

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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 D.R.A. Properties, L.C., a business located at 1525 NE 36th Street, Ankeny, Polk County, Iowa, and MJ Properties, L.L.C., a business located at 5525 NE 22nd Street, Des Moines, Polk County, Iowa, for alleged violations at the construction sites known as the Albaugh Golf Course, Briar Creek and Briar Creek South, located in Ankeny, Iowa.

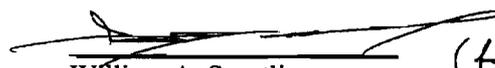
Under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), the EPA is authorized to issue orders assessing civil penalties for various violations of the Clean Water Act. The EPA may issue such orders after initiating either a Class I or Class II penalty proceeding. The EPA provides notice of the 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 Consent Agreement and Final Order alleges that Respondent violated Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1342 by failing to comply with the terms of a National Pollutant Discharge Elimination System (NPDES) permit. These violations include the failure to maintain pollution control measures, failure to install and/or implement appropriate construction practices and structural controls, failure to develop and

implement an adequate Storm Water Pollution Prevention Plan (SWPPP), and failure to adequately perform and document site inspections. Respondent has reached agreement with EPA on the terms of a proposed Consent Agreement and Final Order which would resolve this matter. Under the proposed Consent Agreement and Final Order, Respondent will pay a civil penalty of \$67,500. Final approval of the proposed Consent Agreement and 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 and Final Order, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact Kathy Robinson, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 901 N. Fifth Street, Kansas City, Kansas 66101. Please reference Docket No. CWA-07-2006-0177. 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.

12/26/06
Date



William A. Spratlin (6-)
Director
Water, Wetlands, and Pesticides Division
U.S. EPA, Region VII