''), Civil Action No. 1:04CV1136, was lodged with the United States District Court for the Eastern District of Virginia.

In this civil enforcement action under the federal Clean Air Act (''Act''), the United States alleges that in 2003, Mirant, an electric utility, failed to comply with a provision in the Operating Permit for the Potomac River Generating Station that limited that plant's NO_X emissions to 1,019 tons of NO_X during the ozone season. The complaint seeks both injunctive relief and a civil penalty.

The proposed Decree lodged with the Court addresses this violation at the Potomac river Generating Station (located in Alexandria, Virginia) by requiring relief at that plant, as well as at three other Mirant coal-fired electric generating facilities: the Chalk Point Generating Plant (in Prince George's County, Maryland); the Morgantown Generating Plant (in Charles County, Maryland); and the Dickerson Generating Plant (in Montgomery County, Maryland).

The proposed Decree requires the installation of NO_X pollution control equipment at the Potomac River Generating Station and the Morgantown Generating Plant, over a period of several years. In addition, the proposed Decree imposes limitations on the NO_X emissions from all four plants that apply both annually and during the ozone season.

The proposed Decree also requires Mirant to implement a series of environmental projects designed to reduce particulate matter emissions from the Potomac River Plant. They are described in the proposed Decree and are valued at about $1 million. In addition, Mirant also will pay a civil penalty of $250,000 to the United States, and a civil penalty of $250,000 to the Commonwealth of Virginia.

Joining in the proposed Decree as co-plaintiffs are the State of Maryland and the Commonwealth of Virginia.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Mirant Potomac River LLC, Mirant Mid-Atlantic LLC,* D.J. Ref. 90–5–2–1–07829.

The proposed Decree may be examined at the offices of the United States Attorney, Eastern District of Virginia, 2100 Jamieson Avenue, Alexandria, Virginia, and at the offices of U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029.

During the public comment period, the proposed Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed 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*), 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 $14.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Catherine R. McCabe,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–22524 Filed 10–6–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Second Supplement to the Consent Decree Pursuant to the Safe Drinking Water Act

In accordance with 28 CFR 50.7, notice is hereby given that a proposed Second Supplement to the Consent Decree in *United States and State of New York, et al.* v. *City of New York, et al.,* Civil Action No. CV 97–2154 (Gershon J.) (Gold, M.J.), was lodged with the United States District Court for the Eastern District of New York on September 23, 2004. In this action, the United States and the State of New York sought a court order requiring the City of New York to come into compliance with the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.,* and the Surface Water Treatment Rule, a National Primary Drinking Water Regulation, by installing filtration treatment for its Croton water supply system.

On November 24, 1998, the Court entered a Consent Decree in this action which required the City, among other obligations, to select a site for, design, and construct the Croton filtration plant. The City selected a site for the plant at the Mosholu Golf Course in Van Cortlandt Park in the Bronx. However, on February 8, 2001, the New York State Court of Appeals held that the City could not construct the plant at the Mosholu Golf Course Site without first obtaining approval from the New York State Legislature. The City sought, but did not promptly obtain legislative approval to construct the plant at the Mosholu Golf Course Site.

In view of the lack of legislative approval for the Mosholu Golf Course Site in 2001–2002, the parties to the Consent Decree negotiated in 2001 and the Court entered in 2002 a first Supplement to the Consent Decree (''first Supplement''), which required the City to select a new site and modified the deadlines for construction of the filtration plant. The City identified two alternative sites for construction of the filtration plant, a site in the Town of Mount Pleasant in Westchester County, denominated the Eastview Site, and a site adjacent to the Harlem River in Bronx County, denominated the Harlem River Site. The first Supplement to the Consent Decree required the City to conduct some initial study and design work relating to the Eastview Site and the Harlem River Site and to identify its preferred site in a draft environmental impact statement to be submitted on April 30, 2003. The City was to select one of these two sites or, if legislative approval for the Mosholu Golf Course Site was obtained by April 15, 2003 and other requirements were met, the City could instead select the Mosholu Golf Course Site.

Legislative approval for the Mosholu Golf Course Site was not obtained by April 15, 2003. The City failed to select a preferred site under the requirements of the first Supplement by April 30, 2003. However, on June 20, 2003, the State legislature passed a bill allowing use of the Mosholu Golf Course Site for the Croton filtration plant, which was signed into law on July 22, 2003. The State legislation also required that the City conduct a supplemental environmental impact statement prior to selecting the preferred filtration plant site.

On June 30, 2004, the City completed a final supplemental environmental impact statement and selected the Mosholu Golf Course Site as its preferred site for the Croton filtration plant. The City also selected the Eastview Site as its backup site for the Croton filtration plant.

As a result of the City's failure to comply with the April 30, 2003 deadline for selecting its preferred site and the later enactment of the State legislation, the Parties have negotiated a further modification of the Consent Decree, which is set forth in the Second Supplement to the Consent Decree (''Second Supplement''). The Second Supplement supercedes the first Supplement.

The Second Supplement sets forth a modified schedule for the City to construct filtration facilities. Consistent with the terms of the Second Supplement, the City selected its preferred and backup sites. The Second Supplement requires the City to complete construction of the Croton filtration plant at is preferred site, the Mosholu Golf Course Site, by May 1, 2011, and commence full operation of the Croton filtration plant by October 31, 2011. The Second Supplement also provides that, if the United States, State, or the City determines during the course of implementation of the Second Supplement that the City cannot complete the plant at the preferred site within the schedule set forth in the Second Supplement or within a reasonable time period agreed to by the parties, the City shall construct the plant at its backup site, the Eastview Site. In addition, the Second Supplement provides for continued implementation of interim measures and for payment by the City of stipulated penalties in the amount of $180,000 for its failure to select a preferred site timely in accordance with