



COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
www.transportation.ky.gov/

Andy Beshear
GOVERNOR

Jim Gray
SECRETARY

February 9, 2021

CALL NO. 202
CONTRACT ID NO. 211307
ADDENDUM # 1

Subject: LEE-OWSLEY COUNTIES, 121GR21D007 - STP
Letting February 19, 2021

(1)Added - Special Notes - Pages 1-29 of 29

Proposal revisions are available at <http://transportation.ky.gov/Construction-Procurement/>.

If you have any questions, please contact us at 502-564-3500.

Sincerely,

A handwritten signature in black ink that reads "Rachel Mills".

Rachel Mills, P.E.
Director
Division of Construction Procurement

RM:mr
Enclosures



ANDY BESHEAR
GOVERNOR

REBECCA W. GOODMAN
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

September 1, 2020

Mr. Danny Peake
Kentucky Transportation Cabinet (KYTC)
200 Mero St
Frankfort, KY 40622

Re: §401 Water Quality Certification
Letter of Permission No.: WQCLOP2017-024-7M2
KY 11 Relocation Project
AI No.: 132841; Activity ID: APE20200002
KYTC Item No.: 10-292.10
USACE ID No.: LRL-2017-00048
Elk Lick, Long Branch, Unnamed Tributaries to Buck
Creek, Unnamed Tributaries to Elk Lick, Unnamed
Tributaries to Long Branch, and wetlands
Lee and Owsley Counties, Kentucky

Dear Mr. Peake:

This letter transmits to you a copy of our General Water Quality Certification (WQC) for the Letter of Permission Authorizing Transportation Projects for the Kentucky Transportation Cabinet –KY-11 Relocation Project with two excess waste sites in Lee and Owsley Counties, Kentucky, in accordance with plans included in the “Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification” received February 13, 2020, the additional information received on March 9, 2020 and April 7, 2020; the request for modification received June 22, 2020 and the impacts table and mitigation statement received August 28, 2020. Impacts to 3,856 linear feet of intermittent stream, and 1,536 linear feet of perennial stream and 0.192 acres of wetland for road construction.

KYTC shall notify the WQC Project Manager or Supervisor of the scheduled start of construction activities at least two weeks before the start of construction and upon the substantial completion of construction no later than two week post-construction. Compensatory mitigation will be accomplished through purchasing 2,456 stream Ecological Integrity Units (EIUs) and 0.4 wetland Adjusted Mitigation Units (AMUs) through an approved mitigation bank or 2,947 stream EIUs and 0.5 wetland AMUs through the Kentucky Department of Fish and Wildlife Resources (KDFWR) Stream and Wetland Mitigation Fund. A receipt of purchase shall be submitted to the Water Quality Certification Section prior to construction. As-built drawings shall be submitted within 90 days after substantial completion of construction.

An individual WQC is not necessary for this activity provided that this project has satisfies the Transportation Letter of Permission from the U.S. Army Corps of Engineers (Letter of Permission for Transportation Projects, Corps ID No. LRL-2006-259, issued October 03, 2007 and revised October 28, 2010) and all conditions of the attached General Water Quality Certification - Letter of Permission Authorizing Transportation Projects are met. If construction does not commence within five years of the date of this letter,

this certification will become void. A letter requesting renewal should be submitted to the WQC Project Manager or Supervisor at least one month prior to expiration.

Although an Individual WQC is not needed, other permits from the Division of Water may be required. If the project will disturb one acre or more of land, or is part of a larger common plan of development or sale that will ultimately disturb one acre or more of land, a Kentucky Pollution Discharge Elimination System (KPDES) stormwater permit shall be required from the Surface Water Permits Branch. This permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP must include erosion prevention and sediment control measures. Contact: Surface Water Permits Branch (SWPB) Support (502-564-3410 or SWPBsupport@ky.gov). If the project needs to develop a Groundwater Protection Plan (GPP), impacts a Wellhead Protection Areas (WHPAs) or Sinkhole contact the Watershed Management Branch (502-564-3410).

All future correspondence on this project must reference **AI No. 132841**. Please contact Samantha Vogeler by phone at 502-782-6995 or email at samantha.vogeler@ky.gov if you have any questions.

Sincerely,



Elizabeth M Harrod, Supervisor
Water Quality Certification Section
Kentucky Division of Water

EH:SV
Attachment

- cc: Greg Preece, KYTC: Frankfort (via email: Greg.Preece@ky.gov)
Andrew Logsdon, KYTC: Frankfort (via email: Andrew.Logsdon@ky.gov)
Dave Harmon, KYTC: Frankfort (via email: Dave.Harmon@ky.gov)
Crystal Byrd, USACE: Louisville District (via email: Crystal.D.Byrd@ky.gov)
Lee Andrews, USFWS: Frankfort (via email: kentuckyes@fws.gov)
Malissa McAlister, Kentucky River Basin Coordinator (via email: mmcalister@uky.edu)
Ashton Johnson, Hazard Regional Field Office (via email: Ashton.Johnson@ky.gov)
Neil Guthals, Redwing Ecological Services Inc (via email: nguthals@redwingeco.com)



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300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

**General Certification -- Letter of Permission Authorizing Transportation
Projects (LRL-2006-259-pgj- Date: 28 Oct 2010)**

This general certification is issued February 26, 2016, by the Kentucky Division of Water, 401 Water Quality Certification Program in conformity with the requirements of Sections 301, 302, 304, 306 and 401, as amended (33 U.S.C. §1341), of the Clean Water Act, as well as Kentucky Statute KRS 224.16-050 and Kentucky Administrative Regulations Title 401, Chapter 9 and 10.

For this and all general permits, the definition of surface water is as per 401 KAR 10:001 Chapter 10, Section 1(80): Surface Waters mean those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters; marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Lagoons used for waste treatment and effluent ditches that are situated on property owned, leased, or under valid easement by a permitted discharger are not considered surface waters of the commonwealth.

In addition to all the restrictions and conditions of the U.S. Army Corps of Engineers, Louisville District Letter of Permission Issuance (LRL-2006-259-pgj) hereby incorporated into this general certification (included herein), the following 401 Water Quality Certification criteria applies to all transportation projects certified under a Certified Letter of Permission issued by the Kentucky Division of Water, 401 Water Quality Certification Program:

1. The activity will not qualify for this general certification if it is proposed to occur within surface waters of the Commonwealth identified by the Kentucky Division of Water as Outstanding State or National Resource Water, Cold Water Aquatic Habitat, or Exceptional Water.
2. The activity will not qualify for this general certification if it is proposed to occur within surface waters of the Commonwealth identified as perpetually-protected (e.g. deed restriction, conservation easement) stream and/or wetland mitigation sites permitted by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act.

