



## **PUBLIC NOTICE and Notice of Public Hearing**

### **TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION DIVISION OF WATER RESOURCES**

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312 Rosa L. Parks Avenue, 11<sup>th</sup> Floor  
Nashville, Tennessee 37243**

**Phone: 615- 308-0734**

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#### **Proposed ARAP Individual Permit for Stream and Wetland Impacts**

**NOTICE IS HEREBY GIVEN**, the Division of Water Resources is accepting comments concerning temporary impacts to 2.294 acres of wetlands, permanent conversion of 0.87 acres of wetlands type, and seven stream crossings associated with a proposed pipeline. Although the pipeline project traverses two states and two U.S. Army Corps of Engineers Districts, this aquatic resource alteration permit would address only the aquatic alterations associated with the 7.16 mile portion of the project within Shelby County, Tennessee.

As part of this public notice and comment period, the Division will hold a video-teleconference public hearing concerning the proposed impacts to water resources. The purpose of this notice is to inform interested parties of this proposed activity, provide an opportunity to review and comment on the draft Aquatic Resource Alteration Permit (ARAP), and ask for comments and information necessary to determine possible impacts to water quality. Persons wishing to comment on the proposed impacts to water resources are invited to submit written comments to the department or participate in the public hearing listed below.

Interested persons may obtain additional information, including a copy of the draft permit, and may inspect and copy related documents at the Division's Central Office at the address listed above, or at the Environmental Field Offices. Additional information may also be obtained from the Division's website at <https://www.tn.gov/environment/ppo-public-participation/ppo-public-participation/ppo-water.html>.

#### **PUBLIC HEARING**

The public hearing will be conducted via video-teleconference in the interest of protecting public health, safety, and welfare in light of COVID-19 and ongoing health-based recommendations to limit the size of public gatherings. Governor Lee recently extended the state of emergency in Tennessee to August 29, 2020. Therefore, public hearings and meetings at this time will be conducted through electronic means such as Webex to allow for full and transparent public participation.

**Date:** August 27, 2020  
**Informational Session:** 6:00 PM CDT  
**Public Hearing:** Immediately following Informational Session

Webex Meeting number (access code): 161 625 1585  
Meeting password: AQecEgfu493

Link:

<https://tngov.webex.com/webappng/sites/tngov/meeting/download/577bb589368b42079740d0042beedffc?siteurl=tngov&MTID=m87e67da03ac598ac5c802286bb3fb200>

Join by phone: 415-655-0003

Please note that you can join the meeting by telephone if you do not have internet access by calling the number above.

If you are participating online, for best audio quality we recommend selecting the option for Webex to call your telephone rather than using your computer for audio. If you are unfamiliar with Webex, you may review the platform in advance at <https://www.webex.com/test-meeting.html>. For assistance with Webex go to <http://help.webex.com>.

Prior to opening the formal public hearing, an informational session will be held. The informational session will allow participants to ask questions informally, and receive input from TDEC staff. Once the formal public hearing begins, the question and answer format will end and all public comments will be collected for the hearing record without response from TDEC during the hearing.

The meeting moderator may limit the length of oral comments in order to allow all parties an opportunity to speak, and will require that all comments be relevant to the proposed permit action and Division of Water Resources issues. If you are unable to participate in the public hearing, or otherwise wish for your comments to be read into the record, please submit them to [water.permits@tn.gov](mailto:water.permits@tn.gov) prior to the hearing and specifically indicate your request for the comment to read at the hearing.

Individuals with disabilities who wish to participate in these proceedings or review the file record should contact TDEC to discuss any auxiliary aids or services needed to facilitate such participation. Contact may be by writing, telephone, or other means, and should be made no less than ten working days prior to the hearing to allow time to provide such aid or services. Contact the ADA Coordinator (615-532-0207) for further information. If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge by contacting Saul Castillo at 615-532-0462 or [saul.castillo@tn.gov](mailto:saul.castillo@tn.gov).

### **PUBLIC COMMENT**

Persons wishing to comment on possible water quality impacts and the issuance of this permit are invited to submit written comments or to deliver oral comments at the public hearing. All comments, whether written or oral, will be given the same consideration. Obtaining a broad range of facts and opinions on Agency actions is one of the best ways to ensure appropriate decisions. Persons wishing to comment on the proposal are invited to submit written comments to the Division. Comments will become part of the record and will be considered in the final decision. The applicant's name and permit number should be referenced. Send all written comments to the Division's address listed below to the attention of the permit coordinator. You may also comment via email to [water.permits@tn.gov](mailto:water.permits@tn.gov).

