

## **PUBLIC NOTICE**

### **NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION CONTAMINATED SITE REMEDIATION AND REDEVELOPMENT OFFICE OF NATURAL RESOURCE RESTORATION**

### **NOTICE TO RECEIVE INTERESTED PARTY COMMENTS ON PROPOSED JUDICIAL CONSENT ORDER AND NOTICE TO RECEIVE INTERESTED PARTY COMMENTS ON PROPOSED MODIFICATIONS TO THE DIRECT OVERSIGHT REQUIREMENTS IN THE MATTER OF NJDEP V. SOLVAY SPECIALTY POLYMERS USA, LLC, DKT. NO. GLO-L-001239-20**

LOCATED IN THE STATE OF NEW JERSEY

**TAKE NOTICE** that the New Jersey Department of Environmental Protection, its Commissioner, and the Administrator of the New Jersey Spill Compensation Fund (collectively “NJDEP” or the “Department”) hereby give notice of a proposed Judicial Consent Order to resolve pending litigation for past and future cleanup and removal costs, unmet remediation obligations, and injuries to natural resources, resulting from discharges at, from, and/or related to the site described below, referred to as the “West Deptford Property”:

The West Deptford Property, consisting of approximately 243 acres (with the southernmost 34 acres zoned for industrial use) and owned by Solvay Specialty Polymers USA, LLC (“Solvay”), is located at 10 Leonard Lane in the Township of West Deptford, Gloucester County. The overall Solvay Site includes, collectively, the West Deptford Property, as well as all areas to which any hazardous substances and pollutants, including per- and polyfluoroalkyl substances (“PFAS”), discharged at or from the West Deptford Property have migrated. The Solvay Site has been designated as Site Remediation Program Interest Nos. 14545, 015010, and 572019.

In March 2019, NJDEP issued a Statewide Directive to Solvay and other companies responsible for PFAS contamination in New Jersey, ordering them to address their contribution to

the injury of numerous environmentally sensitive natural resources including regional potable groundwater resources. The proposed settlement will resolve Solvay's obligations under that Directive.

In November 2020, consistent with its authorities as the trustee of New Jersey's natural resources and under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24 ("the Spill Act"); the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -20 ("WPCA"); the Air Pollution Control Act, N.J.S.A. 26:2C-1 to -57 ("APCA"); the Solid Waste Management Act, N.J.S.A. 13:1E-1 to -230 ("SWMA"); the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 to -31 ("Brownfield Act"); and the common law of New Jersey, NJDEP filed a legal action against Solvay and Arkema Inc, the former owner and operator of the West Deptford Property. As to Solvay, the lawsuit alleged that Solvay was liable to the public for injuries to the natural resources of the State due to discharges of hazardous substances and pollutants at and emanating from the West Deptford Property and for costs incurred by NJDEP, and that Solvay had failed to perform required remediation activities.

In the time since the lawsuit was filed, Solvay has taken steps to reduce the use and impacts of PFAS at its site—including eliminating the use of PFAS in Solvay's process aids for manufacturing and implementing additional treatment of the facility's wastewater effluent streams.

Following more than two years of litigation, during which time NJDEP and its attorneys consulted with internal and external experts as to the technical issues at issue in the litigation, including the nature, extent, and valuation of the natural resource damages, the parties entered into settlement negotiations that resulted in Solvay's agreement to resolve its alleged liability to the public for remediation costs, unmet remediation obligations, and injuries to the natural resources of the State (excluding injuries to such resources located in the Delaware River) resulting from

discharges of hazardous substances and pollutants at, from, and/or related to the West Deptford Property by (1) agreeing to investigate and clean up discharges at and from the West Deptford Property where there is a direct connection to discharges from the West Deptford Property under NJDEP's supervision, (2) agreeing to test and offer to treat a significant number of public and private drinking water wells around the West Deptford Property for certain PFAS used and discharged by Solvay, (3) paying \$3,781,963.69 to NJDEP for past costs incurred in addressing those discharges, (4) paying \$75,000,000.00 to NJDEP in natural resource damages, and (5) paying \$100,000,000.00 to NJDEP for other remedial projects, including addressing outstanding claims and costs incurred by impacted water systems and private well owners to treat for PFAS and ensuring that additional nearby public and private wells can receive monitoring and treatment, even where the source of the contamination may be disputed. The proposed Judicial Consent Order does not resolve the State's claims against Arkema Inc.

