



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

Public Notice

Public Notice No.
LRL-2015-809-jlb

Open Date:
14 Jan 2016

Close Date:
29 Jan 2016

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Justin Branham CELRL-OPF-S
845 Sassafras Creek Road
Sassafras, KY 41759

Email: lr.regulatorypubliccomment@usace.army.mil

Phone: 606-642-3208

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

APPLICANT: Jesse Cook
7937 Hwy 119N
Jenkins, Kentucky 41537

AGENT: Not Applicable

LOCATION: Perennial reach of North Fork Kentucky River
behind Kings Korner outlet at Payne Gap in
Letcher County, KY

Latitude: 37.1498485°
Longitude: -82.69612°
7.5 Minute Quad: Jenkins West

PURPOSE: To relocate a segment of the headwaters of the
North Fork Kentucky River to avoid further loss
of property and damage to a commercial building.

DESCRIPTION OF WORK: The applicant proposes to relocate approximately 150 linear feet of the headwaters of the North Fork Kentucky River in order to prevent further loss of property and prevent damage to a commercial building. The North Fork Kentucky River is approximately 4 feet wide at this location and is currently eroding the property line of the applicant. The applicant proposes to construct a realignment channel adjacent to the existing alignment. The stream would be relocated to the North approximately 20 feet off centerline of the current alignment. The applicant proposes to remove a meander from the stream and shorten the route of the flow path. The realignment channel would be constructed in the dry and once the channel is completed, the existing flow would be routed into the proposed channel and the original channel filled in order to repair the damage of historical erosion. The fill material would be provided from the excavation of the realignment channel and onsite borrow areas.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant has indicated that they cannot avoid impacts to waters of the United States (WOUS) in the project area and still protect the commercial property. The applicant has proposed a small footprint for the projects and considering the aquatic resource is causing the degradation of property; impacts to the resource cannot be avoided.

The applicant has minimized temporal loss by proposing to construct the realignment channel and rerouting the stream channel before any fill material is placed into WOUS. The applicant has also minimized impacts to WOUS by proposing realignment on only the segment of the stream that is impacting the property. Further erosion is occurring throughout the applicant's property; however, the applicant only wishes to protect the commercial building and the property on which it sits.

The applicant has proposed to use native material and Best Management Practices during the proposed realignment. The applicant has proposed to construct the realignment channel on the same grade with the same bed elevation and 2:1 side slopes. The applicant has proposed to revegetate the stream banks of the relocated channel with native vegetation. No permanent impacts would occur as a result of this proposal. Both the proposed channel and existing channel are located on bedrock and no changes to the bed elevation or channel dimensions are proposed.

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.

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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

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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. Justin Branham; CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2015-809-jlb.

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-2015-809-jlb.

Example:

