

PUBLIC NOTICE

**U.S. Environmental Protection Agency
Region 5
In the matter of: Joseph L. Bollig & Sons, Inc.
Docket No. CWA-05-2011-0008**



The U.S. Environmental Protection Agency (EPA), Region 5, hereby provides notice of the issuance of a Consent Agreement and Final Order (CAFO) to Joseph L. Bollig and Sons, Inc. (Respondent) for an alleged violation of Section 301 of the Clean Water Act (CWA), 33 U.S.C. § 1311.

EPA has alleged in the CAFO (as it incorporates the August 18, 2011 EPA administrative complaint), that in 2008-2009, Respondent, a private corporation doing business in the State of Wisconsin, was hired by the Mauston-New Lisbon Union Airport (Airport) to perform filling of an approximately 0.5 acre portion of a 7-acre wetland area on Airport property. The Airport is located in Juneau County, Wisconsin. The aforementioned filling activity was not authorized by a Department of the Army (Corps) permit, under Section 404 of the CWA, 33 U.S.C. § 1344. The filling activities occurred in a wetland that drains to a 1-mile long unnamed tributary to the Lemonweir River (a historical Traditional Navigable Water), which in turn enters the Wisconsin River, an interstate water body. Therefore, the abovementioned wetlands are subject to federal jurisdiction under the CWA.

EPA and Respondent have agreed to settle this matter without further litigation. Under the CAFO, Respondent has agreed to pay \$0 in civil penalties and achieve and maintain compliance with the CWA. Respondent was hired by the Airport to conduct work necessary to comply with a Federal Aviation Administration directive. Respondent asserts that it has an indemnification arrangement with the Airport. Respondent has performed restoration of the wetlands under a March 2011 after-the-fact Letter of Permission issued to the Airport by the Corps. (The Airport also failed to obtain a CWA Section 404 permit prior to the filling of the wetland area. EPA separately notified the Airport of such violation, and resolved that matter through a CAFO filed on October 18, 2011, under which the Airport agreed to pay \$15,000 in civil penalties based on ability to pay considerations.)

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

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, 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 Proposed CAFO 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-05-2011-0008
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 Regional Hearing 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 ensure 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 the Agency requires your regular mailing address, since we must use the U.S. Postal Service should we need to reply, request additional information or notify you of a hearing. If you wish to include any kind of attachments 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 U.S. 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.

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 commenters 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 EPA will send a copy of the Proposed Consent Agreement and Proposed Final Order 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 Consent Agreement and Proposed Final Order on the basis that material evidence was not considered, as described in 40 C.F.R. § 22.45(c)(4).