

**FINAL ENVIRONMENTAL ASSESSMENT
STATEMENT OF FINDINGS
AND
FINDINGS OF NO SIGNIFICANT IMPACT**

File Nos. 2007-01488 and 2007-02202

City of Athens, Alabama Application
for Proposed Waterline and Sewerline Crossings
on Piney Creek, French Mill Creek, and Various Tributaries, and Wetlands
tributaries to Tennessee River Mile 310.7L,
Limestone County, Alabama

**U.S. ARMY CORPS OF ENGINEERS
Nashville District, Regulatory Branch**

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1.0 Proposed Activity

1.1. Background. The city of Athens, Alabama (applicant) submitted an application dated 31 March 2008 for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (CWA) and Tennessee Valley Authority (TVA) approval pursuant to Section 26a of the TVA Act for six waterline crossings and nine sewerline crossings of Piney Creek, French Mill Creek, and various tributaries. Also, six wetland crossings would be required with the waterline and sewerline construction. See Appendix A for the public notice with project description and location map. Therefore, the scope of work involves the discharge of bedding and backfill within the streams and wetlands associated with the pipeline construction.

While the open trench methods for the creek crossings were being processed, the applicant submitted a DA application for directional drill method for crossings of the Piney Creek and French Mill Creek (at Highway 72 bridges). The applicant indicated that if geotech at these two sites would allow, they would be installed by directional drill, instead of open trench. However, they requested that the formal consultation with the U.S. Fish and Wildlife Service (USFWS) continue for the two sites, just in case the directional drill was not practicable. Coordination of the directional drill method with USFWS revealed that no impacts to threatened or endangered (T&E) species would occur. Thus, the two crossings by directional drill were approved by the Corps of Engineers (CE) (see Appendix B for approval and locations). The applicant contacted this office by email dated 5 January 2009, stating that the two crossings had been installed by directional drill (See Appendix B). Thus, any potential impact to T&E species would be avoided at these sites. Because the directional drill to install the waterline at these locations would not create stream obstructions, TVA determined that its approval for this portion of the proposal was not required.

1.2. Decision Required. Section 301 of the CWA prohibits the discharge of dredged or fill material into waters of the United States unless authorized by the Department of the Army pursuant to Section 404 of the same Act. The locations of the proposed work are waters of the United States as defined by 33 CFR Part 328. A DA permit is required for the work; therefore, the CE must decide on one of the following:

- a. issuance of a permit for the proposal
- b. issuance of a permit with modifications or conditions
- c. denial of the permit

1.3. Other Approvals Required. Other federal, state, and local approvals required for the proposed work are as follows:

Tennessee Valley Authority (TVA) approval pursuant to Section 26a of the TVA Act would be required for the proposed work. TVA is a cooperating agency in the preparation of this environmental assessment and, as a permitting authority, participating in the formal Endangered Species Act consultation with the USFWS.

2.0 Public Involvement Process.

On 25 July 2008, Public Notice 08-25 was issued to advertise the proposed work. All responses are included in Appendix C. A summary of the responses follows:

- a. Due to the presence of two federally listed aquatic endangered species within the vicinity of the proposed stream crossings, previous coordination had been performed with the USFWS. A preapplication meeting was held on 1 August 2007, to discuss the potential impacts on the T&E species (See Appendix D). Specifically, previous surveys of the area indicate the presence of the endangered armored snail (*Maristonia pachyta*) and the slender campeloma snail (*Campelom decampi*) within the project area. USFWS recommended formal consultation under Section 7 of the Endangered Species Act. The applicant prepared a draft Biological Assessment (BA) for the project to address the T&E species. The USFWS responded to the draft BA by letter dated 28 March 2008, requesting additional information (See Appendix C).
- b. The Alabama Historical Commission (AHC) responded by letter dated 15 August 2008, stating that they concur with the project activities; thus, the project can proceed unless the scope of work changes.

