

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:)
)
THE APPLICATION OF KENTUCKY-AMERICAN)
WATER COMPANY FOR A CERTIFICATE OF)
CONVENIENCE AND NECESSITY AUTHORIZING)
THE CONSTRUCTION OF KENTUCKY RIVER)
STATION II, ASSOCIATED FACILITIES AND)
TRANSMISSION MAIN)

CASE NO. 2007-00134

NOTICE

Comes Kentucky-American Water Company and files a letter dated November 15, 2007, from the Corps of Engineers of the Department of the Army authorizing, pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, the construction of a water intake on Pool 3 of the Kentucky River and a transmission main impacting 58 stream and wetland crossings as described in paragraph 14(7) of the Application, being Exhibit 1 attached.

Respectfully submitted,

A. W. TURNER, JR., GENERAL COUNSEL
KENTUCKY-AMERICAN WATER COMPANY
2300 Richmond Road
Lexington, Kentucky 40502

and

STOLL KEENON OGDEN PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3000

BY: Lindsey W. Ingram, Jr.
Lindsey W. Ingram, Jr.
Lindsey W. Ingram III

Attorneys for Kentucky-American Water Company

CERTIFICATE OF SERVICE

This is to certify that the original and eight (8) copies of the foregoing have been filed with the Public Service Commission this 20th day of November, 2007, and a copy mailed to:

David E. Spenard, Esq.
Dennis G. Howard II, Esq.
Assistant Attorneys General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

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Lexington-Fayette Urban County Gov't.
Department of Law
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Lexington, KY 40507

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P.O. Box 1070
Frankfort, KY 40602

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1400 PNC Plaza
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Louisville, KY 40202

Barbara K. Dickens, Esq.
Louisville Water Company
550 South Third Street
Louisville, KY 40202

STOLL KEENON OGDEN, PLLC

By London W. Inge Jr



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

November 15, 2007

Operations Division
Regulatory Branch (South)
ID No. LRL-2007-861

Kentucky American Water
Attn: Linda C. Bridwell, PE
2300 Richmond Road
Lexington, Kentucky 40502

Dear Ms. Bridwell:

This is in response to your request for authorization to construct a water intake on Pool No. 3 of the Kentucky River and to construct a transmission main. The information supplied by you was reviewed to determine whether a Department of the Army (DA) permit will be required under the provisions of Section 10 of the Rivers and Harbors of 1899 and Section 404 of the Clean Water Act.

Based on the information you submitted, your project includes the construction of a raw water intake in the Kentucky River and approximately 30 miles of transmission main. The project originates in the Kentucky River on the Franklin/Owen county line and terminates north of Lexington in Fayette County, near the intersection of S.R. 1973 and U.S. 922. Project impacts include the intake structure and 58 stream and wetland crossings (see Table 1, enclosed).

Your project is considered a discharge of backfill or bedding material for utility lines. The project is authorized under the provisions of 33 CFR 330 Nationwide Permit (NWP) No. 12, Utility Line Activities, as published in the Federal Register March 12, 2007. Under the provisions of this authorization you must comply with the enclosed:

1. Terms for Nationwide Permit No. 12;
2. Nationwide Permit General Conditions; and
3. Water Quality Certification (WQC) #2007-0119-1, dated October 5, 2007, issued by the Kentucky Division of Water (copy enclosed);

and the following special conditions:

4. The permittee shall install appropriate erosion and sediment controls, such as straw bales or silt fence, for each wetland and stream crossing;

EXHIBIT 1

5. Immediately following construction of each crossing, all areas disturbed during construction shall be restored and stabilized. This includes restoration of grain size, elevations of bed and bank, and waterway bed contours. All disturbed areas shall be revegetated.

This decision is valid for 2 years from the date of this letter. The enclosed Compliance Certification should be signed and returned when the project is completed. If your project is not completed within this 2-year period or if your project is modified, you must contact us for another permit determination. A copy of this letter is being sent to your agent and to the KDOW.

If you have any questions, please contact this office by writing to the above address, ATTN: CELRL-OP-FS, or by calling me at 502-315-6685. All correspondence pertaining to this matter should refer to our ID No. LRL-2007-861.

Sincerely,



Greg McKay
Acting Chief, South Section
Regulatory Branch

Enclosures

Compliance Certification:

Permit Number: LRL-2007-861

Name of Permittee: Kentucky American Water

Date of Issuance: November 9, 2007

Upon completion of the activity authorized by this permit and any mitigation required by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
CELRL-OP-FN
P.O. Box 59
Louisville, Kentucky 40201

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date



ERNIE FLETCHER
GOVERNOR

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER
14 REILLY ROAD
FRANKFORT, KENTUCKY 40601
www.kentucky.gov

TERESA J. HILL
SECRETARY

October 5, 2007

Michael D. Galavotti, P.E.
Senior Operations Engineer
Kentucky American Water Company
2300 Richmond Road
Lexington, KY 40502

Re: Water Quality Certification #2007-0119-1
Kentucky American Water Company
AI No.: 84662, Activity ID: APE20070001
Perennial and intermittent stream crossings
Owen, Franklin, Scott, and Fayette Counties, Kentucky

Dear Mr. Galavotti:

Pursuant to Section 401 of the Clean Water Act (CWA), the Commonwealth of Kentucky certifies it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 5, established pursuant to Sections 301, 302, 303, 304, 306, and 307 of the CWA, will not be violated by the above referenced project provided that the U.S. Army Corps of Engineers authorizes the activity under 33 CFR part 330, and the attached conditions are met.

