# Guide for Working in Kentucky Stream Channels & Wetlands

**Produced by Tetra Tech**

# Guide for Working in Stream Channels and Wetlands

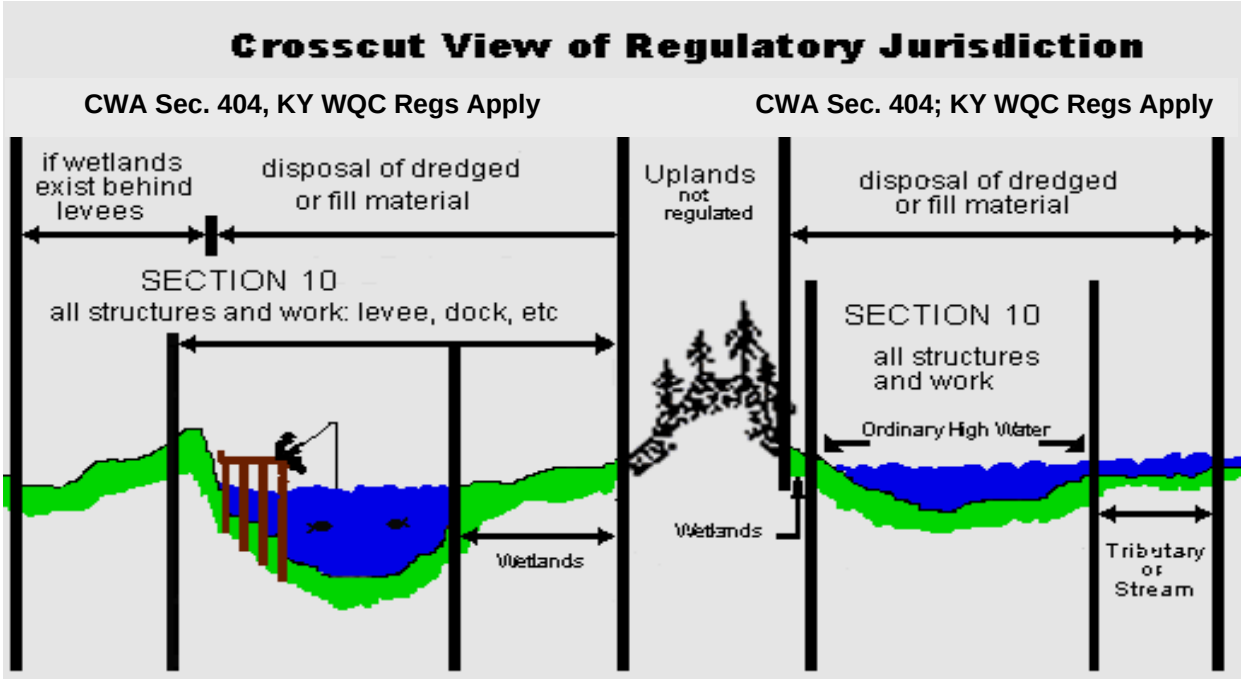
*Does the project involve digging, ditching, dredging, dumping, or driving in a stream or wetland?*

*Is the stream channel or wetland a regulated waterway – a "water of the United States" ?*

*If the answer to both questions is "yes," then permit coverage is required!*

Kentucky public agencies and private contractors are committed to clean, safe streams and high-quality water. Keeping creeks, wetlands, and sinkholes clean means controlling stormwater runoff and managing our construction, operation, maintenance, repair, and other work areas carefully.

If work will be occurring near – or in – a permanent (perennial) or intermittent stream, a lake, wetland, or sinkhole drain area, the project manager must get the proper permit coverage from the US Army Corps of Engineers and the Kentucky Division of Water. This guide explains **which** activities need **what** permits **when** they're conducted **where**, and **what** to do and **who** to contact for permit coverage.




It's not too difficult to review proposed project activities, confirm the location, and get the right permit coverage. As the diagram above indicates, most of the small wetlands, streams, sinkholes, and other waterways on the landscape are considered to be "regulated" water bodies – that is, waters of the United States or waters of the Commonwealth of Kentucky. Kentuckians value surface waters as public resources – they provide drinking water, wildlife habitat, and recreational opportunities.

Spending a few minutes with this guide will help work crews keep Kentucky's waters clean. Most of what's inside is strictly common sense: 1) work during dry conditions, if possible; 2) minimize the work footprint – the disturbed area; 3) get in and get out as quickly as possible; 4) control sediment and other pollutants; and 5) clean up, seed, mulch, and stabilize the work site as soon as possible.

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# 1 Introduction – Why Are Permits Required?

Permits are required for digging, trenching, dumping, dredging, clearing, and operating equipment in or near a creek, wetland, lake, or near a sinkhole, because:

- Dumping material into a stream or changing the banks or channel can cause flooding
- Changing the flow of a stream can cause rapid erosion of downstream property
- Digging or operating equipment in a stream or wetland causes sediment pollution
- Muddy water caused by in-stream work is harmful to fish and other creek life
- Water treatment plant filters are clogged more often by high-sediment water
- Possible adverse impacts on adjacent properties or infrastructure

That's why working in the channel – within the banks – or in a wetland or sinkhole drain requires one or more permits. The US Army Corps of Engineers (US ACE) issues permits for the placement of dredged or fill material into the "waters of the United States," which include rivers, lakes, wetlands, streams, sinkholes, and their tributaries. The Kentucky Division of Water (KDOW) is also involved, because that agency has to certify that the US ACE permit will not harm water quality. KDOW also issues permits for construction within the floodplain or stream, and for all projects that disturb one acre or more. Local agencies also require permits for land disturbance activities.

*The key questions*

This guidebook will walk you through the steps needed to get the permits – and to comply with them! There are several key questions you will need to answer in the process:

<u>What activities are planned</u> – trenching across or along a stream, or digging up a manhole on the creek bank, or cleaning out sediment, or using riprap in to stabilize an eroded channel?

<u>Where will the work occur</u> – in a wetland or sinkhole, or on a creek bank, within a channel, or in a small upstream drainage that flows for several days after a rain storm?

<u>Is a permit required</u> – and if so, who is supposed to apply for the permit? Does the contractor get the permit, or some other entity?

<u>How does the project manager apply for a permit</u> – what forms need to be filled out, what sort of information must be collected, and where is it sent?

<u>When should permit applications be submitted</u> – how much lead time is needed? Will a response be received within a week or two?

<u>What constitutes permit compliance</u> – after a permit is received, then what? What is necessary for compliance with the permit?

*What the permit does*

The US ACE and KDOW permits do several things. They authorize the proposed work in the stream channel or wetland, and provide instructions on *how* to do the work – what steps to follow, what materials can – and can't – be used, and who to coordinate with.

The permit does not provide information on *exactly* what to do – that will vary, depending on the specific project. For example, when working for several days in a creek channel that has a constant flow, a pump-around operation to move water around the job site (e.g., pipe trench, manhole excavation) might be needed. On the other hand, if working for less than a day in a fairly dry channel, it might be possible to install a small upstream berm that will contain the water until the project is completed.

The project manager must figure out what needs to be done, where it's going to happen, and how to do it in a way that protects public health, safety, and water quality. If the project can proceed with notifying the US Army Corps of Engineers and KY Division of Water via General Permit coverage, the work can proceed. If a Pre-Construction Notification (PCN) or individual permit is needed, this information will be described in the PCN or individual permit application. Some permits provide coverage without any paperwork – **but permit conditions must be followed** (see Appendix 9) to maintain coverage!

*Types of permits*

As noted above, there are several types of permits that are needed for working in streams, wetlands, lakes, and other water bodies. Summaries of the main permit types are listed below:

US ACE Clean Water Act Section 404 Permit. This permit is needed for placing dredged or fill material into a stream, wetland, lake, or other water body regulated as a "water of the U.S." This includes trenching, digging, dumping, berming, clearing, or operating any type of equipment in a channel or wetland. General ("Nationwide") permits cover minor activities, such as those impacting less than 300 ft of stream or ¼ acre or less of a wetland. Individual permits are needed for larger projects. General permit coverage is available immediately for small projects, and within 30-60 days for projects requiring an application to the US ACE. Approvals for individual permits covering large projects can take many months, due to public review and comment requirements.

KDOW Clean Water Act Section 401 Water Quality Certification. The federal Clean Water Act (CWA) has provisions for states to oversee permits issued by federal agencies. The KDOW CWA 401 Water Quality Certification (WQC) ensures that the CWA 404 permit issued by the US ACE complies with Kentucky requirements. Each 404 permit must have a 401 certification. The general (nationwide) 404 permits have 401 certifications attached to them, which describe conditions or approaches that must be followed when doing the work. For example, the WQC specifies that in-channel work be done during low flow periods, and that stream banks be stabilized as soon as possible. In most cases, if a project is approved for US ACE nationwide permit coverage, there is no need to apply for a separate KDOW WQC – just use the one attached to the USACE permit (see Appendix 9).

KDOW Stream Construction Permit. The KDOW Stream Construction Permit is required for construction activities that take place in a stream channel or wetland. This includes laying pipe *along* (i.e., not *across*) the banks or channel, channelization, bank shaping, stream relocation, and similar activities. This permit is closely linked to the Floodplain Permit described below.

Trenching across or along a stream channel requires a US ACE permit and a KDOW water quality certification.

KDOW Floodplain Permit. Stream relocations and construction activities in the 100-year floodplain require a KDOW Floodplain Permit. Activities covered include dams, bridges, culverts, residential and commercial buildings, placement of fill, stream alterations or relocations, small impoundments and water and wastewater treatment plants. KDOW has a combined permit application form that covers the Stream Construction and Floodplain permits.

KDOW KPDES Construction Stormwater Permit. Construction activities that disturb one acre or more require coverage under the KDOW KPDES Construction Stormwater Permit. The permit requires development of a Stormwater Pollution Prevention Plan that details conditions at the site, project activities, and measures that will be taken to control sediment, erosion, and other pollutants that can wash off the site during rain storms or snowmelt. The one acre rule includes all bare ground, including areas of excavation, fill, clearing, and off-site borrow or soil disposal areas.

NOTE: Nearly all activities that impact less than 200 ft of channel or less than ¼ acre of wetland can occur under the US Army Corps of Engineers General ("Nationwide") Permits and associated Kentucky Division of Water "Water Quality Certifications." Pre-construction notification (PCN) to the US ACE is required for some projects (see the tables in Section 4). If required, the pre-construction notification should be sent to the US ACE at least 45 days prior to beginning the work, to allow time for review and approval.

Many minor activities can occur under permit coverage without notifying the US ACE – such as clearing small amounts of sediment from channels, bank stabilization along less than 500 ft, removing limbs and debris from channels, and reshaping less than 500 ft of ditch lines. Permit rules and conditions will apply, along with the KDOW WQC conditions (work during low flows if possible, minimize disturbance to the channel, do not discharge concrete wash water or other wastes to the channel or wetland, control sediment and erosion, complete work quickly, and re-stabilize site – see Appendix 9).

# 2 What Type of Activities are Covered?

Any activity that disturbs the soil within a channel, lake, wetland, or sinkhole drain requires permit coverage. The following list describes the most common activities that might occur within a stream channel, wetland, or other "water of the U.S." (i.e., regulated water bodies):

- Repairing or replacing culverts or bridges, including those damaged in storms or floods
- Removing sediment and debris from (or near) culverts and bridges
- Placing riprap around culverts or bridges
- Building new stormwater outfalls in the channel
- Repairing or replacing pipes across stream channels
- Relocating manholes on or within channel banks or wetlands
- Installing temporary dams in channels for sewer line work pump-around
- Repairing/replacing pipes along stream channels
- Stabilizing eroding stream channel banks
- Sediment removal or other activities resulting in small disturbances or discharges
- Cleaning up oil spills and other spills of hazardous substances
- Building/expanding structures, garages, maintenance, and other facilities
- Reshaping drainage ditches built in former perennial or intermittent stream channels
- Dredging sediment from stormwater ponds
- Maintenance work on detention basins
- Building or maintaining stormwater outfalls or spillways in non-perennial streams
- Removing limbs, waste, and debris from stream channels
- Dredging, reshaping, maintaining, stabilizing, or otherwise working in ditches

The activities listed above often occur in or near – or cause impacts to – streams, wetlands, sinkholes, and other waters. When working near the water, be aware that a permit will be needed if the work occurs within the channel banks or results in the placement of any material within the banks, or in a wetland or sinkhole. This includes small amounts of sediment or other material that may get into the channel when it rains, or when equipment operates along the banks or crosses the channel.

If the activities cannot be conducted without impacting the channel, the banks, or the water body, permit coverage is required. **If limbs, waste, and debris from a channel can be removed with hand labor – or by using equipment that can reach into the channel and lift material out, without entering the channel – permit coverage is not needed.** Activities that occur outside of the channel, banks, or wetland area may not need US ACE permit coverage, but will need KDOW Construction Stormwater Permit coverage if they disturb more than one acre outside the channel, and KDOW Floodplain Permit coverage if they occur within the 100-year floodplain. If there are questions about whether or not a project needs permit coverage, check with the Corps and the Kentucky Division of Water to make sure (see Appendix 6).

# 3 What is a "Regulated Waterbody?"

Regulated waters are those considered to be waters of the United States, or waters of the Commonwealth of Kentucky. In general, it is clear that all "blue-line streams" – those appearing as a solid or dashed blue lines on 7.5 minute USGS topographical maps – are regulated by the Corps and Division of Water. Requests for US ACE jurisdictional determinations can be made by filling out the form in Appendix 6.

*Federal definition*

The US Army Corps of Engineers defines "waters of the United States" as:

- Waters used in interstate or foreign commerce, including tidal waters
- Interstate waters and wetlands
- In-state waters, including intermittent streams and wetlands, that may support interstate recreation, fishing, or commerce
- Impoundments of waters otherwise defined as waters of the U.S.
- Tributaries of the waters listed above
- The territorial sea, and
- Wetlands adjacent to the waters listed above

Wastewater treatment ponds and lagoons that were not created in waters of the U.S. are not regulated, nor are wetlands that were converted to cropland many years ago.

*State definition*

The Kentucky Division of Water regulates activities that affect "waters of the Commonwealth," which are defined as "any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction." Kentucky further defines "surface waters" as "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." Effluent ditches and lagoons used for waste treatment are not considered to be surface waters of the commonwealth.

The US ACE and KDOW make "jurisdictional determinations" in deciding whether or not a small upland channel is regulated as a "water of the U.S." (see Appendix 6, or visit http://www.lrl.usace.army.mil/orf/article.asp?id=1444&MyCategory=266
These determinations consider flow patterns, whether or not there are defined banks, subsurface conditions, and other factors. Wetlands are also regulated – they are defined as land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation (e.g., cattails, bulrushes, sedges, willows, sycamores) typically adapted for life in saturated soil conditions.

# 4 Which Permit Is Needed?

The work projects list in Section 2 described the most common activities that might occur within a stream channel or wetland. The tables in this section list those activities, and indicate which US ACE permit and KDOW certification applies to each activity. The tables also provide important information on the limits of the general (nationwide) permits and how to comply with federal and state permit conditions.

*US Army Corps of Engineers Nationwide Permits*

As noted above, the tables on the following pages can be used to determine permit coverage details for most activities occurring in or near regulated water bodies. However, some larger project may not qualify for nationwide permit coverage. For example, if the project impact area exceeds the linear foot limits listed in the table, or the wetland impact area is greater than the values in the table, the project will require an individual permit – not a general or nationwide permit.

Note: If the project is eligible for automatic permit coverage from the US Army Corps of Engineers under a Nationwide Permit, or when NWP coverage is received after submitting a Pre-Construction Notification, a separate application for KDOW Water Quality Certification is not needed. The WQC is attached to the NWP, and automatically applies when coverage is received under the NWP. Note that the WQC General Conditions must be met, along with the General Conditions and other requirements of the NWP.

Individual permit coverage is needed for projects impacting more than 500 feet of stream channel, or those that fill more than ½ acre of wetland. It is important to scope out channel and wetland impacts as early as possible, because applying for and receiving individual permit coverage is a time-consuming process.

*US Army Corps of Engineers Individual Permits*

The US ACE and KDOW both issue individual coverage for projects that exceed the limits of the federal Nationwide Permits and state General Water Quality Certifications. It will take at least 3 to 6 months or more to receive individual permit coverage from US ACE and an individual Water Quality Certification from KDOW. This is due to the public notice and comment period associated with permit review.