Analysis of Comments:

Threatened and Endangered Species: This office concluded that the project may affect a portion of the population of the endangered armored snail and slender campeloma snail. As a result, on 1 July 2008, this office forwarded the final BA to the USFWS and requested initiation of formal consultation (See Appendix E).

The USFWS provided a Biological Opinion (BO) for the proposed project by letter dated 19 February 2009 (See Appendix F). USFWS indicated that the BO completes formal consultation for the project as required by the Endangered Species Act and fulfills the obligations in accordance with Section 7 of the Act. The BO included an Incidental Take Statement, reasonable and prudent measures, terms and conditions, and conservation recommendations. The BO concluded that “after reviewing the current status of the armored snail and the slender campeloma snail, the environmental baseline for the action area, the effects of the proposed utility construction, and the

cumulative effects, it is the USFWS biological opinion that the proposed project is not likely to jeopardize the continued existence of these species, and is not likely to destroy or adversely modify proposed critical habitat". The BO will be incorporated with the DA and TVA permits.

3.0 Environmental and Public Interest Factors Considered

3.1. Introduction. 33 CFR 320.4(a) states the decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. All factors that may be relevant to the proposal must be considered. The public notice listed those factors. The following sections show which factors are relevant and provide a concise description of the impacts.

3.2 Site Description. The applicant submitted an environmental document with the BA for the proposed work. This document provided information and photos of each proposed crossing. See the BA in Appendix E with each stream crossing description and stream crossing photos. On 1 August 2008 and 1 October 2008, Amy Robinson (OP-F, Project Manager) performed an onsite inspection of the proposed project locations with project photos of the Piney Creek and French Mill Creek crossing site (See Appendix D).

3.3. Physical/Chemical Characteristics and Anticipated Changes. The relevant blocks are checked with a description of the impacts.

(x) substrate – The existing substrate of the creeks consist largely of bedrock, silt, and gravel. The substrate through the stream and wetland crossings would be impacted from the construction activities. Some of the crossings would consist of blasting the trenches where rock is present. The BO conditions that the trenches will be backfilled with crushed stone to restore the original elevations. The top one-foot of the trench would be backfilled with larger stone. Thus, the substrate of the crossings would be temporarily impacted during construction and replaced with crushed rock in order to provide habitat and minimize erosion

(x) currents, circulation or drainage patterns – If the stream and wetland crossings are returned to pre-construction contours, the currents, circulation, or drainage patters of the stream would not be impacted, except during construction. Therefore, it is recommended that the DA permit be conditioned that upon installation of the sewer line and waterline crossings, the stream be returned to pre-construction contours. Stream flow would be maintained during construction by installation of cofferdams to divert the flow around the work area.

(x) suspended particulates, turbidity - Increased turbidity levels would likely occur in the immediate vicinity of the trenching during construction of the crossings. Turbidity levels

would be minimized if the construction were performed during the summer months or periods of low flow. Therefore, it is recommended that the DA permit be conditioned to limit construction of the crossings to the drier season – i.e., June through September. Cofferdams would be placed on one-half of the crossing at a time in order to perform the trench construction in the dry. In addition, the applicant would abide by the terms and conditions of the USFWS BO to avoid and/or minimize the turbidity levels to the maximum extent possible in order to avoid impacts to the T&E species (See Appendix F).

(x) water quality (temperature, color, odor, nutrients, etc) – Water quality could be impacted from the construction activities from increased turbidity, erosion, and runoff. The BO’s terms and conditions also require appropriate sediment control structures be installed, removal of riparian vegetation will be kept to the absolute minimum, and stabilizing all disturbed areas as soon as possible (See Appendix F). Thus, the water quality impacts would be minimized.

The proposed sewer line would allow the existing residents along the project to tie into the sewerline. The availability of the sewerline would eliminate the need for septic tanks, many of which are located along the creek. Additionally, for area residents using well water, the use of area septic systems would be reduced, therefore, contamination to the groundwater would be reduced, if residents opt to tie onto the sewer system.

