



U.S. Environmental Protection Agency

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CWA Public Notice - Nebraska Department of Roads and Herbst Construction, Inc., Burwell, Nebraska

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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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 U.S. Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against the Nebraska Department of Roads and Herbst Construction, Inc. ("Respondents").

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 and Respondents have settled this matter before a complaint was filed. 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/Final Order alleges that Respondents violated Section 301 of the CWA, 33 U.S.C. § 1311, by failing to obtain a permit required pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, and then, without the permit, discharging concrete pads with steel rebar into the North Loup River near Burwell, Nebraska. The North Loup River is connected to the Platte River which flows into the Missouri River. The Consent Agreement/Final Order proposes a penalty of sixty thousand dollars (\$60,000) for the above violation of the Clean Water Act.

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-07-2007-0044. 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.

6/28/07
Date

/s/ Mary A. Tietjen Mindrup for
William A. Spratlin
Director
Water, Wetlands, and Pesticides
Division
U.S. EPA, Region VII

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