Federal and state agencies provide the opportunity for public notice, review, and comment to ensure that projects permitted under the Clean Water Act do not adversely affect public health, public safety, the environment, or the nation's water resources. In general, applicants must demonstrate that their activities would not significantly degrade the nation's waters, and there are no practicable alternatives that are less damaging to the aquatic environment. Applicants must also describe steps taken to minimize impacts to water bodies and wetlands and provide appropriate and practicable mitigation, such as restoring or creating wetlands, for any remaining, unavoidable impacts. Permits will not be granted for proposals that are found to be contrary to the public interest.

**Summary of Common Local Agency Activities and US ACE and KDOW Permit Coverage Requirements.**

| Activities Occurring in Perennial or Intermittent Streams or Wetlands | US ACE NWP Number & Title | Pre-Construction Notification (PCN) Reqmts (See Section 5) | Notes on US ACE Nationwide Permit (NWP) Coverage | Notes on KDOW Water Quality Certification |
|---|---|---|---|---|
| Repairing or replacing culverts or bridges on perennial or intermittent streams, including those damaged in storms or floods | #3 Maintenance | None – activity can proceed | Must follow US ACE NWP General Conditions for All Permits (applies to all US ACE NWPs) | Impacts limited to 300 ft or one acre (for wetlands); not valid for coldwater habitat or exceptional waters |
| Removing sediment and debris from (or near) culverts and bridges on perennial or intermittent streams<br><br>Placing riprap around culverts or bridges on perennial or intermittent streams | #3 Maintenance | PCN required for all activities. Must submit information on the original design capacities and configuration of outfalls, intakes, impoundments, and canals | Must limit overall work to no more than 200 ft in any direction from the culvert or bridge; limit does not apply to maintenance dredging associated with protecting outfall and intake structures | Impacts limited to 300 ft or one acre (for wetlands); not valid for coldwater habitat or exceptional waters |
| Building new stormwater outfalls in the channel of perennial streams | #7 Outfall and Intake Structures | PCN required for all construction in perennial stream channels or wetlands | Must follow US ACE NWP General Conditions for All Permits (applies to all US ACE NWPs) | Not valid for coldwater aquatic habitat or exceptional waters |
| Repairing or replacing pipes <u>across</u> stream channels<br><br>Relocating manholes on or within channel banks or wetlands<br><br>Installing temporary dams in channels for sewer line work pump-around | #12 Utility Line Activities | PCN required if more than 500 ft of channel are affected; or more than 1/10$^{th}$ of an acre of wetland is affected; or if mechanized clearing is used, or if > 500 ft of access roads are built. If not, no PCN required | Cannot cause loss of more than ½ acre of water of U.S.; must stabilize site immediately; must return channel to original configuration; can't cause a French drain effect; must removal all cofferdams, temporary fills, other structures | Disturbance limited to 2x stream width; road & other impacts limited to 300 lineal ft or one acre (for wetlands); does not cover installations along and within the channel; cannot change flow/contours |
| Repairing/replacing pipes <u>along</u> stream channels | #12 Utility Line Activities | PCN required for all pipeline installations along the channel and within the banks, and within wetlands if more than 1/10$^{th}$ of an acre is affected | Cannot cause loss of more than ½ acre of water of U.S.; must stabilize site immediately; must return channel to original configuration; can't cause a French drain effect; must removal all cofferdams, temporary fills, other structures | Need individual WQC from KDOW if constructing along the stream channel, or along channel and within 50 ft of the top of the banks |
| Stabilizing eroding stream channel banks | #13 Bank Stabilization | Must submit a PCN if stabilizing more than 500 ft of channel, or if placing more than one cubic yards of material per foot along the bank below the ordinary high water mark. If not, no PCN is required | Cannot impede water flow; does not cover stream channelization; use minimum amount of channel protection material (e.g., riprap) to accomplish objectives | Impacts limited to 500 lineal ft, or 300 ft if constructing vertical banks or retaining walls, not valid for cold water habitat; cannot impact habitat-impaired waters |

| Activities Occurring in Perennial or Intermittent Streams or Wetlands | US ACE NWP Number & Title | Pre-Construction Notification (PCN) Reqmts (See Section 5) | Notes on US ACE Nationwide Permit (NWP) Coverage | Notes on KDOW Water Quality Certification |
|---|---|---|---|---|
| Sediment removal or other activities resulting in small channel disturbances or sediment discharges | #18 Minor Discharges | PCN required only if discharge or volume of area excavated exceeds 10 cubic yards below the ordinary high water mark, or if the activity occurs in wetlands or special aquatic sites | Quantity of material discharged and volume of area excavated cannot exceed 25 cubic yards below ordinary high water mark; cannot divert stream or lose more than 1/10th acre of wetland | Impacts limited to 300 lineal ft or one acre (for wetlands); not valid for activities affecting coldwater habitat or exceptional waters |
| Cleaning up oil spills and other spills of hazardous substances | #20 Oil Spill Cleanup | No PCN required if cleanup is done in accordance with Spill Prevention, Control, and Countermeasures (SPCC) Plan | Must follow US ACE NWP General Conditions for All Permits (applies to all NWPs) | Must follow KDOW General Conditions for all NWPs (applies to all NWPs and WQCs) |
| Building/expanding foundations/pads and related parking lots, garages, maintenance yards, recreational facilities, stormwater facilities | #39 Commercial and Institutional Developments | PCN required for all activities | Does not cover activities that result in the loss of more than 300 ft of stream or ½ acre of wetland | Impacts limited to 300 lineal ft or one acre (for wetlands); not valid for activities affecting coldwater habitat or exceptional waters |
| Reshaping drainage ditches built in former perennial or intermittent stream channels | #41 Reshaping Existing Drainage Ditches | PCN required only if reshaping more than 500 ft of ditch. Otherwise, no PCN needed | Cannot change overall capacity of original ditch; cannot relocate ditch; this NWP mainly applies to reshaping banks with gentler slopes | Must follow KDOW General Conditions for all NWPs (applies to all NWPs and WQCs) |
| Dredging sediment from stormwater ponds<br><br>Maintenance work on detention basins<br><br>Building or maintaining stormwater outfalls or spillways in non-perennial streams | #43 Stormwater Management Facilities | No PCN required if dredging or maintenance work is limited to restoring the original design capacities of the stormwater facilities; PCN is required for building or expanding facilities in non-perennial streams | Does not cover construction of new stormwater facilities in perennial streams | Impacts limited to 300 lineal ft; does not include upstream piping, excavation, or paving of stream; structures adjacent to streams cannot impact banks; must limit vegetation removal; must grade & seed within 14 days |
| Removing limbs, waste, and debris from stream channels (does not apply to removing live trees, brush, or other vegetation) | Not applicable | No US ACE permit needed if removing waste and debris with manual labor, or with equipment that is not placed or operated in the channel | Use equipment that lifts material out, without entering the channel; make sure no sediment, waste, debris, or other material moves or flows downstream | Activities cannot cause downstream impacts on water quality |
| Dredging, reshaping, maintaining, stabilizing, or otherwise working in stormwater drainage ditches that are not built in current or former waters of the U.S. | Not applicable | No US ACE permit coverage needed for this activity, if sediment does not flow into downstream waters of the U.S. | Minimize work footprint; make sure no sediment, waste, debris, or other material moves or flows downstream | Activities cannot cause downstream impacts on water quality |

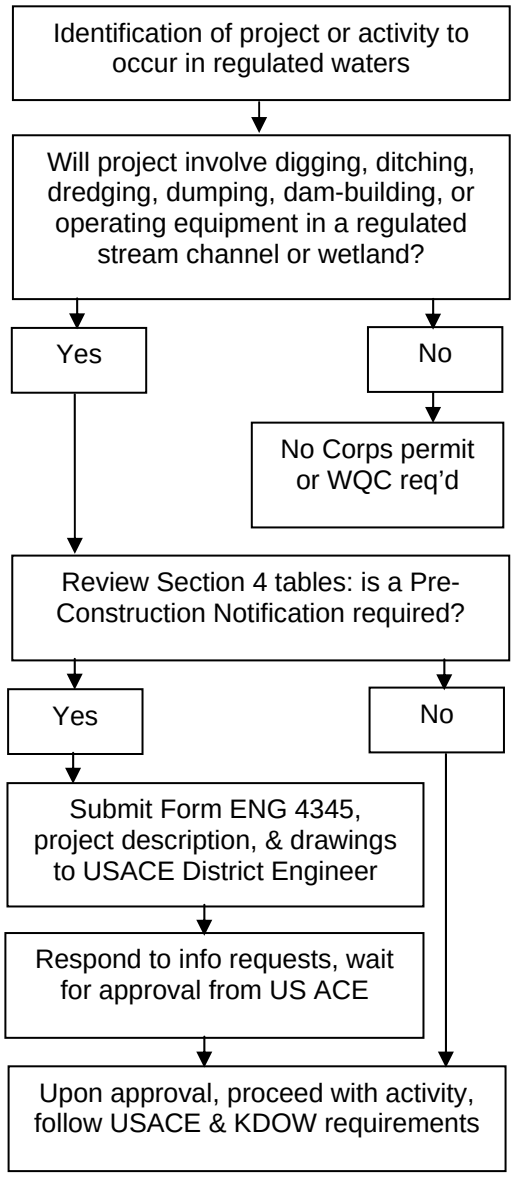
# 5 Permit Application Process

The tables on the preceding pages in Section 4 indicate which US ACE Nationwide Permits are required for various activities that impact channels, wetlands, and sinkhole drains. The tables also describe the limits of each permit – for example, impacting 300 lineal feet of stream channel, or ½ acre of wetland.

*Applying for Nationwide(General) Permit Coverage*

If the project falls into one of the activity descriptions listed in the first column of the table, and impacts will not exceed the limits described, it can proceed under a US ACE Nationwide Permit, with an automatically approved KDOW Water Quality Certification. If the project has very minor impacts, it may be eligible for automatic NWP coverage. If not, a Pre-Construction Notification to the US ACE is required before work can begin.

**Application Process for USACE NWP**




*Automatic NWP Coverage*

If the table entry describing the project says "No PCN Required," or if the activities do not meet the threshold for "PCN Required," the project can proceed. It is automatically covered by the US ACE NWP and the KDOW WQC. Be aware that as the project proceeds, it must adhere to the General Conditions for the NWP and WQC (see next section).

*NWP Coverage with Pre-Construction Notification*

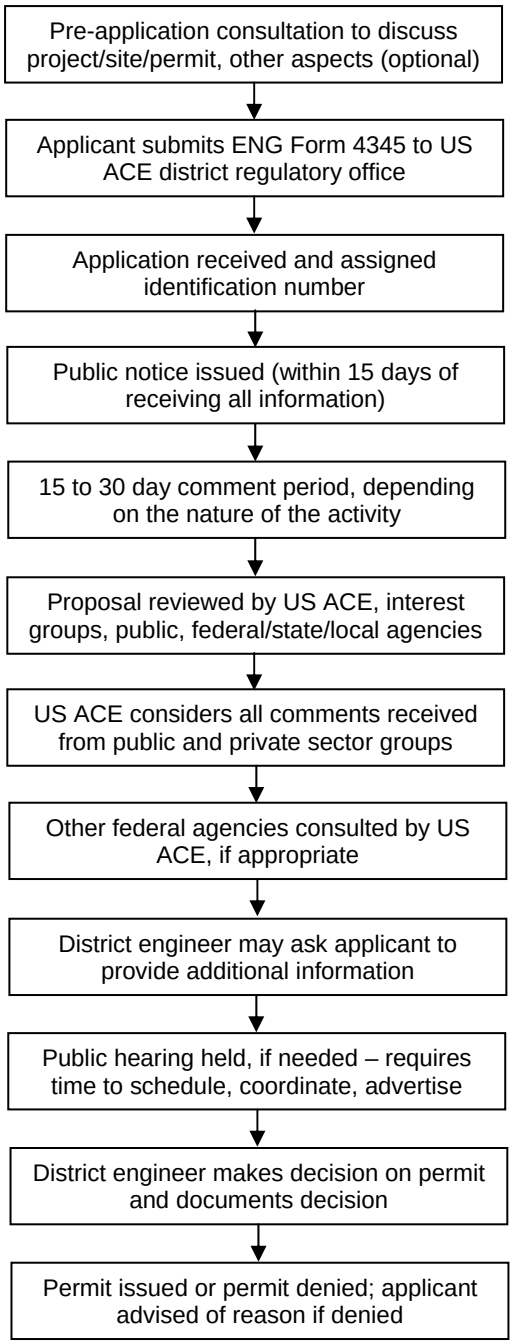
If the table entry describing the project says "PCN Required," a Pre-Construction Notification to the US ACE, is required, along with Form ENG 4345 (see the online form at http://www.lrl.usace.army.mil/orf/article.asp?id=212&MyCategory=266 , or use the form included in Appendix 3). Write "PCN" on the front of the form, and submit it along with the other required information (see the box on the next page for PCN application requirements).

It can take 30 to 45 days to receive approval for permit coverage after the Pre-Construction Notification is filed. Also, if the PCN is incomplete, it will be returned by the US ACE permit reviewer. It will then need to be re-submitted with the complete information, as required.

*US ACE PCN Review Process*

PCNs are sent to the US ACE district engineer. It is advisable to submit the PCN as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once.

**Typical Application Process for an Individual US ACE Section 404 Permit**




If the prospective permittee does not provide all of the requested information, the district engineer will notify the prospective permittee that the PCN is incomplete. The PCN review process will not begin until all of the requested information has been received by the district engineer. Work cannot begin until either:

- Notification is received in writing from the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district/division engineer; or

- Forty-five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer.

However, if the permittee was required to notify the Corps that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under the Endangered Species Act and/or the National Historic Preservation Act is completed.

If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained from the US ACE.

**US ACE Pre-Construction Notification Requirements for All Nationwide Permits**

To file a Pre-Construction Notification with the US ACE, submit Form ENG 4345 (fill out the online form at http://www.lrl.usace.army.mil/orf/article.asp?id=212&MyCategory=266 , or use the form included in Appendix 3). Write "PCN" on the front of the form, and submit it along with the following information *at least* 45 to 60 days before the start of the project:

1. Name, address and telephone numbers of the prospective permittee
2. Location of the project, Lat/Long and on a 7.5 minute topographic map
3. A description of the project, including:
    a. its purpose (i.e., construction/repair of a sewer line, maintenance, cleanup)
    b. adverse environmental impacts (possible erosion and sedimentation during construction, short-term loss of vegetation on banks, other impacts)
    c. other permits acquired that are related to this project (e.g., KDOW floodplain, stream construction, or construction stormwater permits)
    d. a drawing or sketch of how the project will proceed, including trenching, excavation, or fill areas; cofferdams and pump-around structures and equipment; erosion and sediment controls; access roads; plans for revegetation and bank stabilization after construction (e.g., turf reinforcement mats, erosion control blankets, seeding, tree planting, other stabilization measures)
    e. delineation of waters of the U.S. (e.g., streams, creeks, lakes, wetlands) in the project area; identification of any special aquatic sites (e.g., Steeles Run)
4. If more than 1/10$^{th}$ of an acre of wetland will be lost, describe how the mitigation requirement will be satisfied.
5. List any threatened or endangered species, or any critical habitat in the project area.
6. List and map any historic sites or properties that will be affected by the project

*US ACE Individual Permit Application and Review Process*

To apply for an individual US ACE Clean Water Act Section 404 permit, use the same form as the PCN – Form ENG 4345 (you can fill out and submit the online form posted at http://www.lrl.usace.army.mil/orf/article.asp?id=212&MyCategory=266, or use the form included in Appendix 3).

Standard individual permits can be issued in situations where, after a public notice and comment period, the US ACE district engineer determines that the proposed activity is not contrary to the public interest. USACE issues a public notice within 15 days of receiving a completed permit application. The public notice describes the proposed activity, its location, and potential environmental impacts and invites comments within a specified time period, typically 15 to 30 days. The public at large, as well as interested federal, state, and local agencies, have an opportunity to comment on the proposed activity.

On average, individual permit decisions are made within 2 to 6 months from receipt of a completed application. In emergencies, USACE may be able to expedite the permitting process. Permit applications that require the preparation of an Environmental Impact Statement take an average of 3 years to process.

The district engineer will begin to process the application upon receipt of all required information. The engineer will send an acknowledgement of its receipt and the application number assigned to the file – refer to this number when inquiring about the application. The project proposal will be reviewed, balancing the need and expected benefits against the probable impacts of the work, taking into consideration all comments received and other relevant factors. The Corps goal is to reach a decision within 60 days of receipt of a complete application. However, some complex activities, issues, or requirements of law may prevent the district engineer from meeting this goal. For specific information on the evaluation process, filling out the application forms, or the status of an application, contact the regulatory branch of the US ACE district office in Louisville.

