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RECEIVED

NOV 09 2007

PUBLIC SERVICE
COMMISSION

November 9, 2007

VIA HAND-DELIVERY

Ms. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

Re: *Application of Kentucky-American Water Company, a/k/a Kentucky American Water for Certificate of Convenience and Public Necessity Authorizing Construction of Kentucky River Station II ("KRS II"), Associated Facilities, and Transmission Line; Case No. 2007-00134*

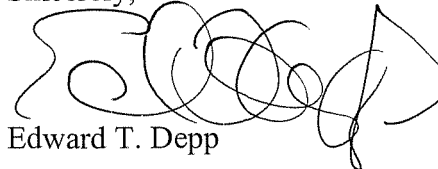
Dear Ms. O'Donnell:

We have enclosed, for filing, the original and eleven (11) copies of Louisville Water Company's First Amended Responses to Kentucky-American Water Company's Supplemental Data Requests.

Please file-stamp the enclosed and return it to our delivery person.

Thank you, and please call us if you have any questions.

Sincerely,



Edward T. Depp

ETD/lb

cc: All parties of record (Case No. 2007-00134) (w/ encl.)
Barbara K. Dickens, Esq. (w/ encl.)

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**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**

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CASE NO. 2007-00134

**LOUISVILLE WATER COMPANY'S FIRST AMENDED RESPONSES TO
KENTUCKY-AMERICAN WATER COMPANY'S
SUPPLEMENTAL DATA REQUESTS**

For its first amended responses to the supplemental data requests of Kentucky-American Water Company ("KAWC"), Louisville Water Company ("LWC"), by counsel hereby states as follows.

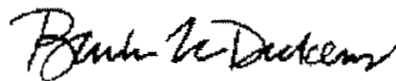
REQUESTS FOR INFORMATION

51. Please provide all U.S. Army Corps of Engineers Section 404 permits LWC has received in the last ten years. Provide the date of the application, whether it was an individual or nationwide permit, and the date the permit was received.

Responsible Witness: Greg Heitzman

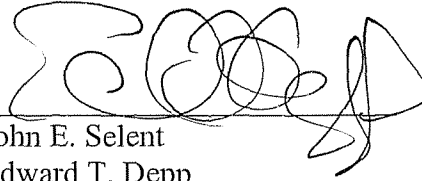
RESPONSE: In reviewing its files, LWC has determined that it has obtained the attached Section 404 permit within the past ten years.

Respectfully submitted,



Barbara K. Dickens
Vice President and General Counsel
Louisville Water Company
550 South Third Street
Louisville, KY 40202

-and-

A handwritten signature in black ink, appearing to read "Selent", with a large, stylized flourish extending from the end.

John E. Selent

Edward T. Depp

DINSMORE & SHOHL LLP

1400 PNC Plaza

500 West Jefferson Street

Louisville, KY 40202

tel: (502) 540-2300

fax: (502) 585-2207

Counsel to Louisville Water Company

CERTIFICATION

I hereby certify that I have supervised the preparation of Louisville Water Company's first amended responses to the supplemental data requests of Kentucky American Water Company and that the responses contained herein (and for which I am designated the responsible witness) are true and accurate to the best of my knowledge, information, and belief formed after reasonable inquiry.

Gregory C. Heitzman,
President of Louisville Water Company

Date: _____

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by was served via first-class United States mail, sufficient postage prepaid, on the following individuals this 9th day of November, 2007:

David Jeffrey Barberie
Corporate Counsel
Lexington-Fayette Urban County Government
Department of Law
200 East Main Street
Lexington, KY 40507

David F. Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
2110 CBLD Building
Cincinnati, OH 45202

Thomas J. FitzGerald
Counsel & Director
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KY 40602

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Attorney at Law
Stoll Keenon Ogden PLLC
300 West Vine Street
Suite 2100
Lexington, KY 40507-1801

Kentucky River Authority
70 Wilkinson Boulevard
Frankfort, KY 40601

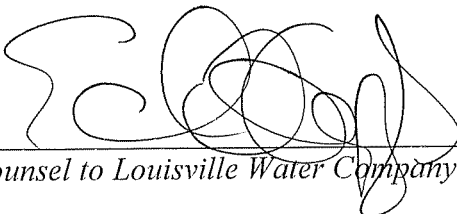
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Attorney at Law
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2300 Richmond Road
Lexington, KY 40502

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124 West Todd Street
Frankfort, KY 40601



Counsel to Louisville Water Company



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/>

October 7, 2005

Operations Division
Regulatory Branch (South)
ID No. 200501381-pjl

Mr. Chris Schipper
Louisville Water Company
550 South 3rd Street
Louisville, Kentucky 40202

Dear Mr. Schipper:

This is in response to your request for authorization to construct a water main across the bed of the Salt River at approximately River Mile 24, in Bullitt County, Kentucky. Additional work at this location would include placement of shot rock along the riverbank for stabilization along 150 linear feet of bank. The shot rock would be obtained from the trench excavation in the bedrock river bottom. A temporary access road would be constructed to allow equipment into the riverbed, and which would be removed in its entirety upon completion of the work. 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 404 of the Clean Water Act.