Certification of Transportation Letter of Permission

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3. The Kentucky Division of Water may require an individual certification for any project if the project is likely to have adverse impacts to water quality or degrade the waters of the Commonwealth so that existing uses of the water body or downstream waters are precluded.
4. Activities qualifying for coverage under this General Water Quality Certification are subject to the following conditions:
 - The proposed relocation of an existing stream or channel will be designed and constructed to ensure the stability of the relocated stream or channel. Stream habitat enhancements, such as bioengineering methods and/or best management practices for protecting water quality will be considered, on a case-by-case basis, during the design process. Documentation must be provided if stream habitat enhancements will not be used for the proposed stream relocation.
 - Erosion and sedimentation pollution control plans and Best Management Practices must be designed, installed, and maintained in effective operating condition at all times during construction activities so that state water quality are maintained (401 KAR Chapter 10).
 - Sediment and erosion control measures, such as check-dams constructed of any material, silt fencing, hay bales, etc., shall not be placed within surface waters of the Commonwealth, either temporarily or permanently, without notifying the Kentucky Division of Water. If placement of sediment and erosion control measures in surface waters is unavoidable, design and placement of temporary erosion control measures shall not be conducted in such a manner that may result in instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control devices shall be removed and the natural grade restored within the completion timeline of the activities.
 - Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
 - Removal of riparian vegetation in the right-of-way shall be limited to that necessary.
 - To the maximum extent practicable, all in-stream work under this certification shall be performed under low-flow conditions.
 - Heavy equipment, e.g. bulldozers, backhoes, draglines, etc., if required for this project, should not be used or operated within the stream channel. In those instances in which such in-stream work is unavoidable, then it should be performed in low-flow or no-flow instances or in such a manner and duration as to minimize turbidity and disturbance to substrates and bank or riparian vegetation.

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- Fill shall not be of such composition that it will adversely affect the biological, chemical, or physical properties of the receiving waters and associated water quality standards. If rip-rap is utilized, it should be of such weight and size that bank stress or slump conditions will not be created because of its placement.
- If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the public supply system when such work will be done.
- Should evidence of stream and/or wetland pollution impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Environmental Response Team (ERT) shall be notified immediately by calling 1-800-928-2380 or 502-564-2380.

This general certification does not have an expiration date, however if the need for changes develop or if the U.S. Army Corps of Engineers, Louisville District makes modifications to the Letter of Permission (LRL-2006-259-pgj- Date: 28 Oct 2010) then a certification modification may be issued. Non-compliance with the conditions of this general certification or failure to maintain Kentucky state water quality standards may result in civil penalties.

ATTENTION APPLICANT

If your project involves one or more of the following activities, you may need more than one permit from the Kentucky Division of Water.

- *building in a floodplain *road culvert in a stream**
- *streambank stabilization *stream cleanout**
- *utility line crossing a stream**
- *construction sites greater than 1 acre**

- **Construction sites greater than 1 acre will require the filing of a Notice of Intent to be covered under the KPDES General Stormwater Permit. This permit requires the creation of an erosion control plan.**
Contact: Surface Water Permits Branch (SWPB) Support at SWPBsupport@ky.gov
- **Projects that involve filling in the floodplain will require a floodplain construction permit from the Water Resources Branch.**
Contact: Floodplain Management Section Supervisor at (502) 564-3410
- **Projects that involve work IN a stream, such as bank stabilization, road culverts, utility line crossings, and stream alteration will require a floodplain permit and a Water Quality Certification from the Division of Water.**
Contact: Elizabeth Harrod at (502) 782-6700

A complete listing of environmental programs administered by the Kentucky Department for Environmental Protection is available from Director Paul Miller by calling (502) 782-4505.

GENERAL CONDITIONS FOR WATER QUALITY CERTIFICATION

1. The Kentucky Division of Water may require submission of a formal application for an Individual Certification for any project if the project has been determined to likely have a significant adverse effect upon water quality or degrade the waters of the Commonwealth so that existing uses of the water body or downstream waters are precluded.
2. Nationwide permits issued by the U.S. Army Corps of Engineers for projects in Outstanding State Resource Waters, Cold Water Aquatic Habitats, and Exceptional Waters as defined by 401 KAR 10:026 shall require individual water quality certifications.
3. Projects requiring in-stream stormwater detention/retention basins shall require individual water quality certifications.
4. Erosion and sedimentation pollution control plans and Best Management Practices must be designed, installed, and maintained in effective operating condition at all times during construction activities so that violations of state water quality standards do not occur.
5. Sediment and erosion control measures (e.g., check-dams, silt fencing, or hay bales) shall not be placed within surface waters of the Commonwealth, either temporarily or permanently, without prior approval by the Kentucky Division of Water's Water Quality Certification Section. If placement of sediment and erosion control measures in surface waters is unavoidable, placement shall not be conducted in such a manner that may cause instability of streams that are adjacent to, upstream, or downstream of the structures. All sediment and erosion control measures shall be removed and the natural grade restored prior to withdrawal from the site.
6. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
7. To the maximum extent practicable, all in-stream work under this certification shall be performed during low flow.
8. Heavy equipment (e.g. bulldozers, backhoes, draglines, etc.), if required for this project, should not be used or operated within the stream channel. In those instances where such in-stream work is unavoidable, then it shall be performed in such a manner and duration as to minimize re-suspension of sediments and disturbance to the channel, banks, or riparian vegetation.
9. If there are water supply intakes located downstream that may be affected by increased turbidity, the permittee shall notify the operator when work will be performed.
10. Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.
11. Should stream pollution, wetland impairment, and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling 800/564-2380.

**REVISED MITIGATION STATEMENT
KENTUCKY HIGHWAY 11 RELOCATION PROJECT
LEE AND OWSLEY COUNTIES, KENTUCKY
KYTC ITEM NO.: 10-292.10**

Per guidelines established by the USACE, impacts to Waters of the U.S. have been separated into single-and-complete projects. Separate crossings were identified based on: location within different drainages; topographic separation (i.e. wetlands located on ridges without obvious connection to other features); and impacts associated with construction of other features (side roads or excess material sites). The individual projects are presented in Table 1 of Appendix A.

Mitigation is proposed if:

- Intermittent and perennial stream impacts are greater than 300 feet or 0.1 acre
- Wetland impacts are greater than 0.1 acre
- Cumulative intermittent stream, perennial stream, wetland, and open water impacts for individual projects are greater than 0.1 acre

Stream and wetland mitigation is summarized below for projects for which mitigation is required. Two mitigation options are provided. Following the hierarchy of the 2008 Mitigation Rule, the KYTC proposes to utilize credits available from an approved mitigation bank, with preference given to a KYTC bank, prior to use of a third-party bank. If mitigation bank credits are not available at the time of project letting, the KYTC agrees to purchase the credits from a USACE approved In-Lieu Fee Mitigation Program.

APPROVED MITIGATION BANK PURCHASE OPTION

Streams: Stream impacts requiring compensatory mitigation total 2,456 EIUs. The KYTC proposes to provide mitigation for the unavoidable impacts through purchase of credits from an approved mitigation bank. The table provided below summarizes the proposed mitigation.