*US ACE Avoidance, Minimization, and Mitigation Requirements*

Section 404 of the federal Clean Water Act authorizes the placement of dredged or fill material into the waters of the U.S., including intermittent and perennial streams, rivers, wetlands, lakes, sinkhole drains, and so on. In granting permit approval for activities that cause impacts to regulated water, the US ACE requires that project sponsors address the following:

- Avoidance – is there a way to complete the project in a way that does not impact regulated waters, such as moving construction away from the water body, changing the layout, altering the design, or other approach?

- Minimization – if impacts cannot be avoided, can they be minimized? That is, can the project be configured in such a way as to lessen the impact to regulated waters to the maximum extent practicable?

- Mitigation – in the event impacts cannot be avoided or significantly minimized, federal rules require that the impacts (i.e., usually the loss of a stream segment or portion of a wetland) be mitigated. This will involve completing a mitigation project – i.e., improving the condition of an existing, degraded water body by stabilizing the banks, improving habitat, increasing vegetated riparian areas – or paying into the state mitigation fund in lieu of conducting a mitigation project.

**Where to send Pre-Construction Notifications, or permit applications for individual US ACE permits:**

Send the PCN or application to the addresses below:

Standard mail:

District Engineer
U.S. Army Corps of Engineers
OP-FS, Room 752
P.O. Box 59
Louisville, KY 40201-0059

Express, overnight or certified mail:

District Engineer
U.S. Army Corps of Engineers
OP-FS, Room 752
600 Dr. Martin Luther King Jr. Place
Louisville, KY 40202-2239

Most projects will not involve a permanent loss of a stream channel, wetland, or other regulated water body, so the likelihood of a mitigation requirement is fairly remote. However, all projects should be planned in a way that *avoids* impacts to streams, wetlands, and other waters, and *minimizes* any impacts that are unavoidable.

> **Note:** If you receive automatic permit coverage from the US Army Corps of Engineers under a Nationwide Permit, or when you receive NWP coverage after submitting a Pre-Construction Notification, you do not need to apply to the Kentucky Division of Water for the Water Quality Certification. The WQC is attached to the NWP, and automatically applies when coverage is received under the NWP. Note that you still need to know the WQC General Conditions, and follow them – along with the General Conditions and other requirements of the NWP. KDOW WQCs are in Appendix 10 and posted at water.ky.gov/permitting/Pages/default.aspx

*KDOW Individual Water Quality Certification Application and Review Process*

KDOW requires individual WQCs for repairing, installing, or replacing sewer or water lines *along* (i.e., not *across*) a stream. This includes all work within 50 ft of the top of the bank, if the work will proceed along the creek within that boundary. If a sewer line will be installed within the 50 ft zone, additional erosion and sediment controls are required, including:

- Working only during dry/low-flow conditions
- Minimizing project length, backfilling and stabilizing as work proceeds
- Limiting the amount of exposed soil, and limiting the exposure time
- Seeding and installing turf mats and erosion blankets as soon as possible

KDOW recommends submittal of an *Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification* for all trenching and excavation projects that:

- Cross a stream, wetland, or other regulated water body
- Lay along a stream, within 50 ft of the top of the banks
- Result in the placement of berms, or soil stockpiles in the floodplain

There is an exemption for projects occurring in watersheds smaller than one square mile, and for underground pipe work across or along streams where no coffer dams, access roads, construction pads, or material is placed in the stream or flood plain. If the project qualifies for the exemption, it must backfill the trench as closely as possible to the original contour, remove and dispose of all construction and other materials off-site, and maintain at least 30 inches of cover above the pipe for erodible channels, and at least 6 inches for non-erodible channels, with 6 inches of concrete bedding on all sides (see Appendix 9).

> **Contacts for All Permit Questions**
>
> *US Army Corps of Engineers*
>
> US ACE Regulatory Branch, Louisville District, Permitting and Operations Division
> 502.315.6692
>
> *Kentucky Division of Water*
>
> Water Quality Certification Program
> Phone: 502-564-3410
> Fax: 502-564-0111
> E-mail: water@ky.gov
>
> Stream Construction & Floodplain Mgmt
> Phone: 502-564-3410
> Fax: 502-564-0111
> E-mail: water@ky.gov
>
> KPDES Construction Stormwater Permits
> KPDES Branch
> Phone: 502-564-3410
> Fax: 502-564-0111
> E-mail: water@ky.gov

The 2-page application must be signed by the local floodplain manager and be accompanied by a project location map and sketch or drawing of the project activity. Note that local agencies or contractors may request a waiver of public notice for small projects when the work is minor, the construction period is short, and the site will be returned to pre-construction contours and land cover (see item 14 in the application). KDOW will respond to applications within 20 days by approving or denying them, or by requesting additional information. Questions should be directed to the KDOW Floodplain Section at 502.564.3410.

*Kentucky Division of Water: Construction Stormwater Permit*

All projects that disturb one acre or more are required to have a Kentucky Pollutant Discharge Elimination System (KPDES) Stormwater Permit. The General Permit (KYR10) can be used if the project does not discharge into a sediment-impaired water with an approved TMDL, cold water aquatic habitat, or outstanding national or state resource water. Individual KPDES permits will be needed for those projects. For information on water body classification and impairment status, visit http://www.water.ky.gov/sw/swmonitor/ 305b/default.htm, or contact the Frankfort Regional Office of KDOW.

A Stormwater Pollution Prevention Plan (SWPPP) is a detailed plan that:

- Describes the site and each major phase of the planned activity
- Identifies potential sources of stormwater pollution & any non-stormwater discharge
- Describes practices to reduce pollutants and the volume of discharges
- Identifies procedures the operator will implement to comply with the terms and conditions of the KPDES permit
- Outlines the roles and responsibilities of contractors and subcontractors
- Documents changes and modifications to the construction plans and associated stormwater pollution prevention activities

In general, KDPES Construction Stormwater permit coverage requires:

- Preparation of a Stormwater Pollution Plan (SWPPP) to reduce pollutant discharges "to the maximum extent practicable."
- Application for KPDES permit coverage by filing a "Notice of Intent" on the KDOW online site at https://dep.gateway.ky.gov/eForms/default.aspx?FormID=7 , or using the MS Word file at http://www.water.ky.gov/homepage_repository/kpdes_permit_aps.htm , or by using the form in Appendix 11. Note that using the electronic NOI form results in a 7-day wait for approval to proceed; using the paper form requires a 30-day wait.
- Implementation of the SWPPP as construction proceeds.
- Written compliance inspection reports every 14 days, or every 7 days and after each 0.5 inch rain.
- Submission of a "Notice of Termination" when construction is completed (see Appendix 11).

# 6 Permit Compliance Procedures

The US ACE permit and KDOW Water Quality Certification contain mandatory provisions that specify how the work must be done. These requirements – called "General Conditions" – are listed below. Failure to comply with the General Conditions can result in the loss of permit coverage, fines, and other penalties! Most of the General Conditions focus on common-sense principles: 1) work during dry conditions, if possible; 2) minimize your work footprint – the disturbed area; 3) get in and get out as quick as you can; 4) control sediment and other pollutants; and 5) clean up, seed, mulch, and stabilize the work site as soon as possible. Detailed conditions are listed in Appendix 10.

Each permittee receiving an NWP verification from the USACE must submit a signed certification with 1) the NWP verification letter; 2) a statement that the work was done in accordance with the NWP and state WQCs; 3) a statement that any required mitigation was completed in accordance with the permit conditions; and 4) the signature of the permittee.

*General Conditions for All US ACE Nationwide Permits*

- Do not impound water permanently, block movement of aquatic life, or disrupt their life cycles. Culverts must be laid on channel bottom so low flows are maintained; spawning areas cannot be affected.
- Avoid areas where migratory birds breed
- No trash, debris, car bodies, asphalt, or toxic materials are allowed in channels/wetlands.
- Pre-construction water flows – including low and high flows – must be maintained after construction to the maximum extent practicable.
- Stabilize channels and channel banks as soon as practicable – they must be able to withstand high flows without bank erosion.
- Any fills in the floodplain must meet FEMA and KDOW requirements.
- Use swamp mats if operating heavy equipment in wetlands.
- Use of erosion and sediment controls are required throughout the project period.
- Work during dry, low flow periods as much as possible.
- Remove temporary fills and structures and revegetate the area as soon as work is done.
- Protect public safety from project impacts, including flooding.
- Do not harm threatened or endangered species, or their habitat.

*General conditions for all KDOW Water Quality Certifications*

- File the combined WQC / Stream Construction / Floodplain Permit application.
- Keep your footprint small – minimize tree and vegetation removal!
- Work during no-flow or low-flow conditions to the maximum extent practicable.
- Do not use heavy equipment in streams – if this is unavoidable, minimize disturbance.
- Do not allow fuels, lubricants, or other toxic materials to enter water bodies.
- Move any dredged material out of channel area and floodplain, to an upland area.
- Revegetate stream banks as project progresses – match the original vegetation.
- If rip-rap is used, make sure it's clean, and sized and installed appropriately.
- Notify downstream utilities if turbidity will affect their water intakes.
- Report heavy sediment or other water pollution and spills to KDOW at 502.564.3410.

# 7 Appendices

Appendix 1

***Acronyms and Abbreviations***

Appendix 2

***Definitions***

Appendix 3

***US ACE ENG Form 4345 for Individual or Nationwide Permit Coverage***

Appendix 4

***Instructions for Preparing a US ACE Department of the Army Permit Application***

Appendix 5

***Pre-Construction Notification Details***

Appendix 6

***Form for Requesting a US ACE Jurisdictional Determination***

Appendix 7

***KDOW WQC, Stream Construction, and Floodplain Permit Application***

Appendix 8

***Kentucky Division of Water Floodplain Permit Applicant Information***

Appendix 9

***Floodplain Permit Exemption for Certain Projects***

Appendix 10

***Detailed General Permit Conditions for US ACE NWPs and KDOW WQCs***

Appendix 11

***KPDES Construction Stormwater Notice of Intent and Notice of Termination***

Appendix 12

***Stormwater Pollution Prevention Plan Example***

# Appendix 1 Acronyms and Abbreviations

| | |
|---|---|
| As | Arsenic |
| BMP | Best Management Practice |
| CAH | Cold Water Aquatic Habitat |
| C&D | Construction and Demolition (Landfill) |
| CFR | Code of Federal Regulations |
| Cr | Chromium |
| CSO | Combined Sewer Overflow |
| DEA | (KyTC) Division of Environmental Analysis |
| DEP | (Kentucky) Department for Environmental Protection |
| EXC | Exceptional (Waterbody) |
| FOG | Field Operations Guide |
| FP | Flash Point |
| GWPP | Ground Water Protection Plan |
| HID | High Intensity Discharge (lamp) |
| KAR | Kentucky Administrative Regulation |
| KDOW | Kentucky Division of Water |
| KPDES | Kentucky Pollutant Discharge Elimination System |
| KRS | Kentucky Revised Statute |
| KyTC | Kentucky Transportation Cabinet |
| Mg/l | Milligram per liter (same as ppm) |
| MSDS | Material Safety Data Sheet |
| NOI | Notice of Intent |
| NOT | Notice of Termination |
| NWP | Nationwide Permit |
| NWSR | National Wild and Scenic River |
| ONRW | Outstanding National Resource Water |
| OSHA | Occupational Safety and Health Act |
| OSRW | Outstanding State Resource Water |
| Pb | Lead |
| PCN | Pre-Construction Notification |
| pH | Measure of acidity of water |
| PPM | Parts Per Million (same as mg/l) |
| RCRA | Resource Conservation and Recovery Act |
| ROW | Right of Way |
| SARA | Superfund Amendment and Reauthorization Act |
| sMS4 | Small Municipal Separate Storm Sewer System |
| SPCC | Spill Prevention Control and Countermeasures (Plan) |
| TCLP | Toxicity Characteristics Leaching Procedure |
| TDS | Total Dissolved Solids |
| TOX | Toxicity |
| USACE | United States Army Corps of Engineers |
| USEPA | United States Environmental Protection Agency |
| USGS | United States Geological Survey |
| WQC | Water Quality Certificate |
| WR | Wild River |
| < | Less Than |
| > | Greater Than |

# Appendix 2 Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Discharge: The term “discharge” means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and

flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid

movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deep areas, generally located in bends or downstream from riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

Single and complete project: The term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a “single and complete project” is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake are not separate waterbodies, and crossings of such features cannot be considered separately.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent--meaning bordering, contiguous, or neighboring--to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

# Appendix 3 US ACE ENG Form 4345 for Individual or Nationwide Permit Coverage

*(Online form posted at http://www.lrl.usace.army.mil/orf/article.asp?id=212&MyCategory=266)*

| APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT *(33 CFR 325)* | OMB APPROVAL NO. 0710-0003 EXPIRES: 31 August 2012 |
|---|---|

Public reporting burden for this collection of information is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters, Executive Services and Communications Directorate, Information Management Division and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

**PRIVACY ACT STATEMENT**

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This Information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

***(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)***

| 1. APPLICATION NO. | 2. FIELD OFFICE CODE | 3. DATE RECEIVED | 4. DATE APPLICATION COMPLETE |
|---|---|---|---|
| | | | |

***(ITEMS BELOW TO BE FILLED BY APPLICANT)***

| | |
|---|---|
| 5. APPLICANT'S NAME:<br>First - Middle - Last –<br>Company –<br>E-mail Address – | 8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required)<br>First - Middle - Last –<br>Company –<br>E-mail Address – |
| 6. APPLICANT'S ADDRESS.<br>Address -<br>City – State – Zip – Country – | 9. AGENT'S ADDRESS<br>Address -<br>City – State – Zip – Country – |
| 7. APPLICANT'S PHONE NOs. W/AREA CODE<br>a. Residence b. Business c. Fax | 10. AGENT'S PHONE NOs. W/AREA CODE<br>a. Residence b. Business c. Fax |

***STATEMENT OF AUTHORIZATION***

11. I hereby authorize, _____ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

_____ APPLICANT'S SIGNATURE DATE

**NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY**

12. PROJECT NAME OR TITLE (see instructions)

| | |
|---|---|
| 13. NAME OF WATERBODY, IF KNOWN (if applicable) | 14. PROJECT STREET ADDRESS (if applicable)<br>Address |
| 15. LOCATION OF PROJECT<br>Latitude: °N<br>Longitude: °W | City - State – Zip - |

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN (see instructions)
State Tax Parcel ID Municipality
Section – Township – Range –

17. DIRECTIONS TO THE SITE

ENG FORM 4345, SEPT 2009 EDITION OF OCT 2004 IS OBSOLETE Proponent: CECW-OR

18. Nature of Activity (Description of project, include all features)

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

**USE BLOCKS 20-23 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED**

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards:

| Type<br>Amount in Cubic Yards | Type<br>Amount in Cubic Yards | Type<br>Amount in Cubic Yards |
|---|---|---|

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)
Acres
Or
Liner Feet

23. Description of Avoidance, Minimization, and Compensation (see instructions)

24. Is Any Portion of the Work Already Complete? Yes ☐ No ☐ IF YES, DESCRIBE THE COMPLETED WORK

25. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

Address –

City – State – Zip –

26. List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application.

| AGENCY | TYPE APPROVAL* | IDENTIFICATION NUMBER | DATE APPLIED | DATE APPROVED | DATE DENIED |
|---|---|---|---|---|---|

* Would include but is not restricted to zoning, building, and flood plain permits

27. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT DATE SIGNATURE OF AGENT DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than $10,000 or imprisoned not more than five years or both.

*ENG FORM 4345, SEPT 2009*

# Appendix 4 Instructions for Preparing a US ACE Department of the Army Permit Application

**Blocks 1 through 4.** To be completed by Corps of Engineers.

**Block 5. Applicant's Name.** Enter the name and the E-mail address of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

**Block 6. Address of Applicant.** Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked Block 6.

**Block 7. Applicant Telephone Number(s).** Please provide the number where you can usually be reached during normal business hours.

**Blocks 8 through 11.** To be completed, if you choose to have an agent.

**Block 8. Authorized Agent's Name and Title.** Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, or any other person or organization. Note: An agent is not required.

**Blocks 9 and 10. Agent's Address and Telephone Number.** Please provide the complete mailing address of the agent, along with the telephone number where he / she can be reached during normal business hours.

**Block 11. Statement of Authorization.** To be completed by applicant, if an agent is to be employed.

**Block 12. Proposed Project Name or Title.** Please provide name identifying the proposed project, e.g., Landmark Plaza, Burned Hills Subdivision, or Edsall Commercial Center.

