UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA and THE STATE OF WISCONSIN Plaintiffs, v. NCR CORPORATION, *et al.* Defendants.	Civil Action No. 10-C-910 The Honorable William C. Griesbach

UNITED STATES'
UNOPPOSED MOTION FOR ENTRY OF CONSENT DECREE AND
***VACATUR* OF CERTAIN PRIOR DECISIONS**

On January 3, 2019, the United States lodged a proposed Consent Decree that should end all pending CERCLA litigation over the Lower Fox River and Green Bay Superfund Site. Dkt. 1252-1.[1] Notice of the proposed settlement was published in the Federal Register, which commenced a 30-day public comment period. *See* 84 Fed. Reg. 796 (Jan. 31, 2019). No comments were received. The United States now seeks the Court's approval and entry of this proposed Consent Decree with P.H. Glatfelter Company and Georgia-Pacific Consumer Products LP, because the settlement that it embodies is fair, reasonable, and consistent with the purposes of CERCLA. The United States also seeks entry of an order vacating three of the Court's decisions on a particular legal issue raised by Glatfelter, namely:

[1] In this motion and in the supporting brief, docketed filings in this case are cited as "Dkt. __ at __," with references to the docket number and page number applied to the document by the Court's Electronic Case Filing system.

(1) the January 3, 2017, Decision and Order on Plaintiffs' Motion *In Limine* (Dkt. 1167);

(2) the February 5, 2018, Decision and Order on Cross Motions for Summary Judgment on Recovery of Response Costs from P. H. Glatfelter Co. (Dkt. 1217); and

(3) the July 13, 2018, Decision and Order Denying Plaintiffs' Motion for Reconsideration (Dkt. 1239).

See Consent Decree ¶ 6.h, Dkt. 1252-1 at 18. The proposed settlement is explicitly conditioned on *vacatur* of those decisions.

The State of Wisconsin supports the Court's approval of the Consent Decree on these terms, and Glatfelter and Georgia-Pacific have consented as well.

For these reasons, and as set forth in greater detail in the United States' brief in support of this motion, the Court should: (i) enter an order vacating the three decisions identified above; and (ii) approve and enter the proposed Consent Decree with Glatfelter and Georgia-Pacific.

Respectfully submitted,

For the United States of America

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Dated: March 13, 2019

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