(x) flood control functions – Because the disturbed sites would be returned to pre-construction contours throughout the pipeline project area, no impacts to flood control functions would be realized.

(x) storm, wave and erosion buffers – The BO requires that all stream banks disturbed will be restored to original contours and shape using material suitable for plant growth. This material will be stabilized using a biodegradable fabric and revegetated with native plants and trees. Vegetation must be of suitable type to allow establishment along stream banks and provide snail habitat (i.e. submerged tree roots). Thus, the streambanks would be stabilized after construction.

(x) baseflow – Baseflow at the stream and wetland crossings would only be impacted temporarily during construction. Performing the work during the low flow period of the baseflow would also minimize any impacts. Cofferdams would be placed on one-half of the stream crossing at a time in order to allow passage of the normal flow. Because the disturbed site would be returned to pre-construction contours, the baseflow is expected to return to normal conditions.

3.4. Biological Characteristics and Anticipated Changes. The relevant blocks are checked with a description of the impacts.

(x) special aquatic sites (wetlands, mudflats, pool and riffle areas, vegetated shallows, sanctuaries and refuges, as defined in 40 CFR 230.40-45) – The proposed project is located within Piney Creek, French Mill Creek, various tributaries and wetlands, which would be considered a special aquatic site due to the presence of the two endangered species (endangered armored snail and slender campeloma snail). Previous and current surveys show the presence of these two endangered snails within the project drainage basin. Six wetland crossings (W-1 through W-6) would be performed in association with the waterline and sewerline project impacting 0.25 acres. The wetland crossings would be constructed by open cut trench method. The crossings through the wetlands would also be backfilled and graded back to the pre-construction contours. Wetland functions are expected to return shortly after project completion, therefore, effects on these small wetland area would be minor and temporary in nature.

(x) habitat for fish and other aquatic organisms – Throughout the project area, the creeks and wetlands provide a variety of habitat for fish and other aquatic organisms (i.e., the endangered armored snail and slender campeloma snail), such as bedrock, slab rock, shallow pools, silt, and gravel/cobble runs. Thus, the habitat for fish and other aquatic organisms would be disturbed temporarily during construction. However, the BO's terms and conditions require that the existing bottom substrate be replaced with crushed rock, thus, recreating suitable habitat for the aquatic life.

(x) wildlife habitat – Most of the pipelines are located within the city of Athens boundaries, along Highway 72, other roads, a golf course, and residential developed areas. Thus, most of the area has been developed along these access routes for residential development. However, some large agricultural fields still remain. This area is undergoing residential development, which is expected to continue to result in the loss of these open fields. The growth of the area makes the waterline and sewerline installation inevitable to serve the public needs. The wildlife habitat would be temporarily disturbed during construction. The removal of some trees and vegetation would be necessary for the pipeline placement. However, any open areas utilized by the wildlife would be returned after completion of the pipeline. Also, the BO's terms and conditions require that removal of riparian vegetation and vegetation along the sewer line will be kept to the absolute minimum necessary and that all disturbed areas will be stabilized with native plants and trees. Thus, it is expected the wildlife habitat impacts would be minor.

(x) endangered or threatened species - Previous surveys of the area indicate that the presence of the endangered armored snail (*Maristonia pachyta*) and the slender campeloma snail (*Campelom decampi*) are known to occur within the project area. USFWS recommended formal consultation under Section 7 of the Endangered Species Act. The applicant prepared a draft

BA for the project to address the T&E species. The USFWS responded to the draft BA by letter dated 28 March 2008, requesting additional information (See Appendix C).

This office concluded that the project may affect a portion of the population of the endangered armored snail and slender campeloma snail. As a result, on 1 July 2008, this office forwarded the final BA to the USFWS and requested initiation of formal consultation (See Appendix E).

