

**FINDING OF NO SIGNIFICANT IMPACT AND ADOPTION OF THE
ENVIRONMENTAL ASSESSMENT PREPARED BY THE UNITED
STATES ARMY CORPS OF ENGINEERS
TENNESSEE VALLEY AUTHORITY
PRIVATE IMPOUNDMENT ON AN UNNAMED TRIBUTARY OF OWL
CREEK, MCNAIRY COUNTY, TENNESSEE**

Proposed Action and Need

Mr. Bill Hawkins proposes to construct a small earthen dam approximately 900 feet long with a crest of 20 feet across a small stream on his property in McNairy County Tennessee. The dam would impound approximately 47 acres.

On 24 September 2004, the applicant, Mr. Bill Hawkins, and his consultant, Scott Engineering Company, submitted a joint application to the United States Corps of Engineers (USACE) pursuant to Section 404 of the Clean Water Act (CWA) for a Department of the Army (DA) permit and to the Tennessee Valley Authority (TVA) pursuant to Section 26a of the TVA Act. In addition, an application was submitted to the state of Tennessee, Department of Environment and Conservation (TDEC) for a Section 401 Water Quality Certification.

The proposed action is the discharge of fill material below the plane of ordinary high water for the construction of an earthen impoundment structure across an above headwaters intermittent tributary to create a private-use reservoir. The proposed action is located on an unnamed intermittent tributary of Owl Creek, a tributary to the Tennessee River at Mile 197.4L, in McNairy County, Tennessee. Following several onsite inspections, it was determined that the proposed lake, to be used for fishing by the applicant, would replace about 5,900 feet of existing intermittent stream channel. The scope of work is the impoundment structure, the lake, and proposed mitigation.

TVA's action under Section 26a of the TVA Act would be to approve the construction and operation of fill in conjunction with the construction of the private dam and impoundment.

USACE has prepared an Environmental Assessment (EA) of the project and issued a Finding of No Significant Impact (FONSI). TVA is adopting this EA, which is incorporated by reference. On September 06, 2006, USACE issued an individual Section 404 permit for the fill and stream modification.

On 18 July 2006, TDEC issued a conditional Section 401 water quality certification that any discharge resulting from the proposed work would comply with the applicable water quality standards. TDEC required the applicant to submit extensive flow data and water quality data for the existing stream, and projected stream water quality impacts from the work prior to issuance of the certification (See Appendix C of the EA).

Alternatives

The EA considers four alternatives: a no action alternative, the applicant's proposed action, the applicant's proposed action with mitigation, and the applicant's proposed action with special considerations. Because the projected impacts are insignificant, no other alternatives are evident that would have lesser impacts, and since there is agency agreement with the action alternative, TVA believes there is no need to consider additional alternatives.

No Action. Under the no action alternative the proposed work would not be performed and the applicant's need would not be met. With this alternative, the applicant would not displace and/or impound 5,900 feet of intermittent stream channel. The applicant would continue to utilize his lands in the present state without the recreational benefits of a lake. Other impacts and benefits associated with the proposed action would not occur.

The Proposed Action. Under this alternative the construction of the dam and impoundment would occur that would displace a 5,900 foot section of intermittent channel to form a 47-acre lake as described in Public Notice 04-70 (see Appendix C of the attached EA).

The Proposed Action with Mitigation Measures. Under this alternative, the dam and impoundment would be constructed and the applicant would implement a compensatory mitigation plan (See Appendix G of the attached EA) to offset impacts to aquatic resources.

Applicant's Proposed Action with Special Conditions. This alternative would be composed of the applicant's proposal, the compensatory mitigation plan, and additional special conditions (described in Section 5.5 of the attached EA) that would minimize and mitigate unavoidable adverse impacts. These conditions include minimizing the impact on aquatic life and water quality, and minimizing the amount of disturbance in the work area and surrounding areas. This alternative would have the least adverse impacts of the four alternatives. This is the alternative selected by the USACE for permitting. It is also TVA's preferred alternative.

