

**United States
Environmental Protection
Agency**

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

PUBLIC NOTICE

Union Square Investments, Ltd, DeHoff Development Company, Daniel DeHoff and Mark Frank
821 South Main
North Canton, Ohio 44666
Case Docket No. **CWA-05-2022-0001**

The U.S. Environmental Protection Agency (EPA), Region 5, is providing notice of intent to execute a Consent Agreement and Final Order (CAFO) with Union Square Investments, Ltd, DeHoff Development Company, Daniel DeHoff and Mark Frank (“Respondents”) for alleged violations of the Clean Water Act (CWA). Respondents own and operate a row cropping business on a 148-acre property site bounded on the south by Wise Road; on the west by Massillon Road; and on the east by Interstate 77. The mailing address for Respondent DeHoff Development Company is noted above. Respondents are alleged to have discharged soil and organic debris during two separate events to allow for expanded agricultural production on the site. In October 2017, Respondents mechanically cleared, leveled and prepared for agricultural production, approximately 8.6-acres of forested wetland and 970-feet of stream channel. Subsequently, in August 2019, Respondents discharged dredged material in placing subsurface drainage tile through much of this same area in violation of the CWA, 33 U.S.C. §§ 1311.

On November 3, 2021, Respondents and EPA executed an Administrative Consent Order (the Order) to resolve the alleged violations involving agricultural production. This Order allows Respondents to retain fill material in 4.5-acres of forested wetland for a proposed commercial development project in return for the restoration of 7-acres of forested wetland on-site and the creation of an additional 12.2-acres of ‘mitigation’ wetlands, including the protection of on-site streams with riparian buffers, conservation easements and a 10-year management regime to ensure native, forested wetlands return.

EPA and Respondents have agreed that Respondents will pay a civil penalty of \$65,000.00. Full payment of the penalty will resolve Respondent’s liability for federal civil penalties for the violations alleged in the CAFO.

A copy of the CAFO may be viewed online at: www.epa.gov/aboutepa/epa-region-5#events by clicking on the “Proposed Consent Agreement and Final Order” link on the Region 5 events calendar for the docket number identified above. Alternatively, the Proposed CAFO may be received by contacting the Regional Hearing Clerk at the address 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. Any person who wishes to comment on this proposed CAFO 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 (c) *comment by a person who is not a party*. This portion of the code of federal regulations may be accessed at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol1/pdf/CFR-2015-title40-vol1-sec22-45.pdf> or through <http://www.archives.gov/federal-register/cfr/>. 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.

Due to the COVID-19 pandemic, access to the Region 5 office is limited and EPA employees are encouraged to telework. Therefore, we request that all written comments be sent via email to the Regional Hearing Clerk at whitehead.ladawn@epa.gov. If you are unable to submit written comments by email, please contact the Regional Hearing Clerk at (312) 886 -3713. If you are unable to email or mail your comments and plan to deliver your comments or other documents in person, please call the Regional Hearing Clerk for further instructions.

Your comments should include the case name, docket number, and your complete mailing address. Comments and documents sent to any EPA employee other than the Regional Hearing Clerk are not assured of consideration in this matter. Note that the Agency requires your mailing address because we must use the U.S. Postal Service should we need to reply, request additional information, or notify you of a hearing, and to provide a copy of any consent agreement and proposed final order.

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 Region 5 events calendar page for this docket number: www.epa.gov/aboutepa/epa-region-5#events.

All documents filed in this proceeding (including documents submitted by the Respondent or by the public) are available electronically on the EPA website:

<http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>. An appointment for an in-person inspection of the documents may be made by calling (312) 886-3713 or by writing the Regional Hearing Clerk at the address above.

If this CAFO is filed in its present form, no hearing will be held in this matter. If a hearing is held, we will advise the public 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).

Only persons who, during the comment period submit written comments or ask to participate in any hearing held in this matter, preserve a right to petition the Regional Administrator to set aside any 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).