



Department of
**Environment &
Conservation**

**Division of Water Resources
and USACE Nationwide Permits**

Vena Jones – Natural Resources Section

Nationwide Permits and Water Quality

- Historically the Division has certified Nationwide Permits
- As time goes by we certify fewer and fewer
- We may not certify any of the NWP's this cycle
- Here is why.....



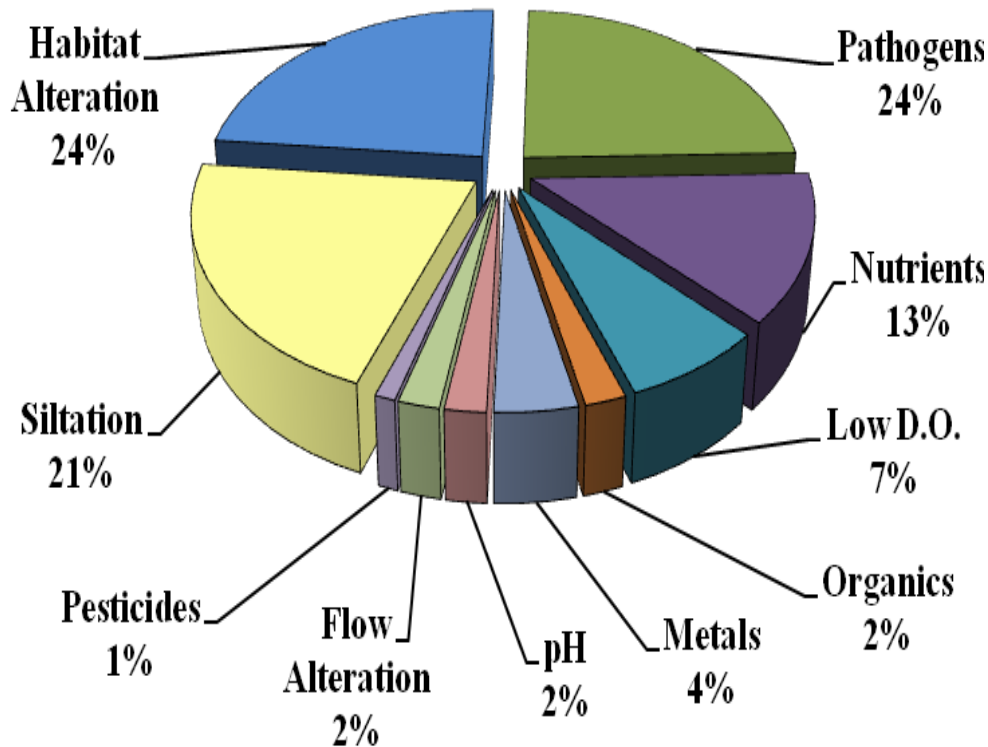
The Tennessee Water Quality Control Act of 1977

- Recognizes that the waters of Tennessee are the property of the state and are held in public trust
- States that people have a right to unpolluted water
- Defines waters of the state
- Defines pollution
- **Establishes the need for permits for the alteration of the physical, chemical, radiological, biological, or bacteriological properties of waters of the state**

The purpose of the TWQCA “is to abate existing pollution of the waters of Tennessee, to reclaim polluted waters, to prevent the future pollution of the waters, and to plan for the future use of the waters so that the water resources of Tennessee might be used and enjoyed to the fullest extent ”

Permits and Water Quality Standards

Streams and Wetlands must be managed to support **designated uses**, meet **water quality criteria**, and prevent **degradation** (Antidegradation).



Nationwide Permits: Lessons Learned

- TN had certified NWP's into the 1990s
- Problems
 - Joint notices did not address TN specific needs
 - Left TDEC w/out ability to determine potential impacts to water quality
 - Congress gave states the responsibility to maintain water quality and prevent further degradation to aquatic resources.
CWA 101(b)



Antidegradation Rule (0400-04-03)

- Water quality will be maintained and protected unless the state determines that lowering water quality is necessary to accommodate important economic or social development in the water's location.
- **Degradation** is the lowering of water quality through alteration of the properties of water (including water withdrawal or removal of habitat), except those alterations of a short duration.
- **De Minimis** degradation is “degradation of a small magnitude” – for habitat alterations this may be achieved by impact minimization, and/or “in-system” mitigation (normally meaning within the same HUC12).

