

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA, *et al.* )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 1:99-cv-01693-LJM-JMS  
 )  
 CENERGY CORPORATION, *et al.* )  
 )  
 Defendants. )  
 )  
 )  
 )

**NOTICE OF LODGING OF PROPOSED PARTIAL CONSENT DECREE**

Plaintiff, the United States of America (“United States”), hereby lodges the accompanying proposed Partial Consent Decree (“Consent Decree” or “Decree”) with this Court. The proposed Consent Decree would resolve the remaining part of the case pending before this Court, as it represents a final judgment among the Parties as to the claims in the case, including the claims against the Gallagher Generating Station and those previously dismissed or dropped during the litigation, except those claims on appeal in the U.S. Court of Appeals for the Seventh Circuit regarding the Wabash River plant.

The United States respectfully submits that the Court should *not* sign the proposed Consent Decree at this time. The United States is lodging the Consent Decree with the Court for the purpose of soliciting public comment on the settlement, as required by 28 C.F.R. § 50.7. As the Consent Decree provides: “The Parties agree and acknowledge that final approval by the United States and the entry of this Consent Decree is subject to the procedures of 28 C.F.R. § 50.7, which provides for notice of lodging of this Consent Decree in the Federal Register, an opportunity for public comment, and the right of the United States to withdraw or withhold

consent if the comments disclose facts or considerations which indicate that the Consent Decree is inappropriate, improper, or inadequate.” Consent Decree, ¶ 150.

The 30-day public comment period will begin with the publication of a notice in the *Federal Register* seeking comments on the Consent Decree. At the end of the public comment period, the United States will file a motion with the Court to advise the Court of any comments received and of the United States’ position as to whether the proposed decree should be approved and entered by the Court. The United States anticipates filing such a motion as expeditiously as practicable after the close of the public comment period on the proposed Consent Decree.

Dated: December 22, 2009

Respectfully submitted,

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Assistant Attorney General  
Environment & Natural Resources Division

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/s/ Thomas A. Benson

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Lodging of Proposed Partial Consent Decree was served on counsel of record by email on December 22, 2009.

/s/ Jason A. Dunn  
Jason A. Dunn