Following a courtesy review by CE and TVA of a draft document, the USFWS provided a final BO for the proposed project by letter dated 19 February 2009 (See Appendix F). USFWS indicated that the BO completes formal consultation for the project as required by the Endangered Species Act and fulfills the obligations in accordance with Section 7 of the Act. The BO included an Incidental Take Statement, reasonable and prudent measures, terms and conditions, and conservation recommendations. The BO concluded that “after reviewing the current status of the armored snail and the slender campeloma snail, the environmental baseline for the action area, the effects of the proposed utility construction, and the cumulative effects, it is the USFWS biological opinion that the proposed project is not likely to jeopardize the continued existence of these species, and is not likely to destroy or adversely modify proposed critical habitat”. The BO will be incorporated with the DA and TVA permits.

(x) biological availability of possible contaminants in dredged or fill material – The fill material to be used to backfill the pipe trench will be clean materials and free of any contaminants.

3.5. Human Use Characteristics and Anticipated Impacts. The relevant blocks are checked with a description of the impacts.

(x) existing and potential water supplies – The proposed work is not expected to impact any existing water supplies. The residents and/or businesses along the new waterline would be offered the city water services.

(x) water-related recreation – The project area of Piney Creek, French Mill Creek, various tributaries, and the wetlands are probably not large enough in size to accommodate boats, canoes, etc. Some areas may provide shallow pool areas for bank fishing, waders and/or swimmers. Thus, any impacts to water-related recreation would be temporary and minor.

(x) aesthetics – The area has been developed along Highway 72 in the past and is experiencing considerable growth in residential development in the remaining agricultural fields. Also, some of the area has been converted to a golf course. Upon completion of the pipeline, it would be completely buried; thus, the aesthetic impacts from construction activities would only be

temporary. Some trees will be removed for the pipeline construction; however, it would only convert the pipeline corridor from forested to open areas.

(x) traffic/transportation patterns – The sewerline was designed to minimize the impacts to existing traffic along Highway 72 as well as on Cambridge Lane.

(x) navigation – No impacts to navigation would be realized from the proposed work as the streams and wetlands are not large enough for boats, canoes, etc.

(x) air quality – It has been determined that the proposed activities would not exceed de minimus levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR part 93.153 (See Section 5.3).

(x) noise – Construction of the work would create some noise impacts. However, it is expected that the construction activities would be performed during the daylight hours, would be temporary, and would be performed within normal ranges for construction equipment.

(x) historic properties and cultural values – AHC reviewed previous information submitted concerning the project area and responded by letter dated 15 August 2008, stating that it concurs with the project activities; thus, the project can proceed unless the scope of work changes (See Appendix C).

(x) land-use classification – The pipeline corridor is located within Athens' city limits. Thus, the majority of the pipeline is located along roads, existing golf course, and/or existing residential developments. Some of the pipeline project still remains within open fields.

(x) conservation – The project would impact some open field areas and some wooded areas. All disturbed areas will be re-vegetated upon completion of the project. ...

(x) economics – The construction of the new pipeline would provide the city of Athens improved service for the existing and future development of the area. The work would provide water service to residents and businesses currently on well water. The sewer line would provide the area with sanitary sewer service and could be more easily developed. This would, in turn, provide upgraded services for existing facilities and promote additional residential and commercial development, which would benefit the cities by increased tax revenue. The properties adjacent to the project would expect an increase in value. The contractor, laborers, and material supplier would economically benefit from the construction of the pipeline.

(x) food and fiber production – The proposed work is not expected to impact food and fiber production.

(x) general environmental concerns – The new sewer pipeline will provide sanitary sewer service to most of the residents along the stream that are currently on septic tank systems, will offset flow in an existing sewer line that has reached capacity, and link to the existing sanitary sewer system. The key benefit of the project will be elimination of existing, undersized sewer facilities. Because gravity flow sewers involve less risk of mechanical and electrical breakdown than pump stations, this method directly benefits the overall health of the watershed. Thus, the proposed project benefits the overall environment of the watershed.