On October 4, 2005, this office was informed that the work at this site had already commenced. In a conversation with you on that same day, you confirmed that work had commenced at least a week prior, and that one half of the construction had been completed. That action constitutes a violation of the Clean Water Act, since no authorization for the work had been issued.

However, because the work is considered a discharge of backfill or bedding material for utility lines, and qualifies for authorization under the provisions of 33 CFR 330 Nationwide Permit (NWP) No. 12, Utility Line Activities, and NWP 13, Bank Stabilization Activities, as published in the Federal Register January 15, 2002, we have determined not to issue a stop work order and issue the permit after-the-fact. Under the provisions of this authorization you must comply with the enclosed:

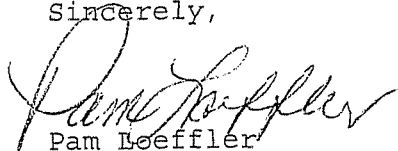
1. Terms for Nationwide Permits No. 12 and No. 13;
2. Nationwide Permit General Conditions; and
3. Water Quality Certification (WQC) Conditions for Nationwide Permits No. 12 and No. 13 issued by the Kentucky Division of Water.

Once you obtain individual WQC, or if no application was required, you may proceed with the project without further contact or verification from us. The enclosed Compliance Certification should be signed and returned when the project is completed. This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued.

Also enclosed for your information and future reference, is a copy of our Limits of Jurisdiction Public Notice, which outlines in detail "waters of the United States" over which the Corps of Engineers has regulatory authority under the provisions of Section 10 of the Rivers and Harbors Act of 1899.

If you have any questions, please contact me by writing to the above address, ATTN: CELRL-OP-FS, or by calling (502) 315-6693. Any correspondence on this matter should refer to our ID No. 200501381-pj1.

Sincerely,



Pam Loeffler
Regulatory Specialist
Regulatory Branch

Enclosures

Talked to on Thursday 10-13

No Action Required

TERMS FOR NATIONWIDE PERMIT NO. 12

Utility Line Activities

Activities required for the construction, maintenance and repair of utility lines and associated facilities in waters of the US as follows:

(i) Utility lines: The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in all waters of the US, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication (see Note 1, below). Material resulting from trench excavation may be temporarily sidecast (up to three months) into waters of the US, provided that the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary side casting not to exceed a total of 180 days, where appropriate. In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the US (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the US through which the utility line is installed. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

(ii) Utility line substations: The construction, maintenance, or expansion of a substation facility associated with a power line or utility line in non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, provided the activity does not result in the loss of greater than 1/2-acre of non-tidal waters of the US.

(iii) Foundations for overhead utility line towers, poles, and anchors: The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the US, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

(iv) Access roads: The construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, provided the discharges do not cause the loss of greater than 1/2-acre of non-tidal waters of the US. Access roads shall be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes the adverse effects on waters of the US and as near as possible to preconstruction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above preconstruction contours and elevations in waters of the US must be properly bridged or culverted to maintain surface flows.

The term "utility line" does not include activities which drain a water of the US, such as drainage tile, or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this NWP, the loss of waters of the US includes the filled area plus waters of the US that are adversely affected by flooding, excavation, or drainage as a result of the project. Activities authorized by paragraph (i) through (iv) may not exceed a total of 1/2-acre loss of waters of the US. Waters of the US temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, is not included in the calculation of permanent loss of waters of the US. This includes temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Where certain

functions and values of waters of the US are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland in the permanently maintained utility line right-of-way, mitigation will be required to reduce the adverse effects of the project to the minimal level.

Mechanized land clearing necessary for the construction, maintenance, or repair of utility lines and the construction, maintenance and expansion of utility line substations, foundations for overhead utility lines, and access roads is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the US that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, foundations, and access roads. Excess material must be removed to upland areas immediately upon completion of construction. This NWP may authorize utility lines in or affecting navigable waters of the US even if there is no associated discharge of dredged or fill material (See 33 CFR part 322).

Notification: The permittee must notify the District Engineer in accordance with General Condition 13, if any of the following criteria are met:

- (a) Mechanized land clearing in a forested wetland for the utility line right-of-way;
- (b) A Section 10 permit is required;
- (c) The utility line in waters of the US, excluding overhead lines, exceeds 500 feet;
- (d) The utility line is placed within a jurisdictional area (i.e., water of the US), and it runs parallel to a stream bed that is within that jurisdictional area;
- (e) Discharges associated with the construction of utility line substations that result in the loss of greater than 1/10-acre of waters of the US;
- (f) Permanent access roads constructed above grade in waters of the US for a distance of more than 500 feet; or
- (g) Permanent access roads constructed in waters of the US with impervious materials. (Sections 10 and 404)

Note 1: Overhead utility lines constructed over Section 10 waters and utility lines that are routed in or under Section 10 waters without a discharge of dredged or fill material require a Section 10 permit; except for pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the US, which are considered to be bridges, not utility lines, and may require a permit from the USCG pursuant to section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material associated with such pipelines will require a Corps permit under Section 404.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by NWP 33.

