

**FINDING OF NO SIGNIFICANT IMPACT**  
**TENNESSEE VALLEY AUTHORITY**  
**MORGAN COUNTY REGIONAL CORRECTIONAL FACILITY**

**Section 26a Approval for Relocation of Winchester Branch**

**Morgan County, Tennessee**

**Proposed Action and Need**

Tennessee Department of Correction proposes to expand its Morgan County Regional Correctional Facility (MCRCF) on Flat Fork Road near Wartburg. The expansion would more than double the inmate capacity of the existing facility. The MCRCF would be consolidated with the nearby Brushy Mountain Correctional Complex at Petros, which would be closed. The expansion is needed to meet state goals of balancing the prison population among the three regions of the state. Currently, most eastern Tennessee inmates are sent to middle and western Tennessee because of insufficient capacity in the eastern region. This results in increased costs to the state in transport of prisoners. In addition, it would be beneficial to the state to close the 100-year old Brushy Mountain facility, which does not meet current prison design standards and is more expensive to operate because it has a higher inmate to staff ratio than more modern prisons.

Under the preferred alternative for construction of the expansion, 4,800 feet of Winchester Branch would be moved to a new location. The new location stream would be 3,900 feet in length and would partially flow into a channel formerly occupied by Flat Fork Creek. Approval under Section 26a of the TVA Act would be needed for the following activities that result in permanent obstructions to tributaries of the Tennessee River:

- Fill of the existing channel of Winchester Branch
- Culvert for the new Flat Fork Road crossing
- 3 culverts for access to the west side of the expanded MCRCF

The expansion project would be financed, in part, by federal funds available to the state under the Violent Offender Incarceration/Truth-In-Sentencing Initiative (VOI/TIS) Grant Program from the U.S. Department of Justice (DOJ). Accordingly, the Tennessee Department of Correction, on behalf of DOJ, commissioned the preparation of an EA to review alternatives and impacts for expansion of prison capacity. Consistent with NEPA regulations and CEQ guidance, TVA arranged to be a

cooperating agency in the DOJ environmental review. TVA commented on preliminary draft EA documents in February and May 2005 and participated in site visits with regulators on March 8, 2005, and June 16, 2005. TVA commented on the pre-final EA in September 2005. Based on its independent review, TVA is adopting the Department of Justice EA.

## **Alternatives**

Sites in other counties were considered but not evaluated in detail because of disadvantages such as inadequate utilities or the location was in the wrong region of the state. These disadvantages rule out the use of these other sites since they would not fulfill the purpose of the project. Two on-site expansion sites were evaluated in detail, in addition to a no action alternative. Under Alternative 1, No Action, the expansion would not be constructed and operation of the Morgan County and Brushy Mountain facilities would remain unchanged. No additional inmates or staff would be added to the MCRCF.

Under Alternative 2, MCRCF Southeast Expansion, the expansion would be constructed on 84 acres southeast of the existing facility and would be connected to the existing facility. The expansion would add 1,428 new beds and employment at the prison would increase by 100. Minimum, medium, and maximum security housing would be provided, in addition to buildings for administration, food service, laundry, vocational education, medical services, industries, and facilities management. Outdoor recreational facilities would be added for the inmates.

Under Alternative 3, MCRCF North Expansion, the expansion would be constructed on 100 acres across Flat Fork Road from the existing facility. As in Alternative 2, 1,428 new beds would be added. The same housing, buildings, and recreational facilities would be provided as in Alternative 2; however, employment would be higher because duplicate administration, education, medical services, food, and laundry buildings would be needed.

## **Impacts Assessment**

Under Alternative 1, no new environmental impacts would occur. The ongoing impacts of operating the existing prisons would continue to occur. Vegetation along most of Winchester Branch and Flat Fork Creek in the area of MCRCF is closely mowed as part of a prison security zone. This results in ongoing adverse aquatic resource impacts because a vegetated buffer is not allowed to grow. Flat Fork Creek is listed as impaired by the state of Tennessee due to nutrients, habitat alterations, and siltation due to pasture grazing and channelization.

Under Alternative 2, a new prison expansion would be constructed on the mostly flat area between the current prison and Flat Fork Creek. Approximately 55 acres of the 100-year floodplain and 70 acres of the 500-year floodplain of Flat Fork Creek would be filled in order that prison facilities would not be subject to flooding. Approximately 4,800 feet of Winchester Branch would be relocated. State-of-the art erosion control and streambank stabilization measures would be implemented to provide good-

quality aquatic habitat. Implementation of Alternative 2 would not make Flat Fork Creek any worse and may offer an opportunity to improve water quality in the stream. Construction under Alternative 2 would affect 6.95 acres of wetlands.

Under Alternative 3, extensive earth moving and cut and fill operations would be needed to produce a level site for the prison buildings. Approximately 6,000 feet of two unnamed streams would be relocated. There is some potential for acid-forming rock to be exposed, causing water quality problems. Construction under Alternative 3 would affect 8 acres of wetlands.

Under either action alternative, there would be no effect on federally-listed endangered or threatened species. The Tennessee dace, a fish listed as in need of management in Tennessee, occurs in Flat Fork Creek. It is anticipated that habitat for the fish would be enhanced by the project. No archaeological sites eligible for the National Register of Historic Places would be affected by the proposal. While the Brushy Mountain Correctional Complex would be closed, the property would be stabilized and maintained by the Department of Correction such that the integrity of buildings at the complex that are more than 50 years old is preserved. As a result, there would be no adverse effects to historic properties under either action alternative.

