

**FINDING OF NO SIGNIFICANT IMPACT
AND ADOPTION OF THE ENVIRONMENTAL ASSESSMENT
PREPARED BY THE UNITED STATES ARMY CORPS OF ENGINEERS
TENNESSEE VALLEY AUTHORITY
PERMANENT MOORAGE OF THE DELTA QUEEN STEAMBOAT
IN CHATTANOOGA, HAMILTON COUNTY, TENNESSEE**

The City of Chattanooga has submitted a joint application to the United States Army Corps of Engineers (USACE) and to the Tennessee Valley Authority (TVA) for permanent moorage of the Delta Queen Steamboat at Coolidge Park near downtown Chattanooga, Tennessee. Such a moorage is subject to a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 and approval under Section 26a of the TVA Act of 1933. The Delta Queen is moored at an existing dock facility at Tennessee River Mile 464.2, right (north) bank, immediately upstream of the Chief John Ross Bridge. This dock facility, which is owned by the City of Chattanooga, is currently permitted by USACE and TVA. The operators of the Delta Queen propose to operate the steamboat as a boutique hotel. Food, beverages, live entertainment, and facilities for special events would also be offered.

Minor modifications and upgrades to the existing dock facility as shown in Attachment A are required to accommodate the permanent moorage, and these modifications are also subject to TVA Section 26a approval. Thus, TVA will decide whether to approve the applicant's request.

The proposed dock modifications include a new 40-foot by 73-foot docking area at the bow (downstream) of the moored Delta Queen and another docking area between the Delta Queen and the shoreline. This docking area includes a 20-foot by 55-foot platform fronted by an attached 170-foot-long by 8-foot-wide walkway. Anchorage would consist of four steel stiff arms, steel wire tiebacks, and existing concrete deadmen. The Delta Queen is approximately 290 feet long and 60 feet wide. At moorage, it would extend approximately 105 feet from the normal summer pool shoreline. A debris deflector would be installed at the stern to prevent floating debris from accumulating in the paddlewheel. Utilities, i.e., potable water, sewage, electric power, and natural gas, to service the Delta Queen were approved previously at the dock, and approval for these utilities would remain effective under the requested TVA Section 26a approval.

Alternatives

USACE issued the environmental assessment (EA) entitled *Proposed Permanent Moorage of Delta Queen Steamboat at Mile 464.2, Right Bank, Tennessee River (Nickajack Reservoir), in Chattanooga, Hamilton County, Tennessee*, on November 19, 2010. That document is incorporated by reference. The three alternatives summarized below were developed and considered in the USACE EA. For the purposes of evaluating the potential environmental effects of its actions, TVA considered the same three alternatives.

- *No Action.* USACE would not issue the requested permit or the applicant would withdraw the permit application. Similarly, TVA would not issue the requested Section 26a approval for the dock upgrades or the permanent moorage of the Delta Queen.

Consequently, no construction or work requiring a USACE permit or TVA Section 26a approval would occur.

- *Applicant's Proposed Action.* USACE would unconditionally permit the proposed upgrades and modifications to the dock and would likewise permit the permanent moorage of the Delta Queen at the Coolidge Park dock. Similarly, TVA would issue unconditional Section 26a approval for these requested actions.
- *Applicant's Proposed Action With Added Special Conditions.* USACE and TVA would permit the applicant's proposed actions as described above. However, USACE and TVA would impose permit conditions on the applicant to minimize unavoidable environmental impacts to the maximum extent practicable. Most of the USACE permit conditions are routine requirements for TVA permits. This is the alternative preferred by TVA.

As mentioned in the USACE EA, other feasible project designs using different barge docking configurations or construction materials could have been used. The potential environmental effects of implementing these options are comparable to those expected under the proposed action. Likewise, permanent moorage could occur at other locations. The applicant found that the proposed mooring site at Coolidge Park was preferred because it provided ready public access and because of the existing availability of suitable docking arrangements that would require only minor modifications.

Impacts Assessment

Under the No Action Alternative, USACE would not issue the requested permits for permanent or long-term moorage of the Delta Queen, and TVA would not issue the requested Section 26a approvals. Thus, any potential effects from the proposed dock modifications would not occur. In the event the requested permanent moorage were denied, the Delta Queen would not have the necessary authorizations for permanent moorage and could possibly be moved to another location, provided all necessary permits for moving the Delta Queen were obtained.

Under the two Action Alternatives, i.e., the Applicant's Proposed Action Alternative or the Revised Action With Special Conditions Alternative, USACE would permit the applicant's proposed actions, and TVA would issue the appropriate Section 26a approvals. However, under the second Action Alternative, both USACE and TVA would impose conditions to reduce the potential for certain adverse environmental effects. Based on its analysis, USACE determined that implementation of the applicant's proposed action under either of the two Action Alternatives would result in relatively minor adverse environmental impacts and would have beneficial socioeconomic effects.

In its EA, USACE determined that minor or no effects would occur to the following resources under either of the Action Alternatives: water currents; circulation or drainage patterns; surface water quality; susceptibility of shoreline erosion; aquatic habitat; terrestrial habitat; water supplies; water-related recreation; aesthetic quality; traffic patterns; safety; air quality; noise levels; land use classification; economics; general environmental concerns; and consideration of private property. TVA concurs with these determinations.

