

Appendix C

APPENDIX C

404(B)(1) GUIDELINES COMPLIANCE EVALUATION (RESTRICTIONS ON DISCHARGE, 40 CFR 230.10): (A check in a block denoted by an asterisk indicates that the proposal does not comply with the guidelines.)

This evaluation pertains to the discharge of fill material associated with the construction of the launching ramp at Tennessee River Mile 77.8, Right Bank, Kentucky Lake, Houston, County, Tennessee.

I. Alternatives test.

- A. Are there available, practicable alternatives having less adverse impact on the aquatic ecosystem and without other significant adverse environmental consequences that do not involve discharges into "waters of the United States" or at other locations within these waters? [Yes(*)___ No x]
- B. If the project is in a special aquatic site and is not water-dependent, has applicant clearly demonstrated that there are no practicable alternative sites available? [Yes x No(*)___]

II. Special restrictions. Will the discharge:

- A. violate state water quality standards? [Yes(*)___ No x]
- B. violate toxic effluent standards (under Section 307 of the Act)? [Yes(*)___ No x]
- C. jeopardize endangered or threatened species or their critical habitat? [Yes(*)___ No x]
- D. violate standards set by the Department of Commerce to protect marine sanctuaries? [Yes(*)___ No x]
- E. Evaluation of the physical/chemical and biological characteristics and anticipated changes indicates that the proposed discharge material meets testing exclusion criteria for the following reason(s). [Yes x No ___]

(x) based on available information, the material is not a carrier of contaminants

- () the levels of contaminants are substantially similar at the extraction and disposal sites and the discharge is not likely to result in degradation of the disposal site and pollutants will not be transported to less contaminated areas
- () acceptable constraints are available and will be implemented to reduce contamination to acceptable levels within the disposal site and prevent contaminants from being transported beyond the boundaries of the disposal site

III. **Other restrictions.** Will the discharge contribute to significant degradation of "waters of the U. S." through adverse impacts to:

A. human health or welfare, through pollution of municipal water supplies, fish, shellfish, wildlife, and special aquatic sites?
[Yes(*)___ No x]

B. life stages of aquatic life and other wildlife?
[Yes(*)___ No x]

C. diversity, productivity, and stability of the aquatic ecosystem, such as loss of fish or wildlife habitat, or loss of the capacity of wetland to assimilate nutrients, purify water, or reduce wave energy?
[Yes(*)___ No x]

D. recreational, aesthetic and economic values?
[Yes(*)___ No x]

IV. **Actions to minimize potential adverse impacts (mitigation).** Will all appropriate and practicable steps (40 CFR 230.70-77) be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?
[Yes x No(*)___]

The mitigation measures included in the proposed action together with the standard erosion and sedimentation controls included in the DA permit conditions would adequately minimize pollution or adverse effects to the affected ecosystem.

Appendix D



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

March 19, 2008

Mr. Floyd Carnes
U.S. Army Corps of Engineers, Nashville District
Regulatory Branch
3701 Bell Road
Nashville, Tennessee 37214

RE: COE-N, PN# 08-15/BANK STAB/TRM/2 SITES, UNINCORPORATED,
PERRY COUNTY

Dear Mr. Carnes:

The above-referenced undertaking has been reviewed with regard to National Historic Preservation Act compliance by the participating federal agency or its designated representative. Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

We concur with your agency that in order to complete our review of this undertaking, we will need to receive from you a detailed archaeological survey report on the area of potential effect.

Upon receipt of the survey report, we will complete our review of this undertaking as expeditiously as possible. Until such time as this office has rendered a final comment on this project, your Section 106 obligation under federal law has not been met. Please inform this office if this project is canceled or not funded by the federal agency. Questions and comments may be directed to Jennifer M. Barnett (615) 741-1588, ext. 105.

Your cooperation is appreciated.

