

FINDING OF NO SIGNIFICANT IMPACT TENNESSEE VALLEY AUTHORITY

PROPOSED DISPOSAL OF TENNESSEE VALLEY AUTHORITY PROPERTY, TRANSMISSION LINE RELOCATION, AND SECTION 26a APPROVAL FOR FILL, STORM WATER OUTFALLS, LAUNCHING RAMP, AND CRANE PLATFORM TO CHICAGO BRIDGE AND IRON – PROPOSED DEDICATION OF PORT ROAD TO THE CITY OF NEW HOPE GUNTERSVILLE RESERVOIR MARION COUNTY, TENNESSEE

At the request of Chicago Bridge and Iron (CBI), the Tennessee Valley Authority (TVA) is considering the disposal of a 1.1-acre portion of TVA property at Tennessee River Mile 423.8 along the left-descending bank in Marion County, Tennessee. CBI intends to use this area for the final stages of assembly and shipping of its product. In addition, TVA is considering a request by CBI for approval under Section 26a of the *TVA Act* for a launching ramp, a crane platform, two storm water outfalls, and approximately 24,145 cubic yards of fill material. The launching ramp, a portion of the crane platform, and two storm water outfalls would be located on the TVA property.

TVA has also received requests to relocate a portion of the Nickajack-Jasper 161-kilovolt (kV) Transmission Line (TL) Tap to Kimball Tap to Tennol that crosses the CBI property and to abandon this portion of the TL right-of-way. In order to accommodate this request, CBI would facilitate the conveyance to TVA of a 100-foot-wide right-of-way on a portion of the neighboring property. The TL would be relocated to this new right-of-way, a portion of CBI property, and a portion of Nickajack Port Authority property. CBI and/or adjacent landowners would convey to TVA a permanent easement for a 100-foot-wide right-of-way along the entire route of the TL relocation.

Current access to the CBI property and Nickajack Port is via Port Road. Port Road is a rural, two-lane private road that is located on TVA property and under permanent easement to Nickajack Port Authority. In order to allow public access on Port Road, Nickajack Port Authority has agreed to abandon a portion of the existing permanent easement. TVA anticipates that the City of New Hope would request that TVA dedicate a portion of Port Road for public use.

TVA is proposing to enroll CBI in the Enhanced Growth Credit Program (EGCP). The EGCP is available as an economic development incentive providing credits on power bills to qualifying companies that locate or expand in the Tennessee Valley. TVA is also proposing to make available to CBI the Valley Advantage Program.

The potential effects of the proposed land use and permitting actions, as well as the resulting construction and operation of CBI's fabrication plant, have been evaluated in an environmental assessment (EA) prepared by TVA; this EA is attached and incorporated by reference. The EA evaluated two alternatives in detail: the No Action Alternative and the Action Alternative. Under the No Action Alternative, TVA would not grant the necessary approvals, relocate the TL, or abandon the existing TL right-of-way, and would not issue the requested Section 26a approval. Furthermore, TVA would not grant the necessary land use approvals associated with the

dedication of Port Road. Under the Action Alternative, TVA would dispose of the 1.1-acre shoreline tract and would grant CBI the necessary permits to construct the launching ramp, crane platform, and associated facilities. In addition, TVA would relocate the existing 161-kV TL, abandon the existing TL right-of-way, and grant the appropriate land use approvals for the dedication of Port Road. TVA would also enroll CBI in the EGCP and make available the Valley Advantage Program.

The EA concludes that the Action Alternative would not adversely impact floodplains. The proposal complies with Executive Order 11988 on floodplain management and the TVA Flood Control Storage Loss Guideline. Impacts to aquatic ecology, wetlands, plants, wildlife, visual resources, recreation, navigation, transportation, socioeconomics, and prime farmland would be insignificant, and there would be only minor temporary impacts to surface water. There would be no impacts to endangered or threatened terrestrial animal or plant species or species of conservation concern, and there would be no impacts to natural areas. The Action Alternative is consistent with the land use allocation of industrial/commercial development for this portion of TVA property.

TVA has formally consulted with the U.S. Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed species (primarily the pink mucket and Anthony's riversnail). TVA prepared a biological assessment (BA) and submitted it to the USFWS on January 23, 2009. The USFWS issued a biological opinion (BO) on May 11, 2009. The proposed action would affect listed aquatic species. The BO discusses in detail the potential "take" of federally listed species. However, with the conditions identified in the EA, the BA, and adherence to proper best management practices (BMPs), impacts to listed aquatic species would be minimized. With this mitigation, the Action Alternative would not jeopardize the continued existence of the pink mucket mussel and other federally listed aquatic species.

A memorandum of agreement (MOA) was prepared to mitigate effects to archaeological resources resulting from the Action Alternative, and TVA and the Tennessee State Historic Preservation Officer (SHPO) executed this agreement on April 29, 2009, and May 8, 2009, respectively. The MOA includes a recovery plan for treatment and mitigation of archaeological resources. With the execution of this MOA, TVA has met its obligations for compliance with Section 106 of the *National Historic Preservation Act*. The Action Alternative would have adverse impacts to archaeology. However, with the conditions listed in the EA and the MOA, impacts to cultural resources associated with the Action Alternative would be insignificant.

