



TRANSPORTATION CABINET

Frankfort, Kentucky 40622
www.transportation.ky.gov/

Steven L. Beshear
Governor

Michael W. Hancock, P.E.
Secretary

November 9, 2015

CALL NO. 109
CONTRACT ID NO. 151273
ADDENDUM # 1

Subject: Perry County, NHPP 0151 (78)
Letting November 20, 2015

(1)Added - Notes - Pages 1-13 of 13

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 cursive script that reads "Rachel Mills".

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

RM:ks
Enclosures



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N O T I C E

KENTUCKY DIVISION OF WATER

WATER QUALITY CERTIFICATION

WQC #2015-052-7

PROJECT: Perry County, KY 15, Item No. 10-0269.10
Reconstruction

The Kentucky Division of Water has approved the Section 401 activities for this project by issuance of a Water Quality Certification. In order for this authorization to be valid, the attached conditions must be followed. The contractor shall post a copy of this Water Quality Certification in a conspicuous location at the project site for the duration of construction and comply with the general conditions as required.

To more readily expedite construction, the contractor may elect to alter the design or perform the work in a manner different from what was originally proposed and specified. Prior to commencing such alternative work, the contractor shall obtain **written** permission from the Division of Construction and the appropriate permit agency. A copy of any request to alter this proposal and subsequent responses shall be forwarded to the Division of Environmental Analysis, DA Permit Coordinator, for office records and for informational purposes.



STEVEN L. BESHEAR
GOVERNOR

LEONARD K. PETERS
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER
200 FAIR OAKS LANE, 4TH FLOOR
FRANKFORT, KENTUCKY 40601
www.kentucky.gov

August 14, 2015

Mr. David Waldner
200 Mero Street
Frankfort, KY 40622

Re: Water Quality Certification #2015-052-7
KY 15 - Perry Co, Item No. 10-269.10
USACE Public Notice No.: LRL-2015-332
AI No.: 11759, Activity ID: APE20150001
First Creek, and Unnamed Tributaries to First
Creek, Lower Second Creek, and associated
wetlands of the North Fork Kentucky River
Perry County, Kentucky

Dear Mr. Waldner:

Pursuant to Section 401 of the Clean Water Act (CWA), the Commonwealth of Kentucky certifies it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 10, established pursuant to Sections 301, 302, 303, 304, 306, and 307 of the CWA, will not be violated by the above referenced project provided that the U.S. Army Corps of Engineers authorizes the activity under 33 CFR part 330, and the attached conditions are met.

All future correspondence on this project must reference **AI No. 11759**. **The attached document is your official Water Quality Certification; please read it carefully.** If you should have any questions concerning the conditions of this water quality certification, please contact Ms. Joyce Fry of my staff by calling (502) 564-3410.

Sincerely,

Andrea Keatley, Water Quality Branch Manager
Water Quality Certification Section
Kentucky Division of Water

AK:JF

Attachment

cc: Todd Williams, USACE: Sassafras Office, Louisville District,
christopher.t.williams@usace.army.mil
Lee Andrews, USFWS: Frankfort, Teresa_Hyatt@fws.gov
Ronald Rigney II, KYTC: Frankfort, RonB.RigneyII@ky.gov
Malissa McAlister, Kentucky River Authority and KY River Basin Coordinator: Lexington,
mmcalister@uky.edu

KTC Water Quality Certification

KY 15 - Perry Co

Facility Requirements

Permit Number: WQC#2015-052-7

Activity ID No.:APE20150001

AAZZ000000001 (Transportation Project)1,150 ft. perennial, 4,580.9 ft. intermittent, 438.4 ft. ephemeral stream impacts; 0.91 acre wetland impacts:

Submittal/Action Requirements:

Condition No.	Condition
S-1	The Kentucky Transportation Cabinet shall submit written notification : Due prior to any construction activity. A copy of the in-lieu fee receipt paid to the Kentucky Department of Fish & Wildlife Resources Wetland and Stream Restoration Fund must be submitted to the Water Quality Certification Section before the beginning of construction. The in-lieu fee is mitigation for 1,363.86 EIUs of stream impact and 0.98 AMUs of wetland impact. [Clean Water Act]
S-2	The Transportation Cabinet shall notify the Division: Due prior to any construction activity. Notify Joyce Fry at (502) 564-3410 or joyce.fry@ky.gov at least two weeks before the start of construction. [Clean Water Act]
S-3	The Transportation Cabinet shall notify the Division: Due when construction is complete. Notify Joyce Fry at (502) 564-3410 or joyce.fry@ky.gov no later than two weeks post-construction. [Clean Water Act]