No wetlands are located in the area of the proposed action, and no wetlands would be affected by the proposed action. Thus, the action is consistent with Executive Order (EO) 11990 (Protection of Wetlands).

As stated in the USACE EA, the United States Coast Guard (USCG) conducted an initial risk assessment for the proposed mooring based on six parameters: location, traffic, response, anticipated environmental factors, severe and sudden environmental factors, and passenger exposure. The USCG determined that the chosen permanent mooring site would present very low risks to other maritime interests. Additionally, the USACE Navigation Branch determined that the proposed moorage would result in minimal potential navigation effects. TVA concurs with these determinations and considers any potential effects to navigation to be minor and insignificant.

In response to Joint Public Notice (JPN) 09-31 (see Attachment B), the United States Fish and Wildlife Service (USFWS) stated in a letter of May 1, 2009 (Attachment C), that based on currently available information and collection records, no federally listed or proposed threatened or endangered species are known to occur within the project area. Thus, USACE determined that the proposed actions would have no effect on federally listed or proposed threatened or endangered species or on designated critical habitat. A review of the TVA Natural Heritage database indicated that no rare or listed terrestrial animals are known to occur within 3 miles of the project site. Four federally listed and five state-listed aquatic species occur within a 10-mile radius of the site. Additionally, the large flowered skullcap, a federally listed as threatened plant, is known to occur within 5 miles of the project, and four state-listed plant species of conservation concern are known to occur within 5 miles. However, no such species are known to occur at the proposed permanent mooring site or in the immediate area. Because of the nature of the proposed actions, TVA has determined that the proposed activities would not affect any federally or state-listed species or their habitats. Thus, the requirements of Section 7 of the Endangered Species Act are satisfied.

As stated in the USACE EA, the proposed dock modifications have been designed to accommodate lake fluctuations, including the 100-year flood. This design would allow the Delta Queen to operate as a floating hotel while being held securely in place during high water events. Thus, the permanent moorage would not affect local flood damage reduction functions. Further, a traditional hotel facility could be located in many places outside the floodplain. However, a floating hotel, such as that offered by the Delta Queen, is by its nature restricted to being located in the floodplain, albeit at various possible locations along a waterway. Therefore, there is no practicable alternative to locating such a facility in the floodplain. Thus, the conditions of EO 11988 (Floodplain Management) have been met.

In response to the JPN, the Tennessee Historical Commission (THC) informed USACE in a letter of June 3, 2010 (Attachment D), that the proposed action may adversely affect the Delta Queen, a historic property that has been designated a National Historic Landmark. However, following subsequent consultation between THC and USACE, THC determined that the proposed project will not adversely affect this National Historic Landmark provided the mitigation measures outlined in USACE's letter of October 7, 2010 (Attachment E), are implemented (see Attachment F). TVA concurs with this determination and has included these measures as conditions of its Section 26a approval.

Mitigation and Special Permit Conditions

In addition to its standard permit conditions, TVA will impose nonroutine mitigation measures and special permit conditions as terms and conditions of approval under Section 26a of the TVA Act. The applicant's failure to comply with these conditions can be grounds for the revocation of Section 26a approval. As the adjacent landowner and the holder of this approval, the City of Chattanooga is responsible for compliance with any and all requirements in this permit, including those requirements pertaining to the operation and maintenance of the Delta Queen.

Section 26a approval shall become null and void if the City of Chattanooga is no longer the adjacent landowner (i.e., the owner of Coolidge Park). The permit instrument does not prevent Delta Queen Steamboat from navigating away from port if the owners so desire. The following nonroutine terms and conditions of approval shall apply.

1. The TVA Section 26a approval shall expire 10 years from the date of issuance. A request for renewal will be considered by TVA, provided a complete application for renewal is submitted to TVA no earlier than 18 months but no less than 12 months prior to the expiration date of this approval. If such a timely application for renewal is submitted, the previous approval shall remain in effect until a decision is made by TVA as to the renewal of the approval. Upon expiration or revocation of this approval, all approved structures shall be removed at applicant's own cost unless TVA grants written approval to leave the permitted structures in place.
2. TVA may terminate its Section 26a approval if it determines that the Delta Queen has ceased to operate for more than 60 days as a hotel and restaurant.
3. Use of the Delta Queen as residences or offices or for any other nonhotel purposes is prohibited.
4. For the duration of the permanent moorage of the Delta Queen at Coolidge Park, the City of Chattanooga shall establish and maintain evidence of insurance sufficient to cover all removal and salvage costs with respect to the Delta Queen. Removal costs are those necessary to remove the Delta Queen from its current location in the event that it is no longer being used as a commercial floating structure at the permitted moorage (Coolidge Park). Removal costs include, without limitation, the cost of transporting the Delta Queen to a safe destination, mooring at this destination, and maintaining the Delta Queen in good condition at Coolidge Park pending its transportation to a safe destination. Salvage costs are those necessary to extricate the Delta Queen from the river channel in the event it sinks and to remove the resulting debris and pollution. This evidence of insurance shall be in an amount equal to or greater than \$1 million and shall be provided to TVA upon request. Any such evidence of insurance shall be in addition to the evidence of financial responsibility required under any applicable law.
5. As stated in the permit application, no physical alteration or modification (internal or external) whatsoever will be conducted on the Delta Queen. Routine maintenance is allowed.
6. No fixed gangways, walkways, steps, and/or similar structures may be permanently attached to the Delta Queen.
7. The mooring of commercial or recreational watercraft against the Delta Queen is prohibited.

