

FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
PROPOSED FILL FOR
DEFOORS BROTHERS DEVELOPMENT
RIVER STREET LUXURY CONDOMINIUMS
ADJACENT TO TENNESSEE RIVER MILE 464.5R
HAMILTON COUNTY, TENNESSEE

Defoors Brothers Development submitted to Tennessee Valley Authority (TVA) on June 23, 2005, an application for approval required under Section 26a of the *TVA Act* to place approximately 3,800 cubic yards of fill within the 100-year floodplain. The location of the proposed fill and development is adjacent to Tennessee River Mile (TRM) 464.5R (right bank) on Nickajack Reservoir. The fill would enable construction of luxury condominiums at 600 River Street in downtown Chattanooga. The fill is necessary to elevate the first floor of the proposed development to a minimum of 2 feet above the 100-year flood elevation to comply with Chattanooga's floodplain ordinance. The areas around the building and parking areas would also be raised above the 100-year flood elevation.

TVA has assessed the impacts of the proposed fill in an environmental assessment (EA), which is incorporated by reference. The EA evaluates two viable alternatives: the No Action Alternative and the Action Alternative (Approve Fill in the Floodplain Alternative).

Under the No Action Alternative, TVA would not approve the 3,800 cubic yards of fill to be placed within the 100-year floodplain. The applicant would not be able to develop the property as presently proposed. The applicant may be able to develop the property with an alternate design not requiring fill in the floodplain. Under the Action Alternative, TVA would issue approval under Section 26a of the *TVA Act* to authorize placement of 3,800 cubic yards of fill within the 100-year floodplain. Placement of fill would enable the applicant to construct the luxury condominiums as presently planned. The placement of fill would be contingent upon completion of the archaeological site mitigation described below.

Impacts Assessment

TVA has determined that the proposed actions would not affect wetlands, endangered or threatened species, navigation, or recreational activities. The proposed action would affect floodplains, cultural resources, and water quality and aquatic life; potential impacts to these resources are described in the EA. TVA has determined that there is no practicable alternative to filling in the floodplain and that the proposed project would comply with Executive Order (EO) 11988. The proposed fill would adversely affect an archaeological site (40HA524) determined to be eligible for listing in the National Register of Historic Places. TVA has prepared a memorandum of agreement (MOA), which outlines the treatment by data recovery of the affected site and which demonstrates compliance with Section 106 requirements. The MOA stipulates the treatment plan agreed upon by TVA, the Tennessee State Historic Preservation Officer, and the other consulting parties. TVA has determined that, with implementation of the terms of the MOA, effects on cultural resources would be insignificant. The applicant's detailed *Grading and Erosion Control*

Plan, when implemented properly, would reduce the potential impacts to water quality and associated aquatic life from surface water runoff to insignificant levels.

Public Review

In accordance with EO 11988 on Floodplain Management and TVA's procedures for compliance with the *National Environmental Policy Act* (NEPA), TVA published a public notice of the proposed fill on its Web site on August 14, 2008. The comment period ended on August 28, 2008. In response to the public notice, TVA received one comment that requested information regarding documentation of any notice to affected Indian tribes or to state representatives of the Native American community. TVA responded to the comment on September 2, 2008.

Mitigation and Special Permit Conditions

In addition to adherence to standard and general permit conditions and the use of construction-related best management practices, TVA would require the applicant to comply with the terms of the MOA for data recovery from archaeological site 40HA524.

Conclusion and Findings

TVA has reviewed the impacts from the proposed fill for development of Defoors Brothers Development and has determined that approval under Section 26a of the TVA Act for the proposed fill would not be a major federal action significantly affecting the environment. Accordingly, preparation of an environmental impact statement is not required. The finding of no significant impact is contingent upon adherence to the mitigation described above.

 for

October 14, 2008

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Date Signed