



Timothy D. Henry Seneca, KS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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 Timothy D. Henry, doing business as Henry Brothers Farms, a business located at 8 East Amador, Seneca, Kansas, 66538, for alleged violations at the property located in Nemaha County, Kansas.

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 I civil penalty pursuant to 33 U.S.C. § 1319(g)(4)(A). Class I proceedings are conducted under EPA's Consolidated Rules, 40 C.F.R. Part 22.

In this case, the EPA alleges that Respondent placed dredged and/or fill material into waters of the United States in violation of Sections 301 and 404 of the Clean Water Act, 33 U.S.C. §§ 1311 and 1344. The EPA alleges that Respondent placed fill material into approximately 2,300 feet of Vermillion Creek without obtaining a Section 404 permit from the U.S. Army Corps of Engineers. 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, Respondent will pay a civil penalty of \$12,600. 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 I order or participate in a Class I 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, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 901 N. Fifth Street, Kansas City, Kansas 66101. Please reference Docket No. CWA-07-2012-0007. 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.

12-20-2011
Date

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