

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 5

PUBLIC NOTICE

Misch Excavating, LLC d/b/a Rooterman
Post Office Box 181
Downs, Illinois 61736-0181
RHC Docket No. CWA-05-2011-0003

RECEIVED
JAN 26 2011

REGIONAL HEARING CLERK
USEPA
REGION 5

The U.S. Environmental Protection Agency (U.S. EPA), Region 5, is providing this notice of its proposal to assess a civil penalty of \$157,500 against Misch Excavating, LLC d/b/a Rooterman (Respondent) for violations of the Clean Water Act. This proposed penalty would settle civil violations alleging the Respondent did not provide records of their septage land application practices. The alleged violations are of environmental significance because the land application of domestic septage requires that certain records be kept to document that proper environmental safeguards are being followed. Without being able to review these records to check for compliance, it would be impossible to ensure that land application in violation of federal requirements is not occurring.

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

This Proposed Complaint may be subject to further revision as additional facts may require.

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 Complaint 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 22.45(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 associated complaint are also posted. The link is entitled "Code of Federal Regulations: Retrieve by CFR Citation". 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-05-2011-0003*
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://epa.gov/region5/publicnotices/index.htm>, click the "Submit a Comment" phrase in the paragraph concerning this company, and complete the blanks. Note that the Agency requires your regular mailing address, since we must use the U.S. Postal Service to fulfill our response obligations. 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 your 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 public commenters) are available for public inspection by appointment only between 9:00 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.

Only the Respondent may request a hearing on the proposed penalty order. 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 U.S. EPA will send a copy of the Consent Agreement and Final Order to any persons who submitted written comments or attended a hearing, provided they give us their current mailing address.

Only persons who submit written comments or ask to participate in any hearing held in this matter during this comment period preserve 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).