

FINDING OF NO SIGNIFICANT IMPACT TENNESSEE VALLEY AUTHORITY

SAILBOAT HOLLOW DEVELOPMENT AT TENNESSEE RIVER MILE 271.3, RIGHT BANK
WILSON RESERVOIR
LAUDERDALE COUNTY, ALABAMA

Proposed Action and Need

Sailboat Hollow Development Inc. (Sailboat Hollow) proposes to excavate a recessed channel on Wilson Reservoir, within a tributary of the Tennessee River Mile 271.3, right bank, in Lauderdale County, Alabama. The excavation of the recessed channel would occur within TVA's existing flowage easement. The purpose of this project is to create single-family residential waterfront properties for 15 subdivision lots and allow for construction of one fixed covered private dock per lot. The residential community would provide minor socioeconomic benefits to Lauderdale County.

The excavation would consist of a 150-foot-wide by 500-foot-long recessed boat access channel causing the removal of approximately 0.8 acre of wetlands and 1.06 acres of a special aquatic site. The impacts to wetlands would be mitigated by the purchase of wetland credits in a mitigation bank and by the applicant's creation of a 1.86-acre conservation easement area. Within the excavation area, Sailboat Hollow would construct 15 private docks and 1,650 linear feet of riprap bank stabilization. The channel would be excavated to elevation 498-foot mean sea level, requiring the removal of approximately 26,400 cubic yards of bottom sediment and alluvial material from the back of the slough to the shoreline. The excavated materials would be loaded into trucks and disposed of at previously disturbed areas, above the 500-year floodplain, located within 0.5 mile of the site. A new road into the subdivision, which would require three culverts, would cross headwater streams that feed the embayment.

The proposed shoreline structures, bank stabilization, and culverts require approval under Section 26a of the *Tennessee Valley Authority (TVA) Act*. The scope of TVA's environmental review of this proposal includes the recessed excavation as well as the wetland mitigation, conservation easement, 15 water use facilities, associated bank stabilization, and three culverts. The proposed work also requires U.S. Department of the Army approval under Section 10 of the *Rivers and Harbors Act of 1899* and Section 404 of the *Clean Water Act*.

Alternatives

The U.S. Army Corps of Engineers (USACE) prepared an environmental assessment (EA) of its related permitting action in May 2009. TVA was a cooperating agency in the preparation of this EA, which is attached and incorporated by reference. The following three alternatives were evaluated in the EA: (A) No Action, which would result in denial or withdrawal of the applicant's request to make renovations to the hollow at the subject location; (B) Proposed Action; and (C) Applicant's Proposed Action With Special Conditions.

Under the Proposed Action or the Applicant's Proposed Action With Special Conditions, TVA would approve the proposed water-use facilities, bank stabilization, and culverts. These two Action Alternatives differ in the number of special conditions and mitigation measures imposed to reduce potential environmental impacts; many of the conditions included in the Applicant's

Proposed Action With Special Conditions are standard requirements for TVA's Section 26a permits. Under the Applicant's Proposed Action With Special Conditions, which is TVA's Preferred Alternative, the applicant would minimize anticipated water quality and wetland impacts. Measures to maintain structural integrity, shoreline stability, and navigational safety would also be included.

Impacts Assessment

The EA concludes that, with the use of appropriate best management practices (BMPs), impacts from the proposal on water quality and aquatic life would be minor and insignificant. On May 30, 2007, the Alabama Department of Environmental Management (ADEM) issued water quality certification for all USACE nationwide permits. An individual project-specific water quality certification is not required for this excavation. Existing noise levels would not significantly increase, and noise impacts, therefore, would be insignificant. Impacts to wildlife and vegetation, recreation, aesthetics, transportation, air quality, navigation, and environmental justice would be insignificant. All dredged spoil material will be disposed of above the 500-year floodplain; therefore, the proposed actions are consistent with Executive Order 11988 (Floodplain Management).