Public and Intergovernmental Review

USACE received 92 comments in response to JPN 09-31. Respondents included four elected officials, one local agency, one state agency, three federal agencies, six organizations, and 77 members of the public. Consideration of these comments is provided in detail in the USACE EA.

In its May 1, 2009, letter to USACE (Attachment C), the USFWS stated that it considers USACE's requirements under Section 7 of the Endangered Species Act to be fulfilled. TVA independently determined that the proposed actions would not affect any species listed as

threatened or endangered or any designated critical habitats. Thus, TVA's responsibilities under Section 7 of the Endangered Species Act have been satisfied.

In its June 3, 2009, letter (Attachment D), the THC stated that the proposed project would adversely affect a property that is eligible for listing in the National Register of Historic Places (NRHP) and recommended initiation of immediate consultation. However, following further consultation, the THC determined that the project would not adversely affect any NRHP-listed property provided certain conditions are met (see Attachment E). USACE and TVA have imposed these conditions. Thus, the requirements of Section 106 of the National Historic Preservation Act have been met.

Conclusion and Findings

TVA has reviewed the USACE EA and determined that the scope, alternatives considered, and content of the EA are adequate. Based on its independent review, TVA has decided to adopt the November 19, 2010, USACE EA, which is incorporated by reference. TVA's Preferred Alternative is the *Applicant's Proposed Action With Added Special Conditions*. Contingent upon the implementation of the measures stipulated in the USACE EA and the implementation of the mitigation and special permit conditions listed above, TVA concludes that approval under Section 26a of the applicant's request for permanent moorage would not have a significant impact on the quality of the environment. Accordingly, an environmental impact statement is not required.



August 30, 2011

Susan J. Kelly, Senior Manager
Federal Determinations
Environmental Permits and Compliance
Tennessee Valley Authority

Date Signed

Attachments

- A. Proposed Upgrades to the Existing Mooring Facility
- B. Joint Public Notice 09-31
- C. May 1, 2009, Letter to USACE from USFWS
- D. June 3, 2009, Letter to USACE from THC
- E. October 7, 2010, Letter from USACE to THC
- F. October 15, 2010, Letter to USACE from THC



US Army Corps
of Engineers.

Public Notice

Public Notice No. 09-31 Date: April 10, 2009

Nashville District Application No. 5169500 Expires: May 4, 2009

Please address all comments to: Regulatory Branch, 3701 Bell
Road, Nashville, TN 37214-2660; ATTN: J. Ruben Hernandez

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
TENNESSEE VALLEY AUTHORITY

SUBJECT: Proposed Permanent Moorage of Historic Delta Queen
Paddlewheel Steamboat at Mile 464.1, Right Bank, Tennessee River

TO ALL CONCERNED: The application described below has been
submitted for a Department of the Army (DA) Permit pursuant to
Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and
Tennessee Valley Authority (TVA) approval pursuant to **Section 26a
of the TVA Act (16 USC 831y-1)**.

APPLICANT: City of Chattanooga
1102 South Watkins Street
Chattanooga, Tennessee 37404

LOCATION: Tennessee River Mile (TRM) 464.1, right bank (R),
Nickajack Lake, immediately upstream of the Chief John Ross
Drawbridge, in Chattanooga, Hamilton County, Tennessee,
Lat 35.0599°, Lon -85.3088°, Chattanooga-TN Quad (105-SE).

BACKGROUND: The Tennessee Riverboat Company (TRC), owners of the
Chattanooga Star Riverboat (CSR), relocated its passenger dock in
1999 to TRM 464.1R. The TRC facilities consisted of a series of
interconnected docks and barges measuring approximately (approx)
237' long by 50' deep [measured from the normal summer pool (NSP)
shoreline, Elevation 634]. The 24' deep CSR was moored along the
outside of the docking facilities. In 2006, the TRC permit was
transferred to Chattanooga Water Taxi, LLC (CWT). The applicant
presently leases the water frontage area to CWT.

DESCRIPTION: CWT plans to operate the Delta Queen Steamboat (DQS)
as a hotel on the existing dock facilities at Coolidge Park. DQS
has 88 staterooms and cabins and would offer food and beverage,
live entertainment, and educational opportunities for the
community. All utilities necessary for the operation exist on
site. Two new docking areas would be added: one at the bow,
measuring 40'x73', and one between the vessel and the shoreline,
measuring 20'x55'. Anchoring would consist of a combination of

Public Notice No. 09-31

steel stiff arms, steel wire tie backs, and existing concrete deadmen with rings. The mooring/anchoring system was designed by a professional engineer taking into account river currents and maximum reservoir fluctuations. The DQS's approximate dimensions are 60' deep by 290' long which would result in a total extension of approx. 105' measured from the NSP shoreline. A debris deflector would be installed on the stern wheel of the vessel.