Project	Station	Designation	Impact Type	Impact Length (ft)	Impact Acreage (ac)	EII Score	EIU
2	51+05.08	Intermittent 4	Culvert	335	0.023	0.41	137.4
4	50+73.25	Intermittent 3	CC/Culvert	190	0.011	0.52	98.8
	182+53.97	Intermittent 2	CC/Culvert	375	0.034	0.45	168.8
	184+10.00	Intermittent 1	CC/Culvert	30	0.002	0.46	13.8
	184+18.00	Perennial 5	CC/Culvert	80	0.018	0.53	42.4
7	208+40.58	Perennial 4	CC/Culvert	465	0.064	0.56	260.4
8	221+00.00	Intermittent 6	CC/Culvert	350	0.016	0.63	220.5
9	232+77.65	Perennial 3	Fill	6	0.001	0.41	2.5
	232+87.93	Intermittent 7	CC/Culvert	335	0.027	0.53	177.6
	232+85.56	Intermittent 5	Fill	11	<0.001	0.40	4.4
10	253+00.37	Intermittent 5	CC/Culvert	1,105	0.038	0.40	442.0
12	279+81.10	Intermittent 8	Culvert	145	0.010	0.49	71.1
15	50+67.58	Perennial 6	CC/Culvert	410	0.085	0.63	258.3
	309+00.00	Intermittent 10	Culvert	470	0.038	0.61	286.7
16	51+00.00	Perennial 6	CC/Culvert	165	0.034	0.63	104.0
	320+43.88	Intermittent 11	CC/Culvert	275	0.019	0.61	167.8
Stream Mitigation Total							2,456

Note: ¹Denotes presumed stream length prior to construction of open water area
*Average EII score

Wetlands: Wetland impacts requiring compensatory mitigation total 0.4 AMUs. The KYTC proposes to provide mitigation for these unavoidable impacts through purchase of credits from an approved mitigation bank. The table provided below summarizes the proposed mitigation.

Project	Station	Designation	Impact Acreage (ac)	Mitigation Ratio	AMU
10	247+78.70	Wetland 5	0.121	2.0	0.242
12	283+47.60	Wetland 9	0.071	2.0	0.142
Total Wetland AMUs					0.4

IN-LIEU FEE PURCHASE OPTION

Streams: Stream impacts requiring compensatory mitigation total 2,948 EIUs. The KYTC proposes to provide mitigation for the unavoidable impacts through the payment of a fee to the Kentucky Stream and Wetland Mitigation Fund. The table provided below summarizes the proposed mitigation.

Project	Station	Designation	Impact Type	Impact Length (ft)	Impact (ac)	EII Score Quality	EIU	Temporal Multiplier	EIU Required
2	51+05.08	Intermittent 4	Culvert	335	0.023	0.41	137.4	1.2	164.8
4	50+73.25	Intermittent 3	Culvert	190	0.011	0.52	98.8	1.2	118.6
	182+53.97	Intermittent 2	Culvert	375	0.034	0.45	168.8	1.2	202.5
	184+10.00	Intermittent 1	Culvert	30	0.002	0.46	13.8	1.2	16.6
	184+18.00	Perennial 5	Culvert	80	0.018	0.53	42.4	1.2	50.9
7	208+40.58	Perennial 4	Culvert	465	0.064	0.56	260.4	1.2	312.5
8	221+00.00	Intermittent 6	Culvert	350	0.016	0.63	220.5	1.2	264.6
9	232+77.65	Perennial 3	Fill	6	0.001	0.41	2.5	1.2	3.0
	232+87.93	Intermittent 7	Culvert	335	0.027	0.53	177.6	1.2	213.1
	232+85.56	Intermittent 5	Fill	11	<0.001	0.40	4.4	1.2	5.3
10	253+00.37	Intermittent 5	Culvert	1,105	0.038	0.40	442.0	1.2	530.4
12	279+81.10	Intermittent 8	Culvert	145	0.010	0.49	71.1	1.2	85.3
15	50+67.58	Perennial 6	Culvert	410	0.085	0.63	258.3	1.2	310.0
	309+00.00	Intermittent 10	Culvert	470	0.038	0.61*	286.7	1.2	344.0
16	51+00.00	Perennial 6	Culvert	165	0.034	0.63	104.0	1.2	124.7
	320+43.88	Intermittent 11	Culvert	275	0.019	0.61	167.8	1.2	201.3
Total Stream AMUs									2,948

Note: ¹Denotes presumed stream length prior to construction of open water area
*Average EII score

Wetlands: Wetland impacts requiring compensatory mitigation total 0.5 AMUs. The KYTC proposes to provide mitigation for these unavoidable impacts through the payment of a fee to the Kentucky Stream and Wetland Mitigation Fund. The table provided below summarizes the proposed mitigation.

Project	Station	Designation	Impact Acreage (ac)	Mitigation Ratio	Temporal Multiplier	AMU
10	247+78.70	Wetland 5	0.121	2.0	1.2	0.290
12	283+47.60	Wetland 9	0.071	2.0	1.2	0.170
Total Wetland AMUs						0.5



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 8/19/2020
 ORM Number: LRL-2017-00048
 Associated JDs: N/A
 Review Area Location¹: State/Territory: KY City: Beattyville County/Parish/Borough: Owsley/Lee
 Center Coordinates of Review Area: Latitude 37.497100 Longitude -83.726438

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
UT to Buck Creek 141+67.93	145	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Buck Creek 51+05.08	335	linear feet	(a)(2) Intermittent tributary contributes	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
		surface water flow directly or indirectly to an (a)(1) water in a typical year.		
UT to Buck Creek 152+00.00	15	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Elk Lick 50+73.25	190	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 182+53.97	375	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 184+10.00	30	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
Elk Lick 184+18.00	80	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Elk Lick 208+40.58	465	linear feet	(a)(2) Perennial tributary contributes	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
		surface water flow directly or indirectly to an (a)(1) water in a typical year.		
UT to Elk Lick 221+00.00	350	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 232+77.65	6	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows and pools year round. Tributary serves as a connection between upstream and downstream jurisdictional channels.
UT to Elk Lick 232+87.93	335	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 232+85.56	11	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
UT to Elk Lick 253+00.37	1105	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.
Long Branch 279+81.00	145	linear feet	(a)(2) Intermittent tributary contributes	Tributary surface water flows continuously during certain times of the year and more in direct response to precipitation.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	
UT to Long Branch 299+17.40	235	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
Long Branch 50+67.58	410	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
UT to Long Branch 309+00.00	470	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
Long Branch 51+00.00	165	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
UT to Long Branch 320+43.88	275	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
UT to Long Branch 333+23.30	250	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.