Affected Environment and Impacts

The proposed project would be on a 910 acres privately owned tract adjoining Tennessee State Route 224 to the west and Little Owl Creek and Owl Creek to the north. Approximately 235 acres of the property is low lying along the banks of the Little Owl Creek and Owl Creek and used for agriculture. The remaining 675 acres consist of undulating ridge tops and hillsides protected by woodlands with some areas utilized as pasture. Several unnamed tributaries to the larger creeks segment the property.

Placement of the dam, fill, and the impoundment would permanently eliminate 5,900 linear feet of an unnamed intermittent tributary to Owl Creek. Approximately 25 acres of vegetation clearing will be required for the dam and entrance roadway. An additional 14 acres of the main basin of the impoundment would be excavated up to 3.5 feet for building material for the dam.

The stream fill and modification would have no impact to unique soils or air quality. No historic properties or cultural resources would be affected. There are no federally or state-listed endangered or threatened species in the project area; therefore, the project

would have no effect on listed species. There would be minor impacts to terrestrial habitat and the general visual characteristics. The increase in noise during construction is also expected to be minor.

The proposed dam would be located within the 100-year floodplain and is therefore subject to review under Executive Order 11988. There is no practicable alternative to locating the dam in the 100-year floodplain since a dam is a functionally dependent use, i.e., a dam, by its very nature, must be built in a floodplain in order to satisfy its function of impounding waters. All upstream flooding impacts would be contained on property the applicant owns and downstream flooding impacts would be minor; floodplain impacts would be insignificant.

Under the proposed mitigation plan, 4,500 feet of degraded intermittent streams would be restored which would ultimately provide enhanced aquatic habitat. A 50-foot vegetation buffer would also be established around the reservoir and the reservoir shoreline would be stabilized as necessary. Adherence to erosion control conditions and BMPs required by USACE and TDEC in their permits would minimize any downstream impacts. Considering past, present, and future proposals, there would be only minimal adverse cumulative impacts associated with the dam and impoundment.

Public and Intergovernmental Review

A Joint Public Notice 04-70 (see Appendix B of the attached EA) was issued on 22 December 2004. Responses to the notice were received from the Tennessee Historical Commission (THC), Tennessee Wildlife Resources Agency (TWRA), U.S. Fish and Wildlife Service (USFWS), TDEC, and several individuals. Comments are summarized and discussed in Section 2.0 of the attached EA (also see Appendix E for a copy of these comments). Applicant responses are included in Section 2.0 and Appendix F in the attached EA. The responses and modifications to the proposal address all the concerns raised by these commenters.

Mitigation

As stated in the EA, USACE will require adherence to BMPs and sound engineering and construction standards and practices as provided in the Special Permit issued September 6, 2006. Appropriate general and standard conditions for TVA Section 26a approval, including adherence to BMP requirements, will also be required to minimize water quality impacts. Implementation of compensatory mitigation and special conditions as described below will also be required. No additional non-routine commitments or mitigation measures have been identified as necessary by TVA.

- Implementation of the compensatory mitigation plan described in Appendix G of the USACE EA. Major components of this plan include restoration of 4,500 feet of intermittent streams, establishment of tree/shrub riparian buffers a minimum of 50 feet wide on each side of streams and totaling 17.3 acres, and monitoring for 5 years.
- Implementation of the special permit conditions described in Section 5.5 of the USACE EA to ensure the structure is constructed during low flow periods of the year and that construction and mitigation is carried out as proposed.

Conclusion and Findings

Based on independent review, TVA has concluded that the USACE-prepared EA adequately addresses the impacts on the environment and agency comments, and necessary mitigation has been incorporated into the proposed action. TVA has decided to adopt the USACE EA. Based on the USACE EA and the above evaluation of impacts, we conclude that the Section 26a approval for the waste water facility and bridge expansion would not be a major federal action significantly affecting the environment.

Accordingly, an Environmental Impact Statement is not required. This FONSI is contingent upon successful implementation of the conditions as identified in the USACE EA and the identified General and Standard Conditions in TVA's Section 26a approval.



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Date Signed