NJDEP hereby proposes to enter a Judicial Consent Order with Solvay to effectuate this settlement. Solvay has previously conducted some investigation and remediation of discharges at and from the West Deptford Property and has agreed to complete the investigation and remediation work under NJDEP's supervision.

NJDEP, exercising its responsibilities under statutes governing the remediation of contaminated sites, including the Spill Act, the Brownfield Act, and the Site Remediation Reform Act, N.J.S.A. 58:10C-1 to -29, and under regulations promulgated thereunder, including N.J.A.C. 7:26C and N.J.A.C. 7:26E, and as trustee of the State's natural resources, believes that the proposed settlement terms are fair, reasonable, faithful to the intent of the applicable statutes, and in the public interest. All remediation and oversight costs recovered will be used to reimburse NJDEP and the Spill Compensation Fund and to fund activities to be undertaken by NJDEP to

address, among other things, outstanding claims and costs incurred by impacted water systems and private well owners to treat for PFAS and ensure that additional nearby public and private wells can receive monitoring and treatment. All natural resource damages recovered, less the costs of suit, legal, and administrative fees, will be held in NJDEP's dedicated natural resource damage account for specific natural resource restoration activities in accordance with the New Jersey State Constitution, Article VIII, Section 2, Paragraph 9. NJDEP intends to conduct public outreach and engagement in the consideration and selection of restoration activities to be pursued with funds recovered by this settlement.

It is the intent of the NJDEP and Solvay that this Judicial Consent Order will constitute a judicially approved settlement within the meaning of the relevant portions of the Spill Act (N.J.S.A. 58:10-23.11f.a(2)(b)) and of the federal Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9613(f)(2)) for purposes of providing protection from contribution actions or contribution claims related to the matters addressed in the Judicial Consent Order, all to the full extent provided for in N.J.S.A. 58:10-23.11f.a(2)(b) and 42 U.S.C. § 9613(f)(2).

A copy of the proposed Judicial Consent Order is available for inspection virtually via the internet at <https://dep.nj.gov/solvay/> and physically via the NJDEP Office of Record Access at 401 East State Street, Trenton, New Jersey. Requests to inspect a physical copy of the proposed Judicial Consent Order should be directed to [records.custodian@dep.nj.gov](mailto:records.custodian@dep.nj.gov). Interested persons may submit comments on the entry of this Judicial Consent Order on the Department's website (<https://dep.nj.gov/solvay/>) or sent via email to [solvaysettlement@dep.nj.gov](mailto:solvaysettlement@dep.nj.gov). All comments must be submitted within 60 calendar days of the date of this public notice.

NJDEP will consider all comments received and may decide to withdraw or withhold consent to the entry of the Judicial Consent Order if comments received disclose facts or considerations that demonstrate that the Judicial Consent Order is inappropriate, improper, or inadequate.

The Department is also hereby giving notice of proposed modifications of the requirements for Direct Oversight under N.J.S.A. 58:10C-27.c and N.J.A.C. 7:26C-14.2(b) that would result from the entry of the JCO. The Department is providing public notice of the proposed modifications in accordance with the Site Remediation Reform Act (SRRA) at N.J.S.A. 58:10C-27.g(2). The property referenced above is in Direct Oversight because the party responsible for conducting the referenced remediation has violated one or more statutory, mandatory, and/or expedited site-specific remediation timeframes established pursuant to SRRA and because more than one environmentally sensitive natural resource has been injured by contamination from the site. See In re N.J. Dep't of Env'tl. Prot. Direct Oversight Determination, 2023 WL 125229, 2023 N.J. Super. Unpub. LEXIS 31 (N.J. Super. Ct. App. Div. Jan. 9, 2023). Based on the JCO terms, including the requirement that Solvay and its licensed site remediation professional ("LSRP") meet regularly with the Department to discuss progress on the work required by the JCO and any concerns about protection of public health, safety, or the environment, the Department is making a determination that this proposed Direct Oversight modification is in the public interest and protective of public health and safety. As a result of Solvay's agreement to the proposed JCO terms, including its commitment to establish and maintain a Remediation Funding Source, Department resources are best utilized by allowing this matter to proceed without direct Department oversight and instead under adjusted Direct Oversight with an LSRP who is required to meet regularly with the Department and who is

obligated to ensure the remediation being conducted is protective of public health and the environment.

Dated: July 6, 2023



---

Shawn M. LaTourette  
Commissioner of Environmental Protection