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Last updated on Monday, November 22, 2010

## Region 7

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# **Kevin Vaughan and Bryce Andersen, Dakota Dunes, SD**

## **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

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 Kevin Vaughan and Bryce Andersen, individuals located, respectively, at 800 Stevens Port Drive, Suite DD836, Dakota Dunes, South Dakota 57049 and 765 200th Street, Dakota Dunes, South Dakota 68731, for alleged violations at Mr. Andersen's property located in Township 32 North, Range 5 East in Dixon County, Nebraska.

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 waters of the United States without obtaining a Clean Water Act Section 404 permit, in violation of Sections 301 and 404 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1344. The EPA alleges that Respondent impacted approximately 21.8 acres of wetlands adjacent to the Missouri River and Turkey Creek and impacted approximately 1,250 linear feet of Turkey Creek. EPA is seeking a penalty of up to \$177,500 for these violations.

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. All comments received within this 30-day period will be considered in the formulation of the final order assessing a penalty. 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-07-2010-0105.

6/23/2010  
Date

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