Narrative Requirements:

Condition No.	Condition
T-1	The work approved by this certification shall be limited to: - impacts to 1,290.1 linear ft. perennial stream, 4,259.3 linear ft. intermittent stream, 340.3 linear ft. ephemeral stream, and 0.98 acre emergent wetland. [Clean Water Act]
T-2	All work performed under this certification shall adhere to the design and specifications set forth in the "Application for Construction Across or Along a Stream and/or Water Quality Certification" received April 17, 2015, the Marked up plan sheets, revised and the Narrative Summary of Impacts dated June 4, 2015. [Clean Water Act]
T-3	The applicant is responsible for preventing degradation of waters of the Commonwealth from soil erosion. An erosion and sedimentation control plan must be designed, implemented, and maintained in effective operating condition at all times during construction. [Clean Water Act]
T-4	The Division of Water reserves the right to modify or revoke this certification should it be determined that the activity is in noncompliance with any condition set forth in this certification. [Clean Water Act]
T-5	If construction does not commence within one year of the date of this letter, this certification will become void. A letter requesting a renewal should be submitted. [Clean Water Act]

KTC Water Quality Certification

KY 15 - Perry Co

Facility Requirements

Permit Number: WQC#2015-052-7

Activity ID No.:APE20150001

Page 2 of 2

AAZZ000000001 (Transportation Project)1,150 ft. perennial, 4,580.9 ft. intermittent, 438.4 ft. ephemeral stream impacts; 0.91 acre wetland impacts:

Narrative Requirements:

Condition No.	Condition
T-6	Other permits from the Division of Water may be required for this activity. If this activity occurs within a floodplain, a Permit to Construct Across or Along a Stream may be required. Please contact the Floodplain Section Supervisor (502-564-3410) for more information. 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)
T-7	Check dams are not allowed within the stream channel. [Clean Water Act]
T-8	Remove all sediment and erosion control measures after re-vegetation has become well-established. [Clean Water Act]

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 (502) 564-3410 or SWPBsupport@ky.gov

- **Projects that involve filling in the floodplain will require a floodplain construction permit from the Floodplain Management Section.**
Contact: Ron Dutta

- **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: Andrea Keatley

All three contacts listed above can be reached at (502) 564-3410. A complete listing of environmental programs administered by the Kentucky Department for Environmental Protection is available from Pete Goodmann by calling (502) 564-3410.

GENERAL CONDITIONS FOR WATER QUALITY CERTIFICATION

1. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
2. All dredged material shall be removed to an upland location and/or graded on adjacent areas (so long as such areas are not regulated wetlands), to obtain original streamside elevations, i.e. overbank flooding shall not be artificially obstructed.
3. In areas not riprapped or other wise stabilized, revegetation of stream banks and riparian zones shall occur concurrently with project progression. At a minimum, revegetation will approximate pre-disturbance conditions.
4. To the maximum extent practicable, all instream work under this certification shall be performed during low flow.
5. 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 instream work is unavoidable, then it shall be performed in such a manner and duration as to minimize resuspension of sediments and disturbance to substrates and bank or riparian vegetation.
6. Any fill or riprap including refuse fill, shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If riprap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created because of its placement.
7. If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when work will be done.
8. Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.
9. Should evidence of stream pollution or jurisdictional 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.

N O T I C E

**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS**

LETTER OF PERMISSION (LOP)

Corps ID No. LRL-2015-332

PROJECT: Perry County, KY 15, Item No. 10-0269.10
Reconstruction

The Section 404 activities for this project have been permitted under the authority of the Department of the Army Letter of Permission Permit. In order for this authorization to be valid, the attached conditions must be followed. The contractor shall post a copy of this LOP Permit in a conspicuous location at the project site for the duration of construction and comply with the general conditions as required.

To more readily expedite construction, the contractor may elect to alter the design or perform the work in a manner different from what was originally proposed and specified. Prior to commencing such alternative work, the contractor shall obtain **written** permission from the Division of Construction and the Corps of Engineers. A copy of any request to the Corps of Engineers to alter this proposal and subsequent responses shall be forwarded to the Division of Environmental Analysis, DA Permit Coordinator, for office records and for informational purposes.



