

**PUBLIC NOTICE: 09-23**

**MARCH 2, 2009**

**NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND  
OPPORTUNITY TO COMMENT**

**AGENCY: ENVIRONMENTAL PROTECTION AGENCY (EPA)**

**ACTION: NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT  
AND OPPORTUNITY TO COMMENT**

**SUMMARY: EPA IS PROVIDING NOTICE OF PROPOSED ADMINISTRATIVE  
PENALTY ASSESSMENT FOR ALLEGED VIOLATIONS OF THE CLEAN WATER  
ACT. EPA IS ALSO PROVIDING NOTICE OF OPPORTUNITY TO COMMENT ON  
THESE PROPOSED PENALTY ASSESSMENT.**

**UNDER 33 U.S.C. §1319(G), EPA IS AUTHORIZED TO ISSUE ORDERS ASSESSING  
CIVIL PENALTIES FOR VARIOUS VIOLATIONS OF THE ACT. EPA MAY ISSUE  
SUCH ORDERS AFTER THE COMMENCEMENT OF A CLASS I OR CLASS II  
PENALTY PROCEEDING. EPA PROVIDES PUBLIC NOTICE OF THESE PROPOSED  
ASSESSMENT PURSUANT TO 33 U.S.C. §1319(G)(4)(A).**

**CLASS I PROCEEDINGS ARE CONDUCTED UNDER EPA'S "CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS", 40 CODE OF FEDERAL REGULATIONS PART 22. THE PROCEDURES THROUGH WHICH THE PUBLIC MAY SUBMIT WRITTEN COMMENT ON A PROPOSED CLASS II COMPLAINT 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. THE DEADLINE FOR SUBMITTING PUBLIC COMMENT ON A PROPOSED CLASS II ORDER IS THIRTY (30) DAYS AFTER THE DATE OF PUBLICATION OF THIS PUBLIC NOTICE.**

**ON THE DATE IDENTIFIED BELOW, EPA COMMENCED THE FOLLOWING CLASS II PROCEEDING FOR THE ASSESSMENT OF PENALTIES: IN THE MATTER 151-45 SIXTH ROAD WHITESTONE PARTNERS LLC, TRUMP TOWER, 725 FIFTH AVENUE, 24<sup>TH</sup> FLOOR, NEW YORK, NEW YORK 10022 THE OWNER AND/OR OPERATOR OF THE FACILITY LOCATED AT 151-45 SIXTH ROAD, WHITESTONE, NEW YORK 11357, DOCKET NO. CWA-02-2009-3401; FILED ON FEBRUARY 18, 2009 WITH REGIONAL HEARING CLERK KAREN MAPLES, U.S. EPA, REGION 2, 290 BROADWAY, 16 FLOOR, NEW YORK, NEW YORK 10007 (212) 637-3110; PROPOSED PENALTY: \$125,000.00, FOR FAILURE TO OBTAIN AND COMPLY WITH THE STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (SPDES) FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY (NON-**

**CONSTRUCTION) AND FOR FAILURE TO MONITOR, CONTROL AND REPORT AS REQUIRED BY A SPDES PERMIT.**

**FOR FURTHER INFORMATION: PERSONS WISHING TO RECEIVE A COPY OF EPA'S CONSOLIDATED RULES, REVIEW THESE COMPLAINTS OR OTHER DOCUMENTS FILED IN THESE PROCEEDINGS, COMMENT UPON THE PROPOSED ASSESSMENTS, OR OTHERWISE PARTICIPATE IN ANY OF THESE PROCEEDINGS, SHOULD CONTACT THE REGIONAL HEARING CLERK IDENTIFIED ABOVE. UNLESS OTHERWISE NOTED, THE ADMINISTRATIVE RECORD FOR THESE PROCEEDINGS IS LOCATED IN THE EPA REGIONAL OFFICE IDENTIFIED ABOVE, AND THE FILES WILL BE OPEN FOR PUBLIC INSPECTION DURING NORMAL BUSINESS HOURS. ALL INFORMATION SUBMITTED BY THE RESPONDENT IS AVAILABLE AS PART OF THE ADMINISTRATIVE RECORD, SUBJECT TO PROVISIONS OF LAW RESTRICTING PUBLIC DISCLOSURE OF CONFIDENTIAL INFORMATION.**

**IN ORDER TO PROVIDE OPPORTUNITY FOR PUBLIC COMMENT, EPA WILL ISSUE NO FINAL ORDER ASSESSING A PENALTY IN THESE PROCEEDINGS PRIOR TO THIRTY (30) DAYS FROM THE DATE SPECIFIED BELOW.**

**DATED: MARCH 2, 2009**

**DORE LAPOSTA, DIRECTOR  
DIVISION OF ENFORCEMENT AND  
COMPLIANCE ASSISTANCE**