Sincerely,

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

EPM/jmb

3-27-08



United States Department of the Interior

FISH AND WILDLIFE SERVICE

446 Neal Street
Cookeville, TN 38501

April 11, 2008

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

Attention: Mark Carnes

Subject: Public Notice No. 08-15, Application Nos. 200800243 and 200800244. GGP Group, proposed riprap bank stabilization and construction of two boat launching ramps between Tennessee River Miles (TRM) 147.2 and 152.8, Kentucky Lake, Perry County, Tennessee.

Dear Colonel Lindstrom:

U.S. Fish and Wildlife Service (Service) personnel have reviewed the subject public notice. The project would involve the placement of riprap at two locations, from TRM 148.9 to 152.8 and from TRM 147.2 to 148.9. The lengths of bank to be stabilized at these areas are 25,664 and 13,200 feet, respectively. The riprap would not extend below an elevation of 356 feet above mean sea level (msl), which is three feet below the normal summer pool elevation for this area. Boat launching ramps would also be constructed at TRM 150.2 and at TRM 149. These ramps would be placed between elevations 364 and 355 feet above msl. Please consider the following comments.

We are concerned about the potential for wetland impacts due to ramp construction at TRM 149. The National Wetlands Inventory indicates that a forested wetland may exist at the site of the proposed ramp. We request that you address the potential for impacts and coordinate mitigation plans with regulatory and resource agencies as appropriate.

While the effort to provide long-term stabilization of banks is encouraging, we are concerned about the potential for impacts to endangered mussels. The orange-foot pimpleback (*Plethobasus cooperianus*), a federally endangered species, has been found within a mile of, and may actually occur within, the proposed permit area. The disturbance of substrate immediately adjacent to the river bank could result in takings of this mussel or other endangered species. We are not aware of the conduct of any recent mussel surveys within the potential impact zone of the proposed project. Therefore, the applicant should assess the potential for presence of the orange-foot pimpleback and other mussels at the site. We recommend that a mussel survey be conducted within all areas of potential substrate disturbance (including the placement of riprap). Because presence of mussels may require additional sampling to determine the potential presence of endangered species, we request that you coordinate with us regarding specifications of a survey plan prior to initiation of any sampling efforts. Finally, you should assess potential

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impacts and determine if the proposed project may affect endangered mussels. Further consultation will be necessary if your finding is "may affect". We recommend that you submit a copy of your assessment and finding to this office for review and concurrence.

In conclusion, we recommend that the permit be held in abeyance until the wetlands and mussel concerns are adequately addressed through thorough coordination with the appropriate regulatory and resource agencies. Thank you for this opportunity to review the subject notice. Please contact David Pelren of my staff at 931/528-6481 (ext. 204) if you have questions about our comments.

Sincerely,


for Lee A. Barclay, Ph.D.
Field Supervisor

Xc: Darryl Williams, EPA, Atlanta, GA
Dan Eagar, TDEC, Nashville, TN
Rob Todd, TWRA, Nashville, TN



TENNESSEE WILDLIFE RESOURCES AGENCY

ELLINGTON AGRICULTURAL CENTER
P. O. BOX 40747
NASHVILLE, TENNESSEE 37204

April 14, 2008

Floyd Carnes
Nashville District Corps of Engineers
Regulatory Branch
3701 Bell Road
Nashville, TN 37214

Re: Public Notice #08-15
Applicant: GGP Group
Proposed Riprap Bank Stabilization between Tennessee River Miles 147.2-152.8 Right Bank and Construct Two Boat Launching Ramps
Site One: Tennessee River Miles 148.95-152.8, Right Bank, Kentucky Lake
Site Two: Tennessee River Miles 147.2-148.9, Right Bank Kentucky Lake
Perry County, Tennessee

Dear Mr. Carnes:

The applicant proposes to place approximately 5,000 cubic yards of limestone riprap along 25,664 feet of shoreline at site one and place approximately 2,500 cubic yards of limestone riprap along 13,200 feet of shoreline at site two and construct two boat ramps in Kentucky Lake in Perry County.

