



NRS 08.145

Pursuant to the *Tennessee Water Quality Control Act of 1977* (T.C.A. § 69-3-101 et seq.) and supporting regulations, the Division of Water Pollution Control is required to determine whether the activity described below will violate applicable water quality standards.

Subject to conformance with accepted plans, specifications and other information submitted in support of the application, the state of Tennessee hereby authorizes the activity described below.

PERMITTEE Tracy City Board of Public Utilities
P. O. Box 28
Tracy City, TN 37387

AUTHORIZED WORK: enlargement of the dam and reservoir pool of Big Fiery Gizzard Reservoir. The purpose is to increase storage capacity of the reservoir to assist regional needs during drought and for future drinking water demand. The authorized work would raise the normal pool 7 feet above the existing level. The reservoir volume and corresponding safe yield would increase approximately 90%. Rock material from the existing emergency spillway is to be used to raise the dam outward away from the lake. The toe of the slope of the dam is to extend beyond its present location about 40 feet. The headwall is to be modified to avoid having to perform work in Big Fiery Gizzard Creek. The raised water level would inundate the existing reservoir shore on average about 80 feet horizontally. The reservoir would inundate Meeks Branch about 300 feet farther upstream and up Big Fiery Gizzard Creek about 1,000 feet beyond the extent of the present normal pool.

LOCATION: Big Fiery Gizzard Creek, Big Fiery Gizzard Reservoir, Tracy City, Grundy County 35.2599614, -85.757142, Stream segment ID - TN06030001057_0950

EFFECTIVE DATE: June 3, 2009

EXPIRATION DATE: June 2, 2014

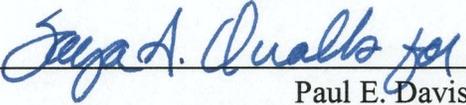

Paul E. Davis, P.E.
Director, Division of Water Pollution Control

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PART I

Special Conditions:

- a. The permitted alteration involves 1300 linear feet of stream impacts requiring compensatory mitigation. These impacts shall be offset by participating in the Tennessee Stream Mitigation Program (TSMP). Appropriate payment shall be submitted to Tennessee Wildlife Resources Foundation, L.L.C. within 60 days of receipt of the invoice.
- b. Chapter 1200-4-4 of the Department's rules classifies waters for certain uses. To maintain the classified uses of the stream, a minimum flow shall be maintained downstream of the reservoir (discharge) in the Big Fiery Gizzard Creek for the life of the project. Flow shall be maintained by releasing water through the permanent release valves. Discharge shall equal or exceed one cubic foot per second.
 1. The permittee shall prepare a plan for approval by the division regarding the method of maintaining flow.
 2. This flow maintenance plan must be approved in writing by the division prior to the filling and operation of the raised portion of the reservoir.
- c. To help prevent water quality degradation that accompanies stratification, near-laminar radial flow technology mixing devices will be placed at the effluent end of the reservoir. The objective is to improve the quality of the discharge from the dam and the raw drinking water by continued mixing of the reservoir pool. The mixing would be focused in proximity to the primary dam outfall and drinking water intake. The resultant mixing of the water in the reservoir pool will also increase the volume of water available for more efficient and cost effective treatment of the drinking water and also improve the quality of water being released to maintain minimum flows downstream from the dam.
 1. The permittee shall prepare a plan for approval by the division regarding the type, number, placement, and operation of the destratification or mixing devices.
 2. This plan must be approved in writing by the division prior to the filling and operation of the raised portion of the reservoir.

General Conditions:

- a. It is the responsibility of the applicant to convey all terms and conditions of this permit to all contractors. A copy of this permit, approved plans and any other documentation pertinent to the activities authorized by this permit shall be maintained on site at all times during periods of construction activity.

- b. Work shall not commence until the applicant has received the federal §404 permit from the U. S. Army Corps of Engineers, a §26a permit from the Tennessee Valley Authority or authorization under a Tennessee NPDES Storm Water Construction Permit where necessary. The applicant is responsible for obtaining these permits.
- c. The work shall be accomplished in conformance with the accepted plans, specifications, data and other information submitted in support of the application, and the limitations, requirements and conditions set forth herein.
- d. All work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes, but is not limited to, the prevention of any discharge that causes a condition in which visible solids, bottom deposits, or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life (including trout streams and naturally reproducing trout streams), livestock watering and wildlife, recreation, irrigation, industrial water supply, domestic water supply, and navigation.
- e. Impacts to waters of the state other than those specifically addressed in the plans and this permit are prohibited. All streams, springs and wetlands shall be fully protected prior, during and after construction until the area is stabilized. Any questions, problems or concerns that arise regarding any stream, spring or wetland either before or during construction, shall be addressed to the Division of Water Pollution Control's Chattanooga Environmental Field Office (423-634-5745), or the permit coordinator in the division's Natural Resources Section (615-532-0645).
- f. In stream work by heavy equipment is prohibited. Equipment shall be free of noticeable leaks of fluids and oils; e.g., hydraulic, transmission, crankcase, and engine coolant, fluids, and oils.
- g. Material to be discharged or placed below ordinary high water must be free of pollutants, contaminants, toxic materials, trash, or other wastes as defined by T.C.A. 69-3-103(18).
- h. Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state. All spills must be reported to the appropriate emergency management agency, and measures shall be taken immediately to prevent the pollution of waters of the state, including groundwater, should a spill occur.
- i. Adverse impact to formally listed state or federal threatened or endangered species or their critical habitat is prohibited.
- j. This permit does not authorize adverse impacts to cultural, historical or archeological features or sites.