(x) mineral needs – The proposed project is not expected to impact mineral needs.

(x) consideration of private property – It is the applicant's responsibility to obtain the property rights for the construction of the facility.

(x) floodplain values – If disturbed sites are returned to pre-construction contours throughout the pipeline project, then impacts to floodplain values should not be realized.

3.6. Cumulative and Secondary Impacts. Cumulative impacts could result from permitting the proposed pipelines, in that the applicant and/or other utilities in the area may also want to perform similar work. However, any future proposals would be evaluated on their own merit. Secondary impacts could result from the increase in residential and commercial development of the area by the increase sewer and water services to the area. The applicant reduced the possible impacts to the T&E species by directional drilling two waterline crossings (Piney Creek and French Mill Creek). No other work that involved a DA permit from the applicant has been performed at the project site. The only structures located within the project areas that may have required a DA or TVA permit are two bridges located at the Highway 72 crossings of Piney Creek and French Mill Creek associated with improvement plans. Limestone County Water and Sewer Authority has discussed with TVA and CE the possible need for a new water intake in the vicinity of the Highway 72 Bridge over Elk River and potential capacity expansion of its existing intake several miles upstream of the bridge. There are no other structures that involved DA or TVA permits located in the immediate vicinity of the proposed crossings. Thus, cumulative and secondary impacts on the water resources would not occur at this location. However, the city of Athens is experiencing growth and development of residential and commercial facilities. The continued growth of the area makes the sewer services and water supply growth inevitable. Cumulative impacts could result from permitting the proposed work, in that other communities may also want to construct similar crossings, and this is expected (such as neighboring city of Madison). However, this is not expected at this time. Each future project would be evaluated on

a case-by-case basis for a DA permit if waters of the U.S. were proposed to be impacted. Projecting the reasonably foreseeable future actions is difficult at best. Clearly, the proposed action (constructing the crossings) is reasonably foreseeable. However, the actions by others that may affect the same resources are not as clear. Projections of those actions must rely on judgment as to what is reasonable based on existing trends and, where available, projections from qualified sources. Reasonably foreseeable does not include unfounded or speculative projections. In this case, reasonably foreseeable future actions include:

- Construction or expansion of the waterline and/or future expansion,
- Construction or expansion of the sewerline and/or future expansion,
- Increased water withdrawal for the water service,
- Increased traffic in the area from the growth,
- Continued growth in population and residential development,
- Continued growth of commercial development,
- Continuation of existing land use patterns in the area and/or additional development of the area,
- Continued application of environmental requirements such as those under the Clean Water Act, and
- Implementation of various programs to deal with non-point sources of water pollution and to restore degraded environments.

These foreseeable actions can be identified as cumulative and/or secondary impacts; however, determining the magnitude and significance of cumulative effects; modifying to avoid, minimize or mitigate significant cumulative effects, and planning for monitoring and adaptive management would have to be addressed on a case-by-case basis. Significant cumulative impacts from these actions are not expected.

4.0 Alternatives

4.1. Introduction. This section discusses alternatives as required by 33 CFR 320.4(a)(2). The relevant environmental issues identified in Chapter 3.0 were used to formulate the alternatives. The alternatives that were given detailed consideration are listed in the following section.

4.2. Description of Alternatives. Only reasonable alternatives have been considered in detail, as specified in 40 CFR 1508.14(a).

a. No Action. This alternative would involve denial of the applicant's DA and TVA permit request to perform the proposed work. No Action would also result if the applicant withdraws the DA/TVA permit application being considered. Under this alternative, the proposed work would not be performed.

