



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
ENVIRONMENTAL DIVISION
SUITE 900 - JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-0334**

MEMORANDUM

To: Shane Hester
CE Manager 2

From: Dennis Crumby
TDOT Ecology Section

Date: February 28, 2017

Subject: **ENVIRONMENTAL BOUNDARIES UPDATE
DAVIDSON COUNTY SR-112; FROM SR-12 TO SR-155
P.E. # 19046-1214-14 PIN 103764.00**

TDOT biologists recently walked the project alignment with representatives of the U.S. Army Corps of Engineers, Regulatory Section. The purpose of the site visit was to review identified aquatic resources for a Preliminary Jurisdictional Determination.

Based on a letter received from the USACOE on January 27, 2017, please make the following changes to the project Plan Sheets and Permit Application information:

Sheet 6:

- Remove WWC-3/EPH STR-3, from its beginning, near ST. 113+25L, to End of Sheet 6 at Station 120+00L
- Remove WWC-2/EPH STR-2, from its beginning, near ST. 115+40R, to End of Sheet 6 at Station 120+00R

Sheet 7:

- Remove WWC-3/EPH STR-3, From Start of Sheet at ST. 120+00L, to Station 125+75L (North of Abernathy Road where it exits R.O.W.)
- Remove WWC-2/EPH STR-2, From Start of Sheet at ST. 120+00R, to junction with WWC-3/EPH STR-3 at ST. 120+60L
- Remove WWC-1/EPH STR-1, From its beginning, near ST. 129+75R, to its end, near ST. 131+80R

Sheet 9:

- Remove section of WWC-4/EPH STR-4, from ST. 150+00R, to ST. 157+25R

I have attached a copy of the PJD letter from the USACOE, for your reference.
All other features described in the previous Environmental Boundary package remain unchanged.

If you have any questions or comments on these updates, please contact me at Dennis.Crumby@tn.gov, 615-253-2465.

Copy: Melanie Bumpus
Anthony Myers
Michael White
DJ Wiseman
TDOT NEPA
ED Project file



DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
3701 BELL ROAD
NASHVILLE, TENNESSEE 37214-2660

REPLY TO
ATTENTION OF:

JAN 27 2017

Regulatory Division

SUBJECT: File No. LRN-2016-00547, Tennessee Department of Transportation; Preliminary Jurisdictional Determination for State Route 112 (PIN 103764.00) in Davidson County, Tennessee

Mr. Steve Walker
Tennessee Department of Transportation (TDOT)
James K. Polk Building, 9th Floor
505 Deaderick Street
Nashville, Tennessee 37243-0334

Dear Mr. Walker:

This letter is in regard to your May 24, 2016, request for a preliminary jurisdictional determination (PJD), your January 12, 2017, onsite meeting with representatives of this office and the additional information (i.e. updated aerial photographs with the Area of Investigation and Table) submitted on 26 January 2017. Our file number for the project is LRN-2016-00547. Please refer to this number in any future correspondence.

The U.S. Army Corps of Engineers (USACE) has regulatory responsibilities pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Under Section 10, the USACE regulates any work in, or affecting, navigable waters of the U.S. It appears the project area does not include navigable waters of the U.S. and would not be subject to the provisions of Section 10. Under Section 404, the USACE regulates the discharge of dredged and/or fill material into waters of the U.S., including wetlands.

Based on a January 12, 2017, field review of the area of investigation and a review of the PJD information provided on January 26, 2017, seven (7) stream reaches totaling 1,730 linear feet (1,125' ephemeral, 0' intermittent and 605' perennial) and no wetlands were documented within the area of investigation. This office has determined these features **may** be jurisdictional waters of the U.S. in accordance with 33 C.F.R. 331.2 and a PJD has been prepared for this property. The PJD is non-binding, cannot be appealed and only provides a written indication that waters of the U.S, including wetlands, may be present on-site. For purposes of computation of impacts, compensatory mitigation requirements and other resource protection measures, a permit decision made on the basis of a PJD will treat all waters that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. If you wish, you may request an approved JD (which may be appealed), by contacting this office. Also, you may provide new information for further consideration by the USACE to re-evaluate the PJD. This determination is only valid for the area shown on the attached map entitled LRN-2016-00547, Figures 1-3, attached to this letter.