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REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
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Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
UT to Elk Lick Wetland 5 247+78.70	0.121	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts UT to Elk Lick 253+00.37 an intermittent tributary.
UT to Long Branch Wetland 9 283+47.60	0.071	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	Wetland abuts Long Branch 279+81.00 an intermittent tributary.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
UT to Buck Creek 151+91.60	130	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 174+02.70	20	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 51+00.00	65	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT Elk Lick 100+40.00	85	linear feet	(b)(3) Ephemeral feature, including	Tributary surface water only flows or pools in direct response to precipitation. Tributary does

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			an ephemeral stream, swale, gully, rill, or pool.	not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 193+40.31	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 196+06.00	25	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick	70	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Open Water 1 202+24.50	225	linear feet	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Open water is constructed in a (b)(3) ephemeral feature.
Wetland 2 202+24.50	0.013	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
Wetland 1 202+65.30	0.043	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
UT to Elk Lick 208+56.80	20	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 234+64.00	35	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 234+97.54	5	linear feet	(b)(3) Ephemeral feature, including	Tributary surface water only flows or pools in direct response to precipitation. Tributary does



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			an ephemeral stream, swale, gully, rill, or pool.	not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 249+44.80	95	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 250+12.37	40	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 255+31.90	40	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 52+94.50	310	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Open Water 4 265+00.00	60	linear feet	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Open water is constructed in a (b)(3) ephemeral feature.
UT to Elk Lick 266+75.92	855	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 11 45+78.00	0.091	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
Wetland 8 279+00.00	0.080	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
UT to Long Branch 280+62.24	155	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 289+53.20	60	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 295+31.85	70	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 10 294+33.00	0.018	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
UT to Long Branch 302+18.50	115	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 315+48.90	80	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 326+82.43	165	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 339+70.14	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 12 341+81.90	0.111	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.
UT to Long Branch 347+87.70	265	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Wetland 13 355+35.00	0.160	acre(s)	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Open Water 5 356+64.60	65	linear feet	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Open water is constructed in a (b)(3) ephemeral feature.
UT to Long Branch 365+32.53	150	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Elk Lick 255+91.46	250	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
UT to Long Branch 280+62.24	180	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary surface water only flows or pools in direct response to precipitation. Tributary does not serve as a connection between an upstream and downstream jurisdictional channel.
Open Water 3 277+00.00	88	linear feet	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Open water is constructed in a (b)(3) ephemeral feature.
Wetland 8 279+00.00	0.060	linear feet	(b)(1) Non-adjacent wetland.	Wetland does not abut an (a)(1)-(a)(3) water.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.



**U.S. ARMY CORPS OF ENGINEERS
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- Information submitted by, or on behalf of, the applicant/consultant: [Modification Application](#)
This information is sufficient for purposes of this AJD.
Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)
- Data sheets prepared by the Corps: [AJD August 18, 2020](#)
- Photographs: [Select. Title\(s\) and/or date\(s\).](#)
- Corps site visit(s) conducted on: [2/23/2017, 3/13/2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [LRL-2020-00048](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\).](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)
- USGS topographic maps: [ArcGIS Kentucky Elevation Data](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [The corresponding APT report for this geographic region during a 90 day time range was indicative of wetter than normal conditions, however for the past 30 day period a normal precipitation event log was recorded. The in-field observations made were reflective of the definition of an ephemeral channel and exhibited no flow or pooling of water immediately following a precipitation event.](#)

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
P.O. BOX 59
LOUISVILLE KY 40201-0059
FAX: (502) 315-6677
<http://www.lrl.usace.army.mil/>

September 21, 2020

Regulatory Division
South Branch (RDS)
ID No. LRL-2017-00048-cdb

Mr. Greg Preece
Kentucky Transportation Cabinet, DEA
200 Mero Street
Frankfort, Kentucky 40622

Dear Mr. Preece:

This is in regard to your application, on behalf of the Kentucky Transportation Cabinet, to modify Department of the Army (DA) Permit ID No. LRL-2017-00048 (KYTC Item No. 10-292.10), which authorized the proposal to make improvements to Kentucky (KY) Highway 11 for 4.2 miles between Baker Bar Road and P Thomas Road in Owsley County, KY. Your proposal to modify the project to reduce the required mitigation was reviewed and we have made the following determinations: the work is minor in nature, will not have a significant impact on the environment, and should encounter no opposition.

Based on these determinations, your client's proposed work satisfies the Letter of Permission criteria, as specified in our regulations. Therefore, you are authorized, in accordance with Section 404 of the Clean Water Act (CWA), to discharge fill material into 1,536 linear feet of perennial stream reaches, 3,856 linear feet of intermittent stream reaches, and 0.19 acre of emergent wetlands as part of the proposed project. The impacts would occur in the Lower Sturgeon Creek HUC-12 watershed of the Kentucky River. This permission is granted with the following Special Conditions:

- 1) The project shall be constructed in accordance with plans included in the original March 7, 2017 application for Kentucky Transportation Cabinet, Item No. 10-292.10 and all subsequent information received on February 13, 2020 and June 22, 2020 regarding changes to the original submittal and/or mitigation plan.
- 2) To compensate for stream and wetland impacts, the permittee shall provide a receipt from an approved mitigation bank within the service area for the purchase of 2,456 EIU's and 0.4 AMU's or provide proof of purchase from the Kentucky Department of

Fish and Wildlife Resources for 2,947 stream EIU's and 0.5 AMU's of wetland mitigation credit prior to any discharge of dredged or fill material into "waters of the U.S."

- 3) The time limit for completing the work authorized ends on 28 February 2023. If the permittee finds that more time is needed to complete the authorized activity, an application must be submitted for a time extension to this office for consideration at least 1 month before the above date is reached.
- 4) The permittee must comply with the agreements outlined in the January 24, 2017 letter from U.S. Fish and Wildlife Service regarding the endangered species within the project area.
- 5) Upon completion of construction you are to notify the District Engineer. The enclosed Completion Report form must be completed and returned to this office.
- 6) The permittee must agree to comply with the enclosed General Conditions.

This authorization will be effective as soon as we receive your signed acceptance of these conditions. Please sign and date the duplicate copy of this letter in the space provided and return the signed copy in the enclosed envelope. Note that we also perform periodic inspections to ensure compliance with our permit conditions and appropriate Federal laws.

Copies of this letter will be sent to the appropriate coordinating agencies (see enclosure for addresses).