The EA identified two connected actions in conjunction with the prison expansion under Alternatives 2 or 3. In order to expand the prison, additional water supply and sewer facilities would be needed. An on-site wastewater treatment plant would be closed and sewage would be delivered to the Wartburg Wastewater Treatment plant across Tennessee State Route 62 from the prison. Water supply upgrades by the local water utility, Plateau Utility District, would also occur. New water lines are planned along SR 62 to serve both the prison and other future development in the Wartburg area. The impacts of these expansions are considered in the EA.

The impacts to wetlands, water quality, and streams would be greater under Alternative 3 than under Alternative 2. However, Alternative 2 would have a large floodplain impact. Because of the greater overall environmental impacts of Alternative 3 and because of constructability and efficiency issues, Alternative 2 remained the only viable alternative. Given the limited alternatives for prison expansion in the area due to land ownership and topography, there is no practicable alternative to construction in the floodplain. The impacts of building in the floodplain would be minimized since fill material and associated engineering controls would place the entire facility above the 100-year and 500-year flood elevation. Indeed, the implementation of these minimization measures would be an improvement from the current situation since the annex would no longer lie within the 100-year and 500-year floodplains.

### **Mitigation**

As conditions of the Section 26a approval, TVA would require implementation of best management practices for erosion and sediment control. As mitigation for the wetland and stream impacts, mitigation at a site downstream from the prison along Flat Fork Creek would be required. A combination of wetland restoration, creation, and enhancement would occur on a 36-acre site located 0.7 miles south of the prison.

owned by the state of Tennessee. As mitigation for impacts to Winchester Branch, the replacement stream would be designed with proper channel pattern, profile and dimensions, and livestock would be excluded. In addition, an unnamed tributary to Jones Branch would be restored by rebuilding the channel pattern, profile and dimensions, streambank stabilization, livestock exclusions, and planting of a riparian zone. Finally, several unnamed tributaries to Flat Fork on the north side of Flat Fork Road would be restored by creation of a 50-foot riparian buffer on both sides of the streams and livestock exclusion. The stream and wetland mitigation requirements are enforceable through the Section 401 and Section 404 permits.

Adverse impacts to the 100-year old Brushy Mountain facilities would be avoided by stabilization and monitoring for a period of 5 years. Based on this commitment by the Department of Corrections, no adverse effects to historic properties would occur.

### **Public and Intergovernmental Review**

The proposed prison expansion was announced to the public through notices published in local newspapers in April 2004 and a public meeting on April 27, 2004. No objections or adverse comments were received during the meeting. In addition, TDOC published a notice of the availability of a draft FONSI in the Wartburg weekly newspaper on June 29, 2005, and July 7, 2005. No comments were received.

Following receipt of a Section 26a application on February 2, 2005, TVA attended on-site meetings with other regulators, resource agencies, and environmental consultants to discuss stream and wetland mitigation options.

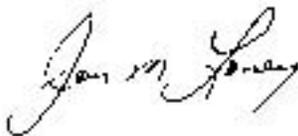
A U.S. Army Corps of Engineers/TVA/State of Tennessee Joint Public Notice issued on April 6, 2005 provided additional opportunities for public and agency review of the proposed stream and wetland impacts. Comments were received from the Tennessee Historical Commission (THC), Tennessee Wildlife Resources Agency (TWRA), U.S. Environmental Protection Agency (EPA), and U.S. Fish and Wildlife Service (FWS). THC requested an archaeological survey of the area of potential effect. This was completed and provided to THC, resulting in concurrence that no archaeological resources eligible for the NRHP are present. Further, the SHPO also concurred with the finding that stabilization of the existing buildings at the Brushy compound that are more than 50 years old would ensure that these potentially eligible historic structures are not adversely impacted. TWRA, EPA, and FWS objected to the mitigation ratios, lack of riparian buffer, and wetland mitigation plans for the project. In response, an on-site visit with these agencies was held on June 16, 2005. The stream mitigation credits were increased and the stream mitigation plans at the mitigation site were revised. Stream enhancement was proposed for several unnamed tributaries to Flat Fork Road opposite the site of the prison. Wetland restoration would occur at a ratio of 2:1, wetland creation at a ratio of 4:1, and wetland enhancement would be credited at a ratio of 5:1.

Upon review of the revised wetland mitigation plans, TWRA and FWS continued to request additional mitigation ratios for stream impacts, primarily due to the lack of riparian buffer proposed for the relocated Winchester Branch. However, EPA indicated that it was satisfied that the applicant had taken reasonable steps to select

the least environmentally damaging practicable alternative, and to avoid and minimize impacts to aquatic resources at the selected site. TVA has carefully considered the TWRA, FWS, and EPA comments and discussed them with other regulatory agencies, TVA believes that the extensive on-site wetland mitigation proposed would be beneficial and fully compensate for the proposed wetland fills needed to construct the expanded MCRCF. With regard to the stream mitigation, the existing Winchester Branch is of poor quality and degraded, with mowed shortly-cropped grass and no riparian buffers, prior channelization, and cattle impacts. TVA believes that the proposed stream enhancements on a relocated stream and on a stream in the mitigation wetland area would fully compensate for this degraded resource. By letter of September 30, 2005, the Tennessee Department of Environment and Conservation issued Water Quality Certification under Section 401 of the Clean Water Act, indicating that applicable water quality standards would not be violated and that streams would not be further degraded, provided the mitigation plan is followed.

### **Conclusion and Findings**

TVA has independently reviewed the DOJ EA and confirmed its findings. By letter of March 31, 2004, the U.S. Fish and Wildlife Service agreed that the project would not adversely affect endangered or threatened species. By letters of November 22, 2004 and September 15, 2005, the State Historic Preservation Officer agreed that no adverse effects on historic properties would take place. Given the terrain and limited options for prison expansion, there is no practicable alternative to construction in the floodplain and wetlands along Flat Fork Creek. Based upon review of the DOJ EA and staff site visits, TVA concludes that Section 26a approval for the relocation of Winchester Branch and construction of permanent culvert crossings of perennial streams in conjunction with expansion of the Morgan County Regional Correctional Facility would not be a major federal action significantly affecting the quality of the environment. Accordingly, an environmental impact statement is not required.