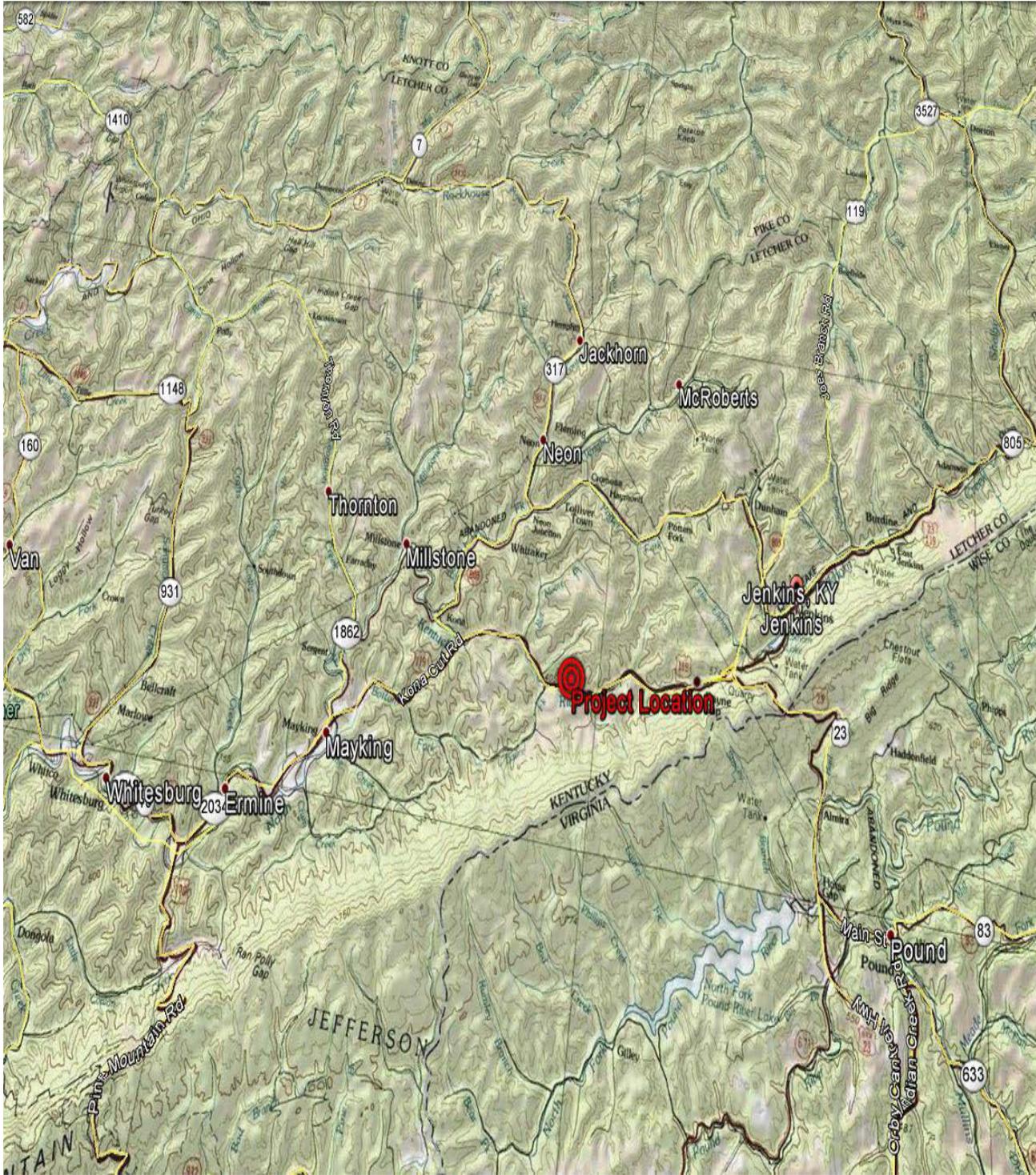
Subject: LRL-2015-809

b) Provide your physical mailing address and telephone number.

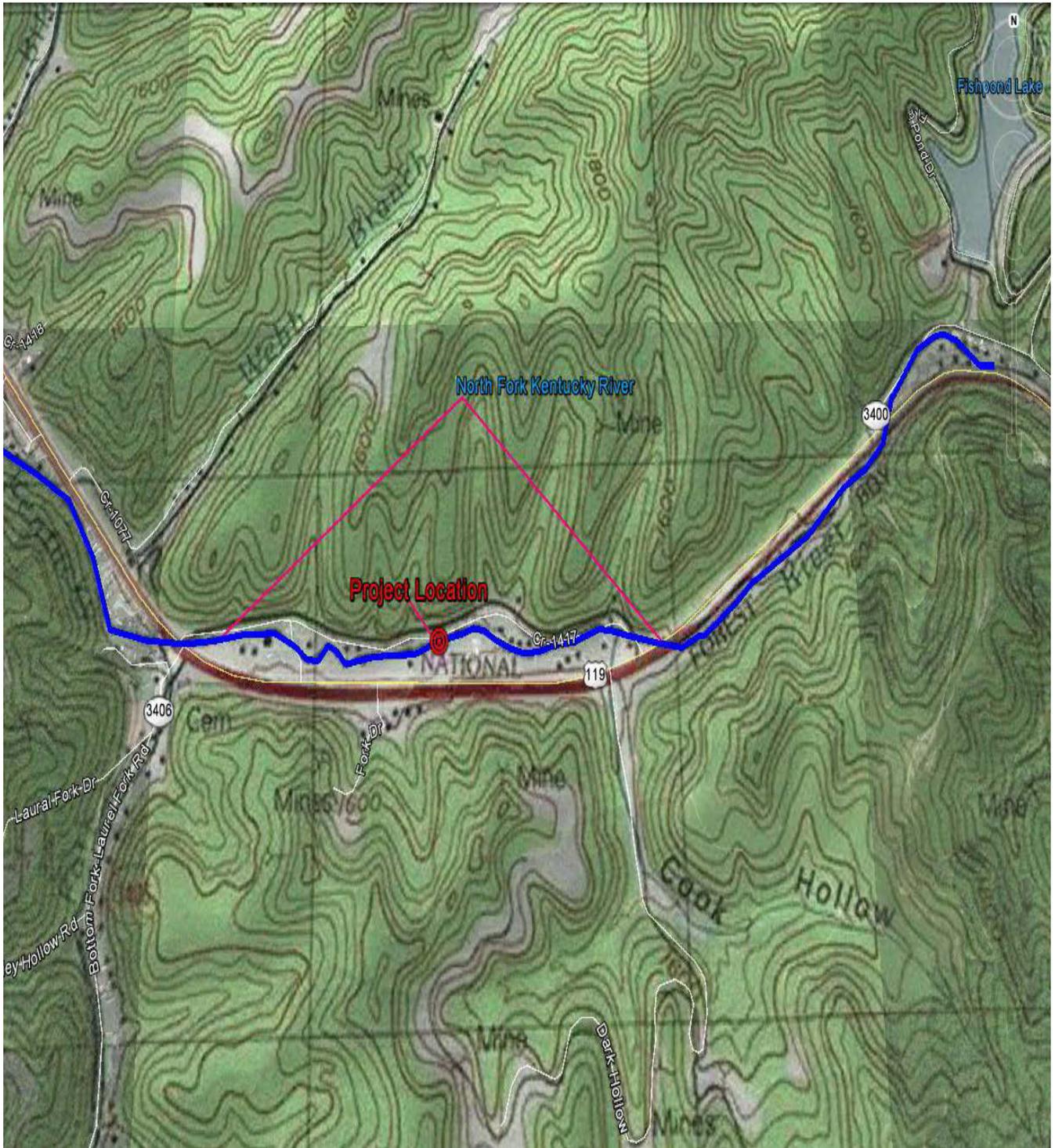
c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

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.

Jesse Cook Stream Relocation Vicinity Map



Jesse Cook Stream Relocation General Location Map



Jesse Cook Stream Relocation Project Location Map

