APPENDIX A

Notice #1

Public Notice 05-14 (March 16, 2005)
and
Agency Comments

File No. 2002-00017

Laurel Marina and Yacht Club, Inc.

South Fork Holston River Mile 56.5, Sullivan County, TN

Public Notice

US Army Corps of Engineers
Nashville District

Public Notice No. 05-14 Date: March 16, 2005

Application No. 2002-00017

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214

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

SUBJECT: Proposed Commercial Marina Expansion, Excavation, and Fill, Laurel Marina and Yacht Club, Inc., South Fork Holston River Mile 56.5 R, South Holston Reservoir, in Sullivan County, Tennessee

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army Permit pursuant to **Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344)** and a Tennessee Valley Authority (TVA) permit pursuant to **Section 26a of the TVA Act (16 USC 831y-1).** TVA owned shoreline is also involved in this permit request. Before a permit can be issued, certification must be provided by the State of Tennessee, Division of Water Pollution Control, pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: Dalie T. Thomas
Laurel Marina and Yacht Club, Inc.
191 Shady Ford Road
Bristol, TN 37620

LOCATION: Mile 56.5, South Fork Holston River, in Sullivan County, TN, South Holston Lake, Coordinates: N 36-33-27, W 82-3-14 (Holston Valley USGS Quadrangle)

DESCRIPTION: The applicant is proposing to expand the existing commercial harbor limits and marina facilities at Laurel Marina and Yacht Club on South Fork Holston Reservoir.

BACKGROUND: Public Notice 02-12 was issued April 19, 2002, for the applicant's original proposal. A joint public hearing was held by TVA and U.S. Forest Service in response to comments received during the Public Notice comment period. Mr. Thomas withdrew his request

on July 31, 2003, resulting from public land usage issues with the U.S. Forest Service. This public notice is being issued for the applicant's modified proposal.

The proposed work consists of the following:

a. The applicant proposes the construction of floating boat slips (230 boat slips and 63 houseboats slips). The size and configuration of the proposed docks relative to the shoreline at this location is included in plans accompanying this notice. Slips would be constructed of metal framing and wood decking. Covered slips would have metal roofing. Flotation would consist of foam filled polystyrene. Structures 4 and 5 would occur outside the applicant's current authorized harbor limits.

b. In order to accommodate parking for the new facilities, the applicant proposes to place approximately 58,284 cubic yards (CY) of fill material below Normal Summer Pool (NSP) Elevation 1729.0 in area 1. This material would come from excavation conducted below elevation 1747 at grading areas 1, 2, and 3 as shown in the attached plans. Additional fill of 20,886 cubic yards would be placed between NSP elevation of 1729.0 and elevation 1747.0 for the proposed parking area. The fill placed above NSP would not require Department of the Army authorization. To mitigate for the shallow water habitat loss at the proposed fill site, the applicant proposes to construct various types of fish habitat structures. Excavation from grading areas 2 and 3 would create additional shallow water habitat.

c. The Tennessee Valley Authority (TVA) would evaluate the applicant's request for the expansion of authorized harbor limits for the marina and associated facilities under Section 26a of the TVA Act. TVA would also review increasing the TVA shoreline used by Laurel Marina under a land use agreement from 5,000 linear feet to 6,000 linear feet.

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. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers 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 of Engineers 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 Department of the Army Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. An archaeological survey conducted by the U. S. Forest Service for the original proposal identified one historic site that is within the area of potential effect of the current proposal. This site is regarded as potentially eligible for listing in the National Register of Historic Places pending further evaluation. 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:

a. 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 control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts. TVA would also review increasing the TVA shoreline used by Laurel Marina under a land use agreement from 5,000 linear feet to 6,000 linear feet.

b. Water quality certification from the State Tennessee, in accordance with Section 401(a)(1) of the Clean Water Act for the placement of fill material below El. 1729.