*October 19, 2005*

---

Jon M. Loney, Manager  
NEPA Administration  
Environmental Policy and Planning  
Tennessee Valley Authority

---

Date Signed

## Finding of No Significant Impact

In accordance with the National Environmental Policy Act (NEPA), codified at 42 U.S.C. 4321 et seq., an Environmental Assessment has been prepared for the proposed Morgan County Regional Correctional Facility Expansion project in Wartburg, Tennessee. This project is subject to NEPA review because it is being funded, in part, with Federal funding available under the Violent Offender Incarceration/Truth-in-Sentencing Initiative Grant Program from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. The U.S. Army Corps of Engineers and the Tennessee Valley Authority are Cooperating Agencies in the preparation of this Environmental Assessment.

### Proposed Action

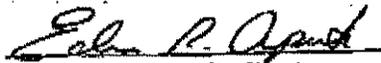
The proposed project would involve the expansion of the existing 1,013-bed Morgan County Regional Correctional Facility to accommodate an additional 1,428 inmates in east Tennessee. The proposed expansion would include construction of a 300-bed minimum security complex, three 256-bed medium security complexes, three 120-bed maximum security complexes, an administration building, food service and laundry building, education and medical buildings, and other support functions. Under the Proposed Action, inmates from the nearby Brushy Mountain Correctional Complex in Petros, would be moved to the expanded Morgan County Regional Correctional Facility. The Brushy Mountain Correctional Complex would then be closed.

### Project Location

The existing Morgan County Regional Correctional Facility is located on Flat Fork Road in Wartburg, Tennessee.

### Findings

The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance has determined that the proposed expansion of the Morgan County Regional Correctional Facility would not significantly affect the quality of the human or physical environment. Therefore, it is not expected that an environmental impact statement will be prepared for this proposal.

  
Edison R. Aponte, Quality Assurance Manager  
Bureau of Justice Assistance

OCTOBER 11, 2005  
Date



**TENNESSEE DEPARTMENT OF ENVIRONMENT & CONSERVATION**  
**DIVISION OF WATER POLLUTION CONTROL**  
401 CHURCH STREET  
7<sup>th</sup> FLOOR L & C ANNEX  
NASHVILLE, TENNESSEE 37243-1534

September 30, 2005

Tennessee Department of Correction-  
Morgan County Regional Correctional Facility  
Rachel Jackson Building  
4<sup>th</sup> floor, 320 Sixth Avenue North  
Nashville, Tenn. 37243-0465

Subject: **§401 Water Quality Certification**  
State of Tennessee Application NRS 05.037

Dear Gentlemen:

We have reviewed your application for the proposed relocation of Winchester Branch and the filling of flood plain wetlands. Pursuant to §401 of the Federal Clean Water Act (33 U.S.C. 1341), the state of Tennessee is required to certify whether the activity described below will violate applicable water quality standards.

Subject to conformance with accepted plans, specifications and other information submitted in support of the referenced application, the state of Tennessee hereby issues certification for the proposed activity (enclosed). Failure to comply with the terms of this permit or other violations of the *Tennessee Water Control Act of 1977* is subject to penalty in accordance with T.C.A. § 69-3-115.

It is the responsibility of the permittee to ensure that all contractors involved with this project have read and understood the permit conditions before the project begins. If you need any additional information of clarification, please contact Juliana W. Kyzar at 615-532-0709 or by e-mail at [Juliana.Kyzar@state.tn.us](mailto:Juliana.Kyzar@state.tn.us).

Sincerely,

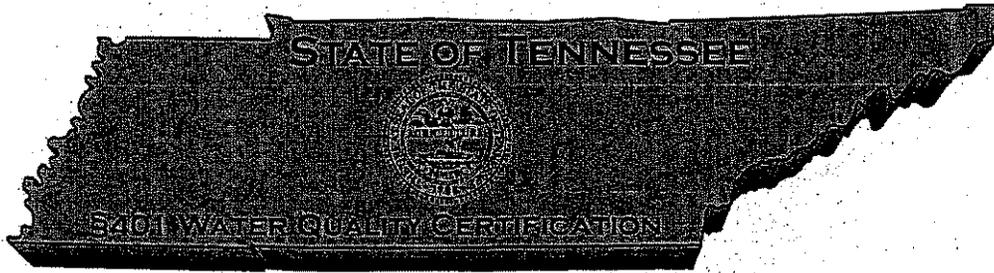
A handwritten signature in cursive script that reads "Juliana W. Kyzar".

Juliana W. Kyzar,  
Natural Resources Section

Cc : ~~Catherine McMillan, QE2~~

Knoxville Environmental Field Office

Tom Welborn, U.S. Environmental Protection Agency, Atlanta, GA  
Lee Barciay, U.S. Fish and Wildlife Service, Cookeville, TN  
Rob Todd, Tenn. Wildlife Resources Agency, Nashville, TN  
Carl Olsen, Nashville District Corps of Engineers  
Elizabeth Bouldin, Tennessee Valley Authority, Watts Bar/ Clinch Watershed Team  
File copy



## NRS 05.037

Pursuant to §401 of the Federal Clean Water Act (33 U.S.C. 1341), the state of Tennessee is required to certify whether the activity described below will violate applicable water quality standards. Accordingly, the Division of Water Pollution Control requires reasonable assurance that the activity will not violate provisions of *The Tennessee Water Quality Control Act of 1977* (T.C.A. § 69-3-101 et seq.) or of § § 301, 302, 303, 306 or 307 of *The Clean Water Act*.