The Tennessee Wildlife Resources Agency has concerns regarding potential impacts to state and federally endangered mussels and wetland impacts due to the proposed project. The state and federally endangered orangefoot pimpleback (*Plethobasus cooperianus*) has been documented within one mile of the proposed project area. In addition, the state and federally endangered pink mucket (*Lampsilis abrupta*) has been documented near the project area. There is the potential that either or both of these species could be impacted by the proposed project, especially the proposed construction of two boat launching ramps. The Tennessee Wildlife Resources Agency requests that the applicant conduct a mussel survey of the footprint of the proposed boat launching ramps, to include an area 100 feet upstream and 100 feet downstream and 30 feet out from the ends of the proposed boat launching ramps, to determine the presence or absence of state and federally listed mussels prior to permit issuance. If state and federally listed mussels are determined to be within the project footprint, further consultation with the Tennessee Wildlife Resources Agency and the U.S. Fish and Wildlife Service should be initiated prior to permit issuance in an effort to avoid or minimize impacts to these species.

According to the U.S. Fish and Wildlife Service's Wetlands Geodatabase there is the potential of wetland impacts due to site two of the proposed project. A palustrine, forested, broad-leaved deciduous, wetland has been documented near site two. We request that the applicant address

The State of Tennessee

IS AN EQUAL OPPORTUNITY, EQUAL ACCESS, AFFIRMATIVE ACTION EMPLOYER

potential impacts to wetland resources due to this project. If wetland impacts due to the proposed project are significant enough, as determined under U.S. Army Corps of Engineers guidance; we request that the applicant be required to mitigate for these impacts.

The Tennessee Wildlife Resources Agency requests that this permit be held in abeyance until the applicant addresses the above mentioned concerns. If the applicant fails to address our concerns, we request that the permit be denied.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Robert M. Todd".

Robert M. Todd
Fish and Wildlife Environmentalist

cc: Steve Seymour, Region I Habitat Biologist
Jerry Strom, Region I Assistant Manager
Don Hubbs, TWRA Mussel Biologist
Dan Eagar, Division of Water Pollution Control
Lee Barclay, U.S. Fish and Wildlife Service
Darryl Williams, Environmental Protection Agency

Carnes, Mark LRN

From: Rob Todd [Rob.Todd@state.tn.us]
Sent: Monday, April 14, 2008 3:34 PM
To: Carnes, Mark LRN
Subject: TWRA Comments Regarding Public Notice 08-15 - GGP Group

Attachments: Floyd Carnes - USACE PN#08-15 - GGP Group - Perry County - Comment Letter 4-14-2008.doc



Floyd Carnes -
JSACE PN#08-15 ...
Mark:

First, I want to thank you for the extension on this public notice. I finally did get in contact with Don Hubbs, our mussel biologist, for his comments. The attached Word file contains the comments by TWRA regarding public notice 08-15 - GGP Group. A hard copy is in the mail for your files. Thank you for the opportunity to comment on this public notice.

Robert M. Todd
Tennessee Wildlife Resources Agency
Environmental Services Division
Ellington Agricultural Center
P.O. Box 40747
Nashville, TN 37204
Phone: 615-781-6572
Fax: 615-781-6667
E-mail address: Rob.Todd@state.tn.us

Carnes, Mark LRN

From: Rob Todd [Rob.Todd@state.tn.us]
Sent: Tuesday, April 15, 2008 11:01 AM
To: Carnes, Mark LRN
Cc: David Pelren
Subject: Public Notice 08-15 - GGP Group

Mark:

I have spoken with David Pelren of the USFWS who has been in contact with the applicant. He said that the applicant told him that all the work will be conducted in the dry and the wetlands will be avoided. Based on this additional information, the Tennessee Wildlife Resources Agency no longer has concerns regarding this project, and rescinds our request for a mussel survey, provided that the applicant does conduct the work in the dry and impacts to the wetlands are avoided.

Thank you for the opportunity to comment on this public notice.

