

**COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER**

**APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM
AND / OR WATER QUALITY CERTIFICATION**

Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in or along a stream that could in any way obstruct flood flows or adversely impact water quality. *If the project involves work in a stream, such as bank stabilization, dredging or relocation, a 401 Water Quality Certification (WQC) from the Division of Water will be required.* This completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approvals are received from the KDOW. For questions concerning the WQC process, contact the WQC section at 502/564-3410.

If the project will disturb more than 1 acre of soil, A Notice of Intent for Storm Water Discharges will also be required. Both forms must be returned to the Floodplain Management Section of the Division of Water.

1. **OWNER:** _____
Give name of person(s), company, governmental unit, or other owner of proposed project.

MAILING ADDRESS: _____

TELEPHONE #: _____ **EMAIL:** _____

2. **AGENT:** _____
Give name of person(s) submitting application, if other than owner.

ADDRESS: _____

TELEPHONE #: _____ **EMAIL:** _____

3. **ENGINEER:** _____ **P.E. NUMBER:** _____
Contact Division of Water if waiver can be granted.

TELEPHONE #: _____ **EMAIL:** _____

4. **DESCRIPTION OF CONSTRUCTION:** _____
List the items to be constructed in the floodplain

5. **COUNTY:** _____ **NEAREST COMMUNITY:** _____

6. **USGS QUAD NAME** _____ **LATITUDE/LONGITUDE:** _____

7. **STREAM NAME:** _____ **WATERSHED SIZE (in acres):** _____

8. **LINEAR FEET OF STREAM IMPACTED:** _____

9. **DIRECTIONS TO SITE:** _____

10. IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE? Yes No If yes, identify the completed portion on the drawings you submit and indicate the date activity was completed. DATE: _____
11. ESTIMATED BEGIN CONSTRUCTION DATE: _____
12. ESTIMATED END CONSTRUCTION DATE: _____
13. HAS A PERMIT BEEN RECEIVED FROM THE US ARMY, CORPS OF ENGINEERS? Yes No If yes, attach a copy of that permit.
14. THE APPLICANT **MUST** ADDRESS PUBLIC NOTICE:

(a) PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:

- ____ Public notice in newspaper having greatest circulation in area (provide newspaper clipping or affidavit)
- ____ Adjacent property owner(s) affidavits (Contact Division of Water for requirements.)

(b) I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE:

 Contact Division of Water for requirements.

15. I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:

 Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.

16. LIST OF ATTACHMENTS: _____

List plans, profiles, or other drawings and data submitted. Attach a copy of a 7.5 minute USGS topographic map clearly showing the project location.

17. I, _____ (owners Initials) CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY ON WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR (for dams, this includes the area that would be impounded during the design flood).

18. REMARKS: _____

I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.

SIGNATURE: _____

Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)

DATE: _____

SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR: _____

Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.

DATE: _____

SUBMIT APPLICATION AND ATTACHMENTS TO:

Floodplain Management Section
 Division of Water
 200 Fair Oaks Lane
 Frankfort, KY 40601

**BASIC LINE-BY-LINE INSTRUCTIONS
FOR FILLING OUT THE KENTUCKY DIVISION OF WATER
APPLICATION FOR A PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM
AND/OR WATER QUALITY CERTIFICATION (Form 7116 revised 09-2009)**

Background Information:

This is a guidance document developed to assist you in completing the application. These instructions do not cover all conceivable circumstances. This guidance addresses items on the application that sometimes need additional explanation. These tips help minimize requests to the Division of Water for additional information, and the tips are intended to reduce delay in the review of applications. The application itself is available online at <http://www.water.ky.gov/floodplainmanagement/floodplainconstruction/Floodplain+Construction+Forms.htm>.