b. The Applicant's Proposed Action (as described in Public Notice 08-25). File No. 2007-01488: The proposed work would consist of constructing a new 8" and 12" water main pipeline crossing streams in six locations (File No. 2007-01488) and constructing a new 8" through 24" sewer main pipeline crossing streams in nine locations (File No. 2007-02202). See the attached plans and location map for the exact locations of each crossing (Appendix A). The crossings would be constructed by open cut trench methods. The sites where both a waterline and sewerline are to be constructed, the pipes would be installed parallel to each other and concurrently to minimize impacts. The pipes would be ductile iron. Stream flow would be maintained during construction. Cofferdams would be utilized to divert flow around the work area and would consist of materials such as stone, concrete blocks, and portable water barriers (bladders). The flow diversion materials would be removed entirely after construction. The pipe would be bedded and backfilled with crushed stone. The top one-foot of the trench would be backfilled with larger stone and graded back to the existing contours. The disturbed streambanks would be returned to original pre-construction contours and stabilized using riprap.

Three temporary construction access stream crossings would be required for construction. They would be constructed of a pipe (to maintain stream flow), riprap and coarse aggregate. When the temporary access crossing is no longer required, it would be removed and the streambed returned to original conditions.

Six wetland crossings (W-1 through W-6) would be performed in association with the waterline and sewerline project. The total wetland acreage impacted from the pipelines would be 0.25 acres. The wetland crossings would be constructed by open cut trench method. The crossings through the wetlands would also be backfilled and graded back to the pre-construction contours.

The purpose of the project would be to provide water and sewer service to the residential and commercial developments being planned and those currently underway.

c. Other Alternatives. The pipeline could involve different designs or alternative alignments. However, different alignments would be expected to result in the same or additional environmental impacts, while not providing adequate service for the area. Therefore, other alternatives would not be practicable.

d. The Applicant's Proposed Action with Special Conditions. This alternative would authorize the proposed work as stated in b. above with special conditions recommended to avoid or minimize the environmental impacts. In accordance with CFR 320.4(r), our review of the proposed action has revealed mitigation measures which would avoid and/or minimize the environmental impacts of the proposed action to the extent possible. Recommended mitigation measures and/or special conditions for the proposed action are listed in Section 5.6.

4.3. Comparison of Alternatives.

a. No Action. With this alternative, the proposed work would not be performed and would result in no additional impacts to the streams and wetland. No additional waterline service would be provided to the residents and the continual infiltration from the areas' septic tanks into the streams, and under capacity wastewater treatment plant would also remain. Thus, the impacts and benefits associated with the proposed action would not occur. The proposed work would not be performed. However, a portion of the work has been performed by directional drill method, which was previously approved.

b. The Applicant's Proposal. This alternative would result in the impact of the pipeline construction on 15 crossings of Piney Creek, French Mill Creek, and unnamed tributaries, and 6 wetland crossings. The pipeline would be completely buried, while returning the disturbed areas to pre-construction contours, thus, minimizing impacts to the water quality, habitat for fish and aquatic life, wildlife habitat, floodplain values, and aesthetics. No historical properties are expected to occur from the proposed work. After formal consultation with USFWS, a BO was finalized with terms and conditions to avoid and/or minimize any impact upon the two endangered snails located within the watershed (See Appendix F). USFWS indicated that the BO completes formal consultation for the project as required by the Endangered Species Act and fulfills the CE's obligations in accordance with Section 7 of the Act.

c. Other Alternatives. Other alignments of the pipeline would most likely require a DA permit, and would likely result in comparable or greater environmental, cultural, and public impacts. Also, other alignments would not provide service to the overall public in the area. Therefore, other alternatives are not practicable.

d. The Applicant's Proposal with Special Conditions. This alternative would authorize the proposed work as stated in b. above with special conditions added to avoid or minimize the environmental impacts (See Section 5.6 for list of recommended special conditions).

5.0. Findings

5.1. Section 404 (b)(1) Determination.

General: The purpose of Section 404(b)(1) of the Clean Water Act is to restore and maintain the chemical and physical, and biological integrity of the waters of the United States through the control of discharges of dredged or fill material. Controls are established through restrictions placed on the discharges in Guidelines published in 40 CFR 230.

