



## HARPETH RIVER WATERSHED ASSOCIATION

*"Protecting the State Scenic Harpeth River and Clean Water in Tennessee Since 1999"*

June 17, 2016

### ***SENT BY E-MAIL***

State of Tennessee, TDEC/Water Resources  
William R. Snodgrass – TN Tower  
312 Rosa Parks Avenue – 11<sup>th</sup> Floor  
Nashville, TN 37243

Re: Comments on  
General NPDES Permit  
For Discharges of Stormwater  
Associated with Construction Activity  
Permit No. TNR100000  
PH Notice Tracking # TNR100000-160503, May 3, 2016 (the "Draft Permit")

Dear Mr. Janjic:

The undersigned organizations, representing tens of thousands of Tennesseans, respectfully offer the following comments on the Draft Permit.

We appreciate the work that TDEC has done on the Draft Permit. In many cases it preserves the protections of the 2011 Permit, and enhances those protections in a few cases. We continue to have concerns about other sections of the Draft Permit, including those expressed here.

Each of the undersigned organizations reserve the right to object to the Draft Permit (and any subsequent final permit) as a whole. Without waiving those rights, each undersigned organizations additionally offers the following comments. Numbers refer to section numbers in the Draft Permit unless noted specifically to refer to the Rationale.

1) Section 1.3(g), 5.4.2, and Section 5.2 of the Rationale – These sections appear to impermissibly lower standards for allowing discharges into Exceptional Tennessee Waters. Section 5.4 appears to suggest, without any supporting evidence or other backup, that the supposed additional protections of design and buffer requirements equate to "no measurable degradation." TDEC should supply the science and data upon which this conclusion is based, or should commit to perform the studies required to validate such a conclusion.

- 2) Section 3.2.1. – It is unclear from this section what changes are being made from the 2011 Permit and why such a change should be made. Although the time limit for implementation of SWPP changes has been shortened to three (3) months, references to buffer zone requirements contained in the 2011 Permit have been deleted. The intent and purposes of these changes cannot be determined, and TDEC must explain them.
- 3) Section 3.5.3.1(k) – The section appears merely to recommend phasing of construction, instead of requiring it, as was done in the 2011 Permit. (“Construction phasing is recommended on all projects regardless of size as a major practice for minimizing erosion and limiting sedimentation.” (emphasis added)) Phasing must be required; merely recommending phasing is unacceptable. As the Kentucky Erosion Prevention and Sediment Control Field Guide ([http://www.kutc.ku.edu/pdf/esc\\_guide.pdf](http://www.kutc.ku.edu/pdf/esc_guide.pdf); page 3) notes, “The cheapest erosion and sediment controls are the most effective. For example, limiting the amount of bare soil by phasing your project and preserving existing vegetation are less expensive and work better than installing large storm water control basins or ponds.”
- 4) Section 4.1.2 -- This section provides that buffers are “required to protect waters of the state that are not wet weather conveyances (e.g., perennial and intermittent streams, rivers, lakes, wetlands)”.... There is no justification based on environmental science or engineering for failing to include wet weather conveyances. Once sediments and contaminants reach any surface watercourse they are likely to continue into larger waters. Wet weather conveyances are just as likely as streams to be responsible for transporting sediments and contaminants into larger waters. A second concern is this: Inasmuch as the Draft Permit is an NPDES permit, and TDEC must protect waters of the United States, the Draft Permit must be revised to require buffers on all “waters of the United States” in addition to those protected under Tennessee law.
- 5) Section 4.1.2 (third paragraph beginning “Every attempt...”; second sentence) -- In the second sentence, the word “may” should be replaced with the word “must”, as per the following: “Where it is not practicable to maintain a full water quality riparian buffer, BMPs providing equivalent protection to a receiving stream as a natural water quality riparian buffer ~~may~~must be used at a construction site.”
- 6) Section 4.1.5(4) -- This section seems unclear and contradictory. The first sentence’s use of the word “should” suggests that soil analysis is optional, but the second sentence uses the word “shall.” We believe that soil analysis is very beneficial and must be required, and TDEC should be commended for including it. TDEC should resolve this apparent ambiguity in favor of mandatory soil analysis.

Thank you for considering our concerns and protecting Tennessee’s water quality. We look forward to TDEC’s revising the Draft Permit consistent with these comments. Should you have any questions or comments regarding the above, please contact James M. Redwine at [jimredwine@harpethriver.org](mailto:jimredwine@harpethriver.org) or 615-790-9767.

*[Signatures on Next Page]*

Sincerely,

Harpeth River Watershed Association



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