On February 23, 2009, the U.S. Coast Guard (USCG) conducted a "Permanently Moored Vessel Initial Risk Assessment" for DQS. The assessment did not identify the need for additional mitigation or for a more detailed formal assessment. In addition, USCG has certified DQS as an "Attraction Vessel". This status will allow DQS to receive limited number of visitors for short duration (no overnight accommodations) while the permanently moored status is being processed.

The applicant investigated the possibility of using other available alternative sites in the Chattanooga area. Coolidge Park was the only logical site considering it is an existing commercial waterfront facility with infrastructure and utilities in place that allow the DQS to moor with practically no shoreline disturbance.

The DQS was built in 1927 and is recognized as a U.S. National Historic Landmark. The vessel's twin sister ship, Delta King riverboat, has been permanently moored on the Sacramento River, Sacramento, California, since 1987 and also offers overnight accommodations and similar services.

Plans of the proposed work are attached to this notice.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

Public Notice No. 09-31

The Corps of Engineers (Corps) is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

An Environmental Assessment will be prepared by this office prior to a final decision concerning issuance or denial of the requested DA Permit.

The DQS was built in 1927 and is recognized as a U.S. National Historic Landmark. Other than floating docks that would be positioned adjacent to the ship, no other modification would occur to the shoreline or adjacent uplands. The National Register of Historic Places has been consulted and no properties listed in or eligible for the Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination, and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Other federal, state, and/or local approvals required for the proposed work are as follows:

- Tennessee Valley Authority (TVA) approval under Section 26a of the TVA Act. In addition to other provisions of its approval, TVA would require the applicant to employ best management practices to

Public Notice No. 09-31

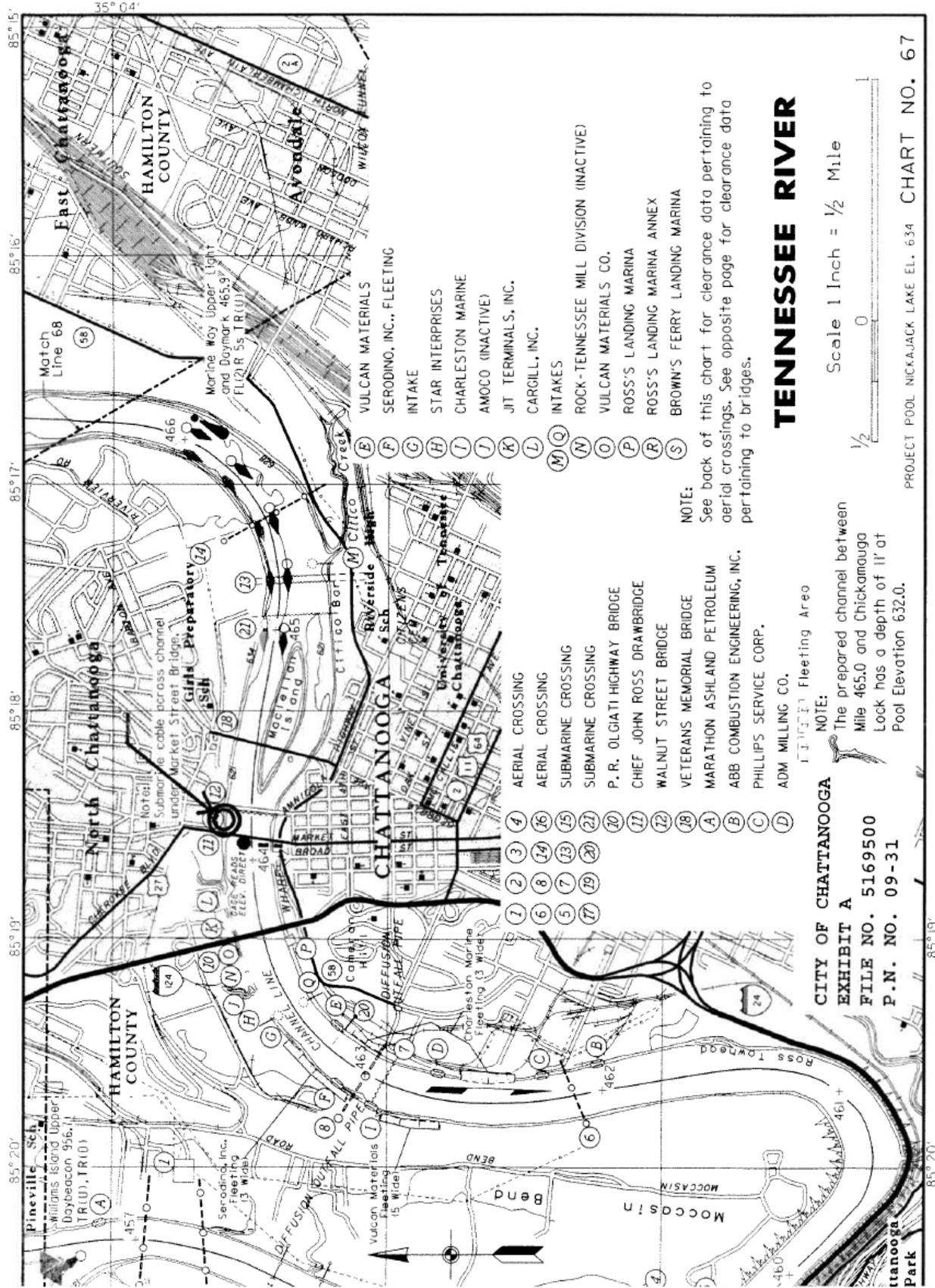
control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before May 4, 2009, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: J. Ruben Hernandez, at the above address, telephone (615) 369-7519. It is not necessary to comment separately to TVA since copies of all comments will be sent to that agency and will become part of its record on the proposal. However, if comments are sent to TVA, they should be mailed to Chickamauga-Hiwassee Watershed Team, Attn: J. Scott Lea, 1101 Market Street (PSC 1E C), Chattanooga, Tennessee 37402-2801.