Form 7116 is a dual-purpose application. It serves as an application for a floodplain construction permit and serves as a request for a Kentucky Water Quality Certification of a US Army Corps of Engineers Section 404 permit. If the construction is in the stream below the Corps of Engineers ordinary high water mark, at least three separate items are required: 1) coverage or exemption by the Corps, 2) Kentucky Water Quality Certification, and 3) floodplain construction permit from the Kentucky Division of Water. This application does not serve as an application for a Corps permit. Form 7116 is required for any construction within the floodplain, regardless of whether it is above or below the Corps of Engineer's ordinary high water mark.

NOTE: Please type or complete the application in ink. Applications completed in pencil are not acceptable.

Item 1. The "Owner" is the responsible entity making application for the permit. By making an application, the "owner" verifies that the owner has all necessary legal rights to complete the project on the designated site, which is further confirmed by item 11 and the signatory line. The owner may be an individual, couple, partnership, corporation, or any other legal entity with appropriate legal rights. If the owner is a corporation or partnership, please include the name of a contact person. If possible, also provide a contact phone number and an email address where someone can be reached during business hours. This information can facilitate the permit review process. The owner or the owner's agent must sign the application. To sign the application, anyone other than the owner must have power of attorney or other legal designation.

Item 2. This is only applicable if you have authorized someone else to act on your behalf to obtain the permit.

Item 3. This is applicable if you have chosen to retain an engineer. If the project requires a hydraulic analysis, the services of an engineer are required. If you do retain an engineer or surveyor, the Division of Water will need to be able to contact them.

Item 4. Usually a general description is sufficient. In many cases, the Division of Water does not require detailed plans, but does need to know the size, depth, length, etc. of the project. The Division of Water needs any pertinent information that will enable the application reviewer to determine a project's influences on a stream or a floodplain.

Item 5. The "county" is the county in which the construction project is located. Enter the name of the city in which the project is located, or if outside a city, enter the community name of the nearest postal address.

Item 6. List the USGS quadrant name and the latitude/longitude. Your local floodplain coordinator should be able to help you find this information. Lat/long information is also available via internet sites. If other than NAD 83, indicate the coordinate system used. Please indicate the latitude/longitude in degrees/minutes/seconds or decimal degrees. This must match the location marked on your submitted map. You may omit the quadrant.

Item 7. Name the stream whose floodplain contains at least a portion of the project. Enter "UT" or "Unnamed" to indicate that the stream is an unnamed tributary. Enter the watershed area in acres if you know this information. You may leave the watershed area blank if you cannot calculate the watershed area. The Division of Water considers whether the watershed area is less than 640 acres (1 square mile) when evaluating the project for a floodplain construction permit letter of exemption.

Item 8. Item 8 relates to projects where a portion of the activity will take place in the stream below the ordinary high water mark. List (in linear feet) the length of the stream along which the construction will take place. The length of disturbance in or along the stream is of critical importance in issuing a certification of a Corps of Engineers Section 404 permit.

Item 9. This is very important in the processing of your application. Give directions to the site by identifying crossroads, intersections, streams and any other geographical feature. **Include the street address of the project.** **Include maps.** If you cannot find a USGS topographic map locally or via the internet, USGS maps are available from:

Kentucky Geological Survey
University of Kentucky
Mines and Minerals Building, Room 104
Lexington, Kentucky 40506
Phone: 859-257-3896

Item 10. Mark "Yes" if construction of any portion of the project (within the floodplain) has already commenced. Mark "No," if no portion of the project within the floodplain has been started. If construction has started, describe the completed portion on your submitted drawings.

Item 11 & 12. Give your best estimates. You have one year from the issuance of a permit to complete construction. If you do not complete construction within the year, generally, the permit can be renewed if there are no changes to the project and if there has been no change in the base flood elevation. Please note that a final construction report is required when the project is complete.

Item 13. If there has been a permit issued from the U.S. Army Corps of Engineers, submit a copy along with the application.

Item 14. You must address public notice requirement with 14 (a) or 14(b).