TVA also reviewed the cumulative impacts of a substation likely to be constructed by Sequachee Valley Electric Cooperative (SVEC) to provide electric power to CBI. SVEC anticipates that the increase in electric demand from CBI would exceed the existing TL system's capacity. TVA would provide electric power to the newly constructed substation via the relocated TL mentioned above. The TVA Natural Heritage database indicated that no wetlands, endangered or threatened species, or species of conservation concern were present within the construction area of the substation. There would be no or insignificant cumulative impacts to land use, floodplains, recreation, prime farmland, terrestrial ecology, aquatic ecology, water quality, socioeconomics, visual resources, and navigation. The scope of the MOA included investigations for the presence of archaeological resources within the associated SVEC substation.

The proposed action was the subject of a draft EA and public notice issued on November 21, 2008. Copies of the public notice were sent to adjacent property owners, placed on the U.S.

Army Corps of Engineers' (USACE) Web site, and placed in four local newspapers. A copy of the draft EA document was made available to local, state, and federal agencies and interested stakeholders. In addition, a copy of the draft EA was made available on TVA's Web site. TVA and USACE received a total of 12 public comments from federal, state, and local agencies and stakeholders. The USFWS and the SHPO commented on the respective consultations. Five state and local agencies along with four stakeholders commented in favor of the project. TVA has addressed all of the comments in the EA.

Mitigation and Permit Conditions

Under the Action Alternative, TVA would require CBI to comply with all applicable federal, state, and local regulations, as well as Section 26a permit conditions. In addition to adherence to TVA's Section 26a General Conditions, including construction-related BMPs, the following permit conditions and mitigation measures would be required. These measures and conditions would reduce the potential for adverse environmental effects and, at a minimum, would be listed as additional conditions in the Section 26a permit.

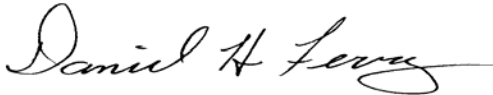
- A professional archaeologist must be present and monitor all ground-disturbing work within the boundary of Site 40MI213.
- CBI will comply with the stipulations of the executed memorandum of agreement (MOA) on archaeological resources.
- Prior to construction, CBI will develop and submit for TVA's approval a vegetation management plan (VMP) for Graham Branch and its tributaries. The VMP will include standard shoreline management zones.
- Site-specific best management practices (BMPs) needed to protect listed species shall be implemented (see Appendix B of the attached EA).
- The applicant shall fund conservation activities to benefit the pink mucket mussel and Anthony's riversnail. Conservation activities will be directed by the U.S. Fish and Wildlife Service (USFWS) and a committee established to oversee the use of these funds. Activities could include (but are not limited to) research of life history or habitat requirements of these species, captive propagation, population augmentation, and/or reintroduction efforts for pink mucket and Anthony's riversnail. The applicant will provide \$25,000 in funding for each of these species (a total of \$50,000).
- The applicant will commit to funding mollusk and habitat surveys of the project site at two years and five years after project completion to monitor the anticipated effects of the project. Should the monitoring results indicate the need, the terms of the BO will be invoked.
- The CBI facility shall be constructed as described in the biological assessment (BA). BMPs and all conditions contained in those plans will be implemented and strictly adhered to. The facility shall be operated as described. Barges will not fleet at the facility.

- CBI shall submit a mollusk monitoring plan to TVA, U.S. Army Corps of Engineers (USACE), and USFWS (Cookeville, Tennessee) for review and will be carried out as described in the BA.
- Any site lighting that extends above elevation 652-foot mean sea level (msl) shall be fully shielded and equipped with full cutoff features that limit the amount of waste light produced at a vertical angle of 80 degrees above the lowest light-emitting portion of the luminaire.
- Any building that extends above elevation 652-foot msl shall have exterior vertical and horizontal closure systems that are analogous in color to the architectural finishes of Nickajack Dam and its appurtenances.
- The applicant shall be advised in writing that anticipated flows and generation schedules for Nickajack Dam and Hydropower facility may be found at <http://lakeinfo.tva.gov/>.
- The applicant shall be advised in writing that the facility fronts on a commercial navigation channel and may be subject to wave and/or propeller wash and possible collision damage.
- The applicant must advise, at least 10 working days in advance, the USACE Nashville District Navigation Branch of the schedule and nature of the shoreline construction activities for the preparation of a Notice to Navigation Interests to advise mariners of the activity (contact: Owen Traughber at Owen.Traughber@ltn02.usace.army.mil).
- The launching ramp and crane platform shall be lighted in accordance with U.S. Coast Guard guidelines.
- When loading operations are underway, the towboat shall remain with the barge and shall not be left unattended.
- When loading operations are underway, the towboat and barge must be properly lighted at night.
- Additional fill materials needed for the construction of the manufacturing building, launching ramp, or crane platform shall be obtained from a previously approved or existing quarry. Otherwise, a *National Environmental Policy Act* review will need to be conducted on the borrow location(s).
- Any future development proposed within the limits of the 100-year floodplain, elevation 616.1-foot msl, shall be consistent with the requirements of Executive Order 11988.
- Any equipment or future facilities subject to flood damage shall be located above the TVA Flood Risk Profile elevation, 619.4-foot msl.
- All future development shall be consistent with the requirements of TVA's Flood Control Storage Loss Guideline.

- Warning signs will be placed on State Route 156 to notify the oncoming traffic of trucks entering the road. These signs will follow the standards found in the latest edition of the *Manual on Uniform Traffic Control Devices* published by the Federal Highway Administration.

Conclusion and Findings

TVA has assessed the potential impacts associated with the Action Alternative. We conclude that, with implementation of the above-described mitigation measures and permit conditions, the proposed land actions and issuance of the Section 26a approval would not be a major federal action significantly affecting the environment. Accordingly, preparation of an environmental impact statement is not required.



July 8, 2009

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Date Signed