

**PUBLIC NOTICE**

Birchen Farms, Inc.  
Pearl City, Stephenson County, Illinois  
Case Docket No. **CWA-05-2012-0008**

**RECEIVED**  
APR 05 2012

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

The U.S. Environmental Protection Agency (U.S. EPA), Region 5, is providing this notice of its intent to file a Consent Agreement and Proposed Final Order (proposed CAFO) against Birchen Farms, Inc. (Respondent) for violations of the Clean Water Act. This proposed CAFO will settle U.S. EPA's allegations that the Respondent violated the Clean Water Act by discharging pollutants without a permit into a water of the United States. Respondent operates a concentrated animal feeding operation in Stephenson County, Illinois. In the proposed CAFO, U.S. EPA alleges that Respondent discharged pollutants from its operation to an unnamed tributary of the East Plum, Plum and Mississippi Rivers. The U.S. EPA and Respondent have agreed in principle that Respondent will pay a civil penalty of \$25,000.00 to resolve these violations.

A copy of the proposed CAFO may be viewed on-line at:  
<http://www.epa.gov/region5/publicnotices/index.htm> by clicking on the Birchen Farms, Inc. Consent Agreement and Final Order listed there. Alternatively, you may contact the Regional Hearing Clerk at the address listed below to request a copy of the proposed CAFO.

**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 this proposed CAFO may submit written comments 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>.

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

Docket No. **CWA-05-2012-0008**  
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 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://www.epa.gov/region5/publicnotices/>, click the "Submit a Comment Online" phrase in the first paragraph, and complete the blanks. Note that the U.S. EPA requires your regular mailing address, since we must use the U.S. Postal Service should we need to contact you to reply, request additional information, or notify you of a hearing. If you wish to include any attachments with your comment, please mail them 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 U.S. 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 the public) are available for public inspection by appointment only between 9 a.m. and 4:30 p.m. Monday through Friday at the U.S. EPA Regional Office. You may make an appointment for such an inspection by calling (312) 886-3713 or by writing the Regional Hearing Clerk at the address above.

If this proposed CAFO is filed in its present form, no hearing will be held in this matter. If a hearing is held, we will advise the public 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).

The U.S. EPA will send a copy of the proposed CAFO assessing a penalty to any persons who submitted written comments or attended a hearing, provided they give us their current mailing address.

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