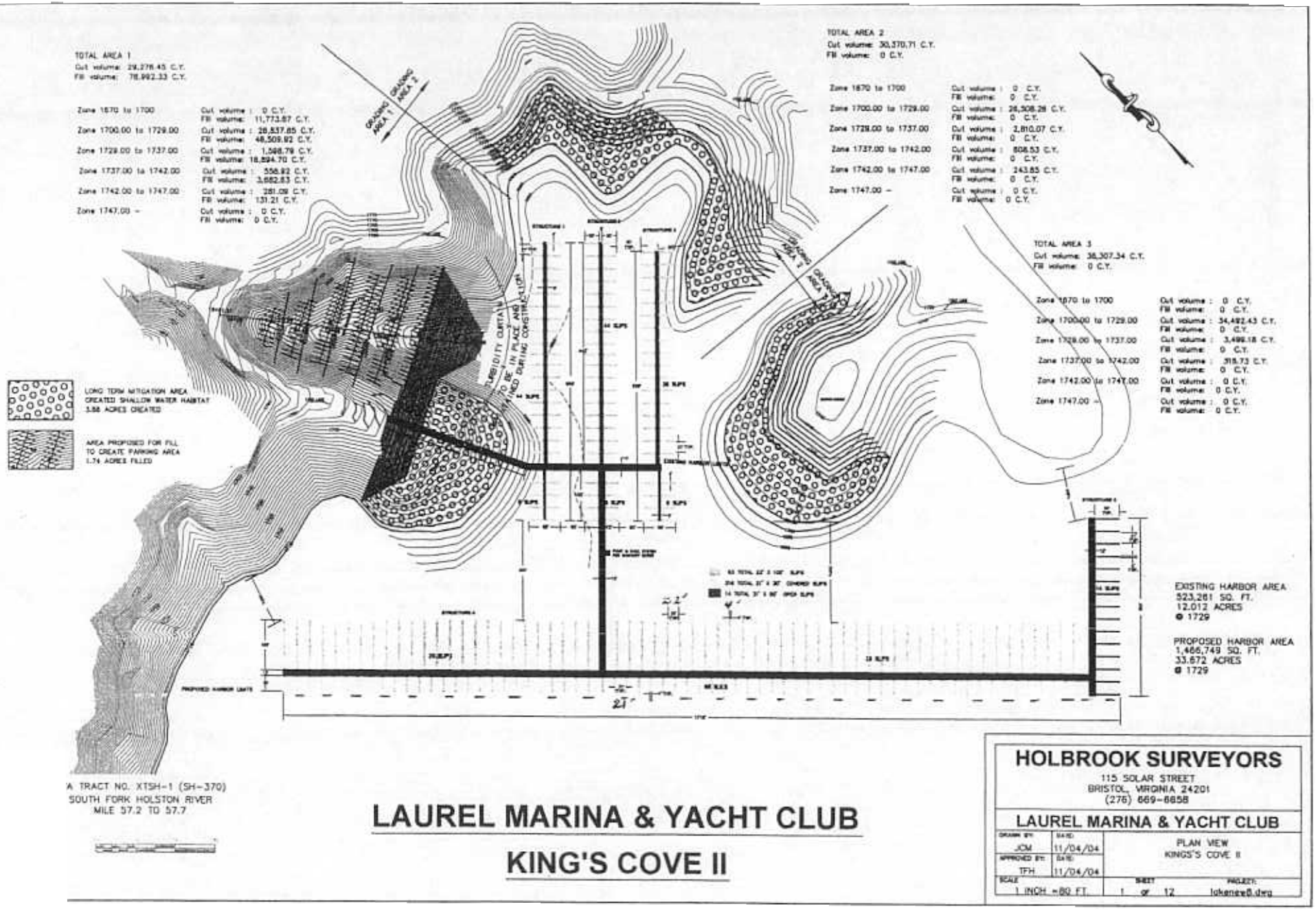
c. The U.S. Forest Service has determined that a permit is not required for the applicant's revised request.

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 April 16, 2005, 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: Carl Olsen, at the above address, telephone (615) 369-7513. 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:

Ms. Anne Patrick
TVA
106 Tri-Cities Business Park Drive
Gray, Tennessee 37615
423-467-3809 awpatrick@tva.gov

USGS
HOLSTON VALLEY, TENN.

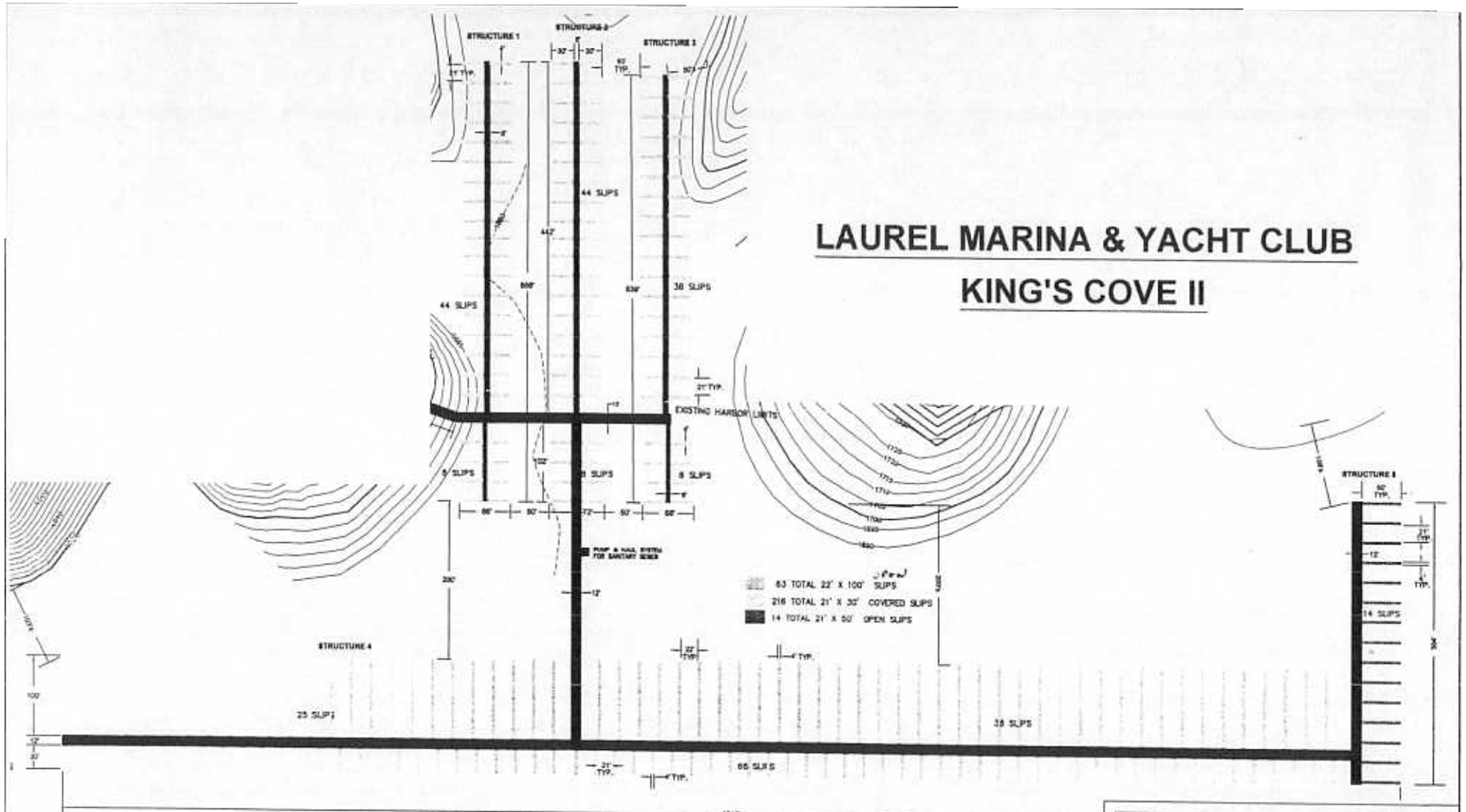


LAUREL MARINA & YACHT CLUB

KING'S COVE II

HOLBROOK SURVEYORS
115 SOLAR STREET
BRISTOL, VIRGINIA 24201
(276) 669-6658

LAUREL MARINA & YACHT CLUB		
DRAWN BY: JCM	DATE: 11/04/04	PLAN VIEW KINGS'S COVE II
APPROVED BY: TFH	DATE: 11/04/04	
SCALE: 1 INCH = 80 FT.	SHEET: 1 OF 12	PROJECT: lakeview8.dwg



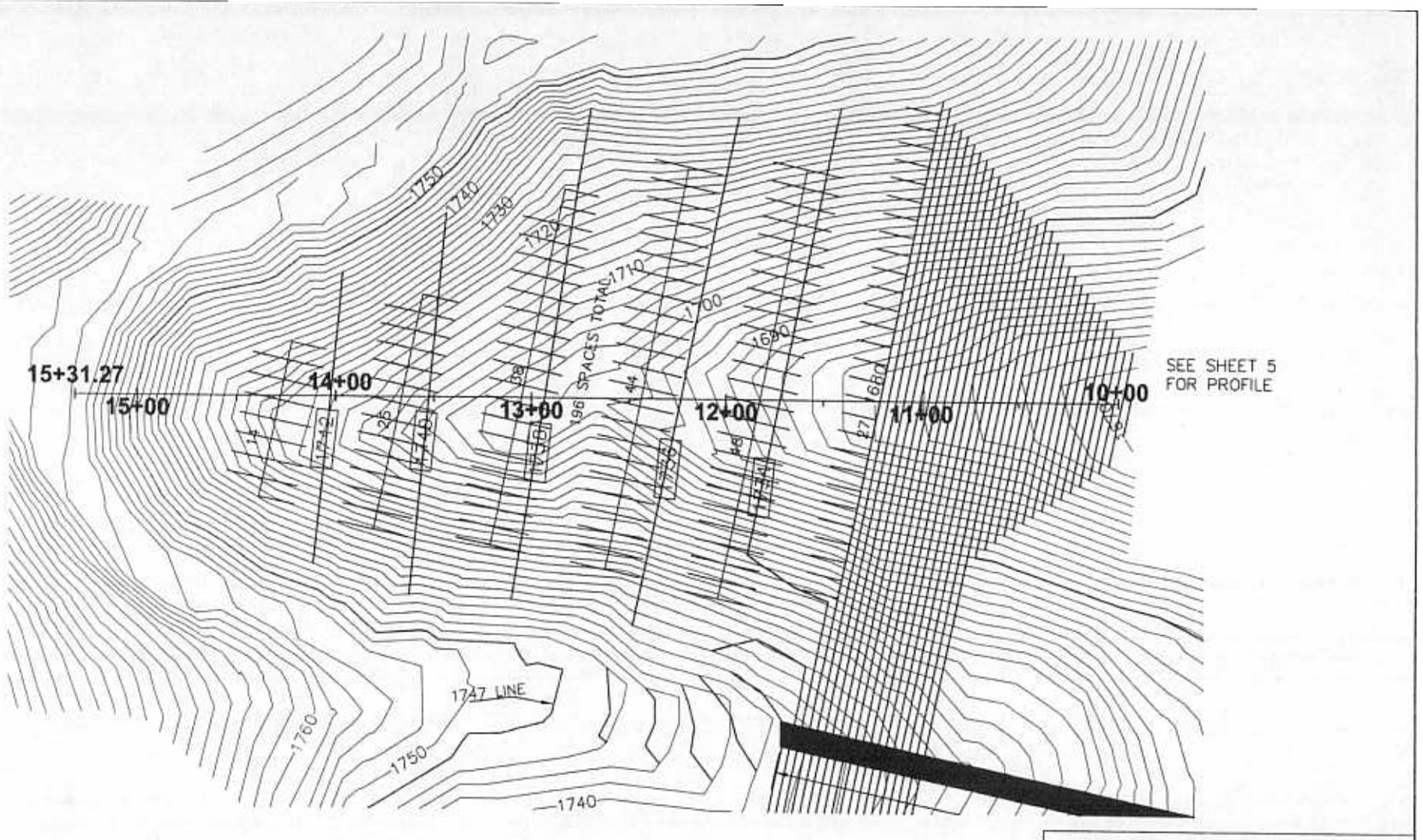
TVA TRACT NO. XTSH-1 (SH-370)
SOUTH FORK HOLSTON RIVER
MILE 57.2 TO 57.7

PN 05-14
FILE NO. 200200017

HOLBROOK SURVEYORS
115 SOLAR STREET
BRISTOL, VIRGINIA 24201
(276) 669-6658

LAUREL MARINA & YACHT CLUB

DRAWN BY:	DATE:	DIMENSIONS OF SLIPS KINGS'S COVE II
JCM	11/04/04	
APPROVED BY:	DATE:	
TFH	11/04/04	
SCALE: N.T.S.	SHEET: 2 of 12	PROJECT: lakeslips6.dwg



TVA TRACT NO. XTSH-1 (SH-370)
SOUTH FORK HOLSTON RIVER
MILE 57.2 TO 57.7

LAUREL MARINA & YACHT CLUB

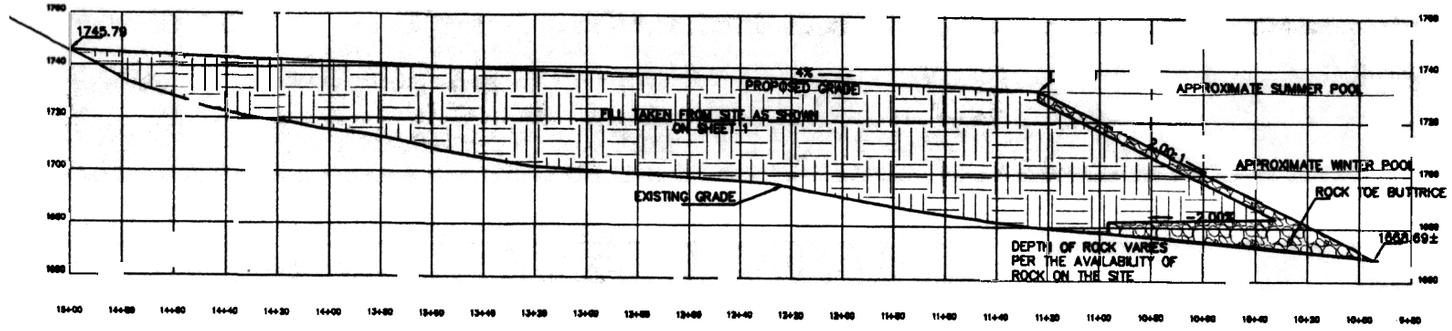
KING'S COVE II

HOLBROOK SURVEYORS
115 SOLAR STREET
BRISTOL, VIRGINIA 24201
(276) 669-6658

LAUREL MARINA & YACHT CLUB		
DRAWN BY: JCM	DATE: 11/04/04	PARKING LOT KINGS'S COVE II
APPROVED BY: TFH	DATE: 11/04/04	
SCALE: N.T.S.	SHEET: 4 OF 12	PROJECT: lakeview8.dwg

PROPOSED FILL
GRADING AREA 1
PLAN VIEW

PN 05-14
FILE NO. 20020001



PROPOSED FILL
SIDE VIEW

VERTICAL SCALE: 1 INCH = 20 FEET
HORIZONTAL SCALE: 1 INCH = 20 FEET

TVA TRACT NO. XTSH-1 (SH-370)
SOUTH FORK HOLSTON RIVER
MILE 57.2 TO 57.7

LAUREL MARINA & YACHT CLUB
KING'S COVE II

HOLBROOK SURVEYORS
115 SOLAR STREET
BRISTOL, VIRGINIA 24201
(276) 669-6658

LAUREL MARINA & YACHT CLUB

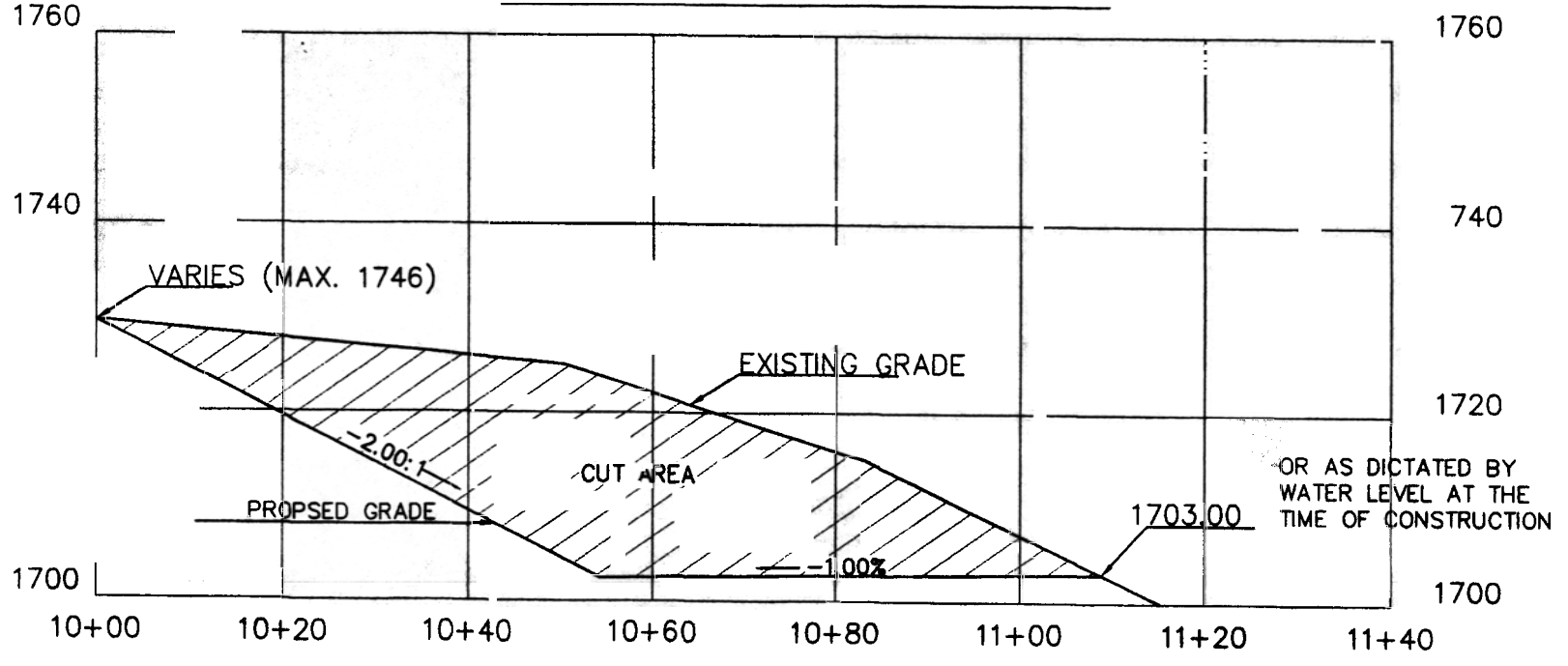
DRAWN BY:	DATE:	PARKING LOT PROFILE KINGS'S COVE II
JCM	11/04/04	
APPROVED BY:	DATE:	
TFH	11/04/04	
SCALE: 1 INCH =20 FT.	SHEET: 5 OF 12	PROJECT: lakeview8.dwg

PN 05-14
FILE NO. 20020017

LAUREL MARINA & YACHT CLUB

KING'S COVE II

TYPICAL CUT DETAIL



VERTICAL SCALE: 1 INCH = 20 FEET
HORIZONTAL SCALE: 1 INCH = 20 FEET

HOLBROOK SURVEYORS
115 SOLAR STREET
BRISTOL, VIRGINIA 24201
(276) 669-6658

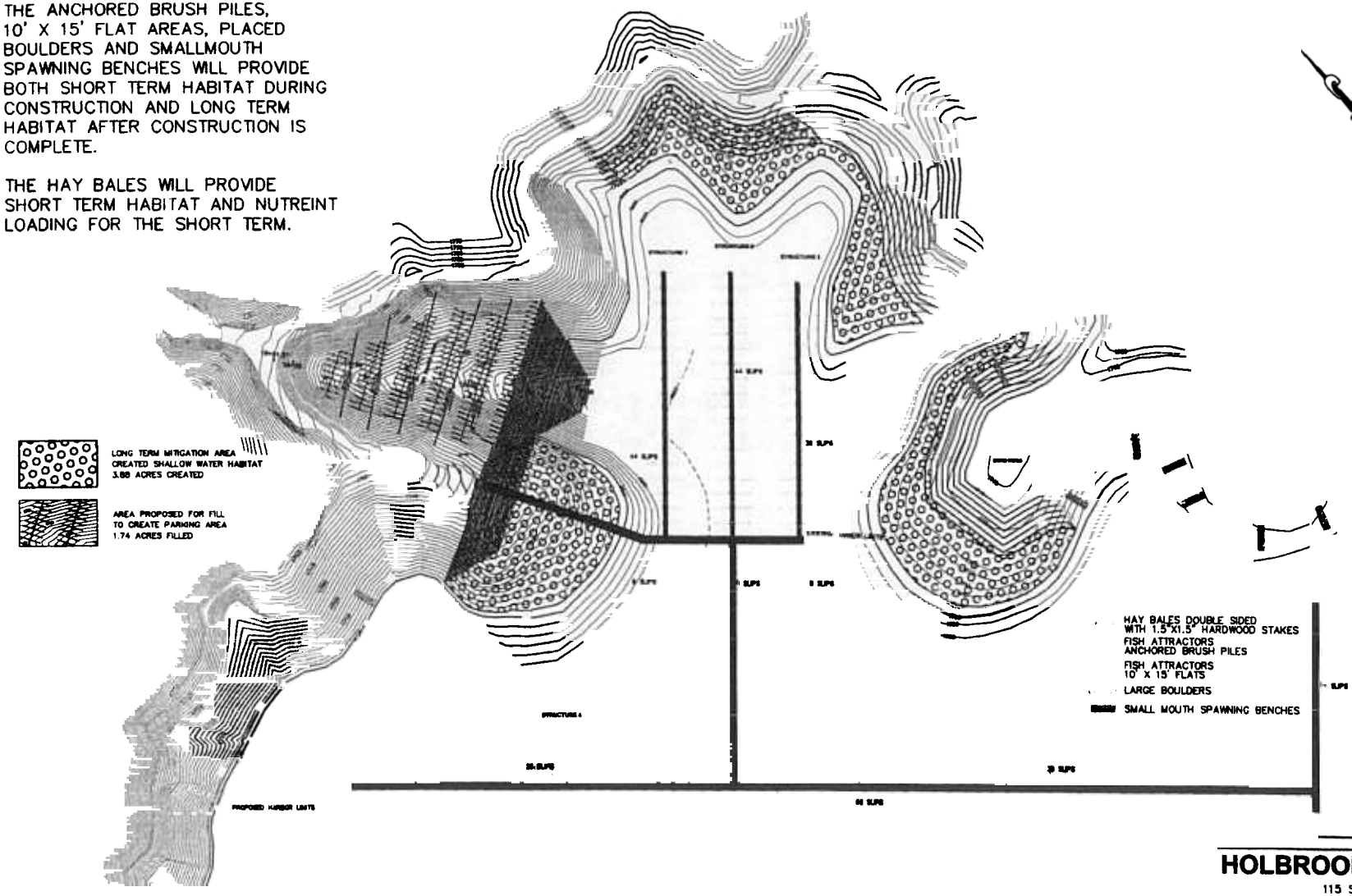
LAUREL MARINA & YACHT CLUB

DRAWN BY:	DATE:	TYPICAL CUT DETAIL KINGS'S COVE II
JCM	2-15-05	
APPROVED BY:	DATE:	
TFH	2-15-05	
SCALE	SHEET	PROJECT:
1 INCH = 20 FEET	12 OF 12	LM-PLAN2.dwg

PN 05-14
FILE NO. 20020017

THE ANCHORED BRUSH PILES, 10' X 15' FLAT AREAS, PLACED BOULDERS AND SMALLMOUTH SPAWNING BENCHES WILL PROVIDE BOTH SHORT TERM HABITAT DURING CONSTRUCTION AND LONG TERM HABITAT AFTER CONSTRUCTION IS COMPLETE.

THE HAY BALES WILL PROVIDE SHORT TERM HABITAT AND NUTREINT LOADING FOR THE SHORT TERM.



TVA TRACT NO. XTSH-1 (SH-370)
SOUTH FORK HOLSTON RIVER
MILE 57.2 TO 57.7

LAUREL MARINA & YACHT CLUB

KING'S COVE II

HOLBROOK SURVEYORS
115 SOLAR STREET
BRISTOL, VIRGINIA 24201
(276) 669-6658

LAUREL MARINA & YACHT CLUB		
DRAWN BY: JCM	DATE: 11/04/04	FISH ATTRACTORS KINGS'S COVE II
APPROVED BY: TFH	DATE: 11/04/04	
SCALE: 1 INCH =80 FT.	SHEET: 3 of 12	PROJECT: lakenew8.dwg

PROPOSED MITIGATION OVERVIEW

PN 05-14
FILE NO. 20020017

⇒ CRO
3/30

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

March 22, 2005

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

RE: COE-N, PN# 05-14/LAUREL MARINA EXPANSION, UNINCORPORATED, SULLIVAN COUNTY

Dear Mr. Olsen:

The Tennessee State Historic Preservation Office has reviewed the above-referenced undertaking received on Thursday, March 17, 2005 for compliance by the participating federal agency or applicant for federal assistance with Section 106 of the National Historic Preservation Act. The Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