After the Division makes a final permit determination, a permit appeal may be filed by the applicant or by any person who participated in the public comment period whose appeal is based on comments given to the Division in writing during the public comment period or in testimony at a formal public hearing.

Interested persons may obtain additional information or inspect and copy related documents by emailing [water.permits@tn.gov](mailto:water.permits@tn.gov) or [mike.lee@tn.gov](mailto:mike.lee@tn.gov).

Please submit any written comments to the Division at the address above or at [water.permits@tn.gov](mailto:water.permits@tn.gov). The comments must be received by September 11, 2020 at 4:30 PM CDT. After considering all public comments, the Division will publish a final permit decision and a notice of the Division's determinations.

### **PROPOSED PROJECT AND WATER QUALITY IMPACTS**

Pursuant to the Tennessee Water Quality Control Act of 1977, T.C.A. § 69-3-108 and Tennessee Rules, Chapter 0400-40-07, the proposed activity described below has been submitted for approval under an Aquatic Resource Alteration Permit and Section 401 Water Quality Certification. Section 401 of the Clean Water Act requires that an applicant obtain a water quality certification from the state when a federal permit is required. This notice is intended to inform interested parties of this permit application and draft permit and rationale, and to ask for comments and information necessary to determine possible impacts to water quality. At the conclusion of the public notice period a final determination will be made whether to issue or deny the permit.

#### **PERMIT COORDINATOR**

Mike Lee  
Tennessee Department of Environment & Conservation  
Division of Water Resources, Natural Resources Unit  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 11th Floor  
Nashville, Tennessee 37243  
(615) 532-0712  
[Mike.lee@tn.gov](mailto:Mike.lee@tn.gov)

#### **APPLICANT**

Byhalia Pipeline, LLC  
William Gore, V.P. Env and Reg. Compliance  
333 Clay Street, Suite 1600  
Houston, TX 77002  
(870) 219-1721

#### **LOCATION**

A pipeline originating at the Valero Refinery, North Rivergate Road in Memphis, Shelby County at Latitude 35.080599, Longitude -90.08500. In the Memphis Corps of Engineers District it travels south approximately 0.75 miles northwest of Lynchburg, Mississippi (34.976713, -90.113004) and proceeds through Marshall County, Mississippi approximately 2.7 miles west-northwest of Cayce, Mississippi (34.965895, -89.661525) and continues north and terminates approximately 2.42 miles northwest of Cayce, Mississippi. The remaining 36.33 miles of proposed alignment falls under the jurisdiction of the Vicksburg Corps of Engineers District. Although the project traverses two states and two Corps Districts, this aquatic resource alteration permit application addresses only with the 7.16 mile portion of the project within Shelby County, Tennessee within the Memphis Corps District.

To view the proposed location of these impacts and the watershed condition, visit the Division's map viewer at <http://tdeconline.tn.gov/dwr/> and search on the permit number or coordinates listed in this Public Notice.

#### **PROJECT DESCRIPTION / PURPOSE**

The proposed 24-inch diameter, 49.63 mile alignment will be transporting crude oil beginning approximately 5.15 miles southwest of Memphis, Tennessee at the Valero Refinery and traverse south and then east through DeSoto and Marshall Counties, Mississippi before terminating at the Valero Collierville Facility approximately 2.4 miles northwest of Cayce, Marshall County, Mississippi.

