

U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 8

1595 Wynkoop Street, Denver, CO 80202-1129

PUBLIC NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND OPPORTUNITY TO COMMENT ON CLEAN WATER ACT CONSENT AGREEMENT

Purpose of Public Notice

The purpose of this notice is to announce the United States Environmental Protection Agency's (EPA's) intention to enter into a Consent Agreement and Final Order with:

**Wagner Construction, Inc.
3151 Highway 53
International Falls, Minnesota 56649**

for alleged violations of the Clean Water Act (CWA) on the Souris River in Minot, North Dakota, and to give the public the opportunity to comment on the proposed consent agreement.

Process Information

Under the CWA, EPA is authorized to issue orders assessing civil penalties for violations of the CWA. 33 U.S.C. § 1319(g). EPA may issue such an order after the commencement of an administrative penalty proceeding. As required by law, EPA is hereby providing public notice of the proposed consent agreement. 33 U.S.C. § 1319(g)(4)(A) and 40 C.F.R. § 22.45(b).

Administrative enforcement proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. part 22. The procedures through which the public may submit written comment on a proposed consent agreement and participate in a proceeding are set forth in 40 C.F.R. § 22.45. The proposed consent agreement has been entered into by the parties for the purpose of simultaneously commencing and concluding this matter as authorized by 40 C.F.R. § 22.13(b) and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3). The deadline for submitting public comment on a proposed consent agreement is thirty (30) days after the date of public notice.

Case Summary

The case against Wagner Construction (Respondent), Docket No. CWA-08-2016-0018, was filed on 9/26/2016. The complaint that initiated this case was combined with a consent agreement for a penalty of \$5,900 for violations of the storm water discharge permit issued by the State of North Dakota. As the operator under the permit, Respondent was responsible for managing storm water at its construction of flood hazard mitigation improvements at the location of the Minot Water Treatment Plant located at 16th Street Southwest and West Burdick Expressway in Minot, North Dakota. The permit violations occurred in July 2016 and were discovered during an EPA inspection on July 21, 2016. The Respondent had failed to implement storm water and pollution prevention best management practices and failed to meet permit requirements for its Storm Water Pollution Prevention Plan. Potential discharges of storm water pollutants from Respondent's construction operations flowed toward the Souris River, which is immediately adjacent to the construction site. The Souris River is, and was at all relevant times, a water of the United States.

Further Information and Comments

Persons wishing to receive a copy of any documents filed in these proceedings, comment upon the proposed consent agreement, or otherwise participate in any of the proceedings should contact the Regional Hearing Clerk, Missy Haniewicz, U.S. Environmental Protection Agency, Region 8 (8RC), 1595 Wynkoop Street, Denver, Colorado 80202-1129, telephone: 303.312.7059. Written comments on this proposed consent

agreement must be directed to the Regional Hearing Clerk by the deadline set forth above in this public notice.

The case docket for this proceeding is located in the EPA - Region 8 office identified above and the file will be open for public inspection during normal business hours. Written comments submitted by the public are available as part of the case docket, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, no final order assessing a penalty in these proceedings will be issued prior to **40 calendar days after publication of this notice.**

09-26-2016

Date of Publication