FOR THE DISTRICT ENGINEER:



Justin Branham
Team Leader, South Branch
Regulatory Division

Enclosures

(I accept the conditions of this authorization):

Kentucky Transportation Cabinet

Date

ADDRESS FOR PERMITTEE

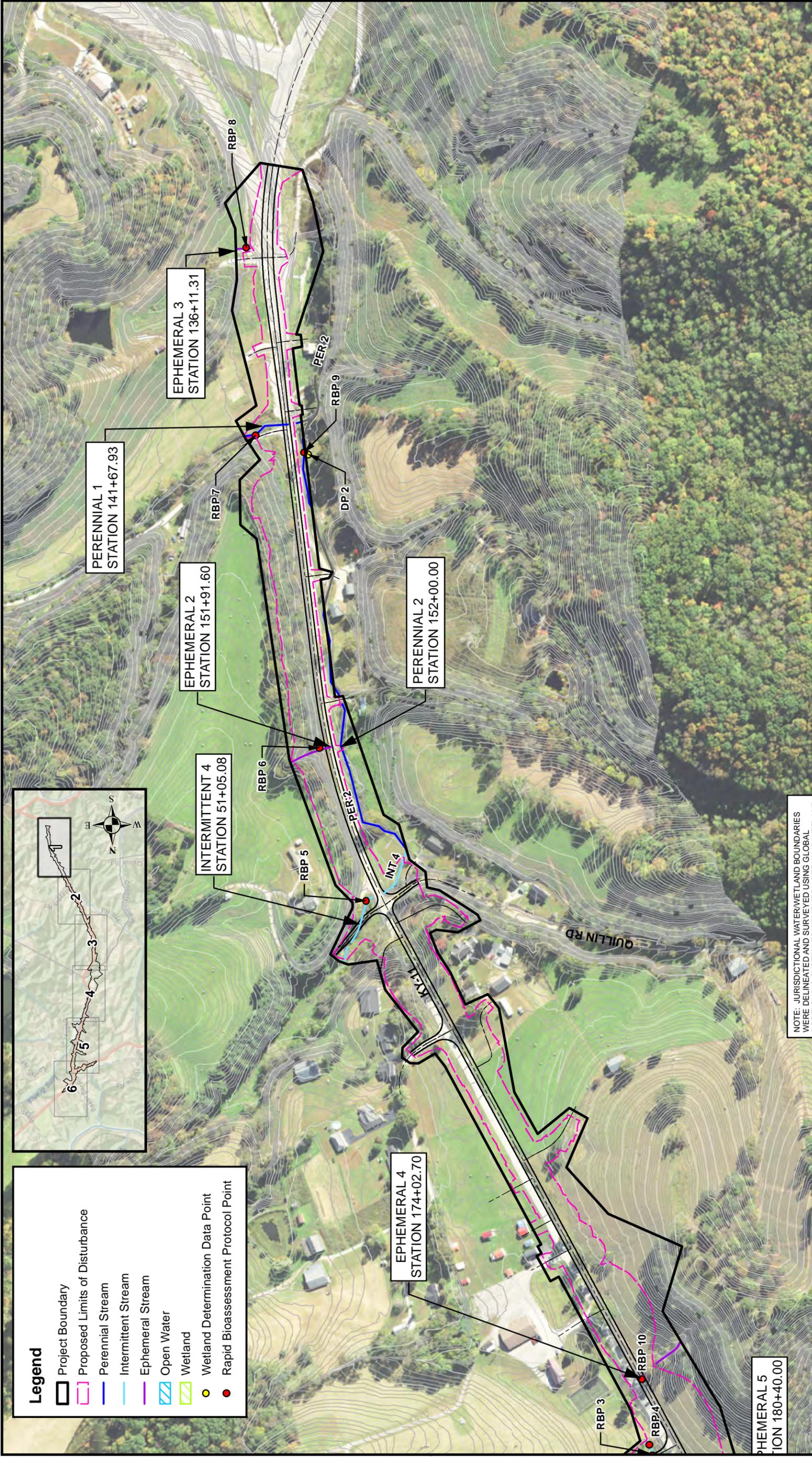
Mr. Greg Preece
Kentucky Transportation Cabinet, DEA
200 Mero Street
Frankfort, Kentucky 40622

COORDINATING AGENCY

Ms. Beth Harrod
Kentucky Energy & Environment Cabinet
Division of Water
300 Sower Boulevard, 3rd Floor
Frankfort, KY 40601

Mr. Doug Dawson
Ky. Dept. of Fish and Wildlife Resources
#1 Game Farm Road
Frankfort, KY 40601

Source: Aerial - (NAIP-FSA) from kygisserver.ky.gov ArcGIS services (2018); Roadway Plans and contours provided by GRW.



Legend

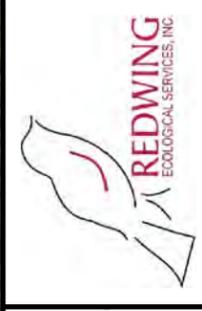
- Project Boundary
- Proposed Limits of Disturbance
- Perennial Stream
- Intermittent Stream
- Ephemeral Stream
- Open Water
- Wetland
- Wetland Determination Data Point
- Rapid Bioassessment Protocol Point



NOTE: JURISDICTIONAL WATER/WETLAND BOUNDARIES WERE DELINEATED AND SURVEYED USING GLOBAL POSITIONING SYSTEM EQUIPMENT BY REDWING WETLAND SCIENTISTS ON MARCH 14-16, 2016. THESE BOUNDARIES WERE VERIFIED BY THE U.S. ARMY CORPS OF ENGINEERS ON FEBRUARY 23, 2017 (LRL 2017-00048).



