



Region 7

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Mid-America Sand, L.L.C. Independence, Missouri

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 Mid-America Sand, L.L.C., a corporation located at 14800 N. 210 Highway, Independence, Missouri 64058, for alleged violations of Section 301 of the Clean Water Act, 33 U.S.C. § 1311.

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 dredged and/or fill material into a water of the United States without obtaining a Clean Water Act Section 404, 33 U.S.C. § 1344, permit from the U.S. Army Corps of Engineers. Specifically, EPA alleges that Respondent impacted approximately 5.35 acres of wetland by placing dredged and/or fill material into the wetland. In this case, the EPA alleges that Respondent discharged pollutants into waters of the United States without a permit issued pursuant to Section 404 of the Clean Water Act, 33 U.S.C. § 1344, in violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311. Additionally, EPA alleges that the Mid-America Sand, L.L.C. violated the requirements of its NPDES permit, in violation of Sections 301 and 402 of the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1342. Respondent has reached agreement with EPA on the terms of a proposed Consent Agreement/Final Order which would resolve this matter. Under the proposed Consent Agreement/Final Order, the assessed civil penalty is Forty Thousand Dollars (\$40,000). 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 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 [Consent Agreement/Final Order \(PDF\)](#) (12 pp., 1.45MB, [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 VII, 11201 Renner Boulevard, Lenexa, Kansas 66219. Please reference Docket No. CWA-07-2015-0070. 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.

8-11-15
Date

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