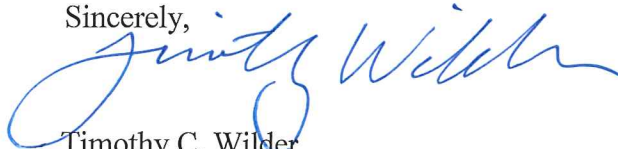
Enclosed with this letter are two copies of the PJD. If you agree with the findings of this PJD and understand your options regarding the same, please sign and date one copy of the form and return it to this office within 30 days of receipt of this letter. You should submit the signed copy to the following address:

U.S. Army Corps of Engineers, Nashville District
Attention: Marty Tyree
3701 Bell Rd.
Nashville, TN 37214

Please contact this office if you would like to schedule a pre-application meeting to further discuss alternatives for site development to assist you in avoiding and minimizing impacts to waters of the U.S. If your development plan requires the discharge of material into waters of the U.S., a Department of the Army Permit would be required.

We appreciate your awareness of the USACE regulatory program. If you have any questions, you may contact Marty Tyree at (615) 369-7514 or by e-mail at marty.g.tyree@usace.army.mil.

Sincerely,



Timothy C. Wilder
Chief, West Branch
Regulatory Division
U.S. Army Corps of Engineers

Enclosures:

PJD Form (2 Copies)
Aerial Maps – File No. LRN-2016-00547, Figures 1-3
Notification of Administrative Appeal Options (NAO)

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

- A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (PJD):** 26 January 2017
- B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:**
Tennessee Department of Transportation (TDOT)
James K. Polk Building, 9th Floor
505 Deaderick Street
Nashville, Tennessee 37243-0334
- C. DISTRICT OFFICE, FILE NAME, AND NUMBER:**
Nashville District Regulatory Division
TDOT SR 112 (PIN 103764.00)
LRN-2016-00457
- D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:**
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)
- State: Tennessee, County: Davidson, City: Nashville
Center Coordinates of Site: Latitude 26.205275°, Longitude -86.840376°.
Universal Transverse Mercator:
Name of nearest waterbody: Whites Creek
Identify (estimate) amount of waters in the review area: 1,730 Linear Feet
Non-wetland waters: 1,730 linear feet: varies width (feet) and/or acres.
Cowardin Class: Riverine
Stream Flow: 1,125' Ephemeral & 606' Perennial
Wetlands: 0.0 Acres
Cowardin Class:
Name of any water bodies on the site that have been identified as Section
10 waters: Tidal: NA Non-Tidal: NA
- E. REVIEW PERFORMED FOR SITE EVALUATION: This Section for Corps Project Manager**
☒ Office (Desk) Determination. Date: 26 January 2017
☒ Field Determination. Date: 12 January 2017

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data Reviewed for PJD (check all that apply - checked items should be

included in case file and, where checked and requested, appropriately reference sources below):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:

☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.

- ☐ Office concurs with data sheets/delineation report.
- ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☐ U.S. Geological Survey Hydrologic Atlas:
 - ☐ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name:
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
- ☐ National wetlands inventory map(s). Cite name:
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☐ Photographs: ☐ Aerial (Name & Date):
 - ☐ Other (Name & Date):
- ☐ Previous determination(s). File No. and date of response letter:
- ☐ Other information (please specify):