**Block 13. Name of Waterbody.** Please provide the name of any stream, lake, marsh, or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

**Block 14. Proposed Project Street Address.** If the proposed project is located at a site having a street address (not a box number), please enter it here.

**Block 15. Location of Proposed Project.** Enter the latitude and longitude of where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked Block 15.

**Block 16. Other Location Descriptions.** If available, provide the Tax Parcel Identification number of the site, Section, Township, and Range of the site (if known), and / or local Municipality that the site is located in.

**Block 17. Directions to the Site.** Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site. You may also provide description of the proposed project location, such as lot numbers, tract numbers, or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile downstream from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project site if known.

**Block 18. Nature of Activity.** Describe the overall activity or project. Give appropriate dimensions of structures such as wing walls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles, or float-supported platforms. The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 18.

**Block 19. Proposed Project Purpose.** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

**Block 20. Reasons for Discharge.** If the activity involves the discharge of dredged and/or fill material into a wetland or other waterbody, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

**Block 21. Types of Material Being Discharged and the Amount of Each Type in Cubic Yards.** Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, other materials.

**Block 22. Surface Areas of Wetlands or Other Waters Filled.** Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, other equipment). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If more space is needed, attach an extra sheet of paper marked Block 22.

**Block 23. Description of Avoidance, Minimization, and Compensation.** Provide a brief explanation describing how impacts to waters of the United States are being avoided and minimized on the project site. Also provide a brief description of how impacts to waters of the United States will be compensated for, or a brief statement explaining why compensatory mitigation should not be required for those impacts.

**Block 24. Is Any Portion of the Work Already Complete?** Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other waterbody (in acres or square feet). If the work was done under an existing Corps permit, identity the authorization, if possible.

**Block 25. Names and Addresses of Adjoining Property Owners, Lessees, Others., Whose Property Adjoins the Project Site.** List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, others) whose property adjoins the waterbody or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked Block 24.

**Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be developed.**

**Block 26. Information about Approvals or Denials by Other Agencies.** You may need the approval of other federal, state, or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

**Block 27. Signature of Applicant or Agent.** The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, other provisions).

**DRAWINGS AND ILLUSTRATIONS**

**General Information.** Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number. Please submit one original, or good quality copy, of all drawings on 8½ x11 inch plain white paper (electronic media may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section).

**While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.**

# Appendix 5 Pre-Construction Notification Details

## From the US ACE General Conditions Applying to Pre-Construction Notification

(a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either: (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) Forty-five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information: (1) Name, address and telephone numbers of the prospective permittee; (2) Location of the proposed project; (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.); (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate; (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan. (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work, and (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic

property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(e) District Engineer's Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

# Appendix 6 Form for Requesting a US Army Corps of Engineers Jurisdictional Determination

## Louisville District Request for a Jurisdictional Determination Form

This format can be used when you want to determine if areas on your property fall under regulatory requirements of the U.S. Army Corps of Engineers (Corps). Please supply the following information and supporting documents described below. This form can be filled out online and then printed. **It must be signed by the property owner** to be considered a formal request. We require original signatures; faxes are not acceptable. Submitting this request authorizes the Corps to field inspect the property site, if necessary, to help in the determination process. The Corps may also request a delineation of water resources on a property to be submitted. The printed form and supporting documents should be mailed to:

U.S. Army Corps of Engineers, Louisville District
CELRL-OP-F, Room 752
P.O. Box 59
Louisville, KY 40201-0059
Main Phone: (502) 315-6733

**Property Owner Contact Information**

Name: _____

Address: _____

_____

_____

Telephone: _____

Fax: _____

Email: _____

**Owner Representative Contact Information**

Name and Company: _____

Address: _____

_____

_____

Telephone: _____

Fax: _____

Email: _____

**SUBJECT PROPERTY INFORMATION**

Address: _____

_____

_____

County: _____ State: _____

Lat/Long in Decimal Degrees: _____°N _____°W

Approximate size of property in acres: _____

**The subject property is**: (check as many as applicable)

☐ cleared (if checked, how long?)_____ ☐ wooded ☐ pasture ☐ agricultural field

**The water resources on the subject property include**: (check as many as applicable)

☐ Streams How many? _____ Estimated lengths_____

☐ Ponds How many? _____ Estimated acres _____

☐ Wetlands How many? _____ Estimated acres _____

☐ Other Water Resources (ditches, swales, etc.) How many? _____

Page 1 of 2

Is the property in an incorporated area? ☐ Yes or ☐ No
If it is in an incorporated area, please provide the name of the city/town _____

Is the property subject to a conservation easement or deed restriction? ☐ Yes or ☐ No

Was the property used as mitigation for a previously permitted project by the Corps? ☐ Yes or ☐ No

Is the property neighboring, adjacent to and/or bordering a project previously permitted by the Corps?
☐ Yes or ☐ No or ☐ Unknown

For the previous 3 questions, where answered Yes, please explain and provide the name of the project, permit number, permittee name, or permitted property address, if available:

_____

_____

_____

_____

**MAPS**: Please provide a map or plat (aerial photo, city or county map, soil survey photo, USGS Quad map, etc.) that accurately identifies the physical boundaries of the property. If the property is farmland, it may be necessary for you to contact the Natural Resources Conservation Service for a wetland delineation before you can request a jurisdictional determination.

If you are considering doing work on the property, please identify on a map or in a separate drawing the footprint, location, type of potential work, and water resources. This information will assist us in the determination process and reduce unnecessary delays of processing subsequent permits, if required.

**OPTIONAL DOCUMENTATION**: Photographs can greatly assist in the review process and often make a field visit unnecessary. We must see complete coverage of the property and/or the water resource in question, including the grass and trees.

If the property and/or the water resource in question are to be surveyed or delineated, we suggest waiting for the survey or delineation to be completed and include a copy with your request. Any other data you can include may help, such as land use or cropping history for the past five years, drainage improvements, etc.

**PROCEDURE**: We will review all available data within our office and attempt to provide a quick, accurate response to your request. Many determinations require a field site visit, which always takes more time to complete.

_____ _____
Signature of Owner Date

***Disclaimer: The information requirement for a jurisdictional determination as presented in this form is not an exhaustive list. The U.S. Army Corps of Engineers may request additional information not described in this request form.***

FOR OFFICIAL USE ONLY

| | |
|---|---|
| Project ID # : | Assigned Project Manager: |

CELRL-OP-F, Form JDR-1, 10 March 2009

# Appendix 7 KDOW Water Quality Certification, Stream Construction, and Floodplain Permit Application Form

**COMMONWEALTH OF KENTUCKY**
**ENERGY AND ENVIRONMENT CABINET**
**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**
**DIVISION OF WATER**

**APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM AND / OR WATER QUALITY CERTIFICATION**

**Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in o along a stream that could in any way obstruct flood flows or adversely impact water quality. *If the project involves work in a stream, such a bank stabilization, dredging or relocation, you will also need to obtain a 401 Water Quality Certification (WQC) from the Division of Water.* Thi completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approval are received from the KDOW. For questions concerning the WQC process, contact the WQC section at 502/564-3410.**

**If the project will disturb one or more acres of land, or if the project is part of a larger common plan of development or sale that ultimatel will disturb one or more acres, you will also need to complete a Notice of Intent for general permit coverage for storm water discharge associated with construction activities (NOI-SWCA). This general permit will require you to create and implement an erosion control pla for the project. You may find the forms for Kentucky Pollution Discharge Elimination System (KPDES) at the KPDES Web sit http://www.water.ky.gov/homepage_repository/kpdes_permit_aps.htm. Return forms to the Floodplain Management Section of the KDOW**

1. **OWNER:** _____
   Give name of person(s), company, governmental unit, or other owner of proposed project.
   **MAILING ADDRESS:** _____
   _____
   **TELEPHONE #:** _____ **EMAIL:** _____
2. **AGENT:** _____
   Give name of person(s) submitting application, if other than owner.
   **ADDRESS:** _____
   _____
   **TELEPHONE #:** _____ **EMAIL:** _____
3. **ENGINEER:** _____ **P.E. NUMBER:** _____
   Contact Division of Water if waiver can be granted.
   **TELEPHONE #:** _____ **EMAIL:** _____
4. **DESCRIPTION OF CONSTRUCTION:** _____
   Describe the type and purpose of construction and describe stream/wetland impact
   _____
   _____
   _____
   _____
5. **COUNTY:** _____ **NEAREST COMMUNITY:** ____ _____
6. **USGS QUAD NAME**_____ **LATITUDE/LONGITUDE:** _____
7. **STREAM NAME:** _____ **WATERSHED SIZE (in acres):** _____
8. **LINEAR FEET OF STREAM IMPACTED AND/OR ACRES OF WETLAND IMPACT:** _____
   _____
9. **DIRECTIONS TO SITE:** _____
   _____
   _____
   _____

10. **IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE?** ☐ Yes ☐ No If yes, identify the completed portion on the drawings you submit and indicate the date activity was completed. DATE: _____

11. **ESTIMATED BEGIN CONSTRUCTION DATE:** _____

12. **ESTIMATED END CONSTRUCTION DATE:** _____

13. **HAS AN APPLICATION BEEN SUBMITTED TO THE US ARMY, CORPS of ENGINEERS?** ☐ Yes ☐ No

14. **AN APPLICANT FOR A PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM MUST ADDRESS PUBLIC NOTICE:**

(a) PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:

____ Public notice in newspaper having greatest circulation in area (provide newspaper clipping or affidavit)

____ Adjacent property owner(s) affidavits (Contact Division of Water for requirements.)

**(b) ____ I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE:**

_____ _____

**Contact Division of Water for requirements.**

* **PUBLIC NOTICE FOR 401 WATER QUALITY CERTIFICATIONS IS GOVERNED BY 401 KAR 9:010**

15. **I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:**

_____

**Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.**

_____

16. **LIST OF ATTACHMENTS:** _____

**List plans, profiles, or other drawings and data submitted. Attach a copy of a 7.5 minute USGS topographic map clearly showing the project location.**

_____

_____

_____

17. **I, _____ (owner) CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY ON WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR (for dams, this includes the area that would be impounded during the design flood).**

18. **REMARKS:** _____

_____

_____

**I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.**

**SIGNATURE:** _____

**Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)**

**DATE:** _____

**SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR:**

_____

**Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.**

**DATE:** _____

**SUBMIT APPLICATION AND ATTACHMENTS TO:**

**Floodplain Management Section**
**Division of Water**
**200 Fair Oaks Lane**
**Frankfort, KY 40601**

Revised 12-09

# Appendix 8 Floodplain Permit Applicant Information

**Commonwealth of Kentucky**
**ENERGY AND ENVIRONMENT CABINET**
**Department for Environmental Protection**
**Division of Water**

### *INSTRUCTIONS TO APPLICANTS FOR APPROVAL OF CONSTRUCTION IN A FLOODPLAIN*

Chapter 151 of the Kentucky Revised Statutes and related regulations require approval by the Natural Resources and Environmental Protection Cabinet prior to the construction or reconstruction of any dam, embankment, levee, dike, bridge, fill or other obstruction in the floodplain of any stream in the Commonwealth. In order to comply with this statute, anyone who proposes such an activity ***must submit to this Cabinet an application and one (1) set of such plans, drawings, and specifications as are necessary*** for a determination of the proposed project's compliance with state laws and regulations and of the effects of the project on the floodway and the flooding of the stream. The application and other information shall be sent to:

**Floodplain Management Section**
**Division of Water**
**200 Fair Oaks Lane**
**Frankfort, Kentucky 40601**
**Telephone: (502) 564-3410**

The applicant is responsible for proper design, engineering and construction of the proposed project. The Cabinet's approval of the plans does not relieve the applicant from any liability related to construction, operation, or maintenance of the project.

Each application shall be made on the standard form available from, and in the manner specified by, the Cabinet's Division of Water at the above address or the Division's Web Site. [NOTE: The application shall not be considered complete until all information required by the Division has been properly submitted.] The application shall be made in the name of the owner, but may be submitted by an authorized agent of the owner. (If submitted by the agent, a Power of Attorney or other authorization by the owner should be included with the application.) The owner must own or have easement or other rights to all property on which the project is to be located, including all areas that are to be entered onto or disturbed by the construction process (for dams, this applies also to the area that would be inundated during an occurrence of the appropriate design flood). KRS 151.260 requires that all plans and specifications submitted with the application be ***prepared by a professional engineer licensed to practice in Kentucky unless this requirement is waived by the Division.*** In order to facilitate handling and storage, the information accompanying the application should be on ***standard size sheets between 8 x 10 inches and 17 x 22 inches (24 x 36 inches for dams)***. The following listing identifies the types of information generally required for the Division's analysis. In some cases additional information as specified by the Division may be required.

1. **General:** All plans submitted must prominently display at least the following information regarding the proposed project: Name of the project, date, scale, name of stream, direction of flow, purpose and intended use, scheduling of activities, and location. Photographs of the proposed construction site looking both upstream and downstream at each cross-section and other points of interest are generally useful and may be required. All elevations shall be given with respect to mean sea level. Also, a north arrow shall be provided where applicable. A public notice will be required unless waived by the Division, see Section #9 on the following page.

2. **Bridges or Fills:** A properly completed Stream Construction Permit Application Data Sheet; a map showing the location of the proposed project and showing the stream far enough upstream and downstream to determine the approach and discharge flow conditions above and below the site; a section of USGS quadrangle map indicating general location of the project; the drainage area and the method of determining the design flow; the ***finished floor elevations of all houses located within 1000 feet of the project***; field-surveyed cross-sections (referenced to MSL) of the

stream at the site of the project showing conditions both before and after construction and extended to at least the elevation of the extreme flood of record plus three (3) feet, preferably at intervals of not more than one hundred (100) feet; additional cross-sections every one hundred (100) feet for at least three hundred (300) feet upstream and at least two hundred (200) feet downstream—the final required number and spacing of cross-sections shall be based on whatever is necessary to determine the effects of the proposed construction on the flow and flooding of the stream, but in general no fewer than seven sections shall be provided. Cross-sections shall be presented with left and right appearing as they would for an observer looking downstream. See typical cross-section detail requirements below.

3. **Cross-Section Requirements (see typical drawing):**

   (1) All cross-sections shall be obtained by field survey. All sections shall be taken perpendicular to stream flow presented with left and right appearing as they would for an observer looking downstream.

   (2) The horizontal scale shall be such that one inch (1") represents no more than two hundred feet (200'). The vertical scale shall be such that one inch (1") represents no more than twenty feet (20'). This requirement may be waived by the Division upon the request of the applicant, if another scale is determined more appropriate.

   (3) The cross-sections shall be designated by horizontal stationing with station 0 + 00 designating the most downstream section, 1 + 00 indicating a section one hundred (100) feet upstream, 2+50 indicating a section 250 feet upstream, and so on (see sketch representing typical plan view).

4. **Dams:** A properly completed Dam Construction Permit Application Data Sheet; the project location (provide portion of USGS quadrangle map); the hazard classification determined by the design engineer to be appropriate (justification for the classification may be required by Division of Water); plans and specifications of sufficient detail to show spillways and other hydraulic and structural features to afford a basis for judgment as to the safety of the structure. In the case of class "B" or class "C" dams (as defined by Division of Water regulations), the Division will require complete design plans in accordance with the minimum design criteria set forth in 401 KAR 4:030. (Copies of this regulation are available from the Division and the Division's Web Site.) [NOTE: The owner must own or have adequate easement rights for the property on which the dam is to be constructed and on the entire reservoir area (up to the level of the appropriate design flood).]

5. **Channel Relocations:** A property completed Stream Construction Permit Application Data Sheet; a project location map (preferable USGS quadrangle map); ***the finished floor elevations of all houses located within 1000 feet of the project;*** surveyed cross-sections referenced to mean sea level, of both proposed and existing channel with left and right appearing as they would for an observer looking downstream; the cross-sections should extend to at least the height of the extreme flood of record plus three (3) feet with sections taken at the upstream and downstream ends of the relocation, and sufficient sections taken in between to adequately portray changes in stream gradient and geometry, preferably at intervals of not more than one hundred (100) feet; no fewer than five (5) cross-sections should be submitted; at least one cross-section should be submitted for the channel one hundred (100) feet downstream of the proposed relocation and at least three (3) cross-sections should be submitted for the channel upstream of the proposed relocation. See typical cross-section requirements in #3 above.

6. **Pipeline Stream Crossings (for crossings that are not covered under 401 KAR 4:050):** A properly completed Stream Construction Permit Application Data Sheet; a location map (preferably USGS); a profile along the pipe; the diameter of pipe; the material and the weight of pipe in pounds per linear foot, and the weight and type of anchorage; and all data requested under Bridges or Fills presented above.