Subject to conformance with accepted plans, specifications and other information submitted in support of application NRS 05.037, the state of Tennessee hereby certifies the activity described under authorized work below pursuant to 33 U.S.C. 1341. This shall serve as authorization pursuant to §T.C.A. 69-3-101 et seq.

**PERMITTEE:** Tennessee Department of Corrections

**AUTHORIZED WORK:** The permanent filling of 6.95 acres of jurisdictional wetland and 4,800 linear feet of Winchester Branch. Winchester Branch will be relocated into a 3,900 linear foot channel that consists of a combination of newly created channel and a restored meander abandoned by Flat Fork Creek. The wetland and stream mitigation will be accomplished on adjacent tracks of land. In addition, there will four permanent road crossings, three temporary road crossings, and two utility line crossings constructed.

Crossing 1: western tributary of unnamed channel, 52 linear feet of 8x6 box culvert

Crossing 2: eastern tributary of unnamed channel, 52 linear feet of 8x6 box culvert

Crossing 3: eastern tributary of unnamed channel, 90 linear feet of 12x8 box culvert with additional high flow barrels.

Crossing 4: Winchester Branch, 42 linear feet of triple box culvert

Crossing 5: western tributary of unnamed channel, 10" ductile iron pipe utility crossing

Crossing 6: eastern tributary of unnamed channel, 10" ductile iron pipe utility line crossing

Crossing 7: western tributary of unnamed channel, temporary crossing

Crossing 8: eastern tributary of unnamed channel, temporary crossing

Crossing 9: Winchester Branch, temporary crossing

**LOCATION:** Morgan County Regional Correctional Facility, Winchester Branch, Morgan County, Tenn. 36.1098 °N, -84.5428 °W

**EFFECTIVE DATE:** September 30, 2005

**EXPIRATION DATE:** September 30, 2010

**SPECIAL CONDITIONS:**

1. The work shall be accomplished in conformance with the accepted plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.
2. No impacts to any waters of the state by this project, other than those specifically addressed in the plans and this permit, are allowed. All streams, springs and wetlands shall be fully protected prior, during and after construction until the area is stabilized. Any questions, problems or concerns that arise regarding any stream, spring or wetland either before or during construction, shall be addressed to the Division of Water Pollution Control, Knoxville Field Office, 865-594-6035. Wetlands outside of the proposed area of impact shall not be used as storage or staging areas for equipment.
3. All work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of The Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids, bottom deposits, or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation, irrigation, industrial water supply, domestic water supply, and navigation.
4. The four permanent and three temporary road crossings shall conform to the terms and conditions of the *General Permit for the Construction and Removal of Minor Road Crossings* (attached)
5. The two utility line crossings shall conform to the terms and conditions of the *General Permit for Utility Line Crossings* (attached).
6. Soil must be prevented from entering waters of the state. Erosion and sedimentation control measures to protect water quality must be installed prior to construction and be maintained throughout the construction period. Erosion and sedimentation controls shall include, but are not limited to, silt fence and/or straw or hay bales, brush barriers, rock checks, berms, sediment basins, slope drains and other proven devices. Effective erosion or sedimentation controls must be installed along the base of all fills and cuts, on the downhill side of stock piled soil, and along stream banks in cleared areas to prevent sedimentation to streams. Erosion and sedimentation controls must be selected, installed and maintained in accordance with the manufacturer's specifications and good engineering practices.
7. Work shall be separated from the flowing waters. All surface water flowing toward the excavation and fill work shall be diverted, piped or flumed to the downstream side of the work. This can be accomplished through the utilization of cofferdams or constructed berms in conjunction with a pipe or flume. Cofferdams must be constructed of sandbags, clean rock, steel sheeting or other non-erodible material. Clean rock is rock of various type and size, depending on application, which contains no fines, soils or other waste contaminants.
8. The existing channel shall not be altered nor the stream flow diverted from it until the new channel construction is completed and has been accepted or approved in writing by the division. Juliana Kyzar at the division's central office may be contacted at least seven

working days in advance for this purpose at 615-532-0709. After the acceptance of the new channel, flow shall be conveyed through the new channel for approximately 48 hours prior to the backfill of the old channel.

