



Region 7

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Milan Livestock Auction, Inc. Milan, Missouri

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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 Environmental Protection Agency ("EPA") is providing notice of a proposed Administrative Penalty Assessment against Milan Livestock Auction, Inc., a business located at 23830 Lujan Drive, Milan, Missouri 69556, for alleged violations in Sections 11 and 14, Township 62 north, Range 20 west, Sullivan County, Missouri.

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 may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. 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 EPA alleges that Respondent placed dredged and/or fill material into the waters of the United States, in violation of Sections 301 and 404 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1344. The EPA alleges that Respondent placed dredged and/or fill material into East Locust Creek and adjacent wetlands without obtaining a Section 404 permit from the U.S. Army Corps of Engineers. On July 15, 2010, Respondent reached agreement with the EPA on the terms of a proposed Consent Agreement/Final Order to resolve this matter. Under the original proposed Consent Agreement/Final Order, Respondent agreed to pay a civil penalty of \$39,548.96. After Respondent paid an initial penalty payment of \$4,943.63, Respondent claimed that it was unable to pay the remaining penalty amount. A review of Respondent's financial records by EPA demonstrated that Respondent is unable to pay any remaining penalty in this matter. Therefore, EPA agrees to resolve the claims alleged in an Amended Consent Agreement/Final Order for \$4,943.62. Final approval of the proposed Amended Consent Agreement/Final Order is subject to the requirements of 40 C.F.R. § 22.45.

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 Amended 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-07-2010-0122. 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.

8-11-2011
Date

/s/
Karen A. Flourney
Acting Division Director
Water, Wetlands, and Pesticides Division
U.S. EPA, Region VII