

**United States
Environmental Protection
Agency**

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

PUBLIC NOTICE

Dillenberger Farms, Inc.
The Estate of James Dillenberger
Dillenberger Revocable Trust

6664 A. Road
Valmeyer, Il 62295

Case Docket No. CWA-05-2021-0003

The U.S. Environmental Protection Agency (EPA), Region 5, is providing this notice of its intent to file a Proposed Consent Agreement and Proposed Final Order (Proposed CAFO) against Dillenberger Farms, Inc., The Estate of James Dillenberger, and Dillenberger Revocable Trust (Respondents) for violations of Section 301 of the Clean Water Act (CWA). This Proposed CAFO will settle alleged violations at a site next to Moredock Lake in Monroe County, Illinois. The Respondents discharged dredged and fill material into Moredock Lake without a CWA permit. Moredock Lake is a perennial waterbody that flows to the Mississippi River, a traditional navigable water.

EPA alleges that in November 2012, Respondents placed dredged and fill material into Moredock Lake without a CWA permit. Respondents used mechanized land-moving equipment to clear approximately 2 acres of forested wetlands from their property and adjacent property owned by the Moredock Lake Gun Club. They pushed dredged material and tree debris 150-200 feet into Moredock Lake.

The alleged violations are of environmental significance because the forested wetlands reduced erosion into Moredock Lake, increased habitat for wildlife, improved surface water filtration, increased dissolved oxygen and organic carbon detritus, and provided shade for both terrestrial and aquatic wildlife. The alleged violations reduced the reach of navigable waters and increased siltation and sedimentation of Moredock Lake – resulting in reduced water quality. EPA and Respondents have agreed in principle that the Respondents will pay a civil penalty of \$20,857 to resolve these violations.

A copy of the CAFO may be viewed online at: 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 email address below.

OPPORTUNITY FOR COMMENT:

Section 309(g) of the CWA, 33 U.S.C. § 1319(g), requires that interested persons be given notice of the proposed penalty order and a reasonable opportunity to comment on such order. Any person who wishes to comment on this proposed CAFO may submit written comments, may attend or present evidence at any hearing scheduled on this matter, or both, 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-vol1/pdf/CFR-2015-title40-vol1-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.

Due to the COVID-19 pandemic, access to the Region 5 office is limited and EPA employees are encouraged to telework. Therefore, we request that all written comments be sent via email to the Regional Hearing Clerk at whitehead.ladawn@epa.gov. If you are unable to submit written comments by email, please contact the Regional Hearing Clerk at (312) 886-3713.

Your comments should include the case name, docket number, and your complete mailing address. 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, or notify you of a hearing, 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.

All documents filed in this proceeding (including documents submitted by the Respondent or by the public) are available electronically on the EPA website: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

If this CAFO is filed in its present form, no hearing will be held in this matter. If a hearing is held, we will advise members of the public who (during the public comment period) submitted a written request to participate in a hearing of the date, time, and place of the hearing, which they may attend and present evidence on the appropriateness of the proposed penalty assessment by following the instructions in 40 C.F.R. § 22.45(c)(1).

Only persons who, during the comment period submit written comments or ask to participate in any hearing held in this matter, preserve a right to petition the Regional Administrator to set aside any consent agreement and proposed final order on the basis that material evidence was not considered, as described in 40 C.F.R. § 22.45(c)(4).

In order to provide opportunity for public comment, EPA will not issue a final order assessing a penalty in this proceeding prior to forty (40) calendar days from the date of this notice.