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Project Name: Candies Creek Commercial Development
Project Number: 2009-53

ADOPTION AND FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
CANDIES CREEK COMMERCIAL DEVELOPMENT IN
CLEVELAND, BRADLEY COUNTY, TENNESSEE

Ron Barker, RPB Builders/Barker Properties, has requested approval from the Tennessee Valley Authority (TVA) pursuant to Section 26a of the *TVA Act* and from the U.S. Army Corps of Engineers (USACE) under Section 404 of the *Clean Water Act* for a proposed fill in jurisdictional wetlands adjacent to Stream Mile 15.1 of Candies Creek in Bradley County, Tennessee. The fill is associated with the planned construction of a commercial development on 13.15 acres of a 32.82-acre parcel. Approximately 16.25 acres of on-site wetlands would be left undisturbed. The proposed discharge of fill material would be adjacent to Highway 60.

In addition to Section 26a approval, the proposed discharge of fill material requires a water quality certification from the Tennessee Department of Environment and Conservation (TDEC) in accordance with Section 401(a)(1) of the *Clean Water Act*. TDEC issued the water quality certification for the proposed work on September 18, 2009.

The USACE prepared an environmental assessment (EA) and issued a findings of no significant impact (FONSI) for its related permitting action in December 2009. The EA evaluates three alternatives: (1) the No Action Alternative, (2) the Applicant's Proposed Work and Mitigation, and (3) the Proposed Project With Special Conditions. Under the No Action Alternative, the USACE and TVA would not issue their respective permits, and the project would likely not be completed as proposed. Under either Action Alternative, TVA would issue a Section 26a approval, and the USACE would issue a Section 404 permit for the filling of 4.88 acres of wetlands associated with the planned construction of the commercial development. The Action Alternatives differ in the number of conditions and mitigation measures that would be imposed to reduce potential environmental impacts. Many of the conditions included in Alternative 3 are standard requirements for TVA permits. TVA has independently reviewed the USACE EA and concurs with its conclusions, and the EA is incorporated by reference.

The applicant's proposal involves fill within 4.88 acres of wetlands of the 13.15-acre site. In order to compensate for adverse wetland impacts, the applicant has proposed restoring or enhancing 10.48 acres of wetlands at an off-site mitigation location adjacent to Tennessee Wildlife Resources Agency property and within the Candies Creek watershed. There are no approved wetland mitigation banks within the service area of Bradley County, Tennessee. Thus, the mitigation site is located approximately 8.7 river miles downstream of the project at the former Beaty farm.

The proposed mitigation would consist of the enhancement of 0.98 acre (6:1 ratio) of existing wetland and the restoration of 9.5 acres (2:1 ratio). Thus, the total mitigation acreage credit would be 4.91 acres. Additional mitigation requirements can be found within the Applicant's Wetland Mitigation Plan included in Appendix G of the USACE EA. With the proposed mitigation, impacts to wetlands would be insignificant.

By letter dated June 30, 2009, the U.S. Fish and Wildlife Service (USFWS) stated that no species listed as endangered or threatened would be affected by the proposed activities. A Phase I archaeological survey was conducted in August 2009, which concluded that the site

contains no archaeological resources eligible for listing in the National Register of Historic Places. By letter dated October 26, 2009, the Tennessee Historical Commission (THC) concurred with the determination. In a letter dated September 4, 2009, the City of Cleveland stated that the development requires fill to raise the project site above the 100-year flood elevation as is required by the city in order to comply with the National Flood Insurance Program. All proposed fill would be outside the floodway; therefore, no significant impacts are anticipated. Impacts to air quality and noise from construction activities would be short term in duration. No land emissions of pollutants, the generation of hazardous waste, or waste requiring special handling and disposal are anticipated. Further, the proposed project has been analyzed for conformity pursuant to Section 176(c) of the *Clean Air Act*. The emission of criteria pollutants or its precursors would not exceed de minimis levels specified under 40 CFR § 93.153(b).

On June 5, 2009, USACE and TVA issued Joint Public Notice (JPN) No. 09-43 to advertise the proposed actions. Comments in response to the JPN were received from the USFWS and the THC. No comments were received from the general public. Comments are included in Appendix E of the USACE EA.

Mitigation and Special Permit Conditions

No specific nonroutine environmental mitigation measures or special permit conditions were identified by TVA to reduce potential environmental effects. Implementation of the special conditions and best management practices outlined in the USACE EA and FONSI during construction will minimize potential environmental effects.

Conclusion and Findings

TVA has concluded that the USACE EA adequately describes the impacts of the proposed commercial development and has decided to adopt the EA. Based on TVA's review, the proposed project will not cause significant environmental impacts, either individually or cumulatively. Consequently, we conclude that issuance of a Section 26a approval for the proposed commercial development would not be a major federal action significantly affecting the environment. Accordingly, an environmental impact statement is not required.



5/27/10

Linda B. Shipp, Senior Manager
Federal Determinations
Environment and Technology
Tennessee Valley Authority

Date Signed