7. **Aerial Crossings:** A properly completed Stream Construction Permit Application Data Sheet; a location map (preferably USGS); a profile along crossing showing supports, water surface elevation, and distance above water at closest point.

8. **Fixed Docks, Piers, Wharves, Water Intakes:** A properly completed Stream Construction Permit Application Data Sheet; a location map (preferably USGS); the elevation of docks, top of structure, extreme high water, and normal pool; and the distance that the structure will project into stream.

9. **Public Notice Information:**

As part of the stream construction permit issuance procedures, the applicant must provide notice to all parties who might be affected by the construction for which a permit has been requested. Public notice may be provided by either of the following methods:

(1) Publishing a notice in the newspaper or newspapers having greatest circulation in the area of the proposed construction. The notice shall provide at least (a) the name of the applicant, (b) the location, the nature and the extent of the proposed construction, and (c) a statement indicating that any comments and objections are to be directed to the Division of Water. The notice shall prominently display address and telephone number of the Division of Water's Floodplain Management Section, which are given at the beginning of these instructions. The notice shall run for a period of three (3) consecutive days or printings of the newspaper. However, if the newspaper is published weekly or bi-weekly, two (2) consecutive printings may be allowed upon request of the applicant. Proof of public notice through the newspaper must be provided to the Division . The public notice shall be at least three column inches in size, but must in all cases be large enough that all of the information required is readable.

(2) Submitting affidavits from all parties who reside, own property, or have other legitimate property interests in the affected areas. The affidavit must contain a complete description of the proposed construction; a place for concerned parties to sign indicating that they have read the statement and that they understand that a permit application is being submitted or has been submitted to the Division; and the Division's address and telephone number with explanation that comments and objection are to be directed to this agency. All affidavits shall be submitted to the Division of Water, Water Resources Branch for review.

Under certain circumstances, where flooding impacts are negligible, the Division may waive the public notification requirement. If desired, the Division can provide more detailed information regarding the circumstances under which such a waiver might be issued.

## EXAMPLE OF PUBLIC NOTICE

**—— Public Notice ——**

Notice is hereby given that (NAME AND ADDRESS), has filed an application with the Natural Resources and Environmental Protection Cabinet to (BRIEF DESCRIPTION OF CONSTRUCTION). The property is located (LOCATION DESCRIPTION, INCLUDE MILES FROM NEAREST TOWN OR MAJOR ROAD INTERSECTION AND NAME OF STREAM). Any comments or objections concerning this application shall be directed to: Kentucky Division of Water, Water Resources Branch, 14 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601. Phone: (502) 564-3410.

# Appendix 9 Floodplain Permit Exemption for Certain Projects

**401 KAR 4:050. Construction exemptions.**

RELATES TO: KRS 151.110, 151.250, 151.310
STATUTORY AUTHORITY: KRS 151.230, 151.250

NECESSITY, FUNCTION, AND CONFORMITY: In the course of regulating construction in or along streams pursuant to KRS 151.250, the Environmental and Public Protection Cabinet frequently encounters actions or proposed actions which are of such nature or location as to have little potential for damage or such that any damage which would occur is limited in extent to the immediate vicinity of the action. This administrative regulation exempts construction of this type from the provisions of KRS 151.250.

Section 1. A construction permit pursuant to KRS 151.250 shall not be required for construction in or along a stream whose watershed is less than one (1) square mile, except for the construction of dams as defined by KRS 151.100 or other water impounding structures or for any construction that does or may endanger life or cause severe damage to residential or commercial property.

Section 2. A construction permit pursuant to KRS 151.250 shall not be required for a subfluvial utility or pipeline crossing provided that the construction of the crossing meets the following criteria:

(1) During the construction of the crossing, no material may be placed in the stream or in the flood plain of the stream to form construction pads, coffer dams, access roads, or other structure unless prior approval has been obtained from the cabinet.

(2) The trench shall be backfilled as closely as possible to the original contour. All excess material from construction of the trench shall be disposed of outside of the flood plain unless the applicant has received prior approval from the cabinet to fill within the flood plain.

(3) For subfluvial crossings of erodible channels, there shall be at least thirty (30) inches clear to the top of the pipe or conduit at all points.

(4) For subfluvial crossings of nonerodible channels, there shall be at least six (6) inches of clear cover above the top of the pipe or conduit at all points, and the pipe or conduit shall be encased on all sides by at least six (6) inches of concrete.

# Appendix 10 Detailed General Permit Conditions for Specific US ACE NWPs and KDOW WQCs

## Special Conditions for All US ACE Nationwide Permits

- Projects cannot interfere with navigation.
- Activities cannot disrupt the life cycles or movement of aquatic life.
- Spawning areas must be avoided to the maximum extent practicable.
- Migratory bird breeding areas must be avoided to the maximum extent practicable.
- No trash, debris, car bodies, asphalt, toxic material, or other unsuitable materials are allowed.
- Work around water supply intakes is limited to work on the intake or stabilizing adjacent banks.
- Impoundments must minimize any adverse effects on aquatic systems and flows.
- Pre-construction flows must be restored after construction; work must withstand high flows.
- Fills within the 100-year floodplain must comply with state/local FEMA requirements.
- Heavy equipment working in wetlands or mudflats must be placed on mats.
- Appropriate erosion and sediment controls, including prompt stabilization, is required.
- Temporary fills must be removed and the area revegetated after work is completed.
- Any structure or fill must be properly maintained, to ensure public safety.
- Any activities in Wild and Scenic Rivers require special federal and state approval.
- Activities cannot jeopardize the continued existence of a threatened or endangered species.
- Activities affecting historic properties require special federal and state review and approval.
- Impacts to critical water resources (e.g., Steeles Run in Fayette County) require special review.
- Mitigation may be required by US ACE for impacts to streams, wetlands, and other U.S. waters.
- US ACE permittees must comply with state water quality certification requirements.
- Each project must be permitted under a single nationwide permit.
- Permits may be transferred upon application to and approval of the US ACE.
- Permittees receiving NWP verifications must file a report on the work, including mitigation.
- Each activity must be a single and complete project, with coverage by the same permit.
- NWPs do not eliminate the need for other permits or grant any property rights or privileges.

## US ACE Nationwide Permit #3: Maintenance

*US ACE Conditions for NWP # 3*

Covers the repair, rehabilitation, or replacement of previously authorized fills or structures as long as the use remains the same and the configuration does not change. Also covers the removal of accumulated sediment and debris in the vicinity of and within existing structures, such as bridges, culverted road crossings, water intake structures, or other structures, and the placement of new or additional riprap to protect the structure.

- The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate original dimensions, and cannot extend further than 200 feet in any direction from the structure (does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures).

- Any placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure.

- Any temporary structures, fills, dewatering, cofferdams, or other work necessary to conduct the maintenance activity must be accompanied by measures that maintain normal downstream flows and minimize flooding to the maximum extent practicable.

- Temporary fills must be stable when in use, and removed in their entirety and the affected areas returned to pre-construction elevations.

- The areas affected by temporary fills must be revegetated, as appropriate.

- Does not authorize new stream channelization or stream relocation projects.

*Kentucky Division of Water Special Conditions for NWP #3*

If the activity will impact one acre or more of jurisdictional wetlands, or 300 linear ft or more of intermittent or perennial stream, or an Outstanding State or National Resource Water, or Cold Water Habitat or Exceptional Waters (e.g., Steeles Run), an individual Water Quality Certification is required. Otherwise, the general certification will apply.

## US ACE Nationwide Permit #7: Outfall Structures & Associated Intake Structures

*US ACE Conditions for NWP # 7*

Covers activities related to the construction or modification of outfall structures and associated intake structures, where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted by, or that are otherwise in compliance with regulations issued under the National Pollutant Discharge Elimination System Program (Section 402 of the Clean Water Act). This includes LOCAL AGENCIES stormwater outfalls. The construction of intake structures is not authorized by this NWP, unless they are directly associated with an authorized outfall structure. Must submit a PCN for all activities.

*Kentucky Division of Water Special Conditions for NWP #7*

If the activity will impact an Outstanding State or National Resource Water, or Cold Water Habitat or Exceptional Waters (e.g., Steeles Run), an individual Water Quality Certification is required. Otherwise, the general certification will apply.

## US ACE Nationwide Permit #12: Utility Line Activities

*US ACE Conditions for NWP # 12 Eligibility*

Automatic permit coverage is available without submitting an application or Pre-Construction Notification, if all of the following apply:

- There is no mechanized land clearing of a forested wetland for the right-of-way
- The channel area impacted by construction is 500 lineal feet or less
- The activity is designed to cross the channel, and not run within the channel
- Less than one-tenth of an acre of wetland or channel is permanently lost.
- Permanent above-grade access roads are 500 feet long or less.
- There will be no paving of permanent access roads within the wetland or channel.
- All US ACE and KDOW general permit conditions listed in this section are followed.

If any of the conditions above cannot be met, you can still get Nationwide Permit coverage if:

- Activities will not result in a loss of more than ½ acre of a water of the U.S.
- You file a Pre-Construction Notification with the US Army Corps of Engineers.
- You follow all of the General Conditions for US ACE NWP and NWP #12 below.

*US ACE General Conditions for Projects Using NWP #12*

- Cannot change the preconstruction contours of the channel or banks.
- Cannot create a "French drain" effect, and drain a water of the U.S.
- Cannot leave excavated material in the channel for more than three months.
- Work must be organized to prevent sediment from washing downstream.
- Must maintain normal downstream flows and minimize flooding.
- For wetlands work, use wetland or other topsoil for the top six inches of fill.
- Exposed slopes and banks must be stabilized immediately after construction.
- Access roads must be the minimum width necessary, and properly stabilized.
- Temporary access roads must be removed and stabilized after work is completed.
- Temporary fills must be removed upon completion of work.
- All areas must be revegetated or otherwise stabilized after work is completed.
- Must follow the US ACE general conditions for all NWP projects.

*Kentucky Division of Water: Water Quality Certification under NWP #12*

If you will be covered by the US ACE Nationwide Permit #12 as described above, you must also apply for coverage by filling out the *Application for Permit to Construct Across or Along a Stream and/or Water Quality Certification* (see form in Appendix 7, or download the MS Word form at http://www.water.ky.gov/permitting/wqcert . This form is also the initial submittal to determine whether or not you will need a Floodplain Permit. You must also follow the KDOW General Conditions and Special Conditions for NWP #12 below:

*KDOW General Conditions for WQCs Using US ACE NWP #12*

- General WQC is limited to the crossing of streams only, with impacted area limited to twice the width of the stream. Laying pipes along stream channels or within banks requires an individual WQC.
- Impacts are limited to 300 feet or less of perennial and intermittent streams and less than one acre of wetlands.
- Sewer lines must be located at least 50 feet from the top of the bank of a blue line stream (i.e., on a 7.5 minute USGS topographic map). If this is not possible, you must request approval from KDOW and demonstrate adequate erosion and sediment controls.
- Normal stream flows must be maintained during construction.
- Construct and maintain pump-around systems outside of the channel, and control sediment with stilling basins, check dams, or other methods.
- Do not change stream shape, pattern, profile, dimension, or the contours of banks or wetland areas.
- Do not construct project so that streams or wetlands are drained or dewatered.
- Channel and bank areas must be stabilized within 14 days after work is completed.
- Project must follow KY Division of Water General Conditions for all WQCs.

## US ACE Nationwide Permit #13: Bank Stabilization

*US ACE Conditions for NWP # 13 Eligibility*

Covers stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:

- No material is placed in excess of the minimum needed for erosion protection;
- The activity is no more than 500 feet in length along the bank, unless this criterion is waived in writing by the district engineer;
- The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless this criterion is waived in writing by the district engineer;
- The activity does not involve discharges of dredged or fill material into special aquatic sites, unless this criterion is waived in writing by the district engineer;
- No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any water of the United States;
- No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,
- The activity is not a stream channelization activity.

PCN is required if the activity (1) involves discharges into special aquatic sites (e.g., Steeles Run); (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard of soil or other material per running foot along the bank below the plane of the ordinary high water mark.

*Kentucky Division of Water Special Conditions for NWP #13*

The general WQC associated with NWP #13 applies, unless the activity will impact 500 ft or more of intermittent or perennial stream (unless the proposed activity includes vertical embankments such as retaining walls). The impacts from the construction of vertical embankments are limited to 300 linear ft of intermittent and perennial stream.

The use of creek rock, grouted rip rap, unformed concrete, or asphalt is not authorized under the general certification. Activities cannot impact waters of the Commonwealth identified by KDOW as impaired with the impairment source including channelization or habitat loss.

The general certification does not authorize activities that will impact Outstanding State or National Resource Waters, or Cold Water Habitat or Exceptional Waters (e.g., Steeles Run).

## US ACE Nationwide Permit #18: Minor Discharges

*US ACE Conditions for NWP # 18 Eligibility*

Covers minor discharges of dredged or fill material into all waters of the United States, provided the activity meets all of the following criteria:

- The quantity of discharged material and the volume of area excavated do not exceed 25 cubic yards below the plane of the ordinary high water mark;
- The discharge will not cause the loss of more than 1/10 acre of waters of the United States; and
- The discharge is not placed for the purpose of a stream diversion.

PCN required if: (1) The discharge or the volume of area excavated exceeds 10 cubic yards below the plane of the ordinary high water mark or the high tide line, or the discharge is in a special aquatic site (e.g., Steeles Run or a wetland).

*Kentucky Division of Water Special Conditions for NWP #18*

If the activity will impact one acre or more of jurisdictional wetlands, or 300 ft or more linear feet of intermittent or perennial stream, or an Outstanding State or National Resource Water, or Cold Water Habitat or Exceptional Waters (e.g., Steeles Run), an individual Water Quality Certification is required. Otherwise, the general certification will apply.

## US ACE Nationwide Permit #20: Oil Spill Cleanup

*US ACE Conditions for NWP # 20 Eligibility*

Covers activities required for the containment and cleanup of oil and hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300) provided that the work is done in accordance with the Spill Control and

Countermeasure Plan required by 40 CFR 112.3 and any existing state contingency plan and provided that the Regional Response Team (if one exists in the area) concurs with the proposed containment and cleanup action. This NWP also authorizes activities required for the cleanup of oil releases in waters of the United States from electrical equipment that are governed by EPA's polychlorinated biphenyl spill response regulations at 40 CFR Part 761.

*Kentucky Division of Water Special Conditions for NWP #20*

The general KDOW WQC conditions apply to all activities.

## US ACE Nationwide Permit #39: Commercial and Institutional Developments

*US ACE Conditions for NWP # 39 Eligibility*

Covers discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, and recreation facilities such as playgrounds and playing fields. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. The construction of new golf courses, new ski areas, or oil and gas wells is not authorized by this NWP.

The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States, including the loss of no more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds this 300 linear foot limit is waived in writing by the district engineer. PCN is required for all activities.

*Kentucky Division of Water Special Conditions for NWP #39*

If the activity will impact one acre or more of jurisdictional wetlands, or 300 ft or more linear feet of intermittent or perennial stream, or an Outstanding State or National Resource Water, or Cold Water Habitat or Exceptional Waters (e.g., Steeles Run), an individual Water Quality Certification is required. Otherwise, the general certification will apply.

## US ACE Nationwide Permit #41: Reshaping Existing Drainage Ditches

*US ACE Conditions for NWP # 41 Eligibility*

Covers discharges to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the United States, for the purpose of improving water quality by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of

vegetation, and increase uptake of nutrients and other substances by vegetation. The reshaping of the ditch cannot increase drainage capacity beyond the original as-built capacity nor can it expand the area drained by the ditch as originally constructed (i.e., the capacity of the ditch must be the same as originally constructed and it cannot drain additional wetlands or other waters of the United States). Does not authorize the relocation of drainage ditches constructed in waters of the United States. Does not authorize stream channelization or stream relocation projects. PCN required if more than 500 linear feet of drainage ditch will be reshaped

*Kentucky Division of Water Special Conditions for NWP #41*

The general KDOW WQC conditions apply to all activities.

## US ACE Nationwide Permit #43: Stormwater Management Facilities

*US ACE Conditions for NWP # 43 Eligibility*

Covers discharges for the construction and maintenance of stormwater management facilities, including the excavation of stormwater ponds/facilities, detention basins, and retention basins; the installation and maintenance of water control structures, outfall structures and emergency spillways; and the maintenance dredging of existing stormwater management ponds/facilities and detention and retention basins. The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States, including the loss of no more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds this 300 linear foot limit is waived in writing by the district engineer. Does not authorize discharges of dredged or fill material for the construction of new stormwater management facilities in perennial streams. PCN required for construction of new stormwater management facilities and expansion of existing stormwater management facilities. No PCN is required if maintenance activities are limited to restoring the original design capacities of the stormwater management facility

*Kentucky Division of Water Special Conditions for NWP #43*

General WQC applies only to activities that impact less than 300 linear ft of intermittent or perennial stream. Physical impacts resulting from the construction of stormwater management facilities shall be limited to that necessary for the construction of the impounding structure. The excavation, piping, or paving of stream channels upstream of the impounding structure are not authorized under the general WQC.