KENTUCKY HIGHWAY 11 RELOCATION
LEE AND OWSLEY COUNTIES, KENTUCKY
KYTC ITEM NO.: 10-292.10

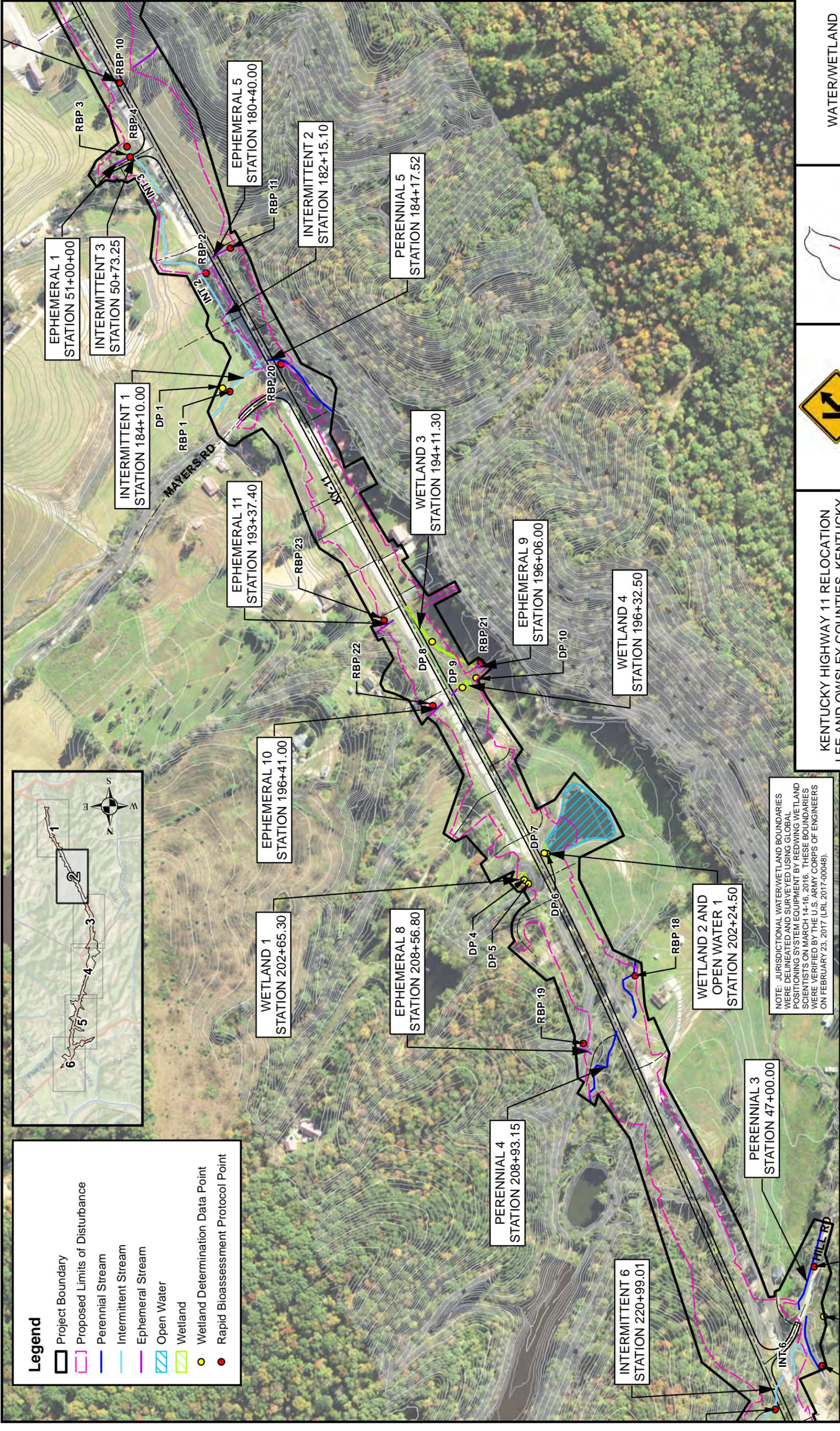


WATER/WETLAND
STATION MAP

FIGURE 3
SHEET 1 of 6

REVISED DATE: 01-31-20 | DRAWN BY: EDB

Source: Aerial - (NAIP-FSA) from kygisserver.ky.gov ArcGIS services (2018); Roadway Plans and contours provided by GRW.



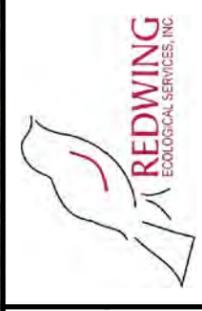
Legend

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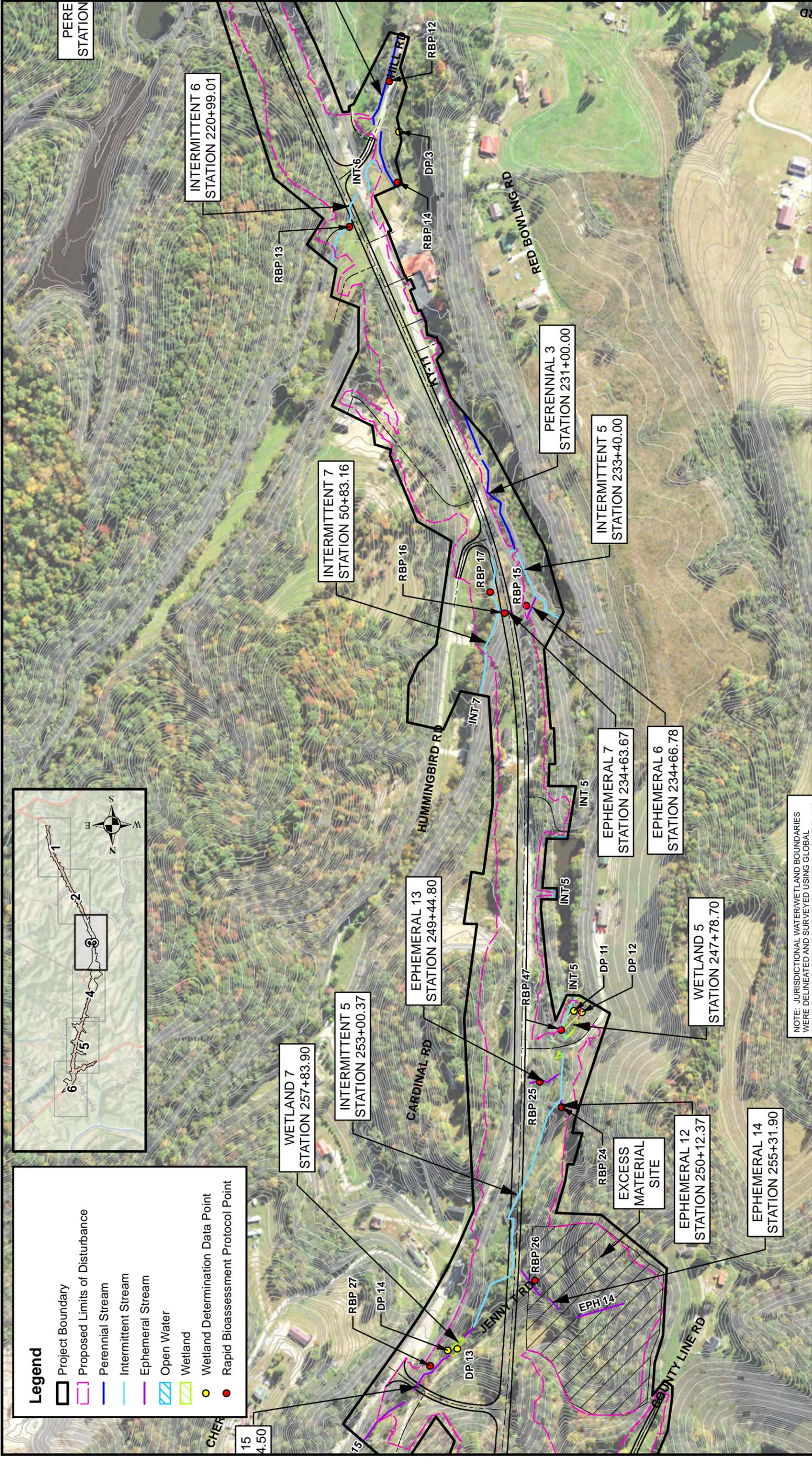
KENTUCKY HIGHWAY 11 RELOCATION
LEE AND OWSLEY COUNTIES, KENTUCKY
KYTC ITEM NO.: 10-292.10



WATER/WETLAND
STATION MAP

FIGURE 3
SHEET 2 of 6

Source: Aerial - (NAIP-FSA) from kygisserver.ky.gov ArcGIS services (2018); Roadway Plans and contours provided by GRW.