If you received this notice by mail and wish to view all of the diagrams, visit our web site at:

<http://www.lrn.usace.army.mil/cof/notices.htm>, or contact Mr. Hernandez at the above address or phone number.



85° 20' 85° 19' 85° 18' 85° 17' 85° 15' 35° 04'

CITY OF CHATTANOOGA
EXHIBIT A
FILE NO. 5169500
P.N. NO. 09-31

NOTE:
 The prepared channel between
 Mile 465.0 and Chickamauga
 Lock has a depth of 11' at
 Pool Elevation 632.0.

NOTE:
 See back of this chart for clearance data pertaining to
 aerial crossings. See opposite page for clearance data
 pertaining to bridges.

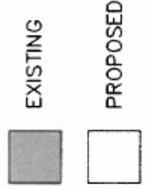
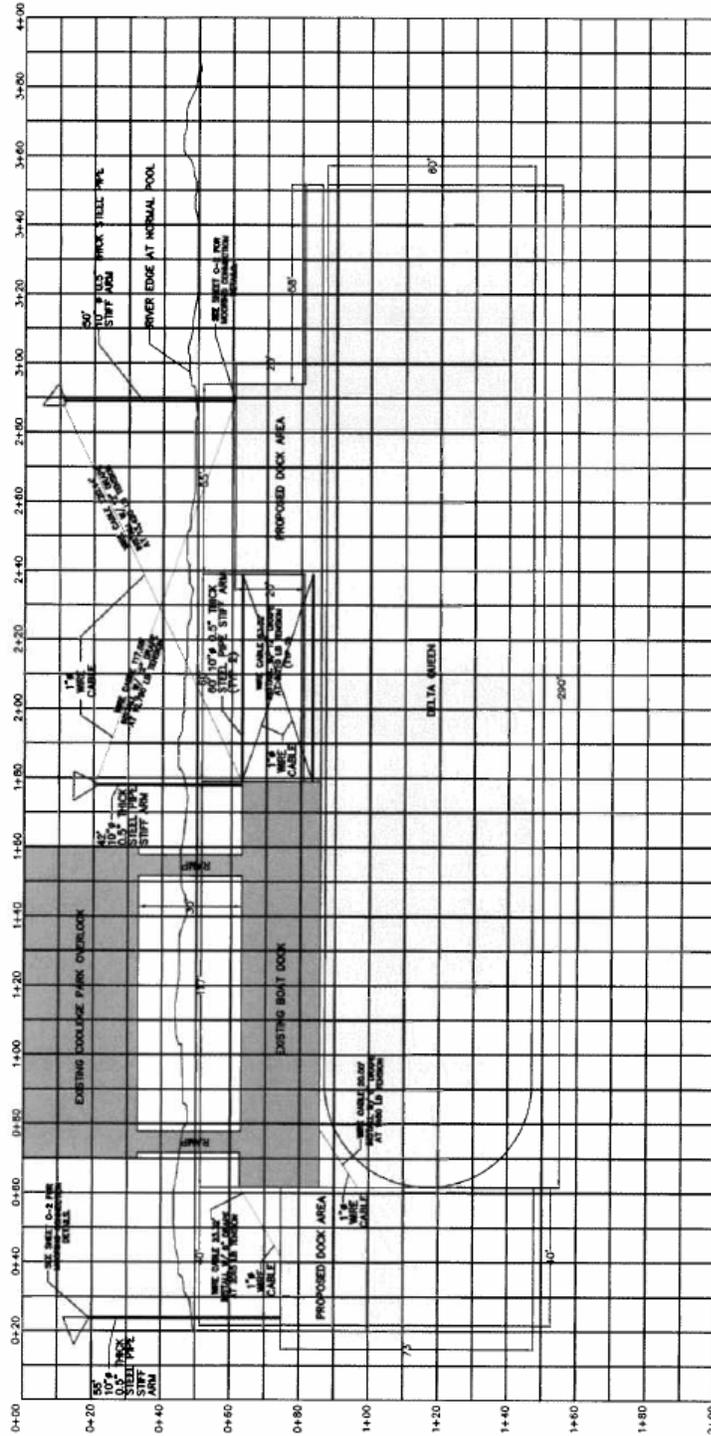
TENNESSEE RIVER

