



## Region 7

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# **Brainstorm Development Group LLC, Topeka, KS**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

In accordance with Section 309(g)(4)(A) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319 (g)(4)(A), and 40 C.F.R. § 22.45 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules"), the Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against Brainstorm Development Group LLC, a business formerly located at 4425 SW Stonybrook Drive Topeka, Kansas 66610, for alleged violations at the Lauren's Bay Villas subdivision located in Topeka, Kansas.

Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), the EPA is authorized to issue orders assessing civil penalties for various violations of the Clean Water Act. The EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. The EPA provides notice of the proposed assessment of a Class II civil penalty pursuant to 33 U.S.C. § 1319(g)(4)(A). Class II proceedings are conducted under EPA's Consolidated Rules, 40 C.F.R. Part 22.

In this case, the EPA alleges that Respondent failed to comply with the terms of Kansas National Pollutant Discharge Elimination System (NPDES) Permit No. KS-R103950 at Lauren's Bay Villas, including failure to install and/or implement appropriate best management practices, failure to perform documented site inspections, and failure to develop an adequate Stormwater Pollution Prevention Plan, in violation of Section 301 of the CWA, 33 U.S.C. § 1311, and a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Respondent has reached agreement with EPA on the terms of a proposed Consent Agreement/Final Order which would resolve this matter. Under the proposed Consent Agreement/Final Order, Respondent will pay a civil penalty of zero dollars based upon Respondent's inability to pay the proposed penalty. Final approval of the proposed Consent Agreement/Final Order is subject to the requirements of 40 C.F.R. § 22.45.

The EPA will receive written comments on the proposed Administrative Penalty Assessment for a period of thirty (30) days from the date of publication of this notice. The procedures by which the public may submit written comments on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. Persons wishing to receive a copy of EPA's Consolidated Rules, review the Consent Agreement/Final Order, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 901 N. Fifth Street, Kansas City, Kansas 66101. Please reference Docket No. CWA-07-2009-0089. In order to provide

opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to forty (40) days from the date of this notice.

10-24-2011  
Date

/s/  
Karen A. Flourney  
Acting Division Director  
Water, Wetlands, and Pesticides Division  
U.S. EPA, Region VII