

**PUBLIC NOTICE**

Duininck Brothers, Inc.

408 6<sup>th</sup> Street  
Prinsburg, MN 56281

Case Docket No. **CWA-05-2008-0005**

The United States Environmental Protection Agency (U.S. EPA), Region 5, hereby gives notice of its intent to file a Consent Agreement and Final Order (CAFO) against Duininck Brothers, Inc. (Respondent) for civil violations of the Clean Water Act (CWA). This CAFO will settle U.S. EPA's allegations that in 2002 and 2003 at the Trunk Highway 27 construction site in Osakis, Minnesota, Respondent violated the Minnesota National Pollutant Discharge Elimination System (NPDES) General Permit Number MNR 110000 for Storm Water Discharges associated with construction activity, and in 2004 and 2005 at the Willmar Airport Project in Willmar, Minnesota, Respondent violated the Minnesota NPDES General Permit Number MNR100001 for Storm Water Discharges associated with construction activity. Prohibiting the discharge of any pollutant into navigable waters of the United States by any person, except in compliance with an NPDES Permit is an integral part of the goal of the CWA to restore and maintain the integrity of the nation's water. U.S. EPA and Respondent have agreed that Respondent will pay a civil penalty of \$90,000 to resolve these violations.

A copy of the proposed CAFO may be viewed at the Public Notices home page by clicking on the "Complaint (PDF)" link for the Case Docket Number identified above at: <http://www.epa.gov/region5/publicnotices/index.htm>. Alternatively, you may contact the Regional Hearing Clerk to request a copy of the Complaint 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 schedules 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) entitled "*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>. The

link is entitled "*View 40 C.F.R. 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-05-2008-0005  
Regional Hearing Clerk  
Mail Code E-13J  
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) 886-3617 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. Please note that the Agency requires your regular mailing address, since we must use the U.S. Postal Service 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 a paper copy to the Regional Hearing Clerk (along 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. An appointment for such an inspection may be made by calling (312) 886-3617 or by writing the Regional Hearing Clerk at the address above.

After the expiration of the comment period, if the Proposed CAFO is filed in its present form no hearing will be held for this matter. If a hearing is held, we will give notice of the date, time, and place of the hearing to all members of the public who (during the public comment period) submitted a written request to participate, 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).

U.S. EPA will send a copy of the Proposed CAFO to any persons who submitted written comments or attended a hearing, if they have provided their current mailing address.

Only persons who (during the comment period) submitted written comments, or asked to participate in any hearing held in this matter, have preserved a right to petition the Regional Administrator to set aside the 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).