

**PUBLIC NOTICE**

**ENVIRONMENTAL PROTECTION**

**SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM**

**OFFICE OF NATURAL RESOURCE RESTORATION**

**Notice to Receive Interested Party Comments on Proposed Judicial Consent Order 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 Judicial Consent Order (JCO) concerning a settlement with Total Petrochemicals & Refining USA, Inc., f/k/a Total Petrochemicals USA, Inc. (Total), which can be contacted through its attorneys, Traci L. Lovitt, Esq. and Christopher H. Domingo, Esq., Jones Day, 250 Vesey Street, New York, NY 10281-1047.

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 has identified over 6,000 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 Judicial Consent Order, Total has agreed to settle alleged liability for damages, past cleanup, and removal costs, and injunctive relief by paying \$1,500,000 to the Department. The Department would release and covenant not to sue Total for causes of action

based upon Total's liability to the Department (i) under the common law, in equity, or under theories of products liability with respect to discharges of MTBE that threaten or affect the waters of New Jersey; or (ii) under any applicable Federal or State statute, regulation, rules, or order premised upon Total's manufacture, refining, blending, sale, supply, distribution, exchange, transfer, purchase, trading, marketing, and/or branding of MTBE or gasoline with MTBE prior to the effective date of the JCO, with certain exceptions. This settlement only concerns MTBE contamination and does not address contamination by any other hazardous substances, pollutants, or contaminants unless commingled with MTBE. Total's remediation obligations, if any, are not affected by this settlement.

This Judicial Consent Order would constitute a judicially approved settlement under the New Jersey Spill Compensation and Control 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 Judicial Consent Order.

A copy of the proposed Judicial Consent Order is available for inspection through the internet at <http://www.nj.gov/dep/srp/legal/> and <http://www.nj.gov/dep/nrr/settlements/index.html> and at the Department's Office of Record Access at 401 East State Street, Trenton, New Jersey. Requests to inspect a paper copy of the proposed Judicial Consent Order should be directed to [records.custodian@dep.nj.gov](mailto:records.custodian@dep.nj.gov).

Written comments on the entry of this Judicial Consent Order may be submitted electronically to [MTBESettlement@dep.nj.gov](mailto:MTBESettlement@dep.nj.gov), referencing "MTBE Total Settlement" in the subject line of the email. 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 Total Settlement Comments

PO Box 420, Mail Code 401-06Q

Trenton, New Jersey 08625-0420

All comments must be submitted within 60 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 Judicial Consent Order if comments received disclose facts or considerations that show that the Judicial Consent Order is inappropriate, improper, or inadequate.