

**PUBLIC NOTICE**

Dakota, Minnesota & Eastern Railroad Corporation  
120 S. 6<sup>th</sup> Street  
Minneapolis, MN 55402

Case Docket No.      **CWA-05-2017-0008**



The U.S. Environmental Protection Agency, Region 5, is providing notice of intent to file a proposed Consent Agreement and Final Order (CAFO) documenting the settlement reached with the Dakota, Minnesota & Eastern Railroad Corporation (Respondent) for alleged violations of the Clean Water Act (CWA). Respondent owns and operates a railroad train that derailed near Brownsville, Minnesota on January 26, 2016. Six tank cars carrying food grade canola oil came to rest in the Mississippi River, and two of those tank cars released oil directly into the water. The CAFO will resolve Respondent's liability for federal civil penalties for EPA's allegations that Respondent violated the CWA by discharging 885 gallons of oil into the Mississippi River. Respondent has agreed to pay a penalty of \$69,873.

A copy of the Proposed CAFO may be viewed online at: [www.epa.gov/aboutepa/epa-region-5#events](http://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 311(b)(6)(B)(ii) of the CWA, 33 U.S.C. § 1321(b)(6)(B)(ii), requires that interested persons be given notice of the proposed penalty and a reasonable opportunity to comment on it. Any person who wishes to comment on this proposed CAFO may submit written comments 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-vol11/pdf/CFR-2015-title40-vol11-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.

**Comments should be made in writing to the Regional Hearing Clerk at:**

Docket No. CWA-05-2017-0008  
Regional Hearing Clerk  
Mail Code E-19J  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Written comments may be submitted to the Regional Hearing Clerk by email to [whitehead.ladawn@epa.gov](mailto:whitehead.ladawn@epa.gov); by facsimile (fax) to 312-692-2405; or by mail or delivery to the Clerk's address above. Your comments should include the case name, docket number, and your complete mailing address. If you plan to deliver your comments or other documents in person, please call the Regional Hearing Clerk at (312) 886-3713 for further instructions. 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, 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](http://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 for public inspection by appointment only between 9 a.m. and 4:30 p.m. Monday through Friday at the EPA Regional Office. An appointment for such an inspection may be made by calling (312) 886-3713 or by writing the Regional Hearing Clerk at the address above.

Should EPA choose to issue the CAFO after considering any comments received, EPA must mail a copy of the CAFO to each commenter. Commenters then have 30 days to petition the Regional Administrator to set aside the CAFO on the basis that material evidence was not considered. The specific procedures that apply when a commenter petitions the Regional Administrator include, among other things, an opportunity for complainant to withdraw the CAFO. If complainant does not withdraw the CAFO, the assigned Petition Officer shall issue written findings as to, among other things, the extent to which the petition states an issue relevant and material to the issuance of the CAFO and whether resolution of the proceeding is appropriate without a hearing. *See* 40 C.F.R. § 22.45(c)(4).