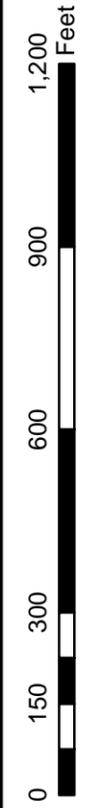


Legend

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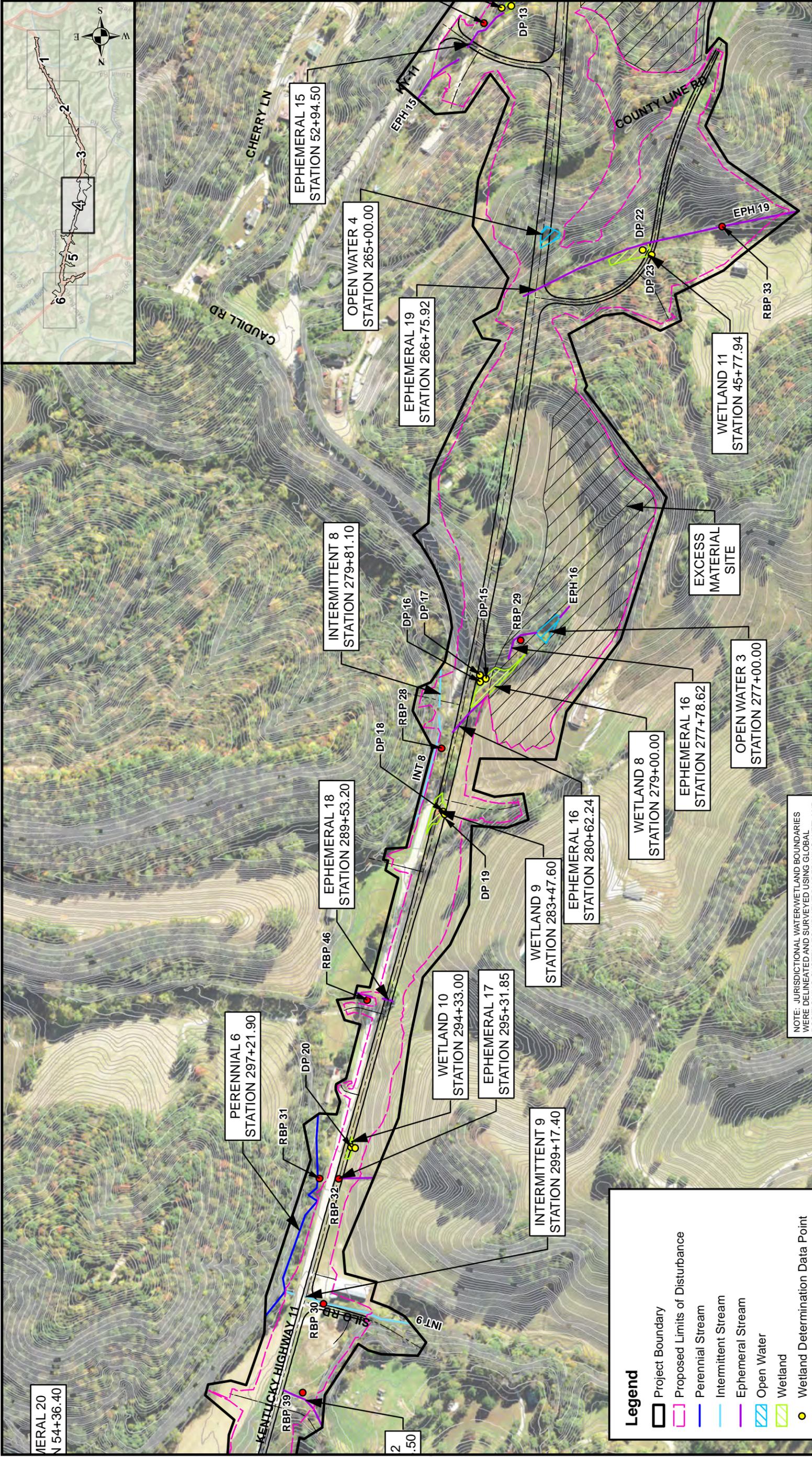
KENTUCKY HIGHWAY 11 RELOCATION
LEE AND OWSLEY COUNTIES, KENTUCKY
KYTC ITEM NO.: 10-292.10

WATER/WETLAND
STATION MAP

FIGURE 3
SHEET 3 of 6

REVISED DATE: 01-31-20 | DRAWN BY: EDB

Source: Aerial - (NAIP-FSA) from kygisserver.ky.gov ArcGIS services (2018); Roadway Plans and contours provided by GRW.



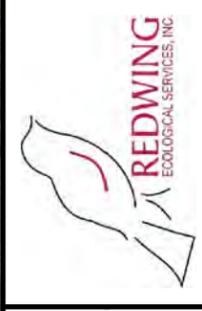
Legend

- Project Boundary
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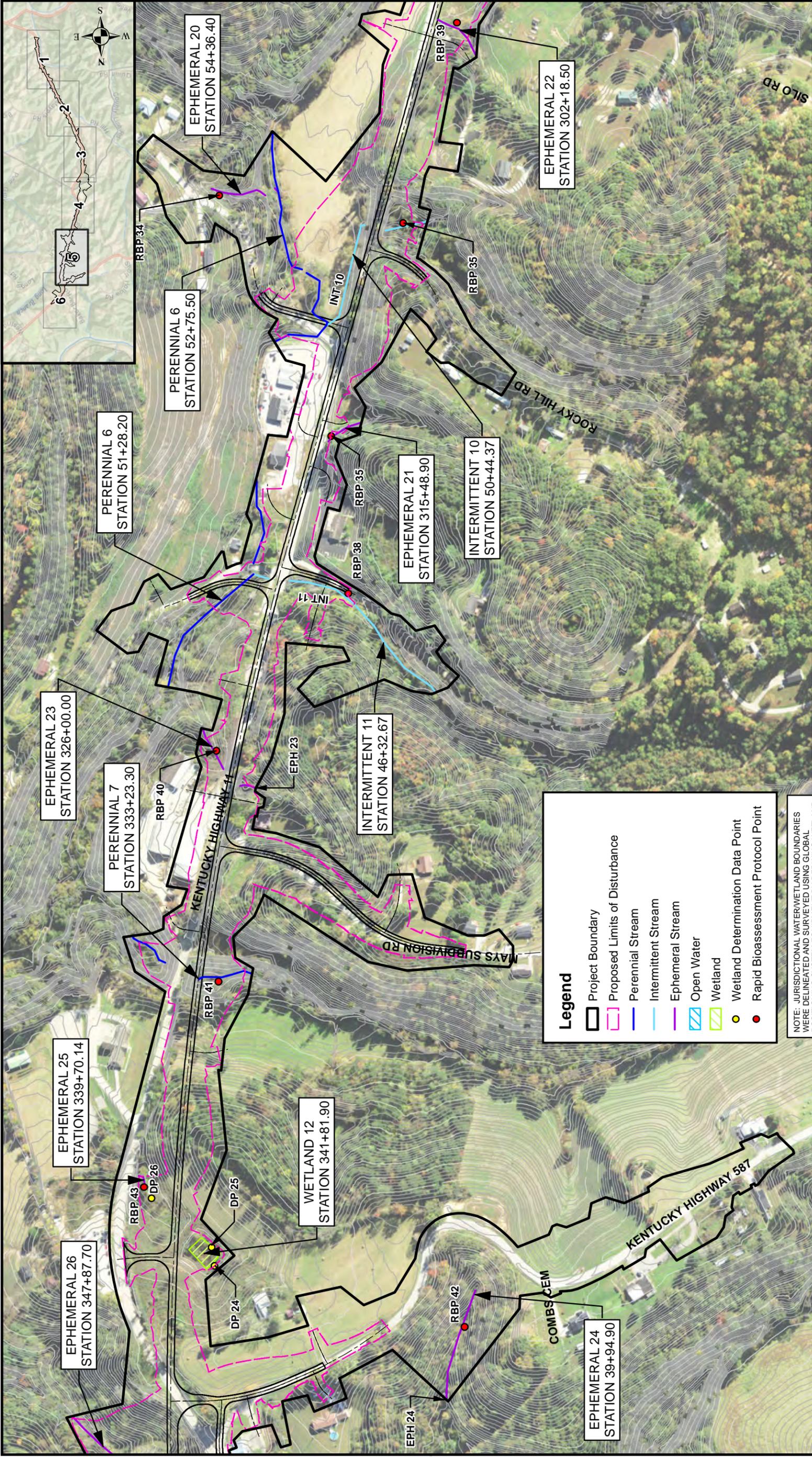


