APPENDIX H

404(b)(1) Checklist

File No. 2002-00017

Laurel Marina and Yacht Club, Inc.

South Fork Holston River Mile 56.5, Sullivan County, TN

July 11, 2006

404(B)(1) GUIDELINES COMPLIANCE EVALUATION
(40 CFR 230.10)

Application for Proposed Excavation and Fill for Parking Area and Associated Commercial Marina Facility Additions

South Fork Holston River Mile 56.5R, South Holston Lake, Sullivan County, TN
Laurel Marina and Yacht Club

File No. 2002-00017

RESTRICTIONS ON DISCHARGE(*): An asterisk in a block indicates that the proposal does not comply with the guidelines.

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]
Discussion: The applicant prepared an alternatives analysis for the proposed work showing that there are no other available alternatives other than no action. The alternatives analysis is located in Appendix D and summarized on page 8 of the EA.

B. If the project is in a special aquatic site and is not water-dependent, has applicant clearly demonstrated that that there are no practicable alternative sites available? [Yes__ No(*)____N/A_X]
Discussion: The project is not in a special aquatic site and is water dependent.

II. **Special restrictions**. Will the discharge:

- violate state water quality standards? [Yes(*)__ No x]
TDEC issued a conditional water quality certification for the work on May 23, 2006. See copy in Appendix G.
- violate toxic effluent standards (under Section 307 of the Act)? [Yes(*)__ No x]
DA conditions require that any fill material be free from toxic pollutants.
- jeopardize endangered or threatened species or critical habitat? [Yes(*)__ No x]
USFWS has stated that the project would not jeopardize. See letter in Appendix A and B.
- violate standards set by the Department of Commerce to protect marine sanctuaries? [Yes(*)__ No x] - ***Not applicable.***

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: (For detailed evaluations, see EA)

- human health or welfare, through pollution of municipal water supplies, fish, shell fish, wildlife, and special aquatic sites? [Yes__ No x]
- life stages of aquatic life and wildlife? [Yes__ No x]
- 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]
- 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__]

Mitigation measures included in the proposed plan together with the standard and recommended conditions included in the Department of the Army permit would adequately minimize pollution or adverse effects to the affected ecosystem.