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
EASTERN KENTUCKY REGULATORY OFFICE
845 SASSAFRAS CREEK ROAD
SASSAFRAS, KY 41759-8806

November 02, 2015

Operations Division
Regulatory Branch (South)
ID No. LRL-2015-332

Mr. Ronald Rigney
Kentucky Transportation Cabinet
200 Mero Street
Frankfort, Kentucky 40622

Dear Mr. Rigney:

This is in regard to your application for a Department of the Army (DA) permit received April 24, 2015, concerning a proposal to widen approximately 6 miles of KY 15 in Perry County, Kentucky. Widening the KY 15 will alleviate existing safety issues and congestion by bringing the roadway up to current design and safety standards. We have reviewed your application and submitted information and 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 proposed work satisfies the Letter of Permission (LOP) criteria, as specified in our regulations and the procedures outlined in the LOP No. 200600259-pgj, issued on October 3, 2007. Therefore, you are authorized, in accordance with Section 404 of the Clean Water Act (CWA), to construct 5 culvert installations, 5 stream relocations, and 7 stream reaches filled to construct the new road alignment. A total of 5,890 linear feet of stream would be impacted and 0.98 acres of wetlands filled. These impacts would occur within perennial, intermittent, and ephemeral unnamed tributaries of First Creek and Lower Second Creek. This permission is granted with the following conditions:

- 1) The project shall be constructed in accordance with plans included in the April 24, 2015, application and all subsequently obtained information for Kentucky Transportation Cabinet, Item No. 10-0269.10 for Department of the Army Permit.
- 2) The permittee shall provide to this office a receipt of purchase of 1,527 EIUs and purchase of 2.34 AMUs for wetland impacts from the Kentucky Department of Fish and Wildlife Resources Stream and Wetland Mitigation Fund. Proof of payment must be received prior to the discharge of fill into "waters of the United States".

- 3) The permittee shall adhere to the 2012 Programmatic Agreement between KYTC, FHWA and USFWS to address potential impacts to Indiana bats and northern long-eared bats.
- 4) The time limit for completing the work authorized ends on November 02, 2020. 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.
- 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. Note that we also perform periodic inspections to ensure compliance with our permit conditions and appropriate Federal laws.

This letter contains a proffered permit for your proposed project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this decision, you must submit a completed RFA form to the Lakes and Rivers Division Office at the following address.

Regulatory Appeals Officer
U.S. Army Engineer Division
Great Lakes and Ohio River
550 Main Street - Room 10032
Cincinnati, Ohio 45202-3222
(513) 684-6212

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **January 01, 2015**.

It is not necessary to submit an RFA form to the Division office if you do not object to the decision in this letter.

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

FOR THE DISTRICT ENGINEER:



Todd Williams
Project Manager
Regulatory Branch

Enclosures

(I accept the conditions of this authorization):



Kentucky Transportation Cabinet

11/6/15

Date

Addresses for Coordinating Agencies

Mr. Duncan Powell
USEPA, Region IV
WCOB c/o SESD (Room A100-13)
980 College Station Road
Athens, Georgia 30605-2720

Mr. Virgil Lee Andrews
U.S. Fish & Wildlife Service
J.C. Watts Federal Building, Room 265
330 West Broadway
Frankfort, KY 40601

Mr. Peter Goodman, Acting Director
Kentucky Energy & Environment Cabinet
Division of Water
200 Fair Oaks, 4th Floor
Frankfort, KY 40601

Mr. Gregory Johnson, Commissioner
Kentucky Department of Fish and Wildlife Resources
#1 Sportsman's Lane
Frankfort, KY 40601

Mr. Craig Potts
Executive Director
State Historic Preservation Officer
Kentucky Heritage Council
300 Washington Street
Frankfort, KY 40601

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
 REQUEST FOR APPEAL**

Applicant: Kentucky Transportation Cabinet	File Number: LRL-2015-332	Date: 10/26/2015
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
X	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
David Baldrige
U.S. Army Corps of Engineers
P.O. Box 59, Rm 752
Attn: CELRL-OPF-S
Louisville, Kentucky 40201-0059
(502) 315-6675

If you only have questions regarding the appeal process you may also contact:
U.S. Army Corps of Engineers
ATTN: Appeal Review Officer CELRD-PD-REG
550 Main Street, Room 10524
Cincinnati, OH 45202-3222
TEL (513) 684-7261; FAX (513) 684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<p>_____</p> <p>Signature of appellant or agent.</p>	<p>Date:</p>	<p>Telephone number:</p>
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