Note 3: Where the proposed utility line is constructed or installed in navigable waters of the US (i.e., Section 10 waters), copies of the PCN and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

TERMS FOR NATIONWIDE PERMIT NO. 13

Bank Stabilization

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

- a. No material is placed in excess of the minimum needed for erosion protection;
- b. The bank stabilization activity is less than 500 feet in length;
- c. 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;
- d. No material is placed in any special aquatic site, including wetlands;
- e. 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 wetland area;
- f. 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,
- g. The activity is part of a single and complete project.

Bank stabilization activities in excess of 500 feet in length or greater than an average of one cubic yard per running foot may be authorized if the permittee notifies the District Engineer in accordance with the "Notification" General Condition 13 and the District Engineer determines the activity complies with the other terms and conditions of the NWP and the adverse environmental effects are minimal both individually and cumulatively. This NWP may not be used for the channelization of waters of the US. (Sections 10 and 404)

NATIONWIDE PERMIT CONDITIONS

General Conditions: The following general conditions must be followed in order for any authorization by a NWP to be valid:

1. **Navigation.** No activity may cause more than a minimal adverse effect on navigation.
2. **Proper Maintenance.** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. **Aquatic Life Movements.** No activity may substantially disrupt the life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. **Equipment.** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. **Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions, which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible mix inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, US Forest Service, Bureau of Land Management, US Fish and Wildlife Service).
8. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. **Water Quality.** (a) In certain States and tribal lands an individual 401 water quality certification must be obtained or waived (See 33 CFR 330.4(c)).
(b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the State or tribal 401 certification (either generically or individually) does not require or approve a water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of a water quality management plan includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (Refer to General Condition 21 for stormwater management requirements). Another important component of a water quality management plan is the establishment and maintenance of vegetated buffers next to open waters, including streams (Refer to General Condition 19 for vegetated buffer requirements for the NWPs). This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.
10. **Coastal Zone Management.** In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).
11. **Endangered Species.** (a) No activity is authorized under any NWP, which is likely to jeopardize the continued existence of a threatened or endangered species, or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS, the District Engineer may add species-specific regional endangered species conditions to the NWPs.

(b) Authorization of an activity by a nationwide permit does not authorize the 'take' of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with 'incidental take' provisions, etc.) from the US Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal 'takes' of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the US Fish and Wildlife Service and National Marine Fisheries Service or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and http://www.nfms.noaa.gov/prot__res/overview/es.html, respectively.

12. Historic Properties. No activity, which may affect historic properties, listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification. (a) Timing: Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the PCN is complete within 30 days of the date of receipt and can request the 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:

(1) Until 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) If notified in writing by the District or Division Engineer that an individual permit is required; or

(3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. 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 Notification: The notification 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) Brief 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. 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); and

(4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

(5) For NWP 7, Outfall Structures and Maintenance, the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed.

(6) For NWP 14, Linear Transportation Projects, the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable.

(7) For NWP 21, Surface Coal Mining Activities, the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;

(8) For NWP 27, Stream and Wetland Restoration Activities, the PCN must include documentation of the prior condition of the site that will be reverted by the permittee.

(9) For NWP 29, Single-Family Housing, the PCN must also include:

(i) Any past use of this NWP by the individual permittee and/or the permittee's spouse;

(ii) A statement that the single-family housing activity is for a personal residence of the permittee;

(iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 1/4 acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of

where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 1/4 acre in size, a formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

(10) For NWP 31, Maintenance of Existing Flood Control Facilities, the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:

(i) Sufficient baseline information so as to identify the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and,

(iii) Location of the dredged material disposal site.

(11) For NWP 33, Temporary Construction, Access, and Dewatering, the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources.

(12) For NWP's 39, 43, and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization of losses of waters of the US were achieved on the project site.

(13) For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal that offsets unavoidable losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

(14) For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent non-tidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

(15) For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent streambed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

(16) For NWP 44, Mining Activities, the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities).

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work.

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include vicinity map indicating the location of the historic property.

(c) Form of Notification: The standard individual permit application form (Form ENG 4345) may be Used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(19) of General Condition 13. A letter containing the requisite information may also be used.

(d) 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. The prospective permittee may, optionally, submit a proposed mitigation plan with the PCN to expedite the process and 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. 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, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. Any compensatory mitigation proposal must be approved by the District Engineer prior to commencing work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. 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 days of receiving a complete PCN and determine whether the conceptual or specific 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 stating that the project can proceed under the terms and conditions of the nationwide permit. If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then he 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 proposal 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 in order to ensure no more than minimal adverse effects on the aquatic environment, the activity will be authorized within the 45-day PCN period, including the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

(e) **Agency Coordination:** 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 effects on the aquatic environment to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2 acre of waters of the US, the District Engineer will, upon receipt of a notification, provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner), a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the National Marine Fisheries Service. With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to National Marine Fisheries Service within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) **Wetlands Delineations:** Wetland delineations must be prepared in accordance with the current method required by the Corps. For NWP 29 see paragraph (b)(9)(iii) for parcels less than 1/4 acre in size. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received a nationwide permit verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter. The certification will include: (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/3 acre.

