

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Action: Notice of Proposed Assessment of Clean Water Act Section 309(g) Class I Administrative Penalty to A&D Investment, Inc., and Public Opportunity to Comment

EPA is authorized under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under Section 309(g), any person who without authorization discharges a pollutant to a navigable water, as those terms are defined in Section 502 of the Act, 33 U.S.C. § 1362, may be administratively assessed a civil penalty of up to \$32,500 by EPA. Class I proceedings for Section 309(g) of the Clean Water Act are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, Revocation, Termination or Suspension of Permits", 64 Fed. Reg. 40138 (July 23, 1999) ("Part 22"), including Rules related to Administrative Proceedings not Governed by § 554 of the Administrative Procedures Act, 40 CFR §§ 22.50 - 22.52 (64 Fed. Reg. 40138, 40190). The Federal Register is available at most libraries.

The procedures by which the public may participate in a Class I penalty proceeding are set forth in Part 22. Any person wishing to comment on the proposed penalty order must submit written comments to the Hearing Clerk identified below within thirty (30) days after the issuance of this public notice.

Pursuant to Section 309(g)(4) of the Clean Water Act, 33 U.S.C. § 1319(g)(4), EPA is providing public notice of the following proposed Class I administrative penalty assessment:

Name and address of complainant: William K. Honker, P.E., Director  
Water Quality Protection Division  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

Name of respondent: NBR Sand, LLC

Location of alleged violations: On 1,300 acres located at Latitude 32.457037 and Longitude 95.26996 West, in Smith County, Texas.

Nature of alleged violations: Discharge of "dredged" and/or "fill material" to Brewer Lake, that flows to Wiggins Creek and a palustrine forested wetland that also flows to Wiggins Creek.

Proposed penalty: \$33,800.00  
Name of Case: NBR Sand, LLC  
Docket Number: CWA 06-2016-2708

Mailing address, and telephone number of Regional Hearing Clerk:

Ms. Lorena Vaughn  
Regional Hearing Clerk (6RC-HO)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
(214) 665-8021

FOR FURTHER INFORMATION: Persons wishing to receive a copy of Part 22, review the complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the public record for the proceeding is located in the EPA Regional Office at 1445 Ross Avenue, Dallas, Texas 75202-2733, and the file will be open for public inspection during business hours. Persons wishing to receive information on the proceeding, may contact: Mr. Tom Nystrom, Wetlands Section (6WQ-EM), U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8331.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty (40) days after issuance of this notice.