Scale 1 Inch = 1/2 Mile

PROJECT POOL NICKAJACK LAKE EL. 634 CHART NO. 67



MOORING PLAN
FOR PERMITTING
PURPOSES ONLY



DELTA QUEEN MOORING PLAN
SCALE: 1"=20'

CITY OF CHATTANOOGA
EXHIBIT C
FILE NO. 5169500
P.N. NO. 09-31

EXHIBIT

MILLER-McCOY, INC.
 119 GREENSBORO, NORTH CAROLINA 27409
 (704) 766-5068

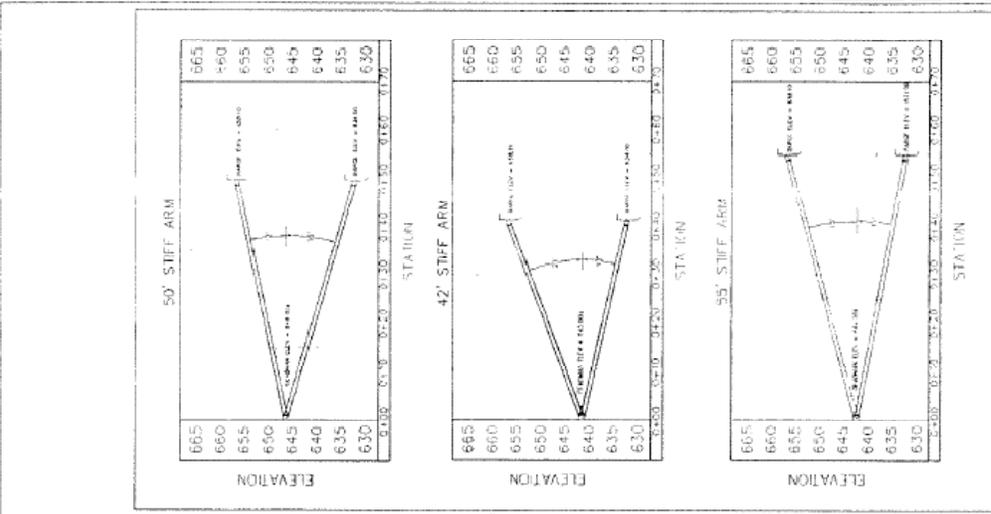
HARRY PHILLIPS
 CHATTANOOGA WATER TREATMENT PLANT
 100 HAYWATER STREET
 CHATTANOOGA, TN 37405
 (423) 766-5068

DELTA QUEEN
 BARGE
 TENNESSEE RIVER
 CHATTANOOGA, TN

| NO. | DATE | DESCRIPTION |
|-----|------|-------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |

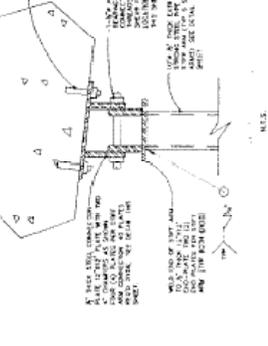
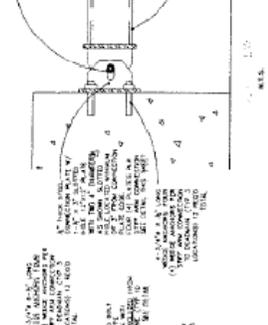
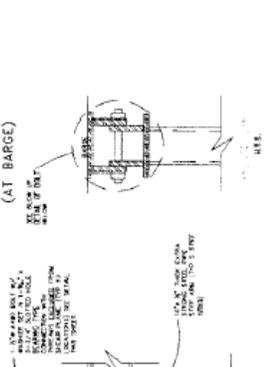
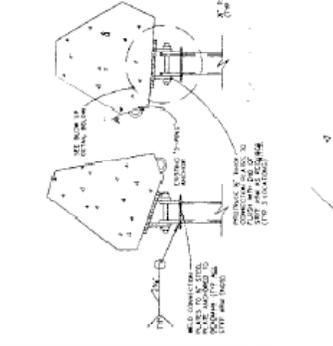
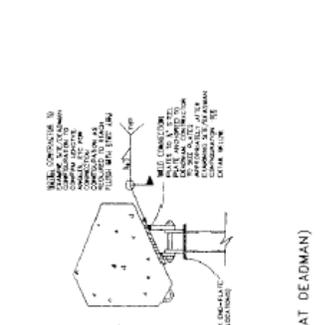
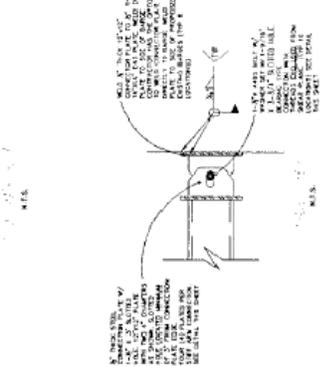
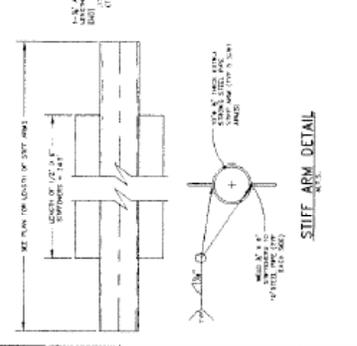
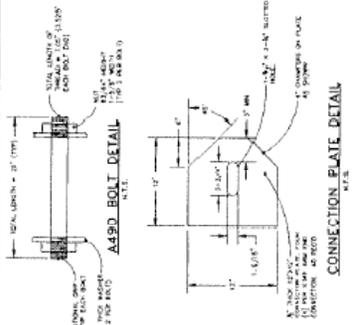
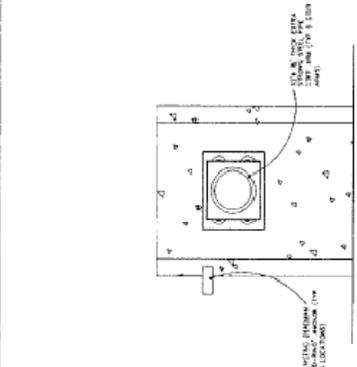
STIFF ARM EXHIBIT