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material Used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

(a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

(d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, 1/4 -acre of wetlands cannot be created to change a 3/4 -acre loss of wetlands to a 1/2 -acre loss associated with NWP 39 verification. However, 1/2 -acre of created wetlands can be used to reduce the impacts of a 1/2 -acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

(e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

(g) Compensatory mitigation proposals submitted with the "notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

(h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity, including structures and work in navigable waters of the US or discharge of dredged or fill material, creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

23. **Waterfowl Breeding Areas.** Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. **Removal of Temporary Fills.** Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. **Designated Critical Resource Waters.** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, State natural heritage sites, and outstanding national resource waters or other waters officially designated by a State as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the US Fish and Wildlife Service or the National Marine Fisheries Service has concurred in a determination of compliance with this condition.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after he determines that the impacts to the critical resource waters will be no more than minimal.

26. **Fills Within 100-Year Floodplains.** For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

(a) *Discharges in Floodplain; Below Headwaters.* Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

(b) *Discharges in Floodway; Above Headwaters.* Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

(c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. **Construction Period.** For activities the Corps has not verified that and the project were commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12- months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

D. Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other Federal, State, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

Section 10 Special Condition: The permittee understands and agrees that, if future operations by the US require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or is authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structure work or obstructions caused thereby, without expense to the US. No claim shall be made against the US on account of any such removal or alteration.



COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
FRANKFORT OFFICE PARK
14 REILLY RD
FRANKFORT KY 40601

General Certification--Nationwide Permit #12
Utility Line Backfill and Bedding

This General Certification is issued March 17, 2002, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33USC 1314), as well as Kentucky Statute KRS 224.16-070.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 5, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under 33 CFR Part 330 Appendix A (B) (12), namely utility line backfill and bedding provided that the following conditions are met:

1. This general Water Quality Certification is limited to the crossing of streams by utility lines. The length of a single utility stream crossing shall not exceed twice the width of the stream. This document does not authorize the installation of utility lines in a linear manner within the stream channel or below the top of the stream bank.
2. The provisions of 401 KAR 5:005 Section 8 are hereby incorporated into this General Water Quality Certification. Namely, "Sewer lines shall be located at least 50 feet away from a stream which appears as a blue line on a USGS 7 1/2 minute topographic map except where the sewer alignment crosses the stream. The distance shall be measured from the top of the stream bank. The cabinet may allow construction within the 50' buffer if adequate methods are used to prevent soil from entering the stream.

Gravity sewer lines and force mains that cross streams shall be constructed by methods that maintain normal stream flow and allow for a dry excavation. Water pumped from the excavation shall be contained and allowed to settle prior to re-entering the stream. Excavation equipment and vehicles shall operate outside of the flowing portion of the stream. Spoil material from the sewer line excavation shall not be allowed to enter the flowing portion of the stream." The provisions of this condition shall apply to all types of utility line stream crossings.

3. Removal of riparian vegetation in the utility line right-of-way shall be limited to that necessary for equipment access. Effective erosion and sedimentation control measures must be employed at all times during the project to prevent degradation of waters of the Commonwealth. Site regarding and reseeded will be accomplished within 14 days after disturbance.



4. Utility line construction projects through jurisdictional wetlands shall not result in conversion of the area to non-wetland status.
5. This General Certification shall not apply to those waters of the Commonwealth identified as Outstanding State Resource Waters, Exceptional Waters or Cold Water Aquatic Habitat Waters, as designated by the Division of Water. An individual Water Quality Certification will be required for projects in these waters.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.

This general certification will expire on March 19, 2007, or sooner if the COE makes significant changes to this nationwide permit.

JAMES E. BICKFORD
SECRETARY



PAUL E. PATTON
GOVERNOR

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
FRANKFORT OFFICE PARK
14 REILLY RD
FRANKFORT KY 40601

General Certification--Nationwide Permit #13
Bank Stabilization

This General Certification is issued March 17, 2002, in conformity with the requirements of Section 401 of the Clean Water Act of 1977, as amended (33USC 1314), as well as Kentucky Statute KRS 224.16-070.

The Commonwealth of Kentucky hereby certifies under Section 401 of the Clean Water Act (CWA) that it has reasonable assurances that applicable water quality standards under Kentucky Administrative Regulations Title 401, Chapter 5, established pursuant to Sections 301, 302, 304, 306 and 307 of the CWA, will not be violated for the activity covered under 33 CFR Part 330 Appendix A(B) (13), namely bank stabilization, provided that the following conditions are met:

1. Impacts to streams **greater than 200 linear feet** of stream length will require an individual Water Quality Certification from the Division of Water prior to beginning work, except as noted in condition 3 of this certification. For the purpose of this General Certification, streams are defined as a solid or dashed blue line on the most recent version of USGS 1:24,000 topographic map.
2. For those projects impacting **less than 200 feet of stream**, the following condition must be observed:
 - Effective erosion and sedimentation control measures must be employed at all times during the project to prevent degradation of waters of the Commonwealth.
3. Stream impacts covered under this nationwide permit and undertaken by those persons defined as an agricultural operation under the Agricultural Water Quality Act must be completed in compliance with the Kentucky Agricultural Water Quality Plan.
4. This General Certification shall not apply to those waters of the Commonwealth identified as Outstanding State Resource Waters; Exceptional Waters or Cold Water Aquatic Habitat Waters, as designated by the Division of Water. An individual Water Quality Certification will be required for projects in these waters.