9. Streams shall not be used as transportation routes for heavy equipment. Crossings must be limited to one point and erosion control measures must be utilized where the stream banks are disturbed. Where the streambed is not composed of rock, a pad of clean rock or other must be used at the crossing point. Clean rock is rock of various type and size, depending upon application, which contains no fines, soils or other wastes or contaminants. All temporary fill must be removed and the stream restored to existing contours after the work is completed.
10. Any slurry water that may be pumped from work areas and excavations must be held in settling basins or treated by filtration prior to its discharge into surface waters. Water must be held in settling basins until at least as clear as the receiving waters. Settling basins shall not be located closer than 20 feet from the top bank of a stream. Settling basins and traps shall be properly designed according to the size of the drainage areas or volume of water to be treated.
11. Sediment should be removed from sediment traps, silt fences, sedimentation ponds, and other sediment controls as necessary, and shall be removed when design capacity has been reduced by 50%. Discharges from sediment basins and traps shall be through a pipe or a lined/well-grassed channel so the discharge does not cause erosion.
12. Site stabilization measures shall be initiated within seven days after the construction activity has temporarily or permanently ceased.
13. All disturbed soil areas must be temporarily stabilized as soon as possible if earth-disturbing activities will cease for 15 days or more. Upon achievement of final grade, all disturbed soil areas must be temporarily stabilized within 15 days of inactivity and re-vegetated or otherwise permanently stabilized within 30 days. Vegetation can be accomplished by sodding or seeding and mulching (use native herbaceous and woody plants where practicable). Seed to be utilized shall include a combination of annual grains and grasses, legumes and perennial grasses. Lime and fertilizer shall be applied as needed to achieve a vegetative cover.
14. The mitigation for the 6.95 acres of wetland fill shall be accomplished through a mixture Restoration, Creation and Enhancement of wetlands on a 36-acre tract located 0.7 miles south-southwest of the prison. The mitigation plan is described in the "Aquatic Resource Mitigation Plan" submitted by QE2 dated March 22, 2005, with revisions to the acreage amounts and mitigation map provided in a revision letter dated July 27, 2005.
15. In the wetland creation areas, the excavation of the soils shall be confined to the upper 8" of soils and not penetrate the yellow clay layer.
16. The mitigation for the net loss of stream length (and design issues) shall be accomplished through the restoration of 1700 feet of an unnamed tributary to Jones Branch and the enhancement of 5125 linear feet of unnamed tributaries to Flat Fork Branch. The treatments for these stream mitigation sites are detailed in the "Aquatic Resource Mitigation Plan" dated March 22, 2005, and revision letters dated July 27, 2005, and September 27, 2005.

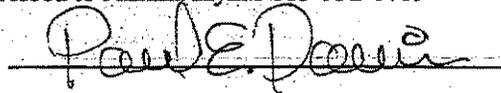
17. The permittee shall plant native species of trees and shrubs along the mitigation streams and within the mitigation wetlands. The species and density of plantings indicated in the "Aquatic Resource Mitigation Plan" should be followed. Any additional native Morgan Co. species may be added, but attention to the hydrological indicator status of the species is needed. No one species shall comprise more than 25% of the total plantings in an area.
18. All mitigation areas shall be legally protected in perpetuity, by either a deed of restrictions, conservation easement or similar instrument. A copy of the instrument shall be submitted to this office.
19. The stream relocation, stream mitigation areas and wetland mitigation areas shall be monitored for five years and annual reports submitted to this office, the Corps of Engineers, and the Knoxville Environmental Field Office as proposed in the Aquatic Resource Mitigation Plan submitted by QE2 on March 22, 2005. The reports shall document stream bank stability, in-stream habitat conditions, riparian vegetation (tree survival and volunteer species establishment), and fish and macroinvertebrate populations. The report shall document the wetland plant community survival and demographics, ground water levels, and soil conditions of the creation areas. This report shall be in both a narrative and photographic form and be submitted by October 31 beginning the first year after completion of the relocation and plantings. Any necessary remedial actions to correct deficiencies shall be addressed with a time table for corrective activities. The minimal performance criteria shall be as follows:
  - A). 75% survival rate of planting trees and shrubs for five consecutive years.
  - B). A stable, morphologically functioning channel with contained base flow in a discernable bed and bank with typical in-stream habitat.
  - C). Stable, non-eroding banks with adequate vegetative cover to prevent erosion and sediment for entering waters of the state.
  - D). Wetland sites must obtain and maintain hydrologic, soil and vegetation characteristics that define them as jurisdictional wetlands.
20. Failure to submit the yearly monitoring reports to this office by October 31 shall result in a Notice of Violation (NOV) to the permittee and possible civil penalties.
21. Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state. All spills must be reported to the appropriate emergency management agency, and measures shall be taken immediately to prevent the pollution of waters of the state, including groundwater.
22. Adverse impact to formally listed state or federal threatened or endangered species or their critical habitat is prohibited.
23. This permit does not authorize adverse impacts to cultural, historical or archeological features or sites.
24. The permittee shall retain the services of an environmental specialist to oversee the relocation of the channel and the stream and wetlands mitigation areas. The name of the individual(s) or firm must be submitted to this office within 45 days after receipt of this certification.

25. It is the responsibility of the applicant to convey all terms and conditions of this permit to all contractors. A copy of this permit, approved plans and any other document pertinent to the activities authorized by this permit shall be maintained on site at all times during periods of construction activity.

This does not obviate requirements of other federal, state or local laws. In particular, work shall not commence until the applicant has received the federal §404 permit from the U. S. Army Corps of Engineers, a §26a permit from the Tennessee Valley Authority or authorization under a Tennessee NPDES Storm Water Construction Permit where necessary. This permit also serves as a Tennessee Aquatic Resource Alteration Permit pursuant to the *Tennessee Water Quality Control Act of 1977* (T.C.A. § 69-3-101 et seq.).

The state of Tennessee reserves the right to modify, suspend or revoke this permit or to seek modification or revocation should the state determine that the activity results in more than an insignificant violation of applicable water quality standards or violation of the act. Failure to comply with permit terms may result in penalty in accordance with §69-3-115 of the act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within 30 days after receipt of the permit. In such petition, each contention should be stated in numbered paragraphs that describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" x 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6<sup>th</sup> Floor L. C. Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with Tennessee Code Annotated Section 69-3-110 and 4-5-301 et seq. Questions concerning this certification should be addressed to Juliana Kyzar 615-532-0709



Paul E. Davis, Director  
Division of Water Pollution Control

## General Permit for Construction and Removal of Minor Road Crossings

Effective Date: July 1, 2005

Expiration Date: June 30, 2010

This general permit authorizes the construction and/or removal of minor road crossings. A "minor road crossing" is defined in Rule 1200-4-7-.03 as a bridged or culverted roadway fill across a stream or river which results in the alteration of 200 linear feet or less of stream bed (on a single stream) or shoreline. This permit also authorizes other transportation crossings of the same size restriction such as linear crossings of greenway trails.