Robert M. Todd
Tennessee Wildlife Resources Agency
Environmental Services Division
Ellington Agricultural Center
P.O. Box 40747
Nashville, TN 37204
Phone: 615-781-6572
Fax: 615-781-6667
E-mail address: Rob.Todd@state.tn.us



United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

April 21, 2008

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

Attention: Mark Carnes, Regulatory Branch

Subject: Public Notice No. 08-15, Application Nos. 200800243 and 200800244. GGP Group, proposed riprap bank stabilization and construction of two boat launching ramps between Tennessee River Miles (TRM) 147.2 and 152.8, Kentucky Lake, Perry County, Tennessee.

Dear Colonel Lindstrom:

U.S. Fish and Wildlife Service (Service) personnel reviewed the subject public notice, and we provided comments dated April 11, 2008. Since then, David Pelren of my staff spoke with Mr. John Graves, a representative of the GGP Group. We understand that the winter surface elevation of Kentucky Lake is 354 feet above mean sea level (msl). The lowest extent of the boat ramps would be at 355 feet above msl, and the lowest extent of riprap placement would be at 356 feet above msl. The work associated with this project would be conducted during a period when the water level is below the areas of proposed disturbance. We also learned during a conversation with Mark Carnes of your staff that he visited the subject site on March 13, 2008, and that each of the proposed boat ramps would be located outside of any existing wetland areas. Please consider the following comments.

Because the proposed work would be conducted when water levels are below the proposed areas of disturbance, we believe the potential for impacts to mussels is insignificant. Further, impacts to wetlands would be avoided by locating boat ramps outside of these areas. Based on adequate implementation of measures to avoid disturbance of mussels and wetlands, it is the Service's position that the project will result in an insignificant level of environmental impacts.

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 proposed action that may affect listed species or critical habitat in a manner not previously considered, (2) the

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proposed 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 proposed action.

In conclusion, we do not object to issuance of a permit for the subject proposal. Thank you for considering this input. Please contact David Pelren at 931/528-6481 (ext. 204) if you have questions about our comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lee A. Barclay".

Lee A. Barclay, Ph.D.
Field Supervisor

xc: Darryl Williams, EPA, Atlanta, GA
Dan Eagar, TDEC, Nashville, TN
Robert Todd, TWRA, Nashville, TN



TENNESSEE DEPARTMENT OF ENVIRONMENT & CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
401 CHURCH STREET
7th FLOOR L & C ANNEX
NASHVILLE, TENNESSEE 37243-1534

May 6, 2008

Jon Graves
GGP LLC
P.O. Box 370
Parsons, TN 38363

Subject: Application Deficiency
Rip Rap Bank Stabilization
Tracking number NRS 08.059
Perry County

Dear Mr. Graves:

Thank you for submitting an application for an Aquatic Resource Alteration Permit and thank you for accompanying me during my site visit on 4-25-08. The tracking number for your application is NRS 08.059 and the assigned permit coordinator is Benjamin Brown.

After making a site visit it is my conclusion that the application is incomplete. During the visit several concerns were brought to my attention that were not addressed in the application. First of all, according to the current application there are several wetlands which would be impacted by the bank stabilization project. There is a large forested wetland located in the southern portion of the property (approximately between river mile 151-152) which extended several hundred feet along the shoreline and was not in need of stabilization. If this area is to be impacted it should be described and delineated as indicated in sections 8.5 and 8.6 of the aquatic resource alteration application. Impacts to wetlands require mitigation and technical support as indicated in sections 11 and 12 of the application. As currently proposed rip rap placement would cause potential wetland impacts in the Powell Branch area, during my site visit we discussed that this area could be avoided, if this area is to be avoided revised plans should be provided indicating the exact location of where stabilization would occur in this location.

During the visit you stated there would be an additional gravel roadway installed in the White Oak area. Detailed plans showing the exact location of this roadway should be submitted (section 12 of application). We also discussed relocating the boat ramps; coordinates of new locations should be provided.