Non-compliance with the conditions of this general certification or violation of Kentucky state water quality standards may result in civil penalties.

This general certification will expire on March 19, 2007, or sooner if the COE makes significant changes to this nationwide permit.



Compliance Certification:

Permit Number: 200501381-pj1

Name of Permittee: Louisville Water Company

Date of Issuance: October 7, 2005

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-FS
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



US Army Corps
of Engineers
Louisville District

Public Notice

Public Notice No.
83-LD-016

Date:
24 May 2002

Closing Date:

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: CEORL-OP-F
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6733

PUBLIC NOTICE LIMITS OF JURISDICTION

TO WHOM IT MAY CONCERN:

The purpose of this notice is to list those waters within Louisville District which are subject to the Corps of Engineers jurisdiction under Section 10 of the rivers and harbors Act of 1899 (33 U.S.C. 403).

In other words, anyone intending to perform work in the immediate vicinity of the waters listed below must first receive a permit from this office. The regulations establishing procedures for processing applications for such permits were published in the Federal Register on 22 July 1982 (33 C.F.R. 320 through 330).

Routine permit applications take about sixty days to process. More complicated or controversial applications may take considerably longer. Therefore, potential applicants should contact the Louisville District office at the above address well in advance of the date they intend to begin work.

One important point must be noted: the Corps of Engineers also has regulatory responsibilities under Section 404 of the Clean Water Act (33 U.S.C. 1344). That law requires a permit only for the discharge of dredged or fill material below the Ordinary High Water elevation of a waterway. However, the area of our jurisdiction under this Act is much more extensive than that under the 1899 Act. In fact, it extends to all waters of the United States. For this reason, and since many types of work under both sections of law have been authorized by nationwide and regional general permits, we strongly suggest that anyone proposing any work in any water contact this office.

The only work within navigable waters not normally requiring a permit from the Corps of Engineers is the construction of bridges, causeways, and aerial pipeline crossings. Such facilities are under the jurisdiction of the Department of Transportation. Further information on the requirements for permits for such activities may be obtained from the Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri, 63103. However, if any of the work requires the discharge of dredged or fill material into the waterbody, an authorization is still required from the Corps of Engineers.

Fees:

Fees are required for permit applications under Section 404 of the Clean Water Act and Section 9 and 10 of the Rivers and Harbors Act of 1899. A fee of \$100.00 will be charged when the planned or ultimate purpose of

the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution, or sale of goods or services. A \$10.00 fee will be charged for permit applications when the work is non-commercial in nature and provides personal benefits that have no connection with a commercial enterprise. The final decision as to basis for fee (commercial vs. non-commercial) shall be solely the responsibility of the District Engineer. No fee will be charged if the applicant withdraws the application at any time prior to issuance of the permit and/or if the application is denied. Collection of the fee is deferred until the applicant is notified by the District Engineer that a public interest review has been completed and that the proposed activity has been determined to be in the public interest. Any modification significant enough to require a public notice will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions or general permits.

Unauthorized Work:

All work performed without the required Department of the Army Permit will be immediately investigated and evaluated. Based on results of the investigation, the case may be forwarded to the appropriate U.S. Attorney or higher Corps of Engineers authority recommending that appropriate civil or criminal action be taken. Applications for approval of unauthorized work will not be accepted until litigation has been completed, or until a determination has been made that prosecution is not warranted.

Disposal of Refuse:

The Corps of Engineers is also responsible for enforcement of Section 13 of the Rivers and Harbors Act of 1899 (33 U.S.C. 407). This section of the law prohibits placing, or causing to be placed, into navigable waters, or in a location or manner as to be liable to be washed into navigable waters, anything which might become a hazard to navigation or anchorage. It should be noted that no permits are issued for this type of activity. Violations of this section of law will be reported to the Department of Justice for appropriate action.

The Louisville District Corps of Engineers is presently engaged in determining the extent of the jurisdiction to be exercised over those "Navigable Waters of the United States" located within this District. This review and determination is being made in accordance with Part 329 of Corps of Engineers' regulations as published in the July 22, 1982 Federal Register, Part II, Volume 47, No. 141, pp. 31828 - 31831. Until this review and determination has been completed and approved by the Chief of Engineers as provided by this regulation, the following list of streams and waterbodies within the Louisville District Boundaries are considered navigable waters of the United States to the jurisdictional limits shown. The Limits of Jurisdiction shown below supersede the limits designated by all previous Public Notices published by this District addressing the topic of jurisdiction. Changes and/or additions to this list, or to the jurisdictional limits shown, will be made as our review progresses. All activity as described above and within the jurisdictional limits set forth below will require a permit.