Failure to comply with the terms and conditions of this permit is a violation of the *Tennessee Water Quality Control Act of 1977* and is subject to penalty in accordance with T.C.A. §69-3-115.

### Exclusions

This general permit shall not be used to authorize activities in the following circumstances:

- 1) where the total length of road crossing is more than 200 feet on a single stream, for the entire project, including transitions;
- 2) where a portion of the proposed activity is located in a component of the National Wild and Scenic River System, a State Scenic River, waters designated as Outstanding National Resource Waters;
- 3) where the proposed activity may adversely affect wetlands;
- 4) where a portion of the proposed activity is located in any waterway which is identified by the department as having contaminated sediments, and where the activity will likely mobilize the contaminated sediments;
- 5) when the proposed activity will adversely affect a species formally listed on either state or federal lists of threatened or endangered species or their critical habitat;
- 6) where the design of the crossing is anticipated to significantly alter the hydraulics of the stream, such as under-sizing or over widening the channel;
- 7) when the department determines that the proposed activities, either individually or cumulatively, may result in degradation to waters of the state; or
- 8) when an individual permit is otherwise required.

Projects not qualifying for authorization under this general permit, may be authorized by an individual permit, provided that all requirements of the *Tennessee Water Quality Control Act of 1977* are met.

### Notification

Applicants proposing to construct or remove a road crossing shall notify the division by submission of an original, signed application (form CN-1091) along with the following minimum information:

- (a) a cover letter explaining the scope of the project;
- (b) a USGS topographical map showing the exact location of the proposed project; and
- (c) a single copy of construction plans and drawings which include all dimensions and specifications for the proposed work, as well as pollution control methods and/or structures.

Where the total width of the fill or disturbance to the stream channel for construction for the road crossing is less than 25 feet, activities may commence without written authorization from the division. For crossings greater than 25 feet, work shall not commence until the applicant has received written authorization from the division that the proposed activities may proceed under this general permit or that an individual permit has been issued.

All activities covered under this general permit shall comply with all terms and conditions contained hereinafter.

### Terms and Conditions

- 1) The work shall be accomplished in conformance with the accepted plans, specifications, data and other information submitted in support of the above mentioned application and the limitations, requirements, and conditions set forth herein.
- 2) Applicant is responsible for obtaining the necessary authorization pursuant to applicable provisions of §10 of *The Rivers and Harbors Act of 1899*; §404 of *The Clean Water Act* and §26a of *The Tennessee Valley Authority Act*, as well as any other federal, state or local laws.

- 3) Applicant is responsible for obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Construction Activities for construction sites involving clearing, grading or excavation that result in an area of disturbance of one or more acres, and activities that result in the disturbance of less than one acre if it is part of a larger common plan of development or sale.
- 4) Stream alterations authorized by this general permit must be a part of a single and complete project. This general permit shall not be used in incremental means to combine with other projects to alter larger areas of the stream.
- 5) This permit does not authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, cul-de-sacs and turn-arounds.
- 6) Where practicable, the bottom of culverts should be constructed below the stream bed level, in a manner that allows natural substrate to reestablish.
- 7) The activity may not be conducted in a manner that would permanently disrupt the movement of fish and aquatic life.
- 8) Applicant is responsible for complying with all applicable floodplain regulations. It is the responsibility of the applicant to contact local government officials to determine what the regulations are at the specific location of the proposed project.
- 9) The width of the fill associated with the crossing shall be limited to the minimum necessary for the actual crossing.
- 10) Only clean rock used for the road crossing may be placed directly in the stream. Clean rock can be of various type and size, depending on the application. Clean rock shall not contain fines, soils or other wastes or contaminants.
- 11) The crossing shall be culverted, bridged or otherwise designed to prevent the impoundment of normal or base flows. Base flow is the usual or normal flow of the stream that is supplied primarily by groundwater from springs and seeps, but not affected by rapid runoff during and after rainfall.
- 12) Checkdams shall be utilized where runoff is concentrated. Clean rock, log, sandbag or straw bale checkdams shall be properly constructed to detain runoff and trap sediment. Checkdams or other erosion control devices are not to be constructed in stream. Clean rock can be of various type and size, depending on the application. Clean rock shall not contain fines, soils or other wastes or contaminants.
- 13) Stream beds shall not be used as transportation routes for construction equipment. Temporary stream crossings shall be limited to one point in the construction area and erosion control measures shall be utilized where stream banks are disturbed. Stream crossings should be constructed of clean rock and stream flow should be conveyed in appropriately sized pipe. The crossing shall be constructed so that stream flow is not obstructed. Following construction, all materials used for the temporary crossing shall be removed and disturbed stream banks shall be restored and stabilized if needed.
- 14) Removal of road crossings shall be done in the dry to the maximum extent practicable.
- 15) Where a crossing is removed, the channel shall be returned to stable conditions, which replicates the characteristics (dimensions, shape, substrate, etc.) of the upstream and downstream conditions.
- 16) Upon removal of a crossing, stream banks shall be stabilized. Materials used in bank stabilization shall include clean rock, riprap, anchored trees or other non-erodible materials found in the natural environment.
- 17) Materials used in road crossing projects shall be free of contaminants, including toxic pollutants, hazardous substances, waste metal, construction debris and other wastes as defined by T.C.A. 69-3-103(18).
- 18) The excavation and fill activities associated with the road crossing shall be kept to a minimum and shall be separated from flowing waters except in instances involving only the placement of a culvert and clean rock. The crossing shall be constructed in the dry to the maximum extent practicable, by diverting flow utilizing cofferdams, berms, temporary channels or pipes. Temporary diversion channels shall be protected by non-erodible material and lined to the expected high water level.
- 19) Excavated materials, removed vegetation, construction debris, and other wastes shall be removed to an upland location and properly stabilized or disposed of in such a manner as to prevent reentry into the waterway.
- 20) Material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area.