- a. If public notice is required, all of the newspaper pages with the notice (tear sheets) or an affidavit from the newspaper publisher is required before the permit can be issued. Alternately, you may submit an affidavit from the newspaper publisher that proves the published dates of the notice. Please see the Division of Water's separate technical guidance, including the example for public notice, or contact the Division of Water directly for additional guidance.
- b. For a public notice waiver, you must prove that the impact will be negligible.

Item 15. As a minimum, you must contact your local floodplain administrator. The local floodplain administrator can provide significant help with this application as well as many local permit applications.

Item 16. List any attachments that you have sent along with your application. This assists the Division of Water in keeping track of all attachments. A topographical map must be one of these attachments. You must mark the construction location on the map.

Item 17. It is very important that item 17 has been clearly initialed by the property owner. If this is not complete, the application may be returned to you. It will certainly delay the permitting process. The owner identified in item 1 (or the agent in item 2) must acknowledge in item 17 that the owner has the property rights and the legal standing and responsibility to carry out this project. Please note that for dams or impoundments, this property includes any area inundated by the design flood for the impoundment.

Item 18. Any additional information that may contribute to the permit process.

Signature: Please notice that there are two signature lines. Both the owner (or agent/engineer with power of attorney) and the local floodplain administrator must sign the application and date it in ink. If either signature is missing, the division may return your application. If either is missing, there will be delay in processing your application. Please print your name below the signature if your signature is not readily legible.

The Kentucky Division of Water must have the **original** application before a permit can be issued. Because of legibility concerns, the division does not accept facsimile copies of the application.

Mail to: Kentucky Division of Water, Floodplain Management Section, 200 Fair Oaks Lane
Frankfort, KY 40601

Phone Contact: Floodplain Management Section at 502-564-3410

9. **Public Notice Information:**

As part of the stream construction permit issuance procedures, the applicant must provide notice to all parties who might be affected by the construction for which a permit has been requested. Public notice may be provided by either of the following methods:

- (1) Publishing a notice in the newspaper or newspapers having greatest circulation in the area of the proposed construction. The notice shall provide at least (a) the name of the applicant, (b) the location, the nature and the extent of the proposed construction, and (c) a statement indicating that any comments and objections are to be directed to the Division of Water. The notice shall prominently display address and telephone number of the Division of Water's Floodplain Management Section, which are given at the beginning of these instructions. The notice shall run for a period of three (3) consecutive days or printings of the newspaper. However, if the newspaper is published weekly or bi-weekly, two (2) consecutive printings may be allowed upon request of the applicant. Proof of public notice through the newspaper must be provided to the Division. The public notice shall be at least three column inches in size, but must in all cases be large enough that all of the information required is readable.
- (2) Submitting affidavits from all parties who reside, own property, or have other legitimate property interests in the affected areas. The affidavit must contain a complete description of the proposed construction; a place for concerned parties to sign indicating that they have read the statement and that they understand that a permit application is being submitted or has been submitted to the Division; and the Division's address and telephone number with explanation that comments and objection are to be directed to this agency. All affidavits shall be submitted to the Division of Water, Water Resources Branch for review.

Under certain circumstances, where flooding impacts are negligible, the Division may waive the public notification requirement. If desired, the Division can provide more detailed information regarding the circumstances under which such a waiver might be issued.

EXAMPLE OF PUBLIC NOTICE

— Public Notice —

Notice is hereby given that (NAME AND ADDRESS), has filed an application with the Energy and Environment Cabinet to (BRIEF DESCRIPTION OF CONSTRUCTION). The property is located (ADDRESS, LOCATION DESCRIPTION, INCLUDE MILES FROM NEAREST TOWN OR MAJOR ROAD INTERSECTION AND NAME OF STREAM). Any comments or objections concerning this application shall be directed to: Kentucky Division of Water, Surface Water Permit Branch, Flood Plain Management Section 200 Fair Oaks Lane, Frankfort, Kentucky 40601. Phone: (502) 564-3410.