Permits and Water Quality Standards

- Around 1995 TDEC elected to adopt a process similar to the NWP
- General Permits – also serve as 401
- Established permitting process in rule
- Allowed evaluation of activity impact on WQ Standards
- **Sets a *de minimis* threshold**



ARAP General Permits

- Used to authorize alterations for specific categories of activities that are substantially similar in nature.
- Activities covered represent *de minimis* impact
- Are not subject to project-specific public notice process.
- Covered activities do not **(and cannot)** represent significant resource loss that would require compensatory mitigation.
- Cannot be used incrementally on a project to result in cumulative resource loss.

Aquatic Resource Alteration Permits

Common Types of Activities Requiring ARAP Permits :

- Stream encapsulations by pipe, culvert, or bridge
- Stream relocations
- Wetland alterations, including filling or draining
- Dredge or fill in streams and reservoirs
- Stream channel modifications, including channelization or widening
- Streambank modifications, including hard armoring
- Impoundments
- Water withdrawals



Nationwide Permits: Lessons Learned

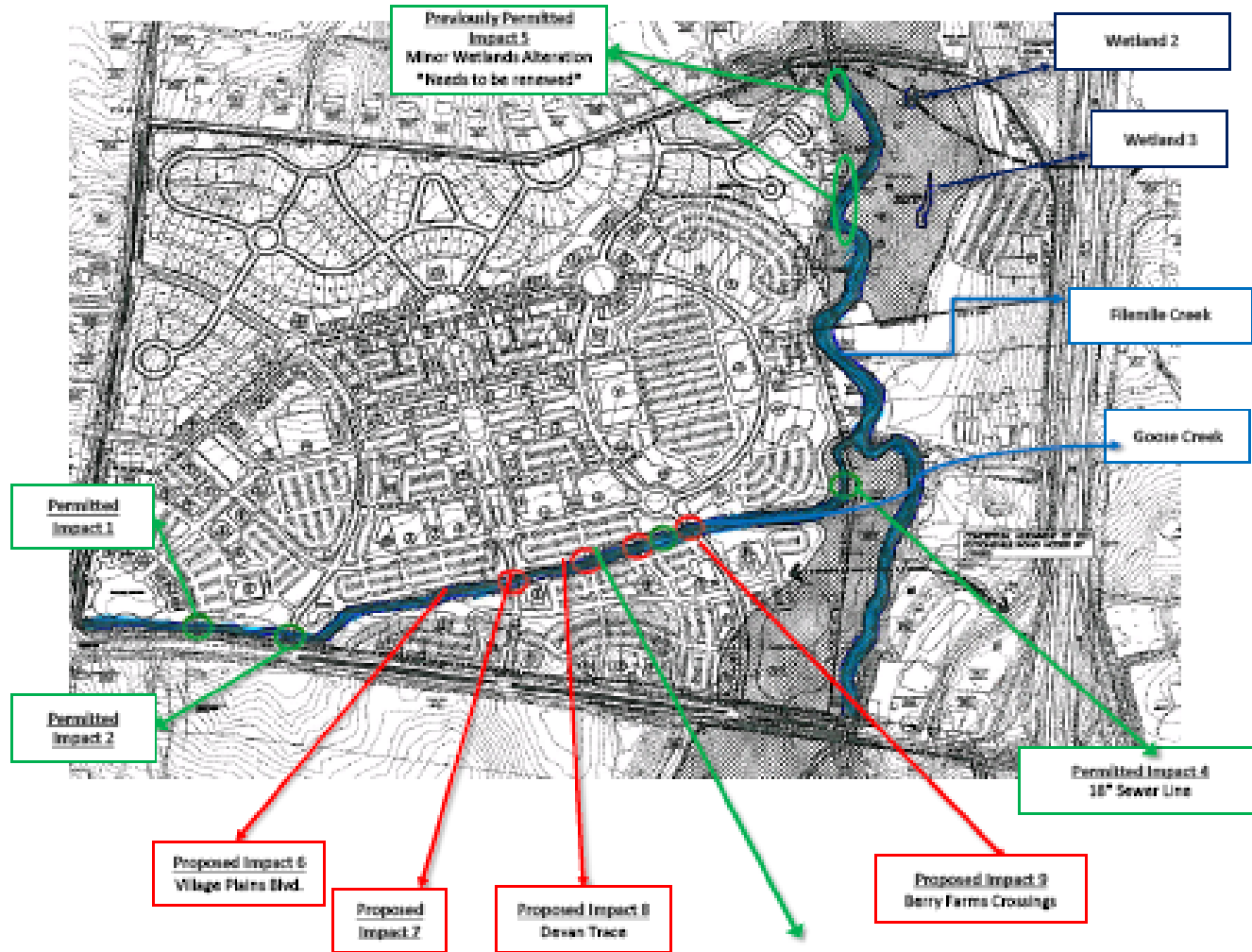
- **Water Quality Concerns not addressed in NWPs**
 - Cumulative impacts
 - Intakes (quantity)
 - Tier 2 waters (high quality)
 - State listed species