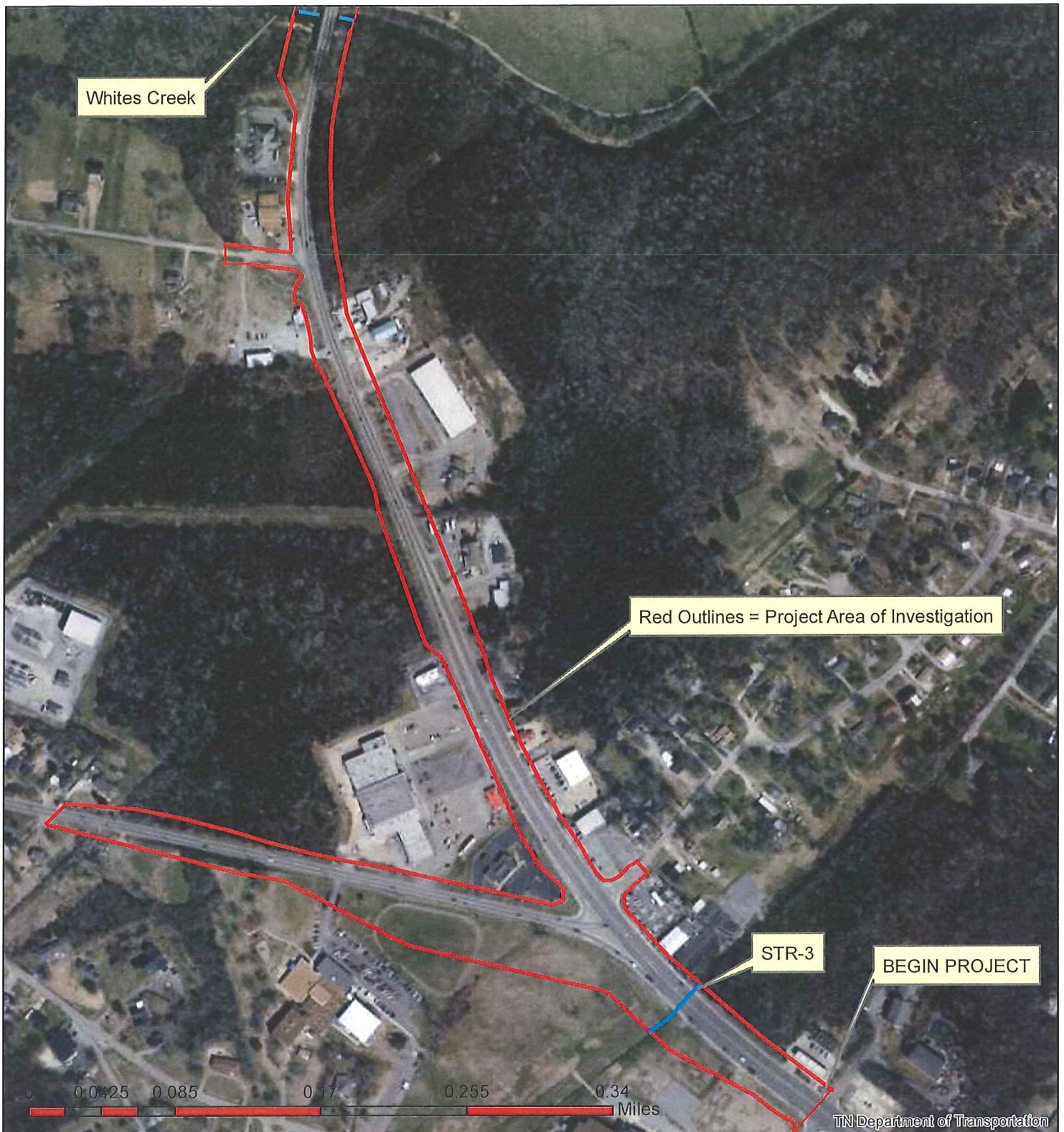
IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.


January 27, 2017

Signature and Date of
Branch Chief
(REQUIRED)

Signature and Date of Person
Requesting PJD
(REQUIRED, unless obtaining
the signature is impracticable)

