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Last updated on Wednesday, April 23, 2014

Region 7

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U-Pick-It, Inc. Kansas City, MO

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 U-Pick-It, Inc., a business located at 7700 E. Winner Rd, Kansas City, Missouri 64125 for alleged violations at its facility located at 7700 E. Winner Rd, Kansas City, Jackson 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 discharged "pollutants" in the form of automotive wastes into the Blue River, a "water of the United States", from a "point source" in the form of a storm drain, in violation of Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1341 and 1342. Specifically, the EPA alleges that Respondent discharged the automotive wastes into the Blue River from a storm drain at its facility, initially without a National Pollutant Discharge Elimination System (NPDES) permit, and later in violation of its NPDES permit.

Respondent has reached agreement with the EPA on the terms of a proposed Consent

Agreement/Final Order which would resolve this matter. In addition, the proposed Consent Agreement/Final Order resolves alleged violations of Section 3002 of the Resource Conservation and Recovery Act 42 U.S.C. § 6922, Revised Statutes of Missouri 260.370, relating to Respondent's failure to properly identify hazardous wastes being handled at the facility; and Section 6 of Toxic Substances Control Act, 15 U.S.C. § 2605(e) related to the handling of polychlorinated biphenyls (PCBs) by Respondent at this same facility. Under the proposed Consent Agreement/Final Order, Respondent will pay a civil penalty, to resolve the allegations of all violations, of Ninety Thousand Six Hundred Nine Dollars (\$90,609). Final approval of the proposed Consent Agreement/Final Order is subject to the requirements of 40 C.F.R. § 22.45.

The EPA will receive written comments on the portion of the proposed Administrative Penalty Assessment that concerns the Clean Water Act 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 [proposed Consent Agreement/Final Order \(PDF\)](#) (20 pp., 138K, [About PDF](#)), comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 11201 Renner Blvd, Lenexa, KS 66219. Please reference Docket No. CWA-07-2014-0048. 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.

4-17-14
Date

/s/
Karen A. Flourney
Division Director
Water, Wetlands, and Pesticides Division
U.S. EPA, Region 7