TVA determined that no federally listed plant or animal species would be affected by the proposed actions. By letter dated December 31, 2008, the U.S. Fish and Wildlife Service (USFWS) states that available records do not indicate that federally listed or proposed endangered or threatened species occur within the impact area of the project and that requirements under Section 7 of the *Endangered Species Act of 1973* as amended, are fulfilled. No archaeological sites or historic structures listed or eligible for listing in the National Register of Historic Places (NRHP) would be affected by the undertaking. By letter of March 10, 2009, the Alabama Historical Commission (AHC) states that the project will not adversely affect any property that is eligible for listing in the NRHP and has no objection to implementation of the project.

A wetland delineation, prepared by Sailboat Hollow's consultant, was submitted with the permit application. The proposed dredge activity would remove a combination of wetlands (0.8 acre) and a special aquatic site, floating emergent wetland vegetation (1.06 acres). TVA performed an ecological assessment (Wetland Rapid Assessment Method [WRAM]) of the wetlands, which indicated the wetland area ranked as a Category 2 or moderate-quality wetlands and, therefore, would need to be mitigated at a 2:1 ratio. During TVA's WRAM of the project site, a state-listed plant, false rue anemone (*Enemion biternatum*), was discovered near a waterfall located northwest of the proposed dredge area. Mitigation for 1.86 acres of wetlands/special aquatic vegetation would be required based on the WRAM, and wetland credits would be purchased from a designated north Alabama mitigation bank. Because of the ecological value associated with the stream, waterfall, and adjacent state-listed plant habitat, TVA, USACE, and the applicant agreed to set aside a 1.86-acre conservation easement around this site for protection (see Mitigation below).

Mitigation

As part of its Section 26a approval, TVA would require use of BMPs and other general and standard conditions. The applicant would also adhere to conditions of approval contained in the USACE and ADEM authorizations. TVA has determined the following additional mitigation measures are needed to mitigate or further reduce potential impacts;

- The applicant shall set aside a habitat protection area in the form of a conservation easement around the “waterfall” area to protect at least 1.86 acres of the subject property as part of the 2:1 ratio of wetlands mitigation. A rare state-listed plant species is located within the conservation easement and therefore would also be protected. Signs shall be used to identify the area to ensure proper protection. This area shall be permanently protected from future construction and shall be indentured into a restrictive covenant that will become an attachment to the deeds and subdivision bylaws and run with the properties that connect to the area. The restriction shall contain covenants prohibiting certain uses such as, but not limited to, any removal, alteration, or destruction of any native vegetation or natural habitat; agricultural, residential, commercial, or industrial activity; any draining, filling, excavating, or dredging; any construction of buildings; and any disruption or alterations of the stream. The applicant shall provide TVA detailed information about the location of the conservation easement no later than one year from the date of TVA’s permit.
- As part of the 2:1 ratio of wetlands mitigation, the applicant shall purchase 1.86 mitigation credits from an approved Alabama mitigation wetland bank no later than one year from the date of TVA’s permit. The applicant may use either the Jackson County, Alabama, mitigation bank or one of the two new Madison County, Alabama, mitigation banks that should be available by fall 2009.

Public and Intergovernmental Review

On December 10, 2008, USACE and TVA issued Joint Public Notice (JPN) No. 08-78 to advertise the proposed actions. Comments in response to the JPN were received from the USFWS, AHC, and ADCNR. Comments provided by these agencies have been addressed in the EA. No comments were received from the general public.

Conclusion and Findings

TVA independently reviewed the USACE EA, found it to be adequate, and is therefore adopting this EA. TVA has determined that the approval of the Section 26a permit for the proposed docks and other shoreline alterations would not be a major federal action significantly affecting the quality of the environment. Accordingly, an environmental impact statement is not required. This finding of no significant impact is contingent upon adherence to the permit conditions and completion of the mitigation measures described above and in the attached USACE EA.



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Date Signed