- Stormwater management facilities that are constructed adjacent to stream channels must be constructed in such a manner as to minimize the impact to the stream bank and stream channel. The general WQC does not authorize physical impacts to existing stream banks other than that associated with a single inlet and outlet structure.

- All excavations within a stream necessary to complete a stormwater management facility project shall be done in such a manner as to prevent degradation of waters of the Commonwealth. Sediment removal from stormwater management facilities shall be done

in dry conditions and in such a manner as to prevent sediment from entering waters of the Commonwealth.

- Removal of riparian vegetation shall be limited to that necessary for equipment access.
- Site regrading and reseeding will be accomplished within 14 days after disturbance.
- The activity can not impact waters of the Commonwealth identified by KDOW as Outstanding State or National Resource Waters, Cold Water Aquatic Habitat, or Exceptional Waters.

Projects that do not meet the conditions above must apply for an individual WQC.

# Appendix 11 KPDES Construction Stormwater NOI and NOT

# FORM NOI-SWCA

| | |
|---|---|
| | **KENTUCKY POLLUTION DISCHARGE ELIMINATION SYSTEM (KPDES)**<br><br>**Notice of Intent (NOI) for coverage of Storm Water Discharges Associated with Construction Activities Under the KPDES Storm Water General Permit KYR100000** |

This is an application for:

☐ New construction activity.
☐ Modification of coverage for additional area in same watershed.
☐ Modification of coverage for additional area in different watershed.

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| If Modification is checked, state reason for Modification: | | | | | | | | | | |
| For Agency Use | Permit No. (Leave Blank) | **K** | **Y** | **R** | **1** | **0** | | | | |
| For Agency Use | AI ID (Leave Blank) | | | | | | | | | |

## SECTION I – FACILITY OPERATOR INFORMATION

| | | |
|---|---|---|
| Operator Name(s)*: | Phone:* | |
| Mailing Address:* | Status of Owner/Operator: ☐Private ☐State ☐Federal ☐Public(other than state or federal) | |
| City:*: | State:* | Zip Code:* |

## SECTION II – FACILITY/SITE LOCATION INFORMATION

| | | |
|---|---|---|
| Name of Project:* | Physical Address:* | City:* |
| State:* | Zip Code:* | County:* |
| Latitude (decimal degrees):* | Longitude (decimal degrees):* | SIC Code:* |

## SECTION III – SITE ACTIVITY INFORMATION

For single projects provide the following information

| | | | |
|---|---|---|---|
| Total Number of acres in project:* | Total Number of acres to be disturbed:* | Start date: | Completion date: |

For common plans of development projects provide the following information

| | | |
|---|---|---|
| Total Number of acres in project:* | Number of individual lots in development: | Number of lots to be developed: |
| Total acreage intended to be disturbed:* | Number of acres intended to be disturbed at any one time: | |
| Start date: | Completion date: | List Contractors: |

## SECTION IV – DISCHARGE TO A WATER BODY

| | |
|---|---|
| Name of Receiving Water:* | Anticipated number of discharge points: |
| Location of anticipated discharge points: Latitude (decimal degrees):* | Longitude (decimal degrees):* |
| Receiving Water Body Stream Use Designation | ☐Cold Water Aquatic Habitat ☐Domestic Water Supply ☐Outstanding State Resource Water ☐Secondary Contact Recreation ☐Primary Contact Recreation ☐Warm Water Aquatic Habitat |
| Antidegradation Categorization | ☐Outstanding National Resource Water ☐Exceptional Water ☐High Quality Water ☐Impaired Water |
| | |

# FORM NOI-SWCA

## SECTION V – DISCHARGE TO AN MS4

| | |
|---|---|
| Name of MS4: | Date of application /notification to the MS4 for construction site coverage: |
| Number of discharge points: | Location of each discharge point: Latitude (decimal degrees):* Longitude (decimal degrees):* |

## SECTION VI – CONSTRUCTION ACTIVITIES IN OR ALONG A WATER BODY

Will the project require construction activities in a water body or the riparian zone: ☐ Yes ☐ No

If yes, describe scope of activity:

| | |
|---|---|
| Is a Clean Water Act 404 permit required: ☐ Yes ☐ No | Is a Clean Water Act 401 Water Quality Certification required: ☐ Yes ☐ No |

## SECTION VII – NOI PREPARER INFORMATION

| | | | |
|---|---|---|---|
| First Name:* | Last Name:* | Phone :* | eMail Address:* |
| Mailing Address:* | City:* | State:* | Zip Code:* |

## SECTION VIII – ATTACHMENTS

Attach a full size color USGS 7½-minute quadrangle map with the facility site clearly marked. USGS maps may be obtained from the University of Kentucky, Mines and Minerals Bldg. Room 106, Kentucky, Kentucky 40506. Phone number (859) 257-3896.

## SECTION IX – CERTIFICATION

**I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.**

| | | |
|---|---|---|
| Signature:* | First Name:* | Last Name:* |
| Phone:* | eMail Address: | Date:* |

*This completed application form and attachments should be sent to: SWP Branch, Division of Water, 200 Fair Oaks, Frankfort, Kentucky 40601. Questions should be directed to: SWP Branch, Operational Permits Section at (502) 564-3410.*

**WHO MUST FILE A NOTICE OF INTENT (NOI) FORM**

Federal law at 40 CFR Part 122 prohibits point source discharges of stormwater associated with industrial activity to a water body of the Commonwealth of Kentucky without a Kentucky Pollutant Discharge Elimination System (KPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under the KPDES Storm Water General Permit. If you have questions about whether you need a permit under the KPDES Storm Water program, or if you need information as to whether a particular program is administered by the state agency, call the **Storm Water Contact, Operational Permits Section, Kentucky Division of Water at (502) 564-3410.**

**WHERE TO FILE NOI FORM**

NOIs must be sent to the following address, or submitted in on-line at https://dep.gateway.ky.gov/eForms/Default.aspx?FormID=3:

**Operational Permits Section, SWP Branch, Division of Water, 200 Fair Oaks Lane, Frankfort, KY 40601**

**Electronic NOI-SWCAs are to be submitted a minimum of seven (7) working days prior to commencement of construction related activities. Paper NOI-SWCAs are to be submitted a minimum of thirty (30) working days prior to commencement of construction related activities.**

**COMPLETING THE FORM**

Enter information in the appropriate areas only. (*) denotes a required field. Enter N/A (Not Applicable) for fields that are required but do not apply to your submission. If you have any questions regarding the completion of this form call the **Storm Water Contact, Operational Permits Section, at (502) 564-3410.**

**SECTION I – FACILITY OPERATOR INFORMATION**

**Operator Name(s):** Enter the name or names of all operators applying for coverage under KYR10 using this NOI.
**Mailing Address, City, State, and Zip Code:** Provide the mailing address of the primary operator
**Phone No.:** Provide the telephone numbers of the person who is responsible for the operation.
**Status of Owner/Operator:** Select the appropriate legal status of the operator of the facility from the dropdown list.

**Federal**
**Public (other than federal or state)**
**State**
**Private**

**SECTION II – FACILITY/SITE LOCATION INFORMATION**

**Name of Project:** Provide the name of the project.
**Physical Address, City, State, Zip Code and County:** Provide the physical address of the project.
**Latitude/Longitude:** Provide the general site latitude and longitude of the operation.
**SIC Code:** Enter the Standard Industrial Code for the project

**SECTION III –SITE ACTIVITY INFORMATION**

## For single projects provide the following information:

**Total number of acres in project:** Indicate the total acreage of the project including both disturbed and undisturbed areas.
**Total number of acres to be disturbed:** Indicate the total number of acres of the project to be disturbed.
**Anticipated start date:** Indicate the approximate date of when construction activities will begin.
**Anticipated completion date:** Indicated the approximate date of when final stabilization will be achieved.

## For common plans of development provide the following information:

**Total number of acres in project:** Indicate the total acreage of the project including both disturbed and undisturbed areas.
**Number of individual lots in development, if applicable:** Indicate the number of individual lots or unit in the common plan of development
**Number of lots to be developed:** Indicate the number of lots that you intend to develop.
**Total acreage of lots intended to develop:** Indicate the total acreage of the lots you intend to develop
**Total acreage intended to disturb:** Indicate the total acreage of the lots you intend to disturb
**Number of acres intended to disturb at any one time:** Indicate the maximum number of acres to be disturbed at any one time.
**Anticipated start date:** Indicate the approximate date of when construction activities will begin.
**Anticipated completion date:** Indicated the approximate date of when final stabilization will be achieved.
**List of contractors:** Provide the names of all known contractors that will be working on site.

**SECTION IV – IF THE PERMITTED SITE DISCHARGES TO A WATER BODY THE FOLLOWING INFORMATION IS REQUIRED**

**Name of Receiving Water:** Provide the names of the each water body receiving discharges from the site. Provide only official USGS names do not provide local names
**Anticipated number of discharge points:** Indicate the number of discharge points to each receiving water body.
**Location of anticipated discharge points:** Provide the latitude and longitude of each discharge point. Add points as necessary.
**Receiving Water Body Stream Use Designation:** Check all appropriate boxes
**Antidegradation Categorization:** Select from the drop down box one of the following:

Outstanding National Resource Water
Exceptional Water
High Quality Water
Impaired Water

**SECTION V – IF THE PERMITTED SITE DISCHARGES TO A MS4 THE FOLLOWING INFORMATION IS REQUIRED**

**Name of MS4:** Provide the name of the MS4 to which the activity will discharge
**Number of discharge points to the MS4:** Indicate the number of discharge points
**Location of each discharge point:** Provide the latitude and longitude of each discharge point. Add points as necessary
**Date of application/notification to the MS4 for construction site permit coverage:** Indicate the date the MS4 has or will be notified.

**SECTION VI – CONSTRUCTION ACTIVITIES IN OR ALONG A WATER BODY**

**Will the project require construction activities in a water body or the riparian zone:** Select Yes or No from the drop down box.
**If Yes, describe scope of activity:** Provide a brief description of the activity (ies) that will take place in the water body or the riparian zone.
**Is a Clean Water Act 404 permit required:** Select Yes or No from the drop down box.
**Is a Clean Water Act 401 Water Quality Certification required:** Select Yes or No from the drop down box.

**SECTION VII – NOI PREPARER INFORMATION**

Provide the name, mailing address, telephone number and eMail address of the person preparing the NOI.

**SECTION VIII –Attachments**

**Attach a USGS topographic map indicating the location of the activity and the proposed discharge points.**

**SECTION IX – CERTIFICATION**

Provide the name, mailing address, telephone number and eMail address of the person who is responsible for the activity

**Signature:** Provide full name of the responsibility party. This will constitute a signature.

The NOI must be signed as follows:

**Corporation:** by a principal executive officer of at least the level of vice president
**Partnership or sole proprietorship:** by a general partner or the proprietor respectively

## KPDES FORM NOT-SWCA

Kentucky Pollutant Discharge Elimination System (KPDES)

**NOTICE OF TERMINATION (NOT)**
of Coverage Under the KPDES General Permit for Storm Water Discharges Associated with Construction Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with construction activity under the KPDES program.

ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.
(Please see instructions on back before completing this form.)

| **I. PERMIT INFORMATION** |
|---|
| KPDES Storm Water General Permit Number: |
| Check here if you are no longer the Operator of the Facility: ☐ |
| Check here if the Storm Water Discharge is Being Terminated: ☐ |
| **II. FACILITY OPERATOR INFORMATION** |
| Name: |
| Address: |
| City/ State/Zip Code: |
| Telephone Number: |
| **III. FACILITY/SITE LOCATION INFORMATION** |
| Name: |
| Address: |
| Is this part of a larger common plan of development: ☐ yes ☐ no |
| Name of Main Contractor: |
| Lot Number: of |
| Address of Lot(s): |
| City/County/State/Zip Code: |

**Certification:** I certify under penalty of law that all storm water discharges associated with construction activity from the identified site that are authorized by a KPDES general permit have been eliminated or that I am no longer the operator of the construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activity under this general permit, and that discharging pollutants in storm water associated with construction activity of waters of the Commonwealth is unlawful under the Clean Water Act and Kentucky Regulations where the discharge is not authorized by a KPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violations of this permit or the Kentucky Revised Statutes.

| NAME (Print or Type) | TITLE |
|---|---|
| SIGNATURE | DATE |

**INSTRUCTIONS**
**NOTICE OF TERMINATION (NOT) OF COVERAGE UNDER THE KPDES GENERAL PERMIT**
**FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY**

**Who May File a Notice of Termination (NOT) Form**
Permittees who are presently covered under the Kentucky Pollutant Discharge Elimination System (KPDES) General Permit for Storm Water Discharges Associated with Construction Activity may submit a Notice of Termination (NOT) form when their facilities no longer have any storm water discharges associated with construction activity as defined in the storm water regulations at 40 CFR 122.26 (b)(14), or when they are no longer the operator of the facilities.

Elimination of all storm water discharges associated with industrial activity occurs when disturbed soils at the construction site have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with industrial activity from the construction site that are authorized by a KPDES general permit have otherwise been eliminated. Final stabilization means that all soil-disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

**Where to File NOT Form**
Send this form to the following address:

**Section Supervisor**
**Inventory & Data Management Section**
**SWPB , Division of Water**
**200 Fair Oaks, 4th Floor**
**Frankfort, KY 40601**

**Completing the Form**
Type or print legibly in the appropriate areas and according to the instructions given for each section. If you have questions about this form, call the Storm Water Contact, Allen Ingram II, at (502) 564-3410.

**Section I - Permit Information**
Enter the existing KPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, **call the Storm Water Contact, Allen Ingram II at (502) 564-3410.**

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.

If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

**Section II - Facility Operator Information**
Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

**Section III - Facility/Site Location Information**
Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility using decimal degrees of the approximate center of the site.

If this construction site is part of a larger common plan of development, provide the name of the main contractor, the lot number(s) that you had projects on and for which you are seeking to terminate permit coverage for and the address(es) of those lots.

**Section IV - Certification**

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

*For a corporation:* by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* by a general partner or the proprietor; or

*For a municipality, State, Federal, or other public facility:* by either a principal executive

# Appendix 12 Stormwater Pollution Prevention Plan Template

## CONSTRUCTION SITE STORMWATER POLLUTION PREVENTION PLAN

This Stormwater Pollution Prevention Plan (SWPPP) narrative and the attached plan sheets address requirements of the Kentucky Division of Water's KPDES KYR10 permit.