OHIO RIVER AND TRIBUTARIES

<u>OHIO RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
	Ohio River (Mouth to Foster, Kentucky)	543.0 miles
451.3	Twelve Mile Creek (Ohio)	1.3 miles
461.4	Twelve Mile Creek (Kentucky)	0.8 miles
461.2	Four Mile Creek	2.5 miles
463.5	Little Miami River (See Suppl List Below)	90.7 miles
470.2	Licking River (See Suppl List Below)	226.0 miles
472.5	Mill Creek	3.8 miles
477.5	Dry Creek	0.3 miles
484.0	Muddy Creek	2.1 miles
488.2	Sand Run	1.2 miles
490.6	Garrison Creek	0.6 miles
491.0	Great Miami River	117.0 miles
493.3	Second Creek	0.4 miles
493.5	Taylor Creek	0.6 miles
494.2	Tanners Creek	10.6 miles
495.8	Wilson Creek	1.9 miles
496.7	Hogan Creek	0.4 miles
	North Hogan Creek (Tributary to Hogan Creek)	4.9 miles
	South Hogan Creek (Tributary to Hogan Creek)	5.0 miles
498.7	Laughery Creek	10.2 miles
499.8	Woolper Creek	3.4 miles
501.4	Island Branch	1.0 miles
502.5	Willoughby Creek	0.4 miles
504.0	Buck Run	1.1 miles
504.5	Middle Creek	1.4 miles
508.7	Arnold Creek	4.4 miles
508.8	Grant Creek	2.5 miles
512.0	Lick Creek	1.1 miles
513.6	Gunpowder Creek	4.6 miles
514.6	Landing Creek	0.7 miles
516.7	Big Bone Creek	4.2 miles
	Big South Fork (Tributary to Big Bone Creek)	1.4 miles
	Mud Lick Creek (Tributary to Big Bone Creek)	1.1 miles
518.2	Goose Creek	1.5 miles
518.5	Steeles Creek	0.5 miles
518.7	Wades Creek	0.6 miles
521.3	Paint Lick Creek	1.4 miles
522.7	Little Sugar Creek	0.9 miles
522.8	Big Sugar Creek	0.6 miles
527.0	Bryant Creek	2.6 miles
	Sand Run (Tributary to Bryant Creek)	0.9 miles
529.0	Turtle Creek	1.3 miles
529.9	Craigs Creek	4.6 miles
	Dry Creek (Tributary to Craigs Creek)	1.2 miles
	Vera Cruz Branch (Tributary to Craigs Creek)	0.6 miles
532.9	Log Lick Creek	2.3 miles
535.8	Plumb Creek	2.9 miles
540.0	Indiana Creek	4.1 miles
545.8	Kentucky River (See Suppl List Below)	254.7 miles
546.6	Little Kentucky River	4.3 miles
549.5	Locust Creek	0.7 miles
550.4	Indian Kentuck Creek	3.8 miles

OHIO RIVER AND TRIBUTARIES (Cont'd)

<u>OHIO RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
569.3	Big Saluda Creek	1.0 miles
571.0	Corn Creek	1.4 miles
573.0	Bear Bone Creek	0.7 miles
576.3	Pattons Creek	0.7 miles
578.3	Camp Creek	1.7 miles
580.8	Eighteen Mile Creek	0.9 miles
584.5	Bull Creek	1.1 miles
589.3	Fourteen Mile Creek	2.9 miles
596.0	Harrods Creek	1.3 miles
597.0	Goose Creek	1.1 miles
	Little Goose Creek (Tributary of Goose Creek)	0.5 miles
597.7	Lancassange Creek	0.3 miles
602.0	Beargrass Creek	0.8 miles
606.8	Silver Creek	3.0 miles
629.0	Salt River (See Suppl List Below)	26.4 miles
633.3	Abrahams Run	1.2 miles
634.5	Mosquito Creek	2.8 miles
636.4	Otter Creek	2.7 miles
642.25	Doe Run	1.5 miles
647.3	Buck Creek	5.8 miles
651.4	French Creek	2.4 miles
657.0	Indian Creek	4.8 miles
661.3	Potato Run	0.4 miles
662.9	Blue River	57.15 miles
	Dry Creek (Tributary of Blue River)	1.4 miles
676.8	Wolf Creek	3.9 miles
678.6	Little Blue River	10.6 miles
	Mill Creek (Tributary of Little Blue River)	1.4 miles
686.1	Watson Run	1.0 miles
686.6	Spring Creek	1.9 miles
691.7	Oil Creek	10.6 miles
	Clover Lick Creek (Tributary of Oil Creek)	0.7 miles
	Little Oil Creek (Tributary of Oil Creek)	4.4 miles
	Webb Branch (Tributary of Oil Creek)	0.9 miles
	Bull Hollow (Tributary of Oil Creek)	0.7 miles
	Indian Fork (Tributary of Oil Creek)	1.4 miles
	Bald Knob Creek (Tributary of Oil Creek)	0.5 miles
692.4	Knob Creek	0.2 miles
695.5	Yellow Bank Creek	3.8 miles
696.6	Big Poison Creek	6.3 miles
	Caney Branch (Tributary of Big Poison Creek)	0.2 miles
	Little Poison Creek (Tributary of Big Poison Creek)	1.2 miles
698.75	Lick Run	2.2 miles
700.8	Sinking Creek	7.6 miles
	Helm Branch (Tributary of Sinking Creek)	0.8 miles
	Shot Pouch Creek (Tributary of Sinking Creek)	2.4 miles
703.25	Bear Creek	1.6 miles
703.9	Kennys Creek	0.8 miles
704.2	Buck Creek	0.7 miles
705.1	Kingly Creek	0.2 miles