DATE: 11-20-09
 DRAWN BY: ENC
 CHECKED BY: BWM
 PROJECT NO.: 7809
 SHEET NUMBER: C-3



STIFF ARM ROTATION

CITY OF CHATTANOOGA
EXHIBIT D
FILE NO. 5169500
P.N. NO. 09-31



STIFF ARM CONNECTION DETAIL



MAY 04 2009

United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

May 1, 2009

Lt. Colonel Bernard R. Lindstrom
District Engineer
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, Tennessee 37214

Attention: Mr. J. Ruben Hernandez, Regulatory Branch

Subject: Public Notice No. 09-31. City of Chattanooga, Proposed Riverboat Mooring,
Tennessee River Mile 464.1, Right Bank, Hamilton County, Tennessee.

Dear Colonel Lindstrom:

Fish and Wildlife Service personnel have reviewed the subject public notice. The proposed project would involve the permanent moorage of the Delta Queen Steamboat at Tennessee River Mile 464.1R, Hamilton County, Tennessee. The Delta Queen Steamboat would be operated as a hotel at the existing dock facilities at Coolidge Park. The proposed moorage would require the construction of a 40-foot by 73-foot dock at the bow and a 20-foot by 55-foot dock between the vessel and shoreline. Anchoring would consist of a combination of steel stiff arms, steel wire tie backs, and existing concrete deadmen with rings. All utilities necessary for the operation currently exist on the site. The following constitute the comments of the U.S. Department of the Interior, provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.):

Endangered species collection records available to the Service do not indicate that federally listed or proposed endangered or threatened species occur within the impact area of the project. We note, however, that collection records available to the Service may not be all-inclusive. Our data base is a compilation of collection records made available by various individuals and resource agencies. This information is seldom based on comprehensive surveys of all potential habitat and thus does not necessarily provide conclusive evidence that protected species are present or absent at a specific locality. However, based on the best information available at this time, we believe that the requirements of section 7 of the Endangered Species Act of 1973, as amended, are fulfilled. Obligations under section 7 of the Act must be reconsidered if (1) new information reveals impacts of the action that may affect listed species or critical habitat in a manner not previously considered, (2) the action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or critical habitat designated that might be affected by the action.

We do not anticipate significant adverse impacts to fish and wildlife or their habitats as a result of this project. Therefore, the Service has no objection to the issuance of a permit for the work described in the subject public notice.

Thank you for this opportunity to review the subject notice. Please contact Robbie Sykes of my staff at 931/528-6481 (ext. 209) if you have questions about these comments.

Sincerely,



Lee A. Barclay, Ph.D.
Field Supervisor

cc: Robert Todd, TWRA, Nashville, TN
Dan Eagar, TDEC, Nashville, TN
Todd Bowers, EPA, Atlanta, GA
✓ Scott Lea, TVA, Chattanooga, TN

Attachment D. June 3, 2009, Letter to USACE From THC



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

June 3, 2009

Mr. J. Ruben Hernandez
COE-Nashville District
3701 Bell Road
Nashville, Tennessee, 37214

RE: COE-N PERMIT, PERMANENT MOORING/DELTA QUEEN, CHATTANOOGA, HAMILTON COUNTY

Dear Mr. Hernandez:

In response to your request, received on Tuesday, May 26, 2009, we have reviewed the additional documents you submitted regarding your proposed Corps of Engineers permit undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings.