Restrictions on the Discharge: Section 230.10 requires that the discharge meet certain restrictions in order to be authorized. The project is to be evaluated and comply with the following restrictions: (a) there would be no other practicable alternatives to the proposal that would have less adverse impacts on the aquatic environment, (b) the discharge would not adversely impact water quality, violate State water quality and/or toxic effluent standards, or jeopardize the continued existence of a threatened or endangered species as identified under the Endangered Species Act, (c) the discharge would not cause or contribute to the significant degradation of waters of the United States, and (d) the project would be designed in such a manner as to minimize to the extent possible the adverse impacts on the aquatic environment.

Initial Evaluation: An evaluation of the fill material was conducted in accordance with Part 230.61 (See Appendix G). Environmental consequences of the proposed work are primarily related to a reduction in biological productivity from the physical displacement of aquatic habitat. The EA did not reveal any practicable alternatives that would have less adverse impacts on the aquatic environment. Since there would be no other practicable alternatives to the proposal, the adverse impacts have been minimized to the extent possible, and no other restrictions have been violated, the proposed work would comply with the restrictions in Section 230.10. In addition, there is no indication that the fill material to be used for the project would be contaminated above background levels. Therefore, the fill material is designated as a Category 5 fill and, in accordance with Part 230.63(a), no testing of chemical-biological interactive affects is required.

Factual Determination: Based on the probable impacts addressed above, compliance with the restrictions, and all other information concerning the fill materials to be used, the proposed work complies with the Guidelines and the intent of Section 404(b)(1) of the Clean Water Act.

5.2. Water Quality Certification. The bedding and backfill activity associated with the pipeline has previously been approved for purposes of Section 404 of the Clean Water Act under authority of a DA Nationwide Permit which became effective on March 12, 2007 [33 CFR 330, #12]. The state of Alabama has issued the required Water quality certification for the bedding and backfill activity (See Appendix H) associated with the pipeline under authority of a DA Nationwide Permit which became effective on March 12, 2007 [33 CFR 330, #12].

5.3. Clean Air Act Determination. The proposed project has been analyzed for conformity applicability, pursuant to Section 176c of the Clean Air Act. It has been determined that the proposed activity would not exceed de minimus levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR par 93.153. Any later indirect emissions caused by the proposed activity are generally not within the DA continuing program responsibility, these emissions cannot be practically controlled by the DA, and, for these reasons, a conformity determination is not required for a permit.

5.4 Environmental Justice. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Through our public involvement process, we have offered the general public, including low-income and minority populations in the involved community, an opportunity to participate in a decision-making process that could affect their well-being. The proposed activities would only result in minor adverse effects. The project is located in an area where the population includes low-income and minority individuals. If any impact on minority or low-income populations does occur, it would not have disproportionately high and adverse human health or environmental effects.

5.5. Consideration of Public Comments. The comments received in response to the public notice have been considered and addressed in this Environmental Assessment (EA) and in the decision-making process for a permit. All comments received in response to the public notice have been addressed and resolved. There were no requests for a public hearing received.

5.6. Special Conditions to Minimize Environmental Impacts. Recommended special conditions for inclusion in the DA permit to significantly minimize or avoid the potential impacts to the environment follows:

1. The work must be in accordance with any plans attached to this permit. Justification: Recommended at 33 CFR 325, Appendix A.
2. You must have a copy of this permit available on the site and the permittee must ensure all contractors are aware of its conditions and abide by them. Justification: Recommended at 33 CFR 325, Appendix A.
3. Stone and/or riprap material utilized shall be well-graded quarry stone or its equivalent, i.e., clean material free of waste metal products, organic materials, unsightly debris, etc. Justification: To minimize impacts on water quality and the aquatic environment.
4. All fill activities should be performed during low flow conditions, i.e., June through September. Justification: To minimize impacts on water quality and the aquatic environment.
5. All disturbed areas should be stabilized as soon as possible after construction to eliminate any erosion or turbidity entering the stream. Justification: To minimize sediment runoff into the stream.