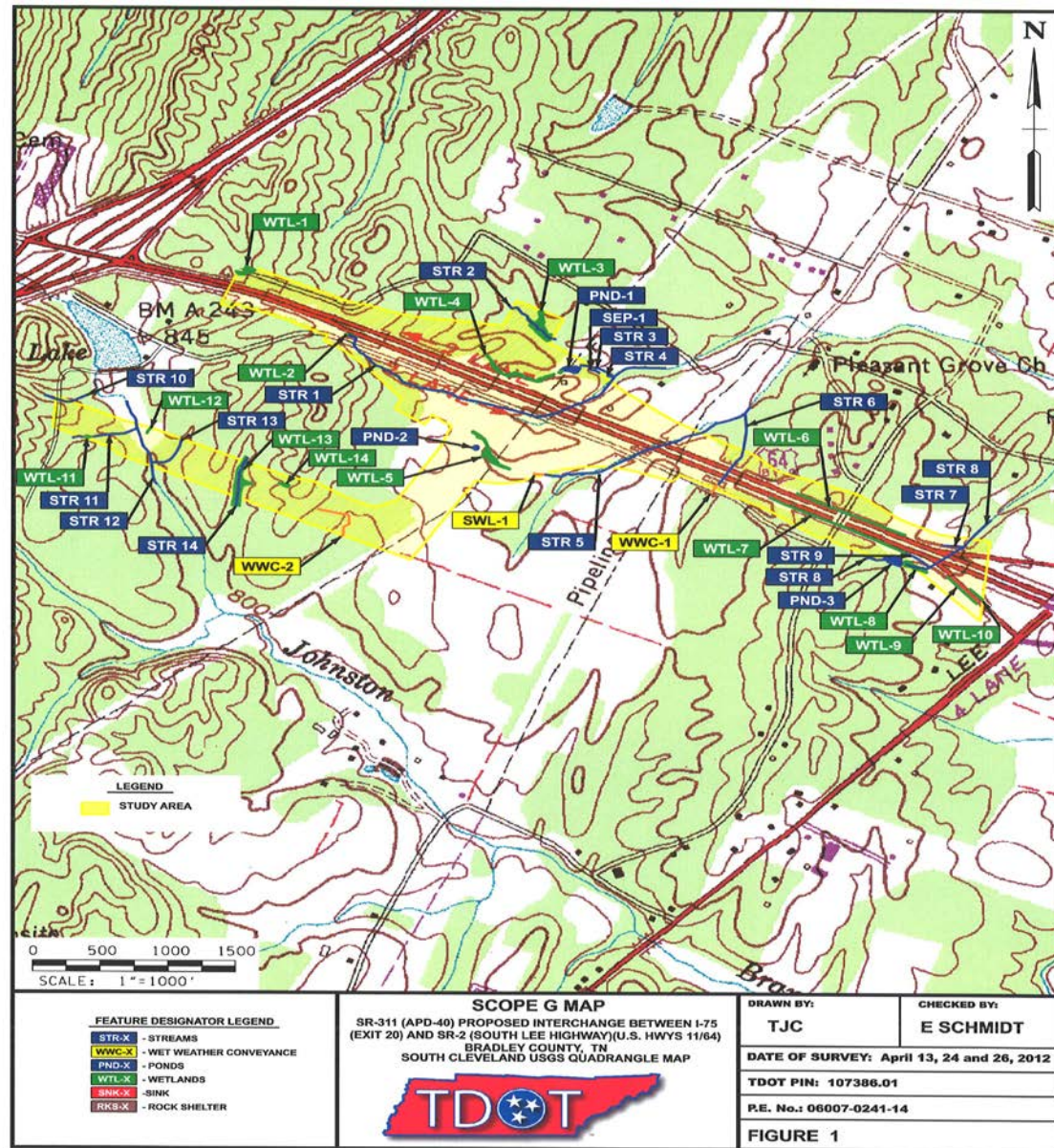
Linear and Non Linear Projects

- Evaluated random year of recent history
- TDOT
 - 70 permits issued
 - 17,685 linear feet of stream loss and mitigation
 - Cumulatively loss is 22,601 linear feet
 - 4,916 linear feet unaccounted resource loss without mitigation
- Subdivisions
 - Loss was variable
 - Tens to hundreds of linear feet of unaccounted resource loss without mitigation

