

**PUBLIC NOTICE**

Sidwell Materials, Inc.  
5240 Wortman Road  
Zanesville, Ohio, 43701  
RHC Docket No. CWA-05-2012-0001

**RECEIVED**  
OCT 21 2011  
**REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

The U.S. Environmental Protection Agency (EPA), Region 5, is providing this notice of its proposal to assess a civil penalty of \$25,000.00 against Sidwell Materials, Inc., (Respondent), for its alleged violation of Section 301 of the Clean Water Act (CWA), 33 U.S.C. § 1311. This civil penalty would resolve the allegations that Respondent discharged dredged and fill material from a point source in conjunction with limestone and coal mining operations into streams and wetlands in Belmont County, Ohio, without a permit from the U.S. Army Corps of Engineers pursuant to Section 404 of the CWA, 33 U.S.C. § 1344. The alleged violations are of environmental significance because the wetlands and streams provide beneficial services including protection and improvement of water quality in the Crabapple Creek Watershed.

A copy of the proposed Consent Agreement and Final Order (CAFO) may be viewed on-line at <http://www.epa.gov/region5/publicnotices/index.htm> by clicking on the "CAFO (PDF)" link at the Public Notices home page for the docket number identified above. Alternatively, the CAFO may be received by contacting the Regional Hearing Clerk at the address listed below.

This proposed CAFO may be subject to further revision as additional facts may require.

**OPPORTUNITY FOR COMMENT:** Section 309(g) of the CWA, 33 U.S.C. §1319(g) requires that interested persons be given notice of the proposed penalty and a reasonable opportunity to comment on it.

Any person who wishes to comment on the proposed CAFO may submit written comments, may attend or present evidence at any hearing scheduled on this matter, or both, by following the procedures in Title 40 of the Code of Federal Regulations, Part 22, Section 45 (40 C.F.R. 22.45) particularly subpart (c) *Comment by a person who is not a party*. This portion of the code of federal regulations may be accessed at <http://www.gpoaccess.gov/cfr/retrieve.html>. A link to this site is also available at <http://www.epa.gov/region5/publicnotices/index.htm>, which is the site at which this notice and the associated complaint are also posted. The link is entitled "View 40 CFR Part 22.45". You may also wish to review 40 C.F.R. Part 22 to learn more about the procedures and rules of practice governing the administrative assessment of civil penalties.

**Comments should be made in writing to the Regional Hearing Clerk at:**

Docket No. CWA-05-2012-0001  
LaDawn Whitehead  
Regional Hearing Clerk  
Mail Code (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604



Written comments may be submitted to the Regional Hearing Clerk electronically, by mail, or by delivery to the Clerk's address above. Your comments should include the case name, docket number, and your complete mailing address. If you plan to use a FAX or a messenger service to deliver your comments or other documents, please call the Regional Hearing Clerk at (312) 886-3713 for further instructions to insure delivery.

To submit comments electronically, go to the website: <http://epa.gov/region5/publicnotices/>, click the "Submit a Comment Online" phrase in the first paragraph, and complete the blanks. Note that EPA requires your regular mailing address, since we must use the U.S. Postal Service to reply, request additional information, or notify you of a hearing. If you wish to include any kind of attachment with your comment, please mail them instead to the Regional Hearing Clerk in hard copy (with a copy of the e-mail), so that we are certain to receive your documents in an unaltered, complete, and readable form.

Regardless of how you submit them, **all written comments must be received in the Regional Hearing Clerk's Office no later than 4:30 p.m., Central Time, of the "Comment Period End Date:" shown on the Public Notices home page for this docket number:**  
<http://www.epa.gov/region5/publicnotices/index.htm>

Comments and documents sent to any EPA employee other than the Regional Hearing Clerk are not assured of consideration in this matter.

All documents filed in this proceeding (including documents submitted by the respondent or by public commenters) are available for public inspection by appointment only between 9 a.m. and 4:30 p.m. Monday through Friday at the EPA Regional Office. An appointment for such an inspection may be made by calling (312) 886-3713 or by writing the Regional Hearing Clerk at the address above.

Only the Respondent may request a hearing on the proposed penalty order. If a hearing is held, we will advise commentors who (during the public comment period) submitted a written request to participate in a hearing of the date, time, and place of the hearing, which they may attend and present evidence on the appropriateness of the proposed penalty assessment by following the instructions in 40 C.F.R. § 22.45(c)(1).

EPA will send a copy of the final CAFO to any person who submitted written comments or attended a hearing, provided they give us their current mailing address.

Only persons who submit written comments or ask to participate in any hearing held in this matter during this comment period preserve a right to petition the Regional Administrator to set aside the final CAFO on the basis that material evidence was not considered, as described in 40 C.F.R. § 22.45(c)(4).

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