PART II

Mitigation Requirements and Monitoring Procedures

Required Mitigation Activities

The permitted alteration involves 1300 linear feet of stream impacts requiring compensatory mitigation. These impacts shall be offset by participating in the Tennessee Stream Mitigation Program (TSMP). In the case of impoundments, the TSMP requires \$150.00 per foot to provide this mitigation. As such, a payment of \$195,000 should be submitted to Tennessee Wildlife Resources Foundation, L.L.C. within 60 days of receipt of the invoice. Please be advised that this conditional permit is not valid until the compensatory mitigation requirement has been fulfilled.

Falsifying Results and/or Reports

Knowingly making any false statement on any report required by this permit or falsifying any result may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Water Pollution Control Act, as amended, and in Section 69-3-115 of the *Tennessee Water Quality Control Act*.

PART III

Duty To Reapply

Permittee is not authorized to continue the permitted activity after the expiration date of this permit. In order to receive authorization to continue beyond the expiration date, the permittee shall submit such information and forms as are required to the Director of Water Pollution Control within 90 days of expiration of this permit. Such applications must be properly signed and certified.

Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

Other Information

If the permittee becomes aware that he/she failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, then he/she shall promptly submit such facts or information.

Changes Affecting the Permit

Transfer/Change of Ownership

- a. This permit may be transferred to another party, provided there are no activity or project modifications, no pending enforcement actions, or any other changes which might affect the permit conditions contained in the permit, by the permittee if:
- b. The permittee notifies the Director of the proposed transfer at least 30 days in advance of the proposed transfer date;
- c. The notice includes a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage, and contractual liability between them; and
- d. The Director does not notify the current permittee and the new permittee, within 30 days, of his intent to modify, revoke, reissue, or terminate the permit, or require that a new application be filed rather than agreeing to the transfer of the permit.
- e. The permittee must provide the following information to the division in their formal notice of intent to transfer ownership:
 1. the permit number of the subject permit;
 2. the effective date of the proposed transfer;
 3. the name and address of the transferor;
 4. the name and address of the transferee;
 5. the names of the responsible parties for both the transferor and transferee;
 6. a statement that the transferee assumes responsibility for the subject permit;
 7. a statement that the transferor relinquishes responsibility for the subject permit;
 8. the signatures of the responsible parties for both the transferor and transferee, and;
 9. a statement regarding any proposed modifications to the permitted activities or project, its operations, or any other changes which might affect the permit conditions contained in the permit.

Change of Mailing Address

The permittee shall promptly provide to the Director written notice of any change of mailing address. In the absence of such notice the original address of the permittee will be assumed to be correct.

Noncompliance

Effect of Noncompliance

All discharges shall be consistent with the terms and conditions of this permit. Any permit noncompliance constitutes a violation of applicable State and Federal laws and is grounds for enforcement action, permit termination, permit modification, or denial of permit reissuance.

Reporting of Noncompliance

24-Hour Reporting

- a. In the case of any noncompliance which could cause a threat to public drinking supplies, or any other discharge which could constitute a threat to human health or the environment, the required notice of non-compliance shall be provided to the Division of Water Pollution Control in the appropriate Environmental Field Office within 24-hours from the time the permittee becomes aware of the circumstances. (The Environmental Field Office should be contacted for names and phone numbers of environmental response personnel).
- b. A written submission must be provided within five (5) days of the time the permittee becomes aware of the circumstances unless this requirement is waived by the Director on a case-by-case basis. The permittee shall provide the Director with the following information:
 1. A description of the discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. The steps being taken to reduce, eliminate, and prevent recurrence of the non-complying discharge.

Scheduled Reporting

For instances of noncompliance which are not reported under subparagraph a. above, the permittee shall report the noncompliance by contacting the permit coordinator, and provide all information concerning the steps taken or planned to reduce, eliminate, and prevent recurrence of the violation and the anticipated time the violation is expected to continue.

Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with this permit, including but not limited to, accelerated or additional monitoring as necessary to determine the nature and impact of

the noncompliance. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

Liabilities

Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Notwithstanding this permit, the permittee shall remain liable for any damages sustained by the State of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge of pollutants to any surface or subsurface waters. Additionally, notwithstanding this Permit, it shall be the responsibility of the permittee to conduct its discharge activities in a manner such that public or private nuisances or health hazards will not be created.

Liability under State Law

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or the Federal Water Pollution Control Act, as amended.

This permit does not preclude requirements of other federal, state or local laws. This permit also serves as a State of Tennessee Aquatic Resource Alteration Permit (ARAP) pursuant to the Tennessee Water Quality Control Act of 1977 (T.C.A. §69-3-101 et seq.).

The State of Tennessee may modify, suspend or revoke this permit or seek modification or revocation should the state determine that the activity results in more than an insignificant violation of applicable water quality standards or violation of the act. Failure to comply with permit terms may result in penalty in accordance with T.C.A. §69-3-115.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within THIRTY (30) DAYS after receipt of the permit. In such petition, each contention should be stated in numbered paragraphs that describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" x 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with T.C.A. §§69-3-110 and 4-5-301 et seq.