



**US Army Corps  
of Engineers**  
Louisville District ®

# Public Notice

Public Notice No.  
LRL-2014-0054-teh

Open Date:  
30 Dec 2014

Close Date:  
29 Jan 2015

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Mr. Todd Hagman, CELRL-OPF-S, Rm 752  
P.O. Box 59  
Louisville, Kentucky 40201-0059

Phone: 502-315-6683

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act:

APPLICANT: Kroger Co.  
150 Tri County Parkway  
Cincinnati, Ohio 45246

AGENT: Terracon  
611 Lunken Park Drive  
Cincinnati, Ohio 45228

LOCATION: Intersection of US 42 and Old Union Road in  
Union, Kentucky

Latitude: 38.96358  
Longitude: -84.67849  
7.5 Minute Quad: Union, Kentucky

PURPOSE: Commercial development involving construction of  
retail space and associated parking lot and  
infrastructure.

DESCRIPTION OF WORK: The project would involve the construction of commercial grocery store totaling approximately 144,000 square feet. The development would consist of a large commercial grocery store, satellite buildings, parking areas, detention basin, and associated infrastructures on a 38-acre parcel. Construction would result in the filling of 0.08 acre of emergent wetlands and 1.1 acres of open water pond.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: There are no project layout configuration on the property that would be sufficient size and allow safe ingress/egress to the site that would not impact jurisdictional waters.

The applicant proposes to mitigate for unavoidable impacts to jurisdictional open waters with the construction of stormwater detention basin onsite.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant must apply for State certification from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Todd Hagman, CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2014-0054-teh.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2014-0054-teh.

Example:

Subject: LRL-2014-0054-teh

b) Provide your physical mailing address and telephone number.

c) Send your email to: [lrl.regulatorypubliccomment@usace.army.mil](mailto:lrl.regulatorypubliccomment@usace.army.mil).

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.