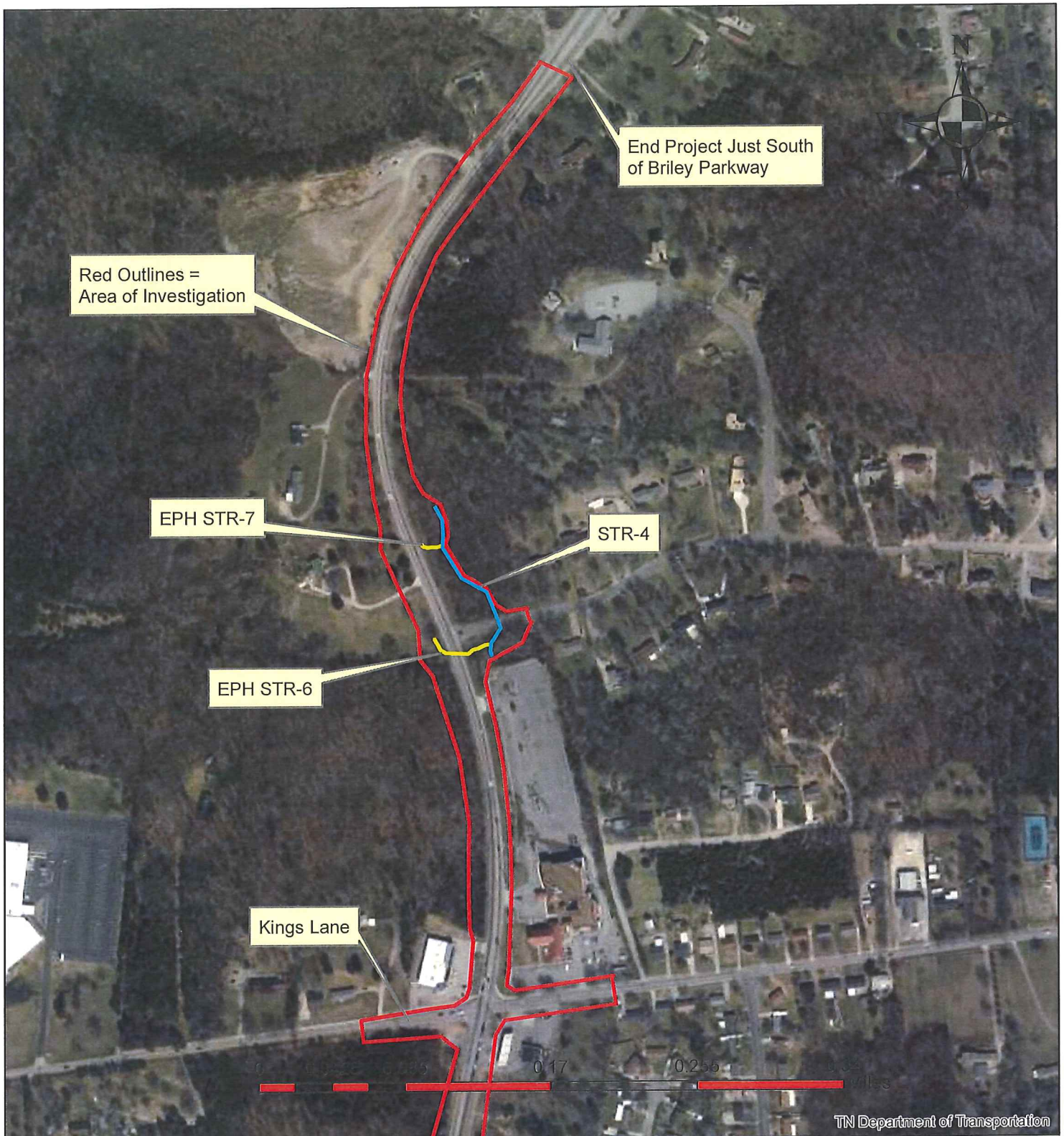
Site Number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
STR-3	36.197178	-86.836392	R3	200'	Perennial
Whites Creek	36.205275	-86.840376	R3	275'	Perennial
EPH STR-4	36.206000	-86.840000	R6	725'	Ephemeral
EPH STR-5	36.217917	-86.836958	R6	125'	Ephemeral
EPH STR-6	36.221506	-86.837475	R6	200'	Ephemeral
STR-4	36.221856	-86.837019	R3	130'	Perennial
EPH STR-7	36.222364	-86.837644	R6	75'	Ephemeral



SR-112, From SR-12 to SR-155 - AREA OF INVESTIGATION
Section From "Begin Project" to Whites Creek
Station 94+12.75 to 132+50
Includes STR-3, and Whites Creek



SR-112, From SR-12 to SR-155 - AREA OF INVESTIGATION
Section From Whites Creek to Kings Lane
Station 132+50 to 181+70.59
Includes Whites Creek, EPH STR-4, and EPH STR-5



SR-112, From SR-12 to SR-155 - AREA OF INVESTIGATION
Section From Kings Lane to "End Project" at SR-155
Station 181+70.59 to 213+38.96
Includes STR-4, EPH STR-6 and EPH STR-7

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: TDOT State Route 112 (PIN 103764.00)	File Number: LRN-2016-00547	Date: 27 January 2017
Attached is:	See Section below	
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact: Marty Tyree (615-369-7514)
U.S. Army Corps of Engineers
Nashville District, Regulatory Branch
3701 Bell Road
Nashville, TN 37214-2660

If you only have questions regarding the appeal process you may also contact: Jacob Siegrist (513-684-2699)
U.S. Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street, Room 10032
Cincinnati, OH 45202-3222

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: