

FINAL ENVIRONMENTAL ASSESSMENT

(File No. 2006-01175)

Shady Oaks Community Water Use Facility
Louis Crowder
Charles Gilliland

Request for Proposed Fixed Community Boat Slip
Jagger Branch Mile 1.0, Left Bank, Tennessee River Mile 351.6, Right Bank,
Guntersville Lake, Marshall County, Alabama

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1.0 PURPOSE AND NEED FOR ACTION.

1.1 Background. On June 1, 2006, Mr. Louis Crowder and Mr. Charles Gilliland, Shady Acres Subdivision, 70 Majestic View Drive, Grant, AL 35747, submitted an application to the Department of the Army (DA) for a permit pursuant to **Section 10 of the Rivers and Harbors**. The final proposed work consists of construction of one fixed community boat slip. The facility would be located at Jagger Branch Mile 1.0, Left Bank, Tennessee River Mile 351.6, Right Bank, Guntersville Lake, Marshall County, Alabama. Lat 34° 28' 15", Long 86° 18' 14" USGS Quad Map Mt. Carmel. The facility would extend approximately 158 feet lakeward from the normal summer pool (NSP) Elevation 595.0. The facility would be approximately 65 feet wide and would accommodate 20 boats. The fixed structure would be constructed of pressured treated lumber and would be covered with galvanized metal roof and siding.

See Appendix A for plans of the proposed work, Public Notice 06-65. The request to construct a boat ramp and install shoreline rip rap originally proposed have been withdrawn from the approval request and are no longer part of the proposed action.

1.2 Decision Required. The proposed work is located on a water of the US as defined by 33 CFR Part 328 and on a navigable water of the United States (US) as defined by 33 CFR Part 329. **Section 10 of the Rivers and Harbors Act of 1899** prohibits the alteration or obstruction of any navigable water of the US unless authorized by the Secretary of the Army acting through the Chief of Engineers.

A DA permit is required; therefore, a decision must be made on one of the following:

- issuance of a permit for the proposal
- issuance of a permit with modifications or conditions
- denial of the permit

1.3 Other Approvals Required. In addition to the DA permit, other federal, state, and local approvals may be required for the proposed work. Tennessee Valley Authority (TVA) approval pursuant to Section 26a of the TVA Act is required for the work.

2.0 Public Involvement Process.

2.1 Public Notice On June 15, 2006, Public Notice 06-65 (Appendix A) was issued to advertise the proposed work. The PN was distributed to a wide list of interested parties that included federal, state, and local agencies, elected officials, private and public organizations, news agencies, individuals, and adjacent property owners. Several requests for a time extension for the public comment period were requested. The PN comment period was extended until July 29, 2006.

2.2 Responses to Public Notice

A total of thirty-six responses were received, 34 from private citizens and 2 from agencies. By letter dated July 12, 2006, the US Fish and Wildlife Service (USFWS) stated that there are no federally threatened and endangered listed species or Critical Habitat designations identified in the proposed construction site or in the vicinity of the proposed action. The FWS stated that best management practices (BMPs) should be employed prior to and maintained throughout the duration of the project to avoid or minimize sedimentation into the Tennessee River during all phases of construction. They also recommended that construction activities occur during low winter pool conditions. With the implementation of the BMPs, no significant adverse effects on fish and wildlife are expected to result and FWS has no objection to the issuance of the permit. By letter dated April 13, 2006, the Alabama Historical Commission stated additional information was needed. TVA staff provided a letter, dated November 22, with requested information and justification for site clearance. By letter dated November 28, the Alabama Historical Commission SHPO concurred with previous findings. It was determined the proposed work would not effect any known cultural resources

Comments from the general public, the USFWS and SHPO are included in Appendix B and were fully evaluated for consideration.

3.0 Environmental and Public Interest Factors Considered

3.1 Introduction. 33 CFR 320.4(a) states the decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Public Notice 06-65 listed factors that may be relevant to the proposal and must be considered. The following sections discuss those factors identified as relevant through the public interest review process and provide a concise description of the anticipated impacts. The relevant blocks are checked with a description of the impacts.

3.2 Physical/Chemical Characteristics and Anticipated Changes.

(x) baseflow. No issues for this project location.

(x) substrate. Minor disturbance of the affected bottom substrate would occur during the facility construction but due to small fraction involved relative to the total bottom area available, there would be only minor impacts.

(x) currents, circulation or drainage patterns and storm, wave and erosion buffers, shore erosion. Lake Guntersville exhibits a 3' winter drawdown. The proposed dock would have minimal effect on the area currents and circulation. Upland storm water drainage should be improved with the addition of the 30 inch culvert. The presence of the proposed facility would provide some protection to the adjacent bank from wave erosion.

(x) suspended particulates, turbidity. The construction of a fixed dock would result in minor turbidity impacts during construction however once construction ends, conditions should return to background levels.

(x) flood control functions. No issues for this project location.

(x) water quality (temperature, color, odor, nutrients). Construction of the fixed community boat dock would result in short-term water quality impacts during construction and insignificant long-term water quality impacts. Construction related BMPs would also reduce water quality impacts. Some boat owners may have to perform periodic boat maintenance while their boats are moored in the facility, resulting in inadvertent spillage of petroleum products associated with maintenance operations and boat moorage. If operating safely and normal housekeeping procedures are followed at the proposed facility, adverse water quality impacts related to spillage of petroleum substances would be minor.

3.3 Biological Characteristics and Anticipated Changes.

(x) special aquatic sites (wetlands, pool and riffle areas, refuges). There are no special aquatic sites including wetlands, refuges or pool and riffle areas in the proposed project area

(x) endangered or threatened species. USFWS stated that no federally listed or proposed endangered or threatened species occur within the project area.

(x) habitat for fish and aquatic organisms. There are no unique or important aquatic habitats near the area of proposed construction. The construction of the fixed community boat slip would increase fish habitat with the provision of shade and cover for fish and aquatic invertebrates. The docks would also provide attachment surfaces for algae and small aquatic organisms. The docks should provide shading, which is a positive benefit to fish and aquatic habitat on the river bottom. Construction of the dock would have a temporary minor impact on aquatic organisms until the area achieves equilibrium.

(x) wildlife habitat. Vegetative clearing for the construction of the fixed community dock would have some affect on the wildlife in the local area. The presence of construction workers and construction equipment may temporarily frighten wildlife from the area. The community facility, when completed may be a shoreline obstacle for the upland wildlife but considering the relatively small area to be impacted (when compared to the total forested habitat available in the surrounding area) and the mobility and adaptability of species that may occupy this area, the proposed action would result in only minimal short and long term wildlife impacts. The facility would provide a perch for birds and others animals for resting and in the pursuit of prey.

(x) biological availability of possible contaminants in dredged or fill material. There is no proposed dredge. No issues for this project location.

3.4 Human Use Characteristics and Anticipated Impacts.

(x) existing and potential water supplies; water conservation. This is an existing waterline along an easement on this property that extends across Jagger Branch. The proposed facility has been positioned as to not interfere with the location of this utility.

(x) air quality. Dust and general construction disturbance may temporarily affect air quality, until construction is finished and levels return to normal. The proposed activity would not exceed de minimus levels of direct emissions of a criteria pollutant or its precursors and is exempted by 40 CFR part 93.153 (See Section 5.3).

(x) general environmental concerns. No issues for this project location.

(x) traffic/transportation patterns. The fixed community boat dock users may add an increase to traffic along the road leading to the site. The increase in vehicular traffic by the users of the fixed community boat dock may be seasonal depending on whether the new homes will be primary residence or "summer homes".

(x) navigation, water-related recreation, safety. The proposed fixed community boat dock would provide a facility for Shady Oaks subdivision owners to safely moor their boats. Current usage of the reservoir at this location includes pleasure/recreation boating and fishing. With the presence of an additional fixed community boat dock in the river, a minor increase in boat traffic would result from those using the new facility. The proposed facility lakeward extension (158 feet) will not extend farther than adjacent existing dock facilities and is located well out of the commercial navigation path. Therefore the dock length will not interfere with commercial navigation. The proposed dock would provide an added water-related recreational benefit to the subdivision homeowners. All facilities should be securely anchored to prevent them from floating free during major floods thus reducing possible impacts to navigation.

(x) noise. Facility construction work would be performed during daylight hours. Equipment shall be limited to small machinery within normal ranges expected for construction equipment. Construction related noise impacts would be temporary. Any additional noise from use of the proposed facility would be minimal and similar to existing recreational noise levels from existing recreational uses occurring during the boating season.

(x) aesthetics. Overall scenic value in the project area is good. The proposed fixed community boat dock would add additional shoreline alteration and may be viewed as visually intrusive to some adjacent property owners in the vicinity; however, water use facilities are an integral part of the landscape of a lake. Since the proposed work is located adjacent to existing like structures, it would not likely be visually obtrusive to the majority of lake users. During construction, there would be a temporary visual effect from the work and the workers and equipment in the area.