6. This Corps permit does not authorize you to take an endangered species, in particular the endangered armored snail (*Marstonia pachyta*) and slender campeloma snail (*Campeloma decampi*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with “incidental take” provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service (USFWS) BO contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with “incidental take” that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permits. However, the USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA. For further clarification on this point, you should contact the USFWS. Should the USFWS determine that the conditions of the BO have been violated, normally the USFWS will enforce the violation of the ESA, or refer the matter to the Department of Justice. Justification: To comply with the USFWS Section 7 requirements and avoid/minimize impacts to T&E species.

7. A Pre-Construction Meeting with you, your contractors, and representatives from this office shall be held prior to any work in the waterway. The contractors shall present their method of operation for the work at this meeting. You should contact this office at least two weeks prior to construction to arrange the required pre-construction meeting (Amy Robinson at 615-369-7509). Also, a Final Construction Meeting with you and this office should be held upon completion of the proposed work. Justification: To minimize permit noncompliance.

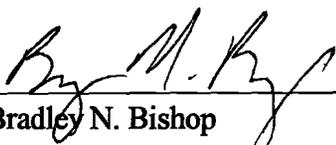
5.7. Findings of No Significant Impact. Based on a full consideration of the EA, information obtained from cooperating federal/state agencies, and comments received from the interested public, I have concluded that issuance or denial of the requested permit would not constitute a major federal action that would significantly affect the quality of the human environment. This constitutes a Findings of No Significant Impact (FONSI); therefore, the preparation of an Environmental Impact Statement is not required. This FONSI was prepared in accordance with paragraph 7a of Appendix B, 33 CFR 325 dated 3 February 1988 (effective 4 March 1988).

5.8. Public Interest Determination. I have reviewed the application, responses to the Public Notice, and the EA. All comments received in response to the proposed work have been addressed and resolved. The applicant has designed the pipeline that would minimize the environmental impacts to the extent possible, while providing adequate service to the area. The

pipeline would be completely buried, while returning the disturbed areas to pre-construction contours, thus, minimizing impacts to the water quality, habitat for fish and aquatic life, wildlife habitat, floodplain values, and aesthetics. In addition, these impacts would only be temporary during construction of the work. No historical properties are expected to occur from the proposed work. After formal consultation with USFWS, a BO was finalized with terms and conditions to avoid and/or minimize any impact upon the endangered armored snail and slender campeloma snail (See Appendix F). USFWS indicated that the BO completes formal consultation for the project as required by the Endangered Species Act and fulfills the CE's obligations in accordance with Section 7 of the Act. Special conditions have been recommended for inclusion in the DA permit which would also minimize any environmental impacts from the proposed work. Compliance with these conditions, the ADEM water quality certification, and the BO's terms and conditions would minimize to the extent possible the environmental impacts. Therefore, the proposed work would result in only minor impacts to the environment. The construction of the new pipeline would provide the city of Athens improved water service and sewer services for the existing and future development (residential and commercial) of the area. This would, in turn, provide upgraded services for existing facilities and promote additional residential and commercial development, which would benefit the cities by increased tax revenue. The properties adjacent to the project would expect an increase in value. The contractor, laborers, and material supplier would economically benefit from the construction of the pipeline. The proposed water line would provide service to residents along the new line and allow elimination of well water. The proposed sewer line would provide service to most of the residents along the stream that are currently on septic tank systems and offset flow in an existing sewer line that has reached capacity. Thus, it is expected that the proposed work would benefit the overall environmental health of the watershed from the elimination of the septic systems and overflow septic systems. Having weighed these potential benefits that may be accrued against the reasonably foreseeable detrimental effects, I conclude that permit issuance would not be contrary to the public interest.

FOR THE COMMANDER:

2/19/09
Date



Bradley N. Bishop
Chief, Western Regulatory Section
Operations Division