All future correspondence on this project must reference AI No. 84662. **The attached document is your official Water Quality Certification; please read it carefully.** If you should have any questions concerning the conditions of this water quality certification, please contact Adam Jackson of my staff by calling (502) 564-3410.

Sincerely,

Tom C. VanArsdall, Manager
Water Quality Branch
Kentucky Division of Water

TCV:AJ:tw

Attachment

cc: ✓ Greg McKay, USACE: Louisville District
Lee Andrews, USFWS: Frankfort
Malissa McAlister, Kentucky River Basin Coordinator

Water Quality Certification

KY American Water
Facility Requirements
Permit Number: WQC #2007-0119-1
Activity ID No.: APE20070001

AAZZ1 (KAWC pipeline) Pool No. 3 Intake and transmission main line construction:

Narrative Requirements:

Condition No.	Condition
T-1	<p>The work approved by this certification shall be limited to crossings of intermittent and perennial streams in Owen, Franklin, Scott, and Fayette counties by a 42-inch finished water transmission pipeline. The specific stream crossings along with their lat/long coordinates are as follows: Stream S1 (Morgadore Creek): 38-21-24, 84-51-38; Stream S9: 38-19-37, 84-50-55; Stream 10: 38-19-28, 84-50-35; Stream S10: 38-19-21, 84-50-06; Stream S13: 38-19-21, 84-50-00; Stream S10: 38-19-23, 84-49-52; Stream S14: 38-19-03, 84-49-36; Stream S15 (Camp Pleasant Branch): 38-18-28, 84-48-52; Stream S16: 38-18-15, 84-48-48; Stream S24: 38-16-37, 84-47-21; Rocky Branch: 38-16-26, 84-47-02; Rocky Branch: 38-16-14, 84-46-50; Stream S12: 38-15-51, 84-46-17; Stream S29: 38-15-40, 84-45-54; Stream S30: 38-15-43, 84-45-44; Stream S31: 38-15-27, 84-45-33; Stream S35 (Buck Run): 38-13-09, 84-44-54; Stream S35 (Buck Run): 38-12-55, 84-44-58; Stream S36: 38-12-33, 84-44-34; Stream S37: 38-12-28, 84-43-06; Stream S38: 38-12-08, 84-41-54; Stream S39: 38-11-55, 84-41-17; Stream S43: 38-11-44, 84-40-42; Stream S40: 38-11-15, 84-39-07; Stream S41: 38-11-09, 84-38-50; Stream S 42: 38-11-08, 84-38-44; Stream S49: 38-10-18, 84-36-07; Stream S45: 38-09-46, 84-34-27; Stream S46: 38-09-08, 84-32-32; Stream S48 (Cane Run): 38-09-37, 84-31-09. [Clean Water Act]</p>
T-2	<p>All work performed under this certification shall adhere to the design and specifications set forth in the Kentucky Division of Water Certification Application, "Pool No. 3 Intake and Transmission Main Project", received by the Kentucky Division of Water (KDOW) March 2007. [Clean Water Act]</p>
T-3	<p>The Kentucky American Water Company is responsible for preventing degradation of waters of the Commonwealth from soil erosion. Erosion and sedimentation control plans set forth in the "High service mains for WTP on Pool 3, Contract A, ESPC Plan" submitted to the Kentucky Division of Water (KDOW) in September 2007, and "Erosion and Sedimentation Control" located on pages 3-6 within the "Pool No.3 Intake and Transmission Main Project" Executive Summary received by the KDOW March 2007 must be implemented and maintained in effective operating condition at all times during construction. [Clean Water Act]</p>
T-4	<p>Sections of the Kentucky River, North Elkhorn Creek, Buck Run, and Cane Run are listed within the KDOW generated 305b report to Congress, and considered to be "fully-supporting" or "partially-supporting" streams for aquatic life, water quality, fish consumption, drinking water, and primary contact recreation. The applicant must implement the aforementioned erosion and sedimentation control plans to assure the continued biological and recreational quality of these waters. [Clean Water Act]</p>
T-5	<p>Kentucky American Water Company shall notify the Kentucky Division of Water, Water Quality Certification Section two (2) weeks prior to the beginning of the project. [Clean Water Act]</p>
T-6	<p>The Division of Water reserves the right to modify or revoke this certification should it be determined that the activity is in noncompliance with any condition set forth in this certification. [Clean Water Act]</p>
T-7	<p>If construction does not commence within one year of the date of this letter, this certification will become void. A letter requesting a renewal should be submitted. [Clean Water Act]</p>

GENERAL CONDITIONS FOR WATER QUALITY CERTIFICATION

1. Measures shall be taken to prevent or control spills of fuels, lubricants, or other toxic materials used in construction from entering the watercourse.
2. All dredged material shall be removed to an upland location and/or graded on adjacent areas (so long as such areas are not regulated wetlands), to obtain original streamside elevations, i.e. overbank flooding shall not be artificially obstructed.
3. In areas not riprapped or other wise stabilized, revegetation of stream banks and riparian zones shall occur concurrently with project progression. At a minimum, revegetation will approximate pre-disturbance conditions.
4. To the maximum extent practicable, all instream work under this certification shall be performed during low flow.
5. Heavy equipment, e.g. bulldozers, backhoes, draglines, etc., if required for this project, should not be used or operated within the stream channel. In those instances where such instream work is unavoidable, then it shall be performed in such a manner and duration as to minimize resuspension of sediments and disturbance to substrates and bank or riparian vegetation.
6. Any fill or riprap including refuse fill, shall be of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters and/or cause violations of water quality standards. If riprap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created because of its placement.
7. If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when work will be done.
8. Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.
9. Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the Kentucky Division of Water shall be notified immediately by calling 800/564-2380.

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