After considering the documentation submitted, it is our opinion that there are no National Register of Historic Places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to your proceeding with the project.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of compliance with Section 106 to the appropriate federal agency, which, in turn, should contact this office as required by 36 CFR 800. You may direct questions or comments to Jennifer M. Barnett (615) 741-1588, ext. 17. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jmb

2002-00017
FCRO
GO
4/8

United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

April 7, 2005

Lt. Colonel Byron G. Jorns
District Engineer
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, Tennessee 37214

Attention: Mr. Carl Olsen, Regulatory Branch

Subject: Public Notice No. 05-14. Laurel Marina and Yacht Club, Proposed Commercial Marina Expansion, Excavation, and Fill on South Holston Lake in Sullivan County, Tennessee.

Dear Colonel Jorns:

Fish and Wildlife Service (Service) personnel have reviewed the subject public notice. The proposed project would consist of the construction of covered boat slips, excavation, development fill, and the expansion of authorized harbor limits on the South Holston Lake in Sullivan County, Tennessee. The covered boat slips would accommodate 230 motorboats and 63 houseboats. In order to accommodate parking at the new facilities, the applicant proposes to place approximately 58,284 cubic yards of fill material below the Normal Summer Pool elevation of 1729 feet above mean sea level. The fill material would be obtained from excavation conducted at three areas within the harbor limits. The applicant proposes to mitigate the loss of public resources (filling of the inlet for a proposed parking lot) by creating shallow-water habitat and constructing various types of fish habitat structures within these shallow-water areas. 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;

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(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.

