



U.S. Environmental Protection Agency

Region 7

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CWA Public Notice - White Birch, LLC, West Des Moines, Iowa

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The United States Environmental Protection Agency (EPA) is authorized under Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319 (g) to assess civil penalties after providing the persons subject to the penalty notice of the proposed penalty and an opportunity for hearing, and after providing interested persons public notice of the proposed penalties and a reasonable opportunity to comment of their issuance. Under Section 309(g) any person who, without authorization, discharges a pollutant to a navigable water, as those terms are defined in Section 502 of the CWA, 33 U.S.C. § 1362, may be administratively assessed a Class I civil penalty up to a maximum penalty of \$32,500 by EPA. Class I proceedings for Section 309(g) of the CWA are conducted in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, Revocation, Termination of Permits, 64 Fed. Reg. 40138 (July 23, 1999)(Part 22), including Rules related to Administrative Proceedings Not Governed by § 554 of the Administrative Practices Act, 40 C.F.R. §§ 22.50-22.52 (64 Fed. Reg. 40138, 40190).

The procedures by which public may submit written comments on a proposed Class I penalty order are set forth in Part 22. Any person wishing to comment on a proposed penalty order must submit written comments to the Regional Hearing Clerk within thirty (30) days after issuance of this public notice.

Pursuant to Section 309(g)(4) of the CWA, EPA is providing notice of opportunity to comment on the proposed Class I administrative penalty assessment of \$5,250 against White Birch, LLC, regarding its development of the Reunion at White Birch located at SW Oralabor Road and SW State Street in Ankeny, Iowa. The EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g) (4).

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk, U. S. Environmental Protection Agency, 901 North 5th Street, Kansas City, KS 66101, (913) 551-7567, robinson.kathy@epa.gov. Please reference Docket No. CWA-07-2007-0084. Unless otherwise noted, the public record for the proceedings is located at the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. 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.

10/10/07
Date

/s/ Betty J. Berry for
William A. Spratlin
Director
Water, Wetlands, and Pesticides

Division
U.S. EPA, Region VII

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