



**Public Notice**  
**Tennessee Department of Environment and  
Conservation (TDEC)**  
**Division of Water Resources (DWR)**  
**Notice Requesting Public Comments on Draft  
Permit Actions**  
**FILE # 20.042**

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The purpose of this notice is to advise the public of the following proposed permit action and solicit comments and information necessary to evaluate the potential impact of the proposed activities on the aquatic environment.

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**

Meghan Ploch  
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  
423-634-2482  
[Meghan.Ploch@tn.gov](mailto:Meghan.Ploch@tn.gov)

**APPLICANT**

Tennessee Department of Transportation  
505 Deaderick Street  
Suite 900 JK Polk Building  
Nashville, TN 37243  
615-532-4424

**LOCATION**

LM 4.5 State Route 85, Fentress County  
Big Laurel Branch, Latitude 36.2650, Longitude -85.0618, Ecoregion 68c Plateau Escarpment, Obey Watershed

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

**PROJECT DESCRIPTION / PURPOSE**

Big Laurel Branch was impacted during emergency infrastructure repairs provisionally authorized under the General Aquatic Resource Alteration Permit for Emergency Infrastructure Repair in March 2019. During the work, it was determined that riprap stabilization would not meet the terms and conditions of

the general permit. The riprap was not embedded in the stream bed; the preferred method of stabilization was a geomembrane-lined riprap channel. The emergency repairs have resulted in an appreciable permanent loss of water resource value. To offset impacts from 240 linear feet of full-channel riprap, the Tennessee Department of Transportation (TDOT) is required to purchase stream mitigation credits from the Cumberland River Compact In-Lieu Fee Program, Upper Cumberland Service Area.

### **ANTIDegradation**

In accordance with the Tennessee Antidegradation Statement (Rule 0400-40-03-.06), the Division has made a preliminary determination that the activities will result in greater than *de minimis* degradation of waters with available parameters. Any appreciable permanent loss of resource value associated with the impacts shall be offset by sufficient mitigation to result in no overall net loss of resource value. Pursuant to Antidegradation Statement, in waters with available parameters for habitat, an activity that would cause degradation of habitat above the level of *de minimis* will only be authorized if applicant has demonstrated to the Department that there are no practicable alternatives to prevent or lessen degradation associated with the authorized activity and the degradation is necessary to accommodate important economic or social development in the area and will not violate the water quality criteria for uses existing in the receiving waters.

### **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. In addition, the Division will consider whether more than *de minimis* degradation is justified by important social or economic development in the area. In making this decision, a final determination will be made evaluating appreciable permanent loss of resource values and proposed compensatory mitigation to ensure the project will not result in no overall net loss of state water resources values.

### **HOW TO COMMENT**

TDEC is requesting public comment on this proposed permit action. 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. Written comments must be received within **thirty days following distribution of the approved public notice materials** (including signage and newspaper ad). 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. 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. Please contact Saul Castillo at 615-532-0462 or [saul.castillo@tn.gov](mailto:saul.castillo@tn.gov) for more information.

### **PUBLIC HEARING**

Interested persons may request in writing that the Division hold a public hearing on this application. The request must be received by the Division within the comment period, indicate the interest of the party requesting it, the reason(s) a hearing is warranted, and the water quality issues being raised. When there

is sufficient public interest in water quality issues, the Division will hold a public hearing in accordance with 0400-40-07-.04(4) (f). Send all public hearing requests to the attention of the permit coordinator at the address listed below or via email to [water.permits@tn.gov](mailto:water.permits@tn.gov). Any scheduled public hearings will be advertised through a similar public notice process.

**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.

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