KENTUCKY HIGHWAY 11 RELOCATION
LEE AND OWSLEY COUNTIES, KENTUCKY
KYTC ITEM NO.: 10-292.10



WATER/WETLAND STATION MAP

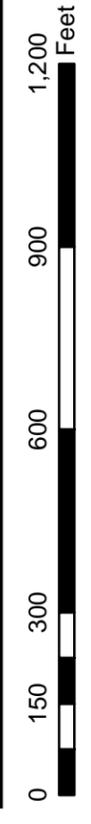
Source: Aerial - (NAIP-FSA) from kygisserver.ky.gov ArcGIS services (2018); Roadway Plans and contours provided by GRW.



Legend

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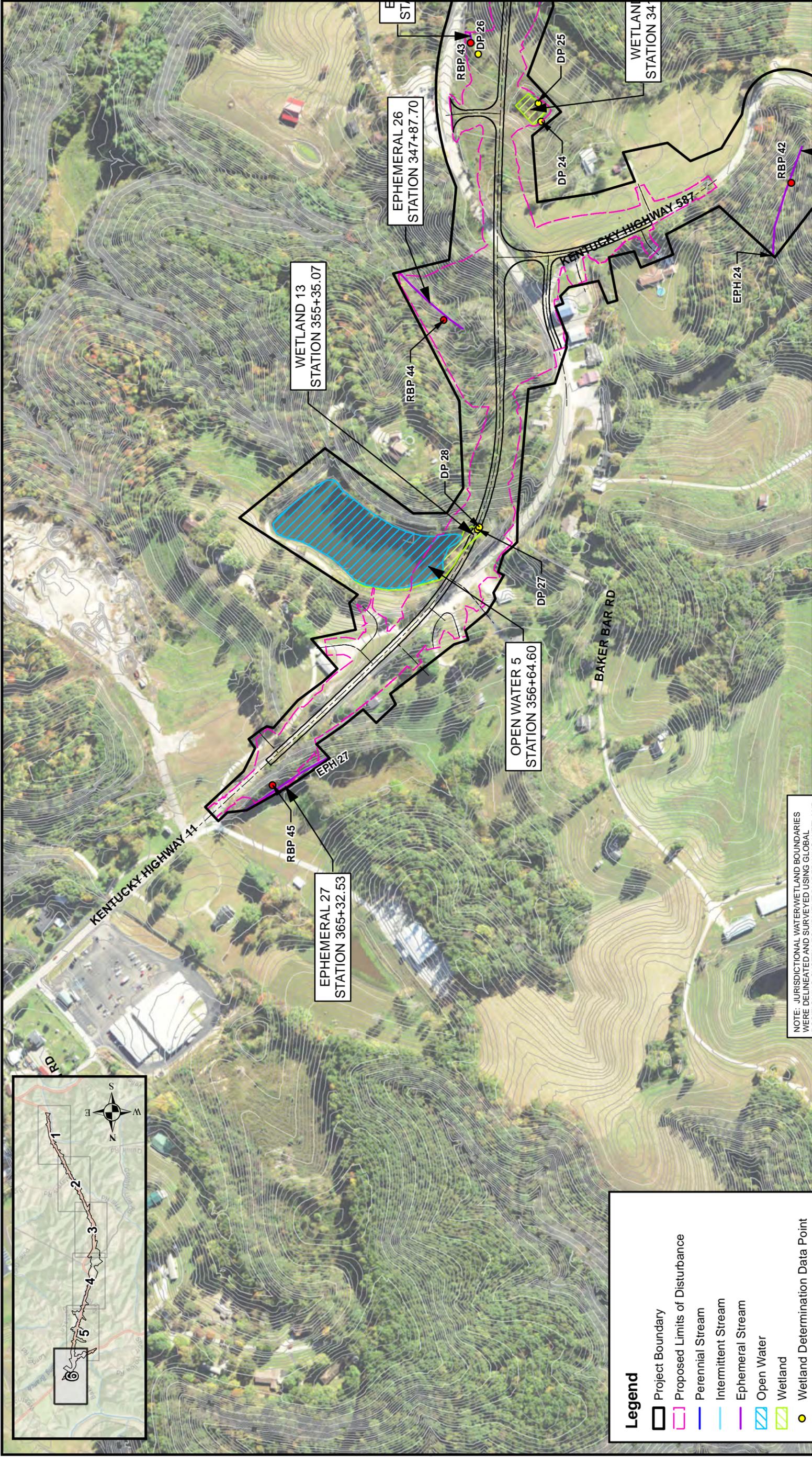
WATER/WETLAND
STATION MAP

KENTUCKY HIGHWAY 11 RELOCATION
LEE AND OWSLEY COUNTIES, KENTUCKY
KYTC ITEM NO.: 10-292.10

REVISED DATE: 01-31-20 | DRAWN BY: EDB

FIGURE 3
SHEET 5 of 6

Source: Aerial - (NAIP-FSA) from kygisserver.ky.gov ArcGIS services (2018); Roadway Plans and contours provided by GRW.



Legend

- Project Boundary
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WATER/WETLAND STATION MAP