**Plan Preparer**: Paul E. Planpreparer, P.E. 859.111.1121, pplanpreparer@planningky.org
**Date:** January 1, 20XX

### 1. CONTACT INFORMATION AND SITE DESCRIPTION

**Project Name and Location**
Starshader Sewer Main Extension
21 Broadview Avenue
Kentucky City, KY 40000

**Site Owner Name and Contact Information**
Division of Public Works
Joe Pine, Project Manager
Joe.Pine@planningky.org

**Construction Site SWPPP Manager and Contact Information**
Mark Smith, General Contractor
DBA Smith Trenching
10 Main Street
Olympia Springs, KY 40360
859.111.1111
MSmith@Smithtrenchers.com

**Project Start and End Dates**
Start: January 1, 20XX
End: December 31, 20XX

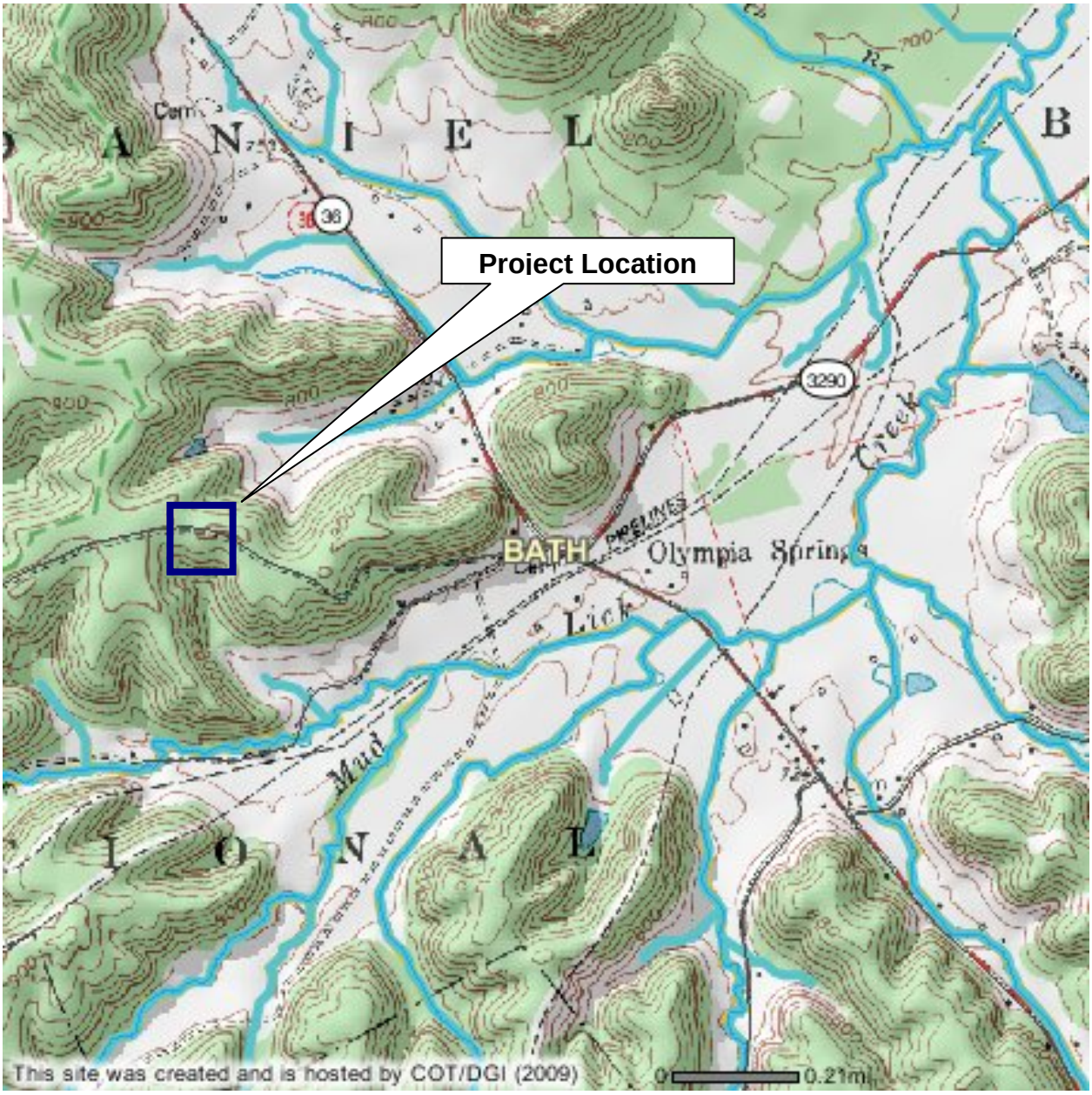
**Description – Existing Site Conditions, Purpose, and Types of Soil Disturbing Activities**
The site is near Olympia Springs in Bath County, KY. The existing site is grassed pasture with rolling slopes <5%, some cedars, and no mature trees in the area to be developed. Soils are sandy loam with good drainage. No streams are on the property. Rocky Creek is about 450 ft downgrade. It is not an impaired water body according to the Kentucky Division of Water. No threatened or endangered species or historical sites were found on the property. This project will consist of three low-rise, attached apartment buildings with adjacent parking facilities. Soil disturbing activities will include: installing a stabilized construction entrance, installing downgradient silt fencing, initial clearing and grubbing, installation of other erosion and sediment controls, general grading, excavation for the sediment pond, storm sewer, utilities, and building foundations; construction of roadside drainage swales, roads, and parking areas; and preparation for final seeding and landscaping.

**Site Area and Disturbed Acreage**
The site is approximately 11.0 acres, of which 9.8 acres will be disturbed by construction activities. No offsite borrow, fill, or cleared areas are associated with this project.

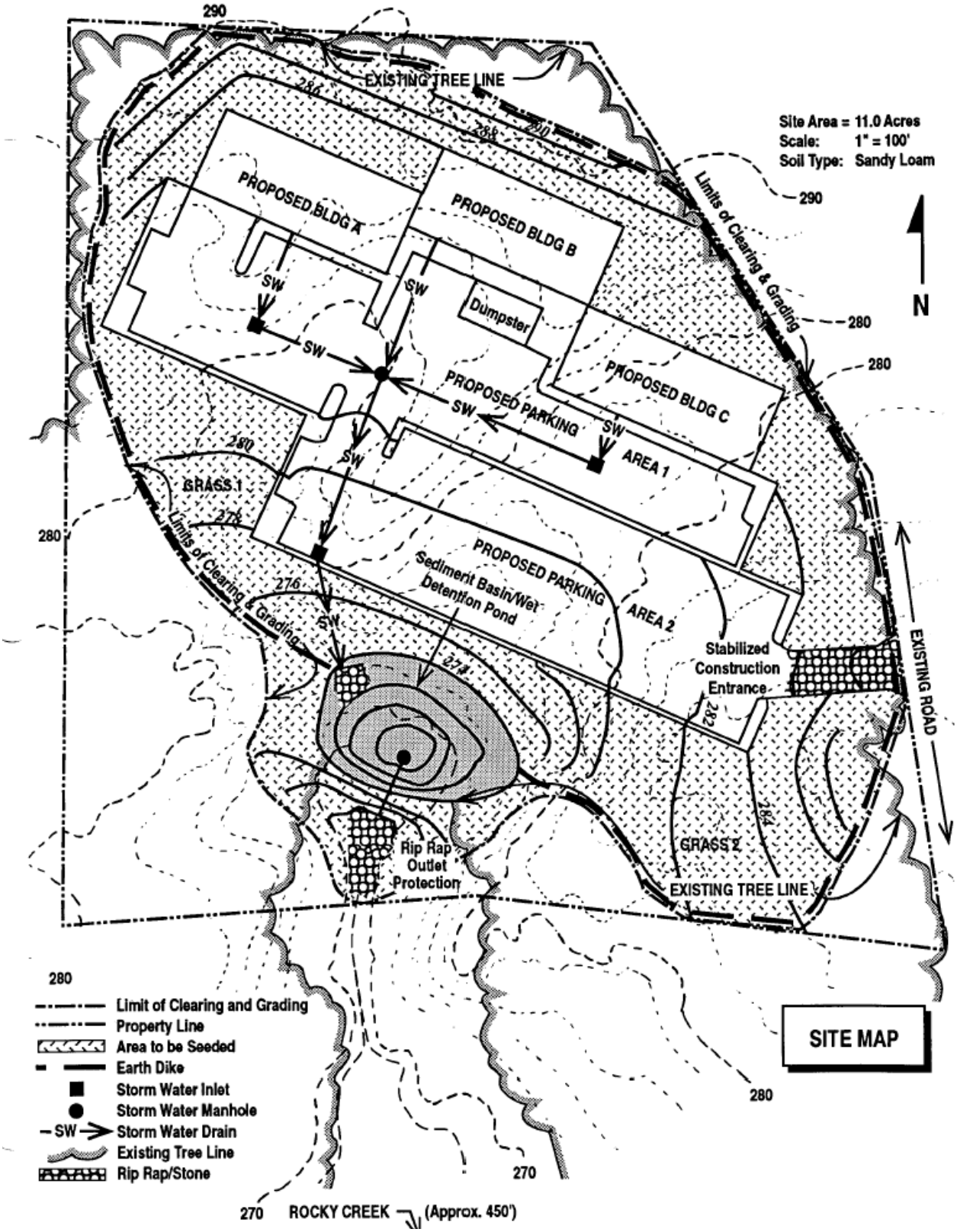
**Sequence and Schedule of Major Project Activities**

| Construction Activity | Dates | Schedule Considerations |
|---|---|---|
| Work crew orientation | Jan 1 – 7 | Pre-project briefing to review permits, plans, schedule, and staffing. |
| Construction access – install entrance to site, initial construction routes, initial areas designated for vehicle parking | Jan 8 – 15 | This is the first land-disturbing activity. Minimal clearing/grading will be done to install stabilized #2 rock site exit with geotextile underliner, at least 50 ft long. Downgradient silt fences will be installed below areas to be cleared, grubbed, graded, or cut/filled. Do-not-disturb areas will be marked off. |
| Sediment traps and barriers – basins, traps, sediment fences, outlet protection | Jan 8 – 15 | ID locations and install temporary sediment traps as needed to intercept flow. Build basins prior to upgradient work where possible, and seed/mulch/blanket slopes immediately. Relocate and reinstall silt fences as necessary prior to upgradient work. Maintain and remove sediment as necessary. |
| Runoff and run-on controls – diversion ditches or berms, perimeter dikes | Jan 8 – 15 | Install controls as needed to divert clean flows around or through site. Key practices will be installed after the installation of principal sediment traps and before land grading. Additional runoff control measures may be installed during grading. |
| Land clearing and grading—site preparation (cutting, filling, and grading, sediment traps, barriers, diversions, drains, surface roughening) | Jan 16 – 31 | Major clearing and grading will begin after installation of principal sediment and runoff control measures, and additional control measures will be installed as grading continues. Borrow and disposal areas will be cleared as needed. Trees and buffer areas around streams, sinkholes, and other protected areas will be marked for preservation. |
| Runoff conveyance system - storm drains, channels, inlet and outlet protection, slope drains | Feb 1 – 28 | Inlet and outlet protection measures will be installed as needed. Drainage ditches will be stabilized immediately with sod or seed with erosion control blanket. Slope drains will be installed as indicated on site drawings. A minimum 25 ft vegetated buffer will be maintained around all streams and sinkholes. |
| Surface stabilization—temporary and permanent seeding, mulching, sodding, riprap | Mar 1 – 15 | All disturbed areas will be graded and stabilized as soon as possible. Stabilization will begin within 14 days on areas of the site where construction has permanently or temporarily ceased. Temporary and permanent stabilization will comply with the Stormwater Manual. Erosion control blankets and turf reinforcement mats will be used on slopes in accordance with the Stormwater Manual. |
| Building construction—buildings, utilities, paving | Mar 1 – Jun 30 | During construction, erosion and sedimentation control measures will be installed as needed, such as construction entrances and downgradient silt fences and sediment traps. Areas at final grade not in the immediate construction area will be seeded/mulched as soon as possible. |
| Landscaping and final stabilization—topsoiling, trees and shrubs, permanent seeding, mulching, sodding. | Jul 1 – 31 | This is the last construction phase. All remaining disturbed areas will be stabilized, including borrow and spoil areas. Temporary control structures will be removed and the area will be seeded and mulched. |

## 2. LOCATION AND SITE DESCRIPTION, MAPS, AND DRAWINGS (ALSO ATTACHED)




**Starshader Apartments Project Location Map (NOTE: Pipeline has been retired from service, and removed)**




**Site Plan Showing Pre/Post Construction Topography, Construction, Drainage Features, and BMPs**
**(See additional plan sheets for BMP design details, notes, and other stormwater management info)**

### *Name of Receiving Waters*

*The entire site will drain into Rocky Creek, which is approximately 450 feet from the site. There are no sinkholes, wetlands, springs, or streams on the site.*

### *Receiving Waters Classification and Status*

*Rocky Creek is designated as Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation, and is not listed on the Kentucky impaired waters (303d) list. There is no TMDL for Rocky Creek. No threatened and endangered species are present on the site or downstream from the project discharge.*

### *Potential Sources of Pollutants*

*Sediment from land clearing and grading; fertilizer; concrete washout water; paint wash water; oil/fuel/grease from equipment; sanitary waste; trash/debris.*

## 3. EROSION PREVENTION AND SEDIMENT CONTROL MEASURES

### *Limits of Disturbance and Project Phasing*

Approximately 9.8 acres will be disturbed during construction. Land disturbance activities will be phased to minimize the amount of soil exposed and the length of exposure time. The overall objective will be to achieve final grades as quickly as possible, and to stabilize all areas with seed, mulch or blankets/mats within 14 days after final grade is achieved, or after grading work has been suspended on that portion of the site.

### *Stabilization Practices*

Temporary Stabilization – *Top soil stockpiles and disturbed portions of the site where construction activity stops for 14 days or more will be stabilized with temporary seed or straw mulch no later than 14 days from the last construction activity in that area (portion) of the site. Seeding rates will be consistent with the Kentucky Erosion Prevention and Sediment Control Field Guide. Lime and fertilizer will be applied only when necessary, after soil testing. After seeding, each area shall be mulched with at least 4,000 pounds per acre of blown or hand-scattered straw. The straw will be netted down or crimped into place by a disk harrow with the blades set straight. Slopes will be covered with blankets or mats consistent with the Kentucky Construction BMP Planning and Technical Specifications Manual. Areas of the site which are to be paved will be temporarily stabilized by applying geotextile and stone sub-base until bituminous pavement can be applied. Dust will be controlled by water sprayed from a tanker truck as needed during dry weather.*

*Permanent Stabilization* – Disturbed portions of the site where construction activities are completed will be stabilized with permanent seed no later than 14 days after completion of grading in that area. Seed and mulch will be applied consistent with the Kentucky Erosion Protection and Sediment Control Field Guide. Lime and fertilizer will be applied only if needed. After seeding, each area will be mulched with 4,000 pounds per acre of straw. The straw mulch will be netted down or crimped into place by a disk harrow with blades set straight. Slopes will be covered with erosion control blankets or turf reinforcement mats consistent with the Kentucky Construction BMP Planning and Technical Specifications Manual. Ditches will be triple-seeded and lined with erosion control blanket or turf reinforcement matting.

***Structural Practices (See Attached Plan Sheets for Additional Details and Drawings)***

Earthen Berm – *will be constructed along the uphill perimeter (north) of the site. This berm will divert clean run-on water around the construction site. Another berm on the east side will collect runoff from the disturbed area and direct the runoff to the sediment basin. Berms will be seeded and mulched immediately after construction. Erosion control blankets will be used on top of seed in berm ditches with slopes of 5-10 percent. Turf reinforcement mats will be used in berm ditches with slopes exceeding 10 percent. Blankets or mats will be used on slopes in accordance with the Kentucky Construction BMP Planning and Technical Specifications Manual.*

*Sediment Traps* – will be sited and constructed as needed, according to the attached drawings and through field adaptations to changing grades and emergence of gullies that need to be controlled. Traps will consist of rock or rock bag berms across concentrated flow areas and be designed to intercept, detain, and settle out these flows. Traps installed as field adaptations will be logged on SWPPP & plans.

*Sediment Basin* – will be constructed at the common drainage location on the south side of the construction site. The basin will be formed by constructing an embankment across an existing gully and excavating a storage pond with a volume of 134 cubic yards for each upgradient disturbed acre. The basin will drain through a perforated corrugated metal riser and outlet pipe to a riprap outlet apron. The riser will have ½ inch holes 3-6 inches apart, with no large holes or slots in the lower two-thirds of the riser. Sediment will be removed before the basin is one-third full. Also, once construction activities are nearly complete, the accumulated sediment will be removed from the basin. The sediment basin and surrounding area will be seeded and mulched immediately after construction. Blankets or mats will be used on slopes in accordance with the Kentucky Construction BMP Planning and Technical Specifications Manual. Basin outlet will be protected with a rock berm during construction, to pond up and detain incoming flow.

*Inlet Protection Measures* – will be used to detain, pond, and settle (or filter) out sheet and concentrated flows moving toward curb, drop, or other inlets. Inlet protection structures will consist of rock bags, #2 rock berms, trenched in silt fence on framing, or commercial devices.

*Outlet Protection Measures* – will be used where culverts discharge to ditches or channels, and consist of turf reinforcement matting over triple seeding, erosion control blanket over triple seeding, or channel lining, depending on the scour flows and consistent with the Kentucky Division of Water's BMP Technical Specifications Manual.

*Ditch Check Dams* – will be installed as needed to control ditch downcutting, trap sediment, and stabilize ditches. Check dam installation will be consistent with the Kentucky Erosion Protection and Sediment Control Field Guide and BMP Technical Specifications Manual.