The Service continues to have the same concerns for this proposed project as the previous proposal that was withdrawn by the applicant on July 31, 2003. It appears that the applicant withdrew his original proposal because the United States Forest Service (USFS) had issues with the proposed parking facility being located on USFS land (public resources). To get around this issue, the applicant has modified his request by proposing to fill waters of the United States by placing 58,284 cubic yards of fill material below the 1747-foot mean sea level elevation; therefore, a permit from the USFS would not be required. As previously stated in our letter of May 23, 2002, concerning the applicant's original request, we remain very concerned over the cumulative impacts from marinas that fill lakes (public resources) to obtain additional land for private development purposes.

Based on the 404(b)(1) guidelines, the U.S. Army Corps of Engineers must determine the basic and overall project purpose, the water dependency of the project, evaluate alternatives (including offsite and alternative methods), and determine the least environmentally damaging practicable alternative. For waters of the United States, only the least environmentally damaging practicable alternative can be permitted. Therefore, we recommend that an alternatives analysis be conducted to determine other options that may exist in the area.

We also feel that the proposed mitigation is lacking. The proposed shallow-water habitat is basically the areas where the fill material would be excavated. These areas and the proposed fish habitat structures would all occur within the harbor limits of what would appear to be a very crowded marina. These proposed mitigation measures would likely offer little in the way of fish usage and/or public fishing because of the increased amount of boat traffic in and out of a marina this size. We feel the proposed mitigation in these areas does not adequately compensate for the loss of public resources. If this proposed project eventually meets the requirements of the 404(b)(1) guidelines and is permitted, we recommend that additional mitigation occur outside of the proposed harbor limits to facilitate increased fish usage and fishing opportunities to the general public.

We recommend that the subject permit as proposed be denied. If the applicant modifies the proposal to exclude fill being placed within waters of the United States, we would likely not oppose the project.

We appreciate the opportunity to review the subject permit application. Please contact Robbie Sykes (telephone 931/528-6481, ext. 209) of my staff if you have questions regarding the information provided in this letter.

Sincerely,

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

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

TENNESSEE WILDLIFE RESOURCES AGENCY

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

April 21, 2005

Carl Olsen
Nashville District Corps of Engineers
Regulatory Branch
3701 Bell Road
Nashville, TN 37214

Re: Public Notice #05-14
Applicant: Dalie T. Thomas
Proposed Commercial Marina Expansion, and Fill at Laurel Marina and Yacht Club, Inc.
Mile 56.5, South Holston River, South Holston Lake
Sullivan County, Tennessee

Dear Mr. Olsen:

The applicant proposes to construct 230 boat slips and 63 houseboat slips and fill a cove of South Holston Lake with 58,284 cubic yards of material in Sullivan County for the purpose of constructing a parking lot for the new facilities. The applicant proposes mitigate for the fill impact by excavating 3.66 acres of surrounding shoreline to durable rock out crop to create shallow water habitat and install various types of fish habitat structures. The excavated material will be used as fill material for the parking lot. This project would also require the addition of 1,000 linear feet of the Tennessee Valley Authority's shoreline to be used by Laurel Marina under a land use agreement.

The Tennessee Wildlife Resources Agency objects to the fill of public waters for the purpose of creating a parking lot for private commercial use by Laurel Marina and Yacht Club, Inc. It is the opinion of the Tennessee Wildlife Resources Agency that the mitigation offered by the applicant is insufficient. In fact, we consider the excavation of 3.66 acres of surrounding shoreline to durable rock in order to obtain fill material an impact not mitigation. In our opinion, the only mitigation for these impacts offered by the applicant is the construction and installation of several artificial fish habitat structures. South Holston Reservoir fluctuates approximately thirty feet within a year's time. According to design detail information, the excavation will remove the currently gradually sloping shoreline consisting of shaley-sandy-clay with sparse cobble and replace it with approximately fifty feet of flat rock and the rest of the bank at a 2:1 slope. The Tennessee Wildlife Resources Agency recently conducted a fish survey of the proposed project area. The Regional Fisheries Biologist described the area proposed for fill as between marginal and satisfactory spawning habitat for black bass and the area proposed for excavation as being slightly above marginal spawning habitat for black bass. Although the proposed area which would be impacted is not the best spawning habitat for black bass, it is by far better than a rock shelf with a few artificial spawning structures placed on it.

The Tennessee Wildlife Resources Agency is also concerned that the proposed addition of 1,000 linear feet of shoreline for private commercial purposes will violate the Tennessee Valley Authority's maintain and gain commitment in their Shoreline Management Policy.

The Tennessee Wildlife Resources Agency requests that this permit be denied as proposed.

Thank you for the opportunity to comment.

Sincerely,

Robert M. Todd

Robert M. Todd
Fish and Wildlife Environmentalist

cc: Rob Lindbom
Bob Nichols
USFWS, EPA, WPC