



Region 7

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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 Jerry Modde, Inc., a Missouri corporation located at 1358 Rose Hill Lane, St. Peters, Missouri 63376, for alleged CWA violations at Respondent's property.

Under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), the EPA is authorized to issue orders assessing civil penalties for various violations of the CWA. 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 I civil penalty pursuant to 33 U.S.C. § 1319 (g)(4)(A). Class I proceedings are conducted under EPA's Consolidated Rules, 40 C.F.R. Part 22.

In this case, the EPA alleges that Respondent caused an illegal discharge of pollutants into waters of the United States, in violation of Section 301 and 404 of the CWA, 33 U.S.C. §§ 1311 and 1344. The EPA alleges that Respondent discharged fill material into Indian Camp Creek and adjacent wetlands without a permit issued by the U.S. Army Corps of Engineers, pursuant to Section 404 of the CWA, 33 U.S.C. § 1344. 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 admits to the allegation therein, certifies that it will comply with the CWA, and will pay a civil penalty of zero dollars. 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 Kathy Robinson, the Regional Hearing Clerk: U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101, 913-551-7567. Please reference Docket No. CWA-07-2009-0034. 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.

05/20/2009
Date

/s/ Karen A. Flourney for
William A. Spratlin
Director
Water, Wetlands, and Pesticides Division
U.S. EPA, Region 7