- 21) Sediment shall be prevented from entering waters of the state. Erosion and sediment controls shall be designed according to the size and slope of disturbed or drainage areas to detain runoff and trap sediment and shall be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices.
- 22) Erosion and sediment control measures shall be in place and functional before earth moving operations begin, and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but shall be replaced at the end of the work day.
- 23) Sediment should be removed from sediment traps, silt fences, sedimentation ponds, and other sediment controls as necessary, and shall be removed when design capacity has been reduced by 50%. Discharges from sediment basins and traps shall be through a pipe or lined or well-grassed channel so that the discharge does not cause erosion.
- 24) Litter, construction debris, and construction chemicals exposed to storm water shall be picked up prior to anticipated storm events (e.g. forecasted by local weather reports), or otherwise prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, daily pick-up, etc.). After use, silt fences should be removed or otherwise prevented from becoming a pollutant source for storm water discharges.
- 25) Clearing, grubbing and other disturbance to the riparian vegetation shall be kept at the minimum necessary for slope construction and equipment operations. Unnecessary riparian vegetation removal, including trees, is prohibited.
- 26) Pre-construction vegetative ground cover shall not be destroyed, removed or disturbed more than 10 calendar days prior to grading or earth moving unless the area is seeded and/or mulched or other temporary cover is installed.
- 27) Stabilization measures shall be initiated within seven days after the construction activity has temporarily or permanently ceased.
- 28) Temporary or permanent soil stabilization shall be accomplished within 15 days after final grading or other earth work. Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable.
- 29) Muddy water to be pumped from excavation and work areas shall be held in settling basins or filtered prior to its discharge into surface waters. Settling basins shall not be located closer than 20 feet from the top bank of the stream and water shall be discharged through a pipe, well grassed or lined channel or other equivalent means so that the discharge does not cause erosion and sedimentation.
- 30) Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state. All spills shall be reported to the appropriate emergency management agency and to the division. In the event of a spill, measures shall be taken immediately to prevent pollution of waters of the state, including groundwater.
- 31) This general permit does not authorize impacts to cultural, historical or archaeological features or sites.
- 32) Where authorization is required, the division will establish an expiration date for coverage under this general permit that is specific to the authorization and separate from the general permit expiration date.

APPROVED: \_\_\_\_\_

Paul E. Davis, Director, Water Pollution Control

DATE: 6-30-05

## General Permit for Utility Line Crossings

Effective Date: July 1, 2005

Expiration Date: June 30, 2010

This general permit authorizes the construction, maintenance, repair, rehabilitation or replacement of utility line crossings of navigable and non-navigable streams. For the purpose of this general permit, bodies of water defined as navigable pursuant to §10 of the *Rivers and Harbors Act of 1899*, are subject to different restrictions than all other waters regarding the specific construction methodologies to be employed.

Failure to comply with the terms and conditions of this permit is a violation of the *Tennessee Water Quality Control Act of 1977* and is subject to penalty in accordance with T.C.A. §69-3-115.

### Exclusions

This general permit shall not be used to authorize activities in the following circumstances:

- 1) where the proposed project involves more than one crossing of the same stream by gravity sewer lines;
- 2) where a portion of the proposed activity is located in a component of the National Wild and Scenic River System, a State Scenic River, waters designated as Outstanding National Resource Waters;
- 3) where the proposed activity may adversely affect wetlands, except as provided for in item 21) of the Terms and Conditions section below;
- 4) where a portion of the proposed activity is located in any waterway which is identified by the department as having contaminated sediments, and where the activity will likely mobilize the contaminated sediments;
- 5) when the proposed activity will adversely affect a species formally listed on either state or federal lists of threatened or endangered species or their critical habitat;
- 6) when the department determines that the proposed activities, either individually or cumulatively, may result in degradation to waters of the state; or
- 7) when an individual permit is otherwise required.

Projects not qualifying for authorization under this general permit, may be authorized by an individual permit, provided that all requirements of the *Tennessee Water Quality Control Act of 1977* are met.

### Notification

Applicants proposing the construction, maintenance, repair, rehabilitation or replacement of utility line crossings of navigable and non-navigable streams under this general permit shall notify the division by submission of an original, signed application (form CN-1091) along with the following minimum information:

- (a) a cover letter explaining the scope of the project;
- (b) a USGS topographical map showing the exact location of the proposed project;
- (c) a single copy of construction plans and drawings which include all dimensions and specifications for the proposed work, as well as pollution control methods and/or structures, and method of excavation/trenching.

Work shall not commence until the applicant has received written authorization from the division that the activities may proceed under this general permit or that an individual permit has been issued.

All activities covered under this general permit shall comply with all terms and conditions contained hereinafter.

### Terms and Conditions

- 1) The work shall be accomplished in conformance with the accepted plans, specifications, data and other information submitted in support of the above mentioned application and the limitations, requirements, and conditions set forth herein.
- 2) Applicant is responsible for obtaining the necessary authorization pursuant to applicable provisions of §10 of *The Rivers and Harbors Act of 1899*; §404 of *The Clean Water Act* and §26a of *The Tennessee Valley Authority Act*, as well as any other federal, state or local laws.