Non Linear Cumulative Impacts



Linear Projects



Tennessee's Current Conditions

- 2005 -reduced certification to three NWP's
 - Bank stabilization
 - Launching Ramps
 - Structural Discharges

- Limit the linear footage of impact
- Only on TVA, USACE controlled lands



Shoreline Development



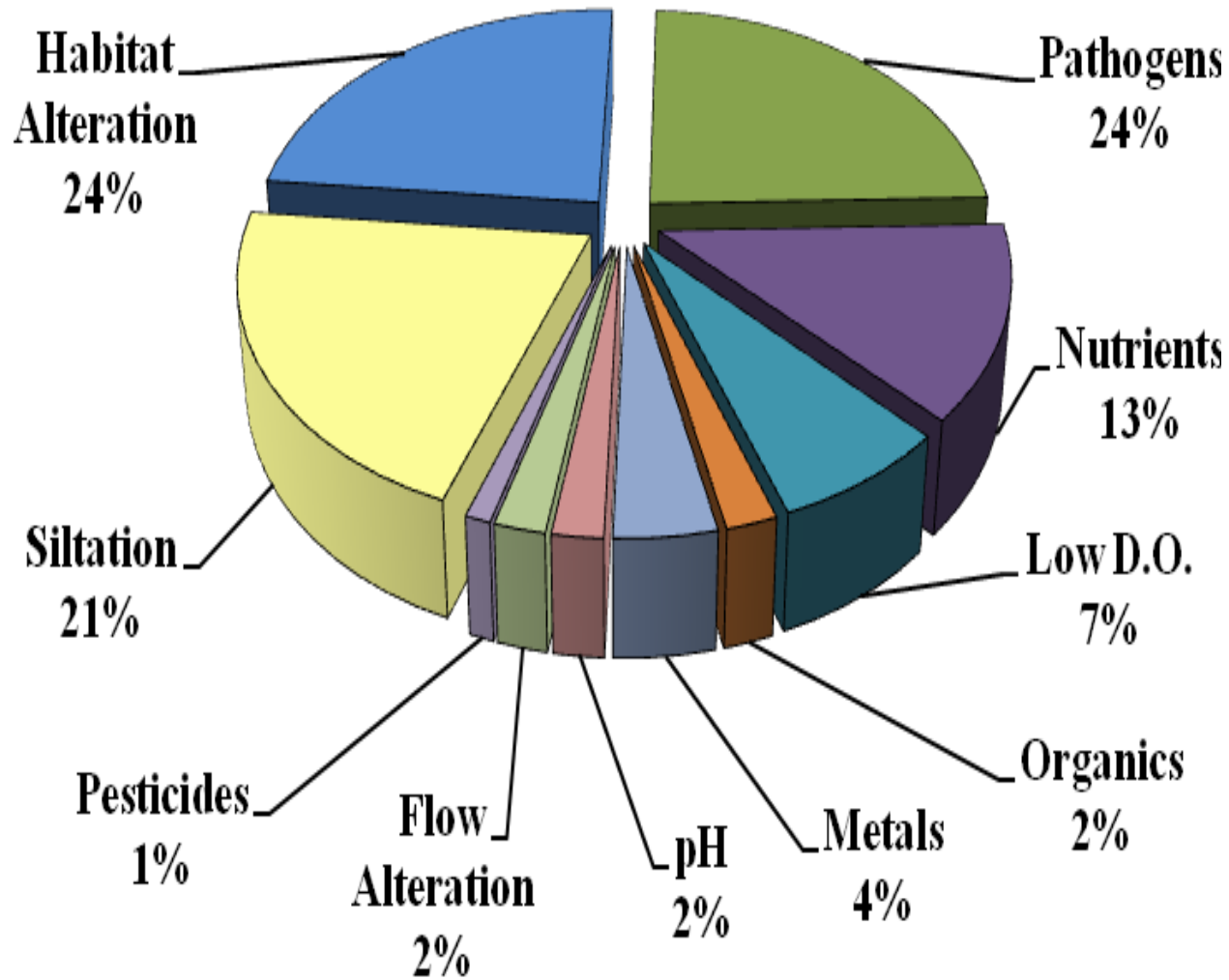
Shoreline Development



Riverbank Stabilization



Habitat Alterations and Water Quality Protection





Questions ?

Vena Jones
615-253-5320
Vena.L.Jones@tn.gov