**Site Runoff Management**

Sediment will be prevented from leaving the site to the maximum extent practicable. Storm water drainage will be provided mostly by grassed swales, with sheet runoff from parking lots and building drains leading to a permanent stormwater pond on the south side of the site. The pond will be modified for sediment retention during the construction phase. Runoff will be diverted onto undisturbed vegetated areas and revegetated areas where possible for infiltration. Landscaped areas with no buildings or roads will be brought to grade and planted/seeded/mulched within 14 days. Two acres of the site, along existing drainage areas and some slopes, will be flagged off-limits to equipment and remain in its current natural state. When construction is complete the entire site will drain to the south side detention basin (the detention basin will be in the location of the temporary sediment basin). The areas on the sides of the basin will be seeded and mulched after construction. The detention pond is designed with a permanent pool volume of 1,333 cubic yards. This is equivalent to one inch of runoff for the drainage area. It is expected that this detention pond design – along with other site controls – will remove 80 percent removal of total suspended solids in the site runoff for the 2-year, 24-hour storm (see attached plan sheets for design details and calculations). The pond has been designed by a professional engineer to keep peak flow rates from the two and ten year 24-hour storms at pre-development rates. The outlet of the detention basin will be stabilized by a riprap apron. The inlet will be modified during construction by installation of a 3 ft high rock berm around the inlet to increase detention time and sediment removal. The berm will be removed after the entire site is stabilized.

## 4. OTHER CONTROL MEASURES

**Offsite Vehicle Tracking**
A stabilized #2 and larger rock construction exit with geotextile underliner will be installed to help reduce vehicle tracking of sediments at all exits onto paved roads. The stabilized exit will be 100 ft where possible, and at least 50 ft in length. The paved street adjacent to the site entrance will be swept/cleaned daily if necessary to remove any excess mud, dirt, or rock tracked from the site. The rock exit will be grubbed lightly or otherwise maintained as needed to clear (shake down) dry mud. Dump trucks hauling material from the construction site will be covered with a tarpaulin.

**Waste Disposal**
*Waste Materials* – All waste materials that may leach pollutants (paint and paint containers, caulk tubes, oil/grease containers, liquids of any kind, soluble materials, etc.) will be collected and stored in a covered metal dumpster rented from the ABC Waste Management Company, which is a licensed solid waste management company. The dumpster will meet all local and state solid waste management regulations. Construction debris and other wastes that do not leach pollutants will be recycled or deposited in a covered or open-topped dumpster. The dumpster will be emptied when full, and the contents will be hauled to an approved site. No construction waste materials will be buried onsite. All personnel will be instructed regarding the correct procedure for waste disposal. Notices stating these practices will be posted in the office trailer and Mark Smith, the individual who manages the day-to-day site operations, will be responsible for seeing that these procedures are followed.

*Hazardous Waste* – All waste materials will be disposed of in the manner specified by local or state regulation or by the manufacturer. Site personnel will be instructed in these practices and Mark Smith, the individual who manages day-to-day site operations, will be responsible for seeing that these practices are followed

*Sanitary Waste* – Portable toilets will be used on site for sanitary wastes. All sanitary waste will be collected from the portable units as needed to prevent excessive odors and overflows by the TIDEE Company, a licensed sanitary waste management contractor, as required by local regulation. Portable units will be placed away from storm drain inlets, ditches, creeks, and other water bodies

**Timing of Control Measures**
As indicated in the Sequence of Major Activities, the stabilized construction exit, earthen diversion berm, silt fences / sediment barriers, and sediment basin will be constructed prior to clearing or grading of any other portions of the site. Sediment traps will be constructed as needed in areas where gullying occurs. Ditches will be built and triple seeded/mulched (or blanketed) after construction. Areas where construction activity temporarily ceases for more than 14 days will be stabilized with temporary seed and/or mulch within 14 days of the last disturbance. Once construction activity ceases permanently in an area, that area will be seeded and mulched within 14 days. Temporary controls in permanently stabilized areas, such as silt fences, sediment barriers, ditch checks, temporary sediment traps, etc., will be removed. Controls will remain in place until all vegetation is established and ditches are stable.

## 5. OTHER STATE AND LOCAL PLANS

**Certification of Compliance with Federal, State, and Local Regulations**
This Stormwater Pollution Prevention Plan reflects Kentucky Division of Water requirements for stormwater management and erosion and sediment control. To ensure compliance, this plan was prepared in accordance with the Kentucky BMP Planning and Technical Specifications Manual. There are no other local, state, or federal permits (e.g., Clean Water Act Section 404 dredge/fill permit, KY DOW Section 401 Water Quality Certification, KY DOW Floodplain Permit, etc.) needed for this project.

## 6. MAINTENANCE PROCEDURES

***Stormwater, Erosion, and Sediment Control Maintenance Practices***
Maintenance of all BMPs at the site will be handled by Mark Smith of Smith Homebuilders, who has been trained on construction site BMPs at workshops sponsored by the KY DOW and the Kentucky Erosion Protection and Sediment Control (KEPSC) Program. Other workers on-site will be trained in BMP installation, maintenance, and good housekeeping by Mr. Smith. These are the inspection and maintenance practices that will be used to maintain erosion and sediment controls:

- Less than ½ of the site will be cleared of vegetation at one time; areas at final grade will be seeded and mulched within 14 days.
- All measures will be maintained in good working order; if a repair is necessary, it will be initiated within 24 hours of being reported. This information will be logged on the SWPPP/BMP Plan
- Silt fences will be inspected for bypassing, overtopping, undercutting, depth of sediment, tears, and to ensure attachment to secure posts. Bypasses will be repaired immediately.
- Built-up sediment will be removed from behind the silt fence before it has reached halfway up the height of the fence.
- The sediment basin will be inspected for depth of sediment, and built-up sediment will be removed when it reaches 30 percent of the design capacity and at the end of the job.
- Diversion dikes and berms will be inspected and any breaches promptly repaired. Areas that are eroding or scouring will be repaired and re-seeded / mulched as needed.
- Temporary and permanent seeding and mulching will be inspected for bare spots, washouts, and healthy growth. Bare or eroded areas will be repaired as needed.

## 7. INSPECTION PROCEDURES

***Stormwater, Erosion, and Sediment Control Inspection Practices***
Inspection of all BMPs at the site will be handled by Mark Smith of Smith Homebuilders, who has been trained on inspecting construction site BMPs at workshops sponsored by the KY DOW and the Kentucky Erosion Protection and Sediment Control (KEPSC) Program.

- All erosion prevention and sediment control measures will be inspected at least once every two weeks and within 24 hours following any rain of one-half inch or more.
- Inspections will be conducted by Mark Smith, who has been trained by the KY DOW and KEPSC. Mr. Smith will train three people who will be responsible for assisting in the inspections and installing, maintaining, and repairing the controls on the site.
- Inspection reports will be written, signed, dated, and kept on file for three years. They will be kept on file at the site office trailer, along with this Stormwater Pollution Prevention Plan.

## 8. NON-STORMWATER DISCHARGES

It is expected that the following non-storm water discharges will occur from the site during construction:

- Water from water line flushings.
- Pavement wash waters (where no spills or leaks of toxic or hazardous materials have occurred).
- Uncontaminated groundwater and rain water (from dewatering during excavation).

All non-storm water discharges will be directed to a sediment basin, filter bag, or filter fence enclosure in a flat vegetated infiltration area prior to discharge, to remove sediment and other contaminants.

*The materials or substances listed below are expected to be present onsite during construction:*

- Concrete
- Detergents
- Paints (enamel/latex)
- Metal Studs
- Concrete
- Tar
- Fertilizers
- Petroleum Products
- Cleaning Solvents
- Wood
- Masonry Block
- Roofing Shingles

***Spill Prevention and Material Management Practices***
The following material management practices will be used to reduce the risk of spills or other accidental exposure of materials and substances to exposure to the weather and/or runoff.

**Good Housekeeping**
The following good housekeeping practices will be followed onsite during the construction project.

- An effort will be made to store only enough product required to do the job
- Products and materials will be stored away from the surface drainage system.
- All materials stored onsite will be stored in a neat, orderly manner in their appropriate containers and, if possible, under a roof, properly secured tarpaulin, or other enclosure
- Products will be kept in their original containers with the original manufacturer's label
- Substances will not be mixed with one another unless recommended by the manufacturer
- Whenever possible, all of the product will be used up before disposing of the container
- Manufacturers' recommendations for proper use and disposal will be followed
- The site superintendent will inspect daily to ensure proper used and disposal of materials onsite.
- Dust will be controlled by water sprayed from a tanker truck as needed during dry weather.

**Hazardous Products**
These practices will be used to reduce the risks associated with any and all hazardous materials.

- Products will be kept in original containers unless they are not resealable.
- Products will be stored in a locked storage trailer on the site.
- Original labels and material safety data sheets (MSDS) will be reviewed and retained.
- If surplus product must be disposed of, manufacturers' or state/local recommended methods for proper disposal will be followed.

**Petroleum Products**
All onsite vehicles will be fueled and maintained off-site, monitored for leaks, and receive regular preventative maintenance to reduce the chance of leakage. Petroleum products stored onsite (oil, gas for tamp and pump) will be stored in tightly sealed containers, which are clearly labeled. Any asphalt substances used onsite will be applied according to the manufacturer's recommendations.

Fertilizers
If used, fertilizers used will be applied only in the minimum amounts recommended by the manufacturer. Once applied, fertilizer will be covered with mulch or blankets or worked into the soil to limit exposure to storm water. Storage will be in a covered shed. The contents of any partially used bags of fertilizer will be transferred to a sealable plastic bin to avoid spills.

**Paints**
All containers will be tightly sealed and stored indoors or under roof when not being used. Excess paint or paint wash water will not be discharged to the drainage or storm sewer system but will be properly disposed of according to manufacturers' instructions or state and local regulations.

**Concrete Truck Washout**
Concrete truck mixers and chutes will not be washed on pavement, near storm drain inlets, or within 75 feet of any ditch, stream, wetland, lake, or sinkhole. Where possible, excess concrete and wash water will be discharged to areas prepared for pouring new concrete, flat areas to be paved that are away from ditches or drainage system features, or other locations that will not drain off site. Where this approach is not possible, a constructed wash basin lined with plastic sheeting will be installed away from ditches to receive the wash water. Washout locations are indicated on the attached drawings.

**Spill Control Practices**
In addition to the good housekeeping and material management practices discussed in the previous sections of this plan, the following practices will be followed for spill prevention and cleanup:

- Manufacturers' recommended methods for spill cleanup will be clearly posted. All personnel will be made aware of procedures and the location of the information and cleanup supplies.
- Materials and equipment necessary for spill cleanup will be kept in the material storage area. Equipment and materials will include but not limited to brooms, dust pans, mops, rags, gloves, kitty litter, sand, sawdust, and plastic and metal trash containers.
- All spills will be cleaned up immediately after discovery.
- The spill area will be kept well ventilated and personnel will wear appropriate protective clothing to prevent injury from contract with a hazardous substance.
- Spills of toxic or hazardous material will be reported to the appropriate state/local agency.
- The spill prevention plan will be adjusted as needed to prevent spills from reoccurring and improve spill response and cleanup.
- Mark, Smith, the site superintendent responsible for the day-to-day site operations, will be the spill prevention and cleanup coordinator. He will designate at least three other people onsite to receive spill prevention/cleanup training and assist in cleanups. Their names will be posted in the material storage area and in the office trailer outside.

## 9. PERMITTEE CERTIFICATIONS

***SWPPP Files, Updates, and Amendments***

This SWPP Plan and related documents (e.g., NOI, inspection reports) will be kept on file at the construction site by Mark Smith, the Site Manager. The SWPPP will be updated by the Owner and/or Site Manager to reflect any and all significant changes in site conditions, selection of BMPs, the presence of any unlisted potential pollutants on site, or changes in the Site Manager, contractor, subcontractors, or other key information. Updates and amendments will be made in writing within 7 days and will be appended to the original SWPPP and available for review.

**Stormwater Pollution Prevention Plan Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed: _____ Date: _____

Joe Pine, President

Pine Grove Development LLC

# Example Kentucky Construction Site Stormwater Inspection Report

| General Information | | | |
|---|---|---|---|
| **Project Name** | | | |
| **KPDES Tracking No.** | | **Location** | |
| **Date of Inspection** | | **Start/End Time** | |
| **Inspector's Name(s)** | | | |
| **Inspector's Title(s)** | | | |
| **Inspector's Contact Info** | | | |
| **Inspector's Qualifications** | | | |
| **Describe present work phase** | | | |
| **Type of Inspection:**<br>❑Regular Weekly ❑Regular Bi-Weekly ❑Pre-Storm Event ❑During Storm ❑Post-Storm Event | | | |

| Weather Information |
|---|
| **Has there been a storm event since the last inspection?** ❑Yes ❑No<br>**If yes, provide:** Start Date & Time: Storm Duration (hrs): Approximate Amount of Precipitation (in): |
| **Weather at time of this inspection?**<br>❑Clear ❑Cloudy ❑Rain ❑Sleet ❑Fog ❑Snowing ❑High Winds ❑Other Temperature: _____ |
| **Have any discharges of sediment or other pollutants occurred since the last inspection?** ❑Yes ❑No<br>**If yes, describe:** |
| **Are there any discharges of sediment or pollutants at the time of inspection?** ❑Yes ❑No<br>**If yes, describe:** |

**Site-specific BMPs**

*Number the structural and non-structural BMPs identified in your SWPPP on your site map and list them below (add as many BMPs as necessary. Describe corrective actions initiated, date completed, and note the person that completed the work in the Corrective Action Log.*

| | BMP Type or Name | BMP Installed? | Maintenance Required? | Corrective Action Needed and Notes |
|---|---|---|---|---|
| 1 | | ❑Yes ❑No | ❑Yes ❑No | |
| 2 | | ❑Yes ❑No | ❑Yes ❑No | |
| 3 | | ❑Yes ❑No | ❑Yes ❑No | |
| 4 | | ❑Yes ❑No | ❑Yes ❑No | |
| 5 | | ❑Yes ❑No | ❑Yes ❑No | |
| 6 | | ❑Yes ❑No | ❑Yes ❑No | |
| 7 | | ❑Yes ❑No | ❑Yes ❑No | |
| 8 | | ❑Yes ❑No | ❑Yes ❑No | |
| 9 | | ❑Yes ❑No | ❑Yes ❑No | |
| 10 | | ❑Yes ❑No | ❑Yes ❑No | |
| 11 | | ❑Yes ❑No | ❑Yes ❑No | |
| 12 | | ❑Yes ❑No | ❑Yes ❑No | |
| 13 | | ❑Yes ❑No | ❑Yes ❑No | |
| 14 | | ❑Yes ❑No | ❑Yes ❑No | |
| 15 | | ❑Yes ❑No | ❑Yes ❑No | |
| 16 | | ❑Yes ❑No | ❑Yes ❑No | |
| 17 | | ❑Yes ❑No | ❑Yes ❑No | |
| 18 | | ❑Yes ❑No | ❑Yes ❑No | |
| 19 | | ❑Yes ❑No | ❑Yes ❑No | |
| 20 | | ❑Yes ❑No | ❑Yes ❑No | |

**Overall Site Issues: Note BMPs, Implementation, Maintenance and Corrective Action Needs.**

| BMP/activity | Installed? | Maintenance Required? | Corrective Action Needed and Notes |
|---|---|---|---|
| Are all slopes and disturbed areas not being worked properly stabilized? | ❑Yes ❑No | ❑Yes ❑No | |
| Are streams, wetlands, mature trees, etc. protected with barriers or BMPs? | ❑Yes ❑No ❑N/A | ❑Yes ❑No ❑N/A | |
| Are perimeter controls and sediment barriers adequately installed (keyed into substrate) and maintained? | ❑Yes ❑No | ❑Yes ❑No | |
| Are discharge points and receiving waters free of any sediment deposits? | ❑Yes ❑No | ❑Yes ❑No | |
| Are storm drain inlets properly protected? | ❑Yes ❑No ❑N/A | ❑Yes ❑No ❑N/A | |
| Is the construction exit preventing sediment from being tracked into the street? | ❑Yes ❑No | ❑Yes ❑No | |
| Is trash/litter from work areas collected and placed in covered waste containers? | ❑Yes ❑No | ❑Yes ❑No | |
| Are washout facilities (e.g., paint, stucco, concrete) available, clearly marked, and maintained? | ❑Yes ❑No ❑N/A | ❑Yes ❑No ❑N/A | |
| Are vehicle and equipment fueling, cleaning, and maintenance areas free of spills, leaks, or any other material? | ❑Yes ❑No ❑N/A | ❑Yes ❑No ❑N/A | |
| Are materials that are potential stormwater contaminants stored inside or under cover? | ❑Yes ❑No | ❑Yes ❑No | |
| Are non-stormwater discharges (e.g., wash water, dewatering) properly controlled? | ❑Yes ❑No ❑N/A | ❑Yes ❑No ❑N/A | |
| Other management practices inspected or needed (explain): | | | |

**Non-Compliance**

| Describe any incidents of non-compliance not described above: |
|---|
| |

**CERTIFICATION STATEMENT**

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**Print name and title:** _____

**Signature:**_____ **Date:**_____