The proposed project will be constructed primarily by conventional trenching methods. Horizontal directional drilling (HDD) will be employed at certain sensitive resource crossings and existing infrastructure (e.g., rivers and highways). Horizontal bores (HB) will be employed to cross smaller infrastructure such as county roads and railroads. Construction will occur within a typical right-of-way (ROW) which will consist of a 50-foot-wide permanent easement centered on the centerline (25 feet on each side of the centerline) and an additional 50-foot-wide temporary construction ROW from the edge of the permanent ROW (alternating sides of the ROW as necessary to avoid hazards and/or minimize impacts to sensitive areas). All pipeline crossings through jurisdictional waters of the U.S. will have a narrowed 75-foot (or less) combined ROW to minimize impacts where possible. Additional temporary workspaces (ATWS) will generally be 25 to 50 feet wide but will vary in length and be located throughout the proposed project area where space is necessary to accommodate construction activities. Standard locations for ATWS will include HDD and HB crossings, conventional stream crossings, and abrupt points of intersect. Construction of the proposed project will employ best management practices (BMPs) for clearing vegetation, excavating the pipeline trench, welding and laying the pipe, backfilling the pipeline trench, re-establishing pre-construction contours, and restoring permanent vegetation. Construction of the proposed project is expected to begin December 1, 2020.

All perennial streams will be avoided using HDD construction methods and no work will take place within the ordinary high water marks (OHWM) of these streams. Intermittent and ephemeral streams, as well as wet weather conveyances are planned for open trench crossings. Sedimentation control practices will be installed before vegetation is cleared and topsoil is segregated. The pipeline centerline will then be re-staked, the trench excavated, and pipe placed before refilling the trench. All stream channels, beds, and substrates will be returned to pre-construction elevations, contours, and stabilized by re-vegetation after construction. No stream channel alterations will occur as a result of this project. Construction within the OHWMs of intermittent and ephemeral streams will occur when dry if possible. If not possible, cofferdams or other diversion methods will be used. Inadvertent Return Contingency Plans will be prepared by participating construction contractors and will be implemented during construction by the HDD contractors.

Palustrine forested wetlands (PFOs) within the Tennessee segment of the project are to be bored, some clearing will be necessary for the positioning of equipment used for boring beneath adjacent or nearby features. Areas within the permanent ROW will experience continued woody vegetation management. As such, approximately 0.87 acres will be permanently converted from forested to emergent plant wetlands. All Palustrine emergent wetlands (PEMs) and Palustrine scrub-shrub wetlands (PSSs) will be open cut and returned to pre-construction contours with staged topsoil redistributed and allowed to natural regenerate to pre-construction conditions. Construction will employ best management practices for clearing vegetation, re-establishing contours, and restoring permanent vegetation.

Construction will follow the general conditions of the USACE Nationwide Permit program and TDEC General ARAP for Utility Line Crossings, including the use of mats by heavy equipment to minimize soil disturbance, and the use of appropriate soil erosion and sediment controls to prevent sedimentation.

Temporary impacts will occur to 2.294 acres within six wetlands and permanent conversion of 0.87 acres (two wetlands) from PFO wetlands to PEM wetlands and seven stream crossings (three intermittent, four perennial) will occur.

Compensatory wetland mitigation will be provided for conversion of 0.87 acres of moderately functional forested wetlands through the purchase of at least 1.74 credits from the Tennessee Mitigation Fund southwest Tennessee service area, which provides in-system mitigation. The permittee shall restore the temporary impacts to pre-existing conditions. The removal shall be monitored for two years and a report submitted to this office that confirms the removal and restoration of the crossings.

## **ANTIDEGRADATION STATEMENT**

In accordance with the Tennessee Antidegradation Statement (Rule 0400-40-03-.06), the Division has made a preliminary determination that the proposed activities will result in *de minimis* degradation because the applicant proposes to provide in-system mitigation to offset any appreciable permanent loss of resource values.

For more information please reference Tennessee's Antidegradation Statement which is found in Chapter 0400-40-03 of the Rules of the Tennessee Department of Environment and Conservation.

## **FACTORS CONSIDERED**

In deciding whether to issue or deny this permit, the Division will consider all comments of record and the requirements of applicable federal and state laws. The division will consider the nature, scale and effects of proposed impacts. The Division will consider practicable alternatives to the alteration, loss of waters or habitat, diminishment in biological diversity, cumulative or secondary impacts to the water resource, and adverse impacts to unique, high quality, or impaired waters.

## **FILE REVIEW**

The permit application, supporting documentation, including detailed plans and maps, draft permit and rationale, and related comments are available for review on the internet at the Division's [Water Resources Permits Dataviewer](#) by entering the permit file number listed in the title of this Public Notice. The file may be viewed and copied at the address listed below.

Tennessee Department of Environment & Conservation  
Division of Water Resources, Natural Resources Unit  
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