(x) land use classification and consideration of private properties. The proposed community dock would be located along shoreline fronting private property with existing ingress and egress rights (The right to construct water use facilities). A community facility at this location is being proposed in lieu of multiple individual boat dock facilities in order to reduce overall shoreline impacts. The applicant has committed to relinquish water rights along an adjacent shoreline segment in order to further reduce shoreline impacts. The proposed action would not impede water access of nearby property owners.

(x) historic properties and cultural values. There are no known historic or archaeological sites that would be adversely affected by the proposed work.

(x) conservation or mineral needs/energy consumption or generation. No issues for this project location.

(x) food and fiber production. No issues for this project location.

(x) economics. The proposed fixed community boat dock would likely increase the property values by enhancing the lake benefits of the property(s) and providing protection to the boats moored there. The new community dock may attract buyers to the area, which would have a positive benefit to the developer and future property resell values. There will be a short-term stimulus to the local economy from the sale of goods and services in support of construction activities.

(x) environmental justice. The project was reviewed with respect to environmental justice and it has been determined that there is no disproportionate concentration of minority or low-income persons within the vicinity of the project site. Further, the proposed action would not affect minority or low-income persons.

(x) floodplain values. Construction of a fixed community boat dock is considered a repetitive action in the floodplain and would result in insignificant impacts. The proposed community dock would not impact floodplain values.

3.5 Cumulative and Secondary Impacts. This section considers what actions by others (including those actions completely unrelated to the action) have and will affect the same resources affected by the proposed action, determined relevant in Sections 3.2 through 3.4. Cumulative environmental effects for this action are assessed in accordance with USEPA 315-R-99-002, dated May 1999.

In this case, a subjective five-year focus period for reasonably foreseeable future actions on the same resources, on the river and uplands in the vicinity of the proposed action, both by the applicant and by others includes:

- More changes to land use patterns in the area
- Upland construction in the area due to increase in available boat slips
- Construction of new adjacent water use facilities

- Future dredging of this site
- Increases and changes in boat slips and waterfront facilities
- Placement of riprap (floodplain fill) on the river banks by others in the vicinity
- Maintenance and/or improvement to area roads

Determining the magnitude and significance of the effects of future activities on the same resources affected by the proposed action would have to be addressed on a case-by-case basis. In this case, while there would be temporary and permanent impacts on relevant resources; given the relatively small area of impact, the proposal is not anticipated to have a cumulative effect on the sustainability of environmental resources affected by the action.

4.0 ALTERNATIVES

4.1 Introduction. This section discusses alternatives as required by 33 CFR 320.4(a)(2). The relevant environmental issues identified were used to formulate the alternatives. The alternatives that were given detailed consideration are listed below.

4.2 Description of Alternatives.

a. No Action. This alternative would result in denial or withdrawal of the applicant's request to perform the proposed actions at the subject location.

b. The Proposed Action (as modified). The proposed work consists of a fixed community boat dock as described and shown in plans in the Public Notice 06-65, Appendix A. The boat ramp and shoreline stabilization are no longer part of the proposed action.

c. Appropriate Mitigation to Proposed Action. In accordance with CFR 320.4(r), our review of the proposed action has revealed mitigation measures typical for activities of this nature, which would reduce environmental impacts of the proposed action. This alternative is the modified proposed action above performed under special conditions to minimize and mitigate unavoidable adverse impacts.

4.3 Comparison of Alternatives.

a. No Action. With this alternative, the applicant would not construct the fixed community boat dock. According to information provided by the applicant, not constructing the additional facilities would not meet his purpose and need. The homeowners in the Shady Oaks subdivision would not be provided the added recreational benefits to the lake.

b. Applicant's Proposal. No properties listed as eligible for the National Register of Historic Places would be affected. No federally-protected species would be adversely impacted. The proposed action may increase the value of the upland townhouses in the Shady Oaks subdivision. Some components of the applicant's proposal would have beneficial aquatic impacts for fish and fish food organisms. Aquatic organisms might be expected to colonize alongside the docks

and fish may respond well to the shading of the docks. Waterfowl may be able to use the docks for resting and in pursuit of prey and access for animals to the river.

c. Applicant's Proposal with Special Conditions. The impact of this proposal would be similar to the description in b. above. The fixed community dock would be constructed in a manner that would minimize adverse impacts to the environment utilizing construction related best management practices. This alternative would have the least adverse impacts of the options under consideration. If appropriate mitigative measures are implemented, negative impacts to the environment could be further minimized.

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**Appendix A
Public Notice 06-65**

Appendix B
Public Notice Responses

Appendix C
TVA 26a Permit and Photos