In addition to hard armoring, other methods of bank stabilization that have been proven effective for shoreline stabilization, supplementary methods should be considered as part of the required alternatives analysis. Alternatives can include only installing toe stabilization in areas with minimal erosion, an integrated bioengineering plan, avoidance of areas without erosion,

18 MAY 2008



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
401 CHURCH STREET
7TH FLOOR L & C ANNEX
NASHVILLE, TENNESSEE 37243-1534

July 7, 2008

Jon Graves
GGP L.L.C.
P.O. Box 370
Parsons, TN 38363

Subject: Aquatic Resource Alteration Permit NRS 08.059

Dear Mr. Graves:

We have reviewed your application for the proposed rip-rap and boat ramp installation. Pursuant to the *Tennessee Water Quality Control Act of 1977* (T. C. A. § 69-3-101 et seq.) and supporting regulations, the Division of Water Pollution Control is required to determine whether the activity proposed will violate applicable water quality standards.

Subject to conformance with accepted plans, specifications and other information submitted in support of application NRS 08.059, the state of Tennessee hereby issues an Aquatic Resource Alteration Permit (enclosed). Failure to comply with the terms of this permit or other violations of the *Tennessee Water Control Act of 1977* is subject to penalty in accordance with T.C.A. § 69-3-115.

It is the responsibility of the permittee to ensure that all contractors involved with this project have read and understood the permit conditions before the project begins. If you need any additional information or clarification, please contact Benjamin Brown at 615.532.0709 or by e-mail at Benjamin.Brown@state.tn.us.

Sincerely,

Benjamin Brown,
Natural Resources Section

- Cc: Columbia Environmental Field Office
- U.S. Army Corps of Engineers, Nashville District
- Lee Barclay, U.S. Fish and Wildlife Service, Cookeville, TN
- Rob Todd, Tenn. Wildlife Resources Agency, Nashville, TN
- Tom Welborn, U.S. Environmental Protection Agency, Atlanta, GA
- File copy



United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

September 24, 2008

Ms. Peggy W. Shute
Manager, Heritage Resources
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Re: FWS #08-FA-0790

Dear Ms. Shute:

This is in regard to the proposed construction of boat ramps on the Tennessee River at River Mile 149.1 and River Mile 149.9 in Perry County, Tennessee. Fish and Wildlife Service biologists have reviewed the results of a mussel survey conducted at the sites and we offer the following comments.

The surveys are adequate and support the conclusion of "not likely to adversely affect" with which we concur. In view of this, we believe that the requirements of section 7 of the Endangered Species Act have been fulfilled. Obligations under section 7 must be reconsidered, however, if: (1) new information reveals that the proposed boat ramps may affect listed species in a manner or to an extent not previously considered, (2) the proposed boat ramps are 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 proposed boat ramps.

Thank you for the opportunity to comment. If you have any questions, please contact Jim Widlak of my staff at 931/528-6481, ext. 202.

Sincerely,

Mary Jennings
for
Lee A. Barclay, Ph.D.
Field Supervisor



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

February 10, 2009

Mr. Floyd Carnes
United States Army Corps of Engineers
Nashville District
Regulatory Branch
3701 Bell Road
Nashville, Tennessee 37214

RE: COE-N, PN# 08-15/BANK STAB/TRM/2 SITES, UNINCORPORATED,
PERRY COUNTY, TN

Dear Mr. Perry:

At your request, our office has reviewed the above-referenced undertaking and proposed protective deed covenant in accordance with regulations codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739). Based on the information provided, we concur that the covenant avoids effects to archaeological site 40PY293 and that the revised project area contains no archaeological resources eligible for listing in the National Register of Historic Places.

If project plans are changed or archaeological remains are discovered during construction, please contact this office to determine what further action, if any, will be necessary to comply with Section 106 of the National Historic Preservation Act.

Your cooperation is appreciated.

Sincerely,

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

EPM/jmb

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