Considering available information, we find that the project as currently proposed MAY ADVERSELY AFFECT PROPERTIES THAT ARE ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES. You should now continue your consultation with our office. Please be mindful that, because the Delta Queen is a National Historic Landmark, 36 CFR 800.10(a) requires: "that the agency official, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking. When commenting on such undertakings, the [Advisory] Council [on Historic Preservation] (Council) shall use the process set forth in Sections. 800.6 through 800.7 and give special consideration to protecting National Historic Landmarks as specified in this section. 36 CFR 800.10(b) requires: "the agency official shall request the Council to participate in any consultation to resolve adverse effects on National Historic Landmarks conducted under Sec. 800.6." 36 CFR 800.10(c) requires: "the agency official shall notify the Secretary of the Interior of any consultation involving a National Historic Landmark and invite the Secretary to participate in the consultation where there may be an adverse effect. The Council may request a report from the Secretary under section 213 of the act to assist in the consultation." 36 CFR 800.10(d) requires: "When the Council participates in consultation under this section, it shall report the outcome of the section 106 process, providing its written comments or any memoranda of agreement to which it is a signatory, to the Secretary and the head of the agency responsible for the undertaking."

Furthermore, 36 CFR 800.2(c)(5) requires the agency official to seek consultation with "certain individuals and organizations with a demonstrated interest in the undertaking [who] may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties." Such a consulting party is Ms. Jennifer Sandy, Program Officer, Midwest Office, National Trust for Historic Preservation, 53 West Jackson Boulevard, Suite 350, Chicago, Illinois 60604. Ms. Sandy has expressed an interest to this office in becoming a consulting party relative to the proposed undertaking, and we believe that her organizations concern with the proposed undertaking's effects upon historic properties fits her to be a consulting party.

Before proceeding with further comments on this proposed undertaking, we will need evidence that your agency is complying with those sections of 36 CFR Part 800 previously addressed. Please direct questions and comments to Joe Garrison (615) 532-1550-103. We appreciate your cooperation.

Sincerely,

E. Patrick McIntyre, Jr.
Executive Director and
State Historic Preservation Officer

EPM/jyg

Attachment E. October 7, 2010, Letter From USACE to THC



DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
3701 Bell Road
NASHVILLE, TENNESSEE 37214-2660

October 7, 2010

REPLY TO
ATTENTION OF:

Regulatory Branch (1145b1)

SUBJECT: File 5169500; Proposed Permanent Moorage of Historic Delta Queen Paddlewheel Steamboat at Mile 161.1, Right Bank, Tennessee River, in Chattanooga, Hamilton County, Tennessee

Mr. E. Patrick McIntyre
Tennessee Historical Commission
Deputy State Historic Preservation Officer
2941 Lebanon Road
Nashville, Tennessee 37243-0442

Dear Mr. McIntyre:

The Corps of Engineers, Nashville District (Corps), is processing an application from the City of Chattanooga for a Department of the Army (DA) permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403). The applicant has requested permission to moor the Delta Queen Steamboat at the subject location. Leanne and Randy Ingram, current vessel owners, are in the process of obtaining a lease agreement with the city to continue operating the vessel as a hotel at this location. Detailed project description and plans were included in Public Notice 09-31 which was previously provided to your office for review.

On August 31, 2010, Corps archaeologist Kyle Wright and I met with Dr. Joe Garrison to continue the Section 106 permit application coordination process. During our meeting, a list of conditions was developed that if added by the Corps to any DA permit issued for the proposed action would satisfy the THC's concerns on the undertaking. The conditions developed are listed below:

1. The applicant has stated that no physical alteration or modification (internal or external) whatsoever will be conducted on the vessel. A special permit condition will be written to state this issue specifically.
2. The Corps permit will not prevent the vessel from navigating away from port if so desired by the owners and allowed by the U.S. Coast Guard and/or a special act of the U.S. Congress.
3. No fixed gangways, walkways, steps, and/or similar structures may be permanently attached to the vessel.

- 2 -

4. TVA will be provided this list and encouraged to replicate those conditions in their Section 26a permit.

The Corps requests your concurrence that incorporating the above-listed conditions to the DA permit will satisfy our consultation requirements. If you have any questions or need additional information, please contact me at (615) 369-7519 or Kyle Wright at (615) 736-2553.

Sincerely,

J. Ruben Hernandez
Project Manager
Regulatory Branch

Attachment F. October 15, 2010, Letter to USACE From THC



October 15, 2010

TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

Mr. J. Ruben Hernandez
COE-Nashville District
3701 Bell Road
Nashville, Tennessee, 37214

RE: COE-N, DELTA QUEEN PERMANENT MOORING, CHATTANOOGA, HAMILTON COUNTY

Dear Mr. Hernandez:

In response to your request, received on Wednesday, October 13, 2010, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process. You may also find additional information concerning the Section 106 process and the Tennessee SHPO's documentation requirements at <http://www.tennessee.gov/environment/hist/federal/sect106.shtml>.

Based on available information, we concur that the project as currently proposed will NOT ADVERSELY AFFECT ANY NATIONAL REGISTER OF HISTORIC PLACES-LISTED PROPERTY SO LONG AS THE FOLLOWING CONDITION (S) ARE MET:

The conditions enumerated in your letter of October 7, 2010 are applied to this permit.

Unless project plans change, and so long as the condition is met, this office has no objection to the implementation of this project. Should project plans change, please contact this office to determine what additional action, if any, is necessary. Questions and comments may be directed to Joe Garrison (615) 532-1550-103. Your cooperation is appreciated.

Sincerely,

E. Patrick McIntyre, Jr.
Executive Director and
State Historic Preservation Officer

EPM/jyg