

Region 7

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Knife River Midwest LLC, Bismarck, ND

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 Knife River Midwest LLC, a business located at 1150 Century Avenue, Bismarck, North Dakota, for alleged violations at the facility formerly owned by Knife River located at 900 Montgomery Street, Decorah, 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 filing a Complaint commencing 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, EPA alleges that Respondent had an illegal discharge of pollutants associated with an industrial activity into waters of the United States, in violation of Section 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1342. The EPA alleges that Respondent failed to comply with the terms of a National Pollutant Discharge Elimination System (NPDES) permit, including the failure to install and/or implement appropriate best management practices, failure to conduct required sampling, failure to adequately perform and document site inspections, failure to adequately maintain records, and failure to maintain an adequate and updated storm water pollution prevention plan. Respondent has reached an 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 will pay a civil penalty of \$43,082. 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, Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 901 N. Fifth Street, Kansas City, Kansas 66101. Please reference Docket No. CWA-07-2009-0102. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding before forty (40) days from the date of this notice.

08/05/2009
Date

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