US Army Corps of Engineers
Seattle District

Public Notice of Proposed Administrative Penalty

Regulatory Branch
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone (206) 764-3495
ATTN: Pamela Sanguinetti, Project Manager

Public Notice Date: April 16, 2014
Expiration Date: May 16, 2014
Reference: NWS-2009-242
Name: Redmond, City of

Interested parties are hereby notified that the District Engineer (DE), Seattle District, proposes to issue an order assessing a Class I Administrative Penalty against the City of Redmond for violating the terms and conditions of its Department of the Army permit.

PROPOSED ADMINISTRATIVE PENALTY ORDER

DEPARTMENT OF THE ARMY PERMIT INVOLVED AND ALLEGED VIOLATION: On June 5, 2013, under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (Corps) authorized the City of Redmond to restore Bear Creek and adjacent wetlands and floodplain in Redmond, Washington, in accordance with the terms and conditions of Nationwide Permit 27, including permit special conditions added by the DE. Work entailed filling 1.3 acres of creek channel and reshaping other portions of the former creek channel, permanently filling 0.3 of an acre of wetland, and temporarily filling 0.14 of an acre of wetland. Special condition "d" of the permit required the City of Redmond to implement and abide by the *Memorandum of Agreement among the Corps, the Federal Highway Administration, the Washington State Department of Archaeology & Historic Preservation, the City of Redmond, and the Washington State Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site, Redmond, King County, Washington.* During construction, the City of Redmond performed work in violation of Special Condition "d" by performing work outside the approved project construction limits/boundaries. This work resulted in additional adverse effects to a known historic property, which is currently being assessed.

AUTHORITY FOR ADMINSTRATIVE PENALTY: This Administrative Penalty proceeding is initiated under the authority of 33 U.S.C Section 1319(g) and 33 CFR part 326.6. The procedure for assessing civil penalties in cases such as this is set out in the statue and regulation. Following discovery and investigation of a permit violation, notice is given to the City of Redmond, the appropriate state agency, and the public. Comments on the proposed Administrative Penalty must be submitted to the Corps within 30 days from the date of this public notice. If requested by the City of Redmond, a hearing will be held before a Presiding Officer (Corps Counsel staff or other qualified individual designated by the DE) who will submit a recommendation to the DE. The DE will issue a Final Order on the case to the City of Redmond.

PROPOSED PENALTY: The amount of the penalty proposed in this case is $32,500. However, this proposal is subject to revision in the interests of justice after all evidence and comments have been received and reviewed. The amount of the penalty that the DE is authorized to assess as a Class I penalty is $11,000 per violation and not more than $32,500 total.

REQUEST FOR HEARING: The City of Redmond has 30 days following receipt of this formal notice of proposed penalty to request a hearing. A hearing is optional and not required. Written request, by the City of Redmond, for

a hearing must be directed to the DE within the designated comment period and must state the specific reasons for requesting a hearing. The request should specify, in summary form, the factual and legal issues in dispute and the specific grounds for defense. The City of Redmond has a right to present evidence at the hearing.

HEARING: The City of Redmond and all persons who file comments will be given notice of any hearing held on this case. The City of Redmond and all commentators will have a reasonable opportunity to be heard and to present evidence at such a hearing, if a hearing is held.

FINAL DECISION: If the City of Redmond does not request a hearing, the DE will issue the Final Order for an Administrative Penalty on this violation on or after 30 days following their receipt of this formal notice.

POST DECISION HEARING/APPEAL: Any Final Order for an Administrative Penalty issued under these procedures shall become effective 30 calendar days following its issuance unless (1) a petition to set aside the order and to hold a hearing is filed by any person who commented on the proposed administrative Penalty Order and the petition is granted, or (2) an appeal to the United States District Court is taken under 33 U.S.C. Section 1319(g)(8).

COMMENTS/ADMINISTRATIVE RECORD: During the 30 day comment period, any person may submit written comments on the proposed administrative Penalty Order. These comments should be sent to the DE within the designated comment period. Any submitted comments relating to the proposed administrative Penalty Order will be included in the administrative record.

All e-mail comments should be sent to pamela.sanguinetti@usace.army.mil. Conventional mail comments should be sent U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, Washington 98124-3755. Either conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below. All comments received are subject to public release under the Freedom of Information Act including any personally identifiable information such as names, phone numbers, and addresses. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number:

Redmond, City of, NWS-2009-242