- 3) Applicant is responsible for obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Construction Activities for construction sites involving clearing, grading or excavation that result in an area of disturbance of one or more acres, and activities that result in the disturbance of less than one acre if it is part of a larger common plan of development or sale.
- 4) New utility line crossings shall be located such as to avoid permanent alteration or damage to the integrity of the stream channel. Large trees, steep banks, rock outcroppings etc., should be avoided.
- 5) In the case of proposed utility lines, excluding gravity sewer, that follow the stream gradient or otherwise parallel the stream channel, the number of crossings shall be minimized. Where cumulative impacts are likely because of numerous crossings proposed, an individual permit may be required.
- 6) The crossing shall be designed to prevent the impoundment of normal or base flows. Base flow is the usual or normal flow of the stream that is supplied primarily by groundwater from springs and seeps, but not affected by rapid runoff during and after rainfall.
- 7) The alignment of new utility line crossings shall intersect the stream channel as close to 90 degrees or as perpendicular as possible. Alignment shall be no less than 45 degrees angle from the centerline of the stream.
- 8) In the case of streams with bedrock streambeds, provisions shall be made to prevent the loss of stream flow due to fracturing of the bedrock.
- 9) Backfill activities shall be accomplished in a manner that stabilizes the streambed and banks to prevent erosion. All contours shall be returned to pre-project conditions and the completed activities may not disrupt or impound stream flow.
- 10) The excavation and fill activities associated with the utility line crossing of non-navigable streams shall be kept to a minimum and shall be separated from flowing waters. The crossing shall be constructed in the dry to the maximum extent practicable, by diverting flow utilizing cofferdams, berms, temporary channels or pipes. Temporary diversion channels shall be protected by non-erodible material and lined to the expected high water level.
- 11) Excavated materials, removed vegetation, construction debris, and other wastes shall be removed to an upland location and properly stabilized or disposed of in such a manner as to prevent reentry into the waterway.
- 12) The excavation and fill activities associated with utility line crossing of navigable streams as defined by §10 of the *Rivers and Harbors Act of 1899*, may be accomplished within the water column.
- 13) Sediment shall be prevented from entering waters of the state. Erosion and sediment controls shall be designed according to the size and slope of disturbed or drainage areas to detain runoff and trap sediment and shall be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices.
- 14) Erosion and sediment control measures shall be in place and functional before earth moving operations begin, and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but shall be replaced at the end of the work day.
- 15) Sediment should be removed from sediment traps, silt fences, sedimentation ponds, and other sediment controls as necessary, and shall be removed when design capacity has been reduced by 50%. Discharges from sediment basins and traps shall be through a pipe or lined or well-grassed channel so that the discharge does not cause erosion.
- 16) Litter, construction debris, and construction chemicals exposed to storm water shall be picked up prior to anticipated storm events (e.g. forecasted by local weather reports), or otherwise prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, daily pick-up, etc.). After use, silt fences should be removed or otherwise prevented from becoming a pollutant source for storm water discharges.
- 17) Clearing, grubbing and other disturbance to the riparian vegetation shall be kept at the minimum necessary for slope construction and equipment operations. Unnecessary riparian vegetation removal, including trees, is prohibited.
- 18) Pre-construction vegetative ground cover shall not be destroyed, removed or disturbed more than 10 calendar days prior to grading or earth moving unless the area is seeded and/or mulched or other temporary cover is installed.
- 19) Stabilization measures shall be initiated within seven days after the construction activity has temporarily or permanently ceased.

- 20) Temporary or permanent soil stabilization shall be accomplished within 15 days after final grading or other earth work. Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable.
- 21) Muddy water to be pumped from excavation and work areas shall be held in settling basins or filtered prior to its discharge into surface waters. Settling basins shall not be located closer than 20 feet from the top bank of the stream and water shall be discharged through a pipe, well grassed or lined channel or other equivalent means so that the discharge does not cause erosion and sedimentation.
- 22) Maintenance, repair and rehabilitation of existing utility lines in wetlands is authorized provided that all of the following special provisions are met:
  - (a) the total amount of excavation or fill does not exceed 50 cubic yards;
  - (b) the wetlands alteration is located within the right of way of the existing utility line; and
  - (c) fill activities for the construction of equipment access roads is not authorized in wetlands.
- 23) The activity may not be conducted in a manner that would permanently disrupt the movement of fish and aquatic life.
- 24) Checkdams shall be utilized where runoff is concentrated. Clean rock, log, sandbag or straw bale checkdams shall be properly constructed to detain runoff and trap sediment. Checkdams or other erosion control devices are not to be constructed in stream. Clean rock can be of various type and size, depending on the application. Clean rock shall not contain fines, soils or other wastes or contaminants.
- 25) Stream beds shall not be used as transportation routes for construction equipment. Temporary stream crossings shall be limited to one point in the construction area and erosion control measures shall be utilized where stream banks are disturbed. Stream crossings should be constructed of clean rock and stream flow should be conveyed in appropriately sized pipe. The crossing shall be constructed so that stream flow is not obstructed. Following construction, all materials used for the temporary crossing shall be removed and disturbed stream banks shall be restored and stabilized if needed.
- 26) Materials used in utility crossing projects shall be free of contaminants, including toxic pollutants, hazardous substances, waste metal, construction debris and other wastes as defined by T.C.A. 69-3-103(18).
- 27) Material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area.
- 28) Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state. All spills shall be reported to the appropriate emergency management agency and to the division. In the event of a spill, measures shall be taken immediately to prevent pollution of waters of the state, including groundwater.
- 29) This general permit does not authorize impacts to cultural, historical or archaeological features or sites.
- 30) Upon completion of the project, the stream and banks shall be returned to as close to pre-project conditions as is practicable, using clean rock, grass mats and other suitable materials.
- 31) The division will establish an expiration date for coverage under this general permit that is specific to the authorization and separate from the general permit expiration date.

APPROVED:

  
Paul E. Davis, Director, Water Pollution Control

DATE: 10-30-05