OHIO RIVER AND TRIBUTARIES (Cont'd)

<u>OHIO RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
705.5	Pates Hollow	0.3 miles
706.1	Sample Run	0.2 miles
707.3	Town Creek	1.8 miles
707.6	Bull Creek	2.4 miles
709.0	Goehagan Creek	0.8 miles
710.9	Clover Creek	9.4 miles
	Tar Fork (Tributary of Clover Creek)	5.4 miles
	Locust Creek (Tributary of Clover Creek)	1.8 miles
	Caney Creek (Tributary of Clover Creek)	1.0 miles
	Beech Fork (Tributary of Clover Creek)	0.6 miles
712.3	Faucett Creek	0.7 miles
717.2	Millstone Creek	1.4 miles
	Kelly Hollow (Tributary of Millstone Creek)	1.0 miles
718.75	Deer Creek	5.9 miles
	Little Deer Creek (Tributary of Deer Creek)	3.9 miles
	Caney Branch (Tributary of Deer Creek)	0.8 miles
	Neglie Branch (Tributary of Deer Creek)	0.5 miles
	East Deer Creek (Tributary of Deer Creek)	0.6 miles
724.2	Lead Creek	3.8 miles
731.4	Anderson Creek	14.2 miles
	Middle Fork Anderson Creek (Tributary of Anderson Creek)	3.3 miles
733.2	Crooked Creek	7.7 miles
736.7	yellow Creek	2.6 miles
741.3	Little Sandy Creek	2.0 miles
742.0	Blackford Creek	6.0 miles
742.1	Sandy Creek	2.6 miles
744.25	Honey Creek	1.8 miles
746.8	Lake Drain	1.6 miles
750.7	Puppy Creek	4.3 miles
	Kelly Creek (Tributary of Puppy Creek)	2.0 miles
751.9	Yellow Creek	2.0 miles
	Van Bruen Creek (Tributary of Yellow Creek)	0.9 miles
759.4	Caney Creek	2.8 miles
760.5	Garret Creek	2.2 miles
763.2	Jackson Creek	1.8 miles
772.8	Little Pigeon Creek	15.8 miles
	Clear Creek (Tributary of Pigeon Creek)	2.4 miles
	Baker Creek (Tributary of Pigeon Creek)	1.8 miles
775.3	Cypress Creek (Diversion Channel)	6.6 miles
784.3	Green River (See Suppl List Below)	199.0 miles
793.0	Pigeon Creek	5.9 miles
	Locust Creek (Tributary of Pigeon Creek)	1.5 miles
806.8	Canoe Creek	7.3 miles
	Wilson Creek (Tributary of Canoe Creek)	1.6 miles
815.0	Bayou Creek	1.5 miles
828.9	McFadden Creek	2.3 miles
841.0	Highland Creek	8.3 miles
843.0	Lost Creek	1.2 miles

OHIO RIVER AND TRIBUTARIES (Cont'd)

<u>OHIO RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
845.9	Harris Ditch	0.9 miles
	Little Pitcher Lake (Tributary of Harris Ditch)	1.2 miles
848.0	Wabash River (See Suppl List Below)	441.9 miles
867.3	Saline River	18.3 miles
	North Fork Saline River (Tributary to Saline River)	5.0 miles
868.7	Dennis O'Nan Ditch	3.4 miles
873.5	Tradewater River	20.4 miles
	Piney Creek (Tributary to Tradewater River)	0.9 miles
	Crab Orchard Creek (Tributary to Tradewater River)	1.7 miles
875.8	Camp Creek	1.1 miles
877.7	Honey Creek	2.2 miles
877.8	Crook Creek	2.2 miles
877.8	Anthony Creek	1.2 miles
886.2	Hurricane Creek	1.1 miles
	Caney Creek (Tributary to Hurricane Creek)	0.2 miles
886.4	Peters Creek	0.6 miles
887.8	Hosick Creek	1.0 miles
889.5	Big Creek	3.4 miles
893.0	Deer Creek	6.8 miles
893.6	Buck Creek	1.9 miles
895.8	Three Mile Creek	2.1 miles
897.8	Big Grand Pierre Creek	6.0 miles
	Little Grand Pierre Creek (Tributary to Big Grand Pierre Creek)	2.8 miles
901.9	Givens Creek	1.2 miles
902.3	Lusk Creek	8.5 miles
	Miller Creek (Tributary to Lusk Creek)	1.9 miles
903.6	McGilligan Creek	2.1 miles
910.0	Big Bay Creek	7.6 miles
910.8	Barren Creek	2.9 miles
914.8	Phelps Creek	1.4 miles
918.8	Dog Creek	4.7 miles
	Alcorn Creek (Tributary of Dog Creek)	1.3 miles
919.9	Dyer Hill Creek	2.7 miles
920.0	Dyer Hill Creek	1.0 miles
922.9	Cumberland River	2.1 miles *
934.5	Tennessee River	2.4 miles **
	Island Creek (Tributary of Tennessee River at Mile 1.2)	4.0 miles
939.4	Perkins Creek	1.9 miles

*Cumberland River above this point under the jurisdiction of the Nashville District.

**Tennessee River above this point under the jurisdiction of the Nashville District.

OHIO RIVER AND TRIBUTARIES (Cont'd)

<u>OHIO RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
940.4	Sevenmile Creek	1.2 miles
941.9	Massac Creek (Illinois)	1.6 miles
942.7	Massac Creek (Kentucky)	2.7 miles
947.6	Bayou Creek	1.4 miles
953.2	Newtons Creek	1.3 miles
956.0	Redstone Creek	1.2 miles
957.8	Post Creek Cutoff	0.5 miles
967.7	Humphrey Creek	2.9 miles
	Clanton Creek (Tributary to Humphrey Creek)	.4 miles
971.8	Hess Bayou Creek	.8 miles
974.7	Cache River	.4 miles

KENTUCKY RIVER AND TRIBUTARIES

<u>KENTUCKY RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
	Kentucky River (Mouth to Junction of North and South Forks, Kentucky River)	254.7 miles
190.3	Red River	5.5 miles
254.7	South Fork Kentucky River	4.0 miles
254.7	North Fork Kentucky River	6.4 miles
	Middle Fork Kentucky River (Tributary to North Fork Kentucky River)	4.7 miles

SALT RIVER AND TRIBUTARIES

<u>SALT RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
	Salt River	26.4 miles
11.4	Rolling Fork	19.7 miles
25.5	Floyds Fork	0.1 miles

GREEN RIVER AND TRIBUTARIES

<u>GREEN RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
	Green River (Mouth to Davis Island)	199.0 miles
55.0	Pond River	12.5 miles
71.3	Rough River	29.0 miles
108.6	Mud River	14.0 miles
149.5	Barren River	139.7 miles
	Gaspar River (Tributary to Barren River)	1.2 miles
	Drakes Creek (Tributary to Barren River)	23.5 miles
	Trammel Fork (Tributary to Drakes Creek)	14.7 miles
	West Fork Drakes Creek (Tributary to Drakes Creek)	1.1 miles
168.5	Bear Creek	11.0 miles
183.5	Nolin River	7.8 miles

WABASH RIVER AND TRIBUTARIES

<u>WABASH RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
	Wabash River (Mouth to Wells-Adams County Line)	441.9 miles
14.9	Little Wabash River	158.0 miles
	(Mouth to Louisville, IL)	
	Skillet Fork (Tributary to Little Wabash River)	69.5 miles
95.6	White River	66.2 miles
	East Fork White River (Tributary to White River)	21.9 miles
122.0	Embarras River	168.0 miles
	(Mouth to Carmargo, IL)	
257.5	Vermilion River	22.6 miles
	(Mouth to Danville, IL)	
	Middle Fork Vermilion River	3.5 miles
	(Tributary to Vermilion River)	(At the I-74 overpass)
405.9	Little River	20.2 miles (Mouth to the junction w/Ellison Road)

LICKING RIVER AND TRIBUTARY

<u>LICKING RIVER MILE</u>	<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>
	Licking River (Mouth to West Liberty, Kentucky)	226.0 miles
51.7	South Fork Licking River	59.8 miles
		(Mouth to Bourbon- Harrison Co. KY Line)

LITTLE MIAMI RIVER AND TRIBUTARIES

<u>STREAM</u>	<u>JURISDICTION ABOVE MOUTH</u>	<u>LOCATION OF LIMIT</u>
Little Miami River	90.7 miles	S.R. 72 crossing in Clinton, Clark Co., Ohio
East Fork Little Miami River	6.4 miles	Bridge in Perintown, Clermont Co., Ohio

All embayments or backwater areas on all tributaries to streams listed above are considered navigable for administrative purposes. If anyone is now contemplating work or activity on a waterway, whether or not such waterway is listed above, or whether such proposed work or activity is above the jurisdictional limit shown above on a listed waterbody, it is suggested that this Office be contacted prior to commencement of such work or activity. Such contact may prevent a subsequent determination that such work or activity is illegal based upon a final determination of navigability.

As mentioned before, the above listed stream limits define where permits are required, for work or construction, under Section 10 of the River and Harbor Act of 1899. The Corps of Engineers also has permitting jurisdiction pursuant to Section 404 of the Clean Water Act for all waters of the United States. Section 404 regulates the placement of dredged or fill material into streams and their adjacent wetland areas. Therefore, should you anticipate placing material into any streams, lakes or wetland located within the boundary shown on the attached map, then you should contact the Louisville District in order to determine the authorization required prior to the placement of the dredged or fill material.

Questions pertaining to the Department of the Army permit program may be directed to the Louisville District Office by calling (502) 315-6733, or by writing:

District Engineer
U.S. Army Engineer District, Louisville
Corps of Engineers
ATTN: CEORL-OP-F
P.O. Box 59
Louisville, Kentucky 40201-0059

ADDRESS FOR COORDINATING AGENCY

Mr. David W. Morgan
Environmental and Public Division of Water
Division of Water
14 Reilly Road
Frankfort, Kentucky 40601