

FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
BREAKERS OF SWAN BAY

KENTUCKY RESERVOIR
HENRY COUNTY, TENNESSEE

Proposed Action and Need

Barry McIntosh has purchased an existing marina and is proposing extensive upgrades. The proposal includes an increase in the size of harbor limits, addition of three floating boat docks and a floating office and fuel dock, raising of an existing submerged roadbed to serve as a breakwater and pedestrian walkway, and addition of new marina slips. These actions would require approval under Section 26a of the TVA Act. In addition, McIntosh has requested a license area affecting TVA property for access to the breakwater, and a deed modification over 0.91 acre to allow fill for residential development to serve the new resort development. TVA proposes to abandon the right to flood, the right to erect and maintain navigation aids, and the right to approve structures on the 0.91-acre tract of land. As part of new marina construction, approximately 30,000 cubic yards of material would be dredged for a boat access channel. The project is located north of the US 79 bridge in a cove at Tennessee River Mile 64.8, left bank, facing downriver. Because of the size of the project and associated dredging, and the need to consider the impacts of several different permit and land use actions related to the marina upgrade, an environmental assessment (EA) allows a better understanding of the impacts of this proposal.

Alternatives

The EA prepared by the U.S. Army Corps of Engineers (USACE) evaluated three alternatives. Under No Action, the requests for marina upgrades would not be approved. The applicant would likely operate the existing marina and provide minor upgrades as allowed by existing permits and land rights. Under the Applicant's Proposed Action, the marina would be expanded with new slips, fill for a new breakwater would be installed, approximately 30,000 cubic yards of dredging would take place, and a condominium development would be constructed on adjacent private property. Under the Applicant's Proposed Action with Added Special Conditions, conditions of approval would be added to require spoil disposal above elevation 376.0, and facilities would not be allowed to extend more than one-third the width of the cove.

Impacts Assessment

Under No Action, no new impacts to the aquatic or terrestrial environment would take place. The economic benefits of construction and operation of a new marina and resort facilities would not be realized. Under the Applicant's Proposed Action, construction impacts would occur from dredging, filling and installation of riprap on the old roadbed, and from land clearing for the condominiums on the deed modification tract. During construction, material would be removed by a hydraulic dredge. This would increase turbidity of the reservoir in the cove area. However, this turbidity increase would be temporary, and would be dissipated quickly once dredging and fill is stopped. No special

aquatic sites exist in the cove where the marina is located. There would be no effects to federally-listed endangered or threatened species and no historic properties affected. Because the proposed marina expansion is located in a cove off of the main river channel, the proposed action would not affect other recreational or commercial waterway users. The special conditions provided in the Section 10 and 404 permits would provide additional assurance that the impacts of land disturbance in the area would be minimized and that the potential for erosion and sedimentation is reduced.

TVA Review

TVA independently evaluated the project and participated in the interagency review. The area of the marina expansion as well as the deed modification property was evaluated. TVA staff conducted site inspections as well as an archaeological review. As a result of TVA staff involvement, the fill for the breakwater would start out past the existing emergent vegetation (about 100 feet or so from elevation 362 on the north shoreline). To provide access to this breakwater, a walkway would be constructed. These minor plan modifications would preserve existing fish habitat provided by fish attractors and emergent scrub/shrub plants in the reservoir fluctuation zone.

TVA staff reviewed navigation, floodplain, and aesthetic impacts and determined that these impacts would be minor and insignificant. The deed modification and resulting construction would not take place within the floodplain. The marina consists of water dependent activities for which there is no practicable alternative. Impacts to the floodplain as a result of marina expansion would be minimized by removing all fill below elevation 375.0 and relocating this material to ground above elevation 375. The project would not conflict with navigation as long as it does not extend more than one third of the way across the embayment. The project would not change the existing landscape character of the area. Because the Tennessee Wildlife Resources Agency (TWRA) had expressed concerns about loss of shallow water fish habitat, TVA worked with the applicant to provide mitigation activity. On May 12, 2006, approximately 250 cypress trees were planted along a watershed corridor at Paris Landing State Park. These trees, which grow in shallow waters within the reservoir, would provide fish cover. By e-mail of May 19, 2006, TWRA indicated that this activity adequately mitigated for the loss of shallow water fish habitat.

Mitigation

TVA would require use of its general and standard conditions for Section 26a approval. In addition, requirements for septic system and wastewater treatment and disposal would be implemented. These Best Management Practices, together with the requirements of the Section 404 permit, would reduce all potential impacts to insignificance.

Public and Intergovernmental Review

The proposed channel excavation was announced to the public and agencies by Joint Public Notice 06-31, dated March 13, 2006. Comment letters were received from the U.S. Fish and Wildlife Service (FWS), TWRA, and Tennessee Historical Commission (THC). FWS indicated that endangered species collection records did not indicate the potential for endangered or threatened species to occur in the impact area of the project. Both FWS and TWRA expressed concern with the loss of shallow water fish habitat from the marina dredging proposal. To mitigate for the loss of shallow water fish habitat, they suggested that spawning benches be incorporated into the proposal. These were included. In addition, to mitigate for the loss of shallow water fish habitat, cypress tree planting at Paris Landing State Park was implemented. THC requested a statement of findings on the potential of the undertaking to affect historic properties. This information

was provided by USACE, and by letter of June 21, 2006, THC concurred in a finding of no historic properties affected. By letter of June 9, 2006, the Tennessee Department of Environment and Conservation issued an Aquatic Resource Alteration Permit for the marina dredge project. This serves as the certification required under Section 401 of the Clean Water Act. The project meets the requirements of EO 11988 (Floodplain Management).

Conclusion and Findings

As mentioned above, TVA finds that the project would have no effect on endangered and threatened species and would not affect historic properties. TVA has independently reviewed the USACE EA and determined that the impacts have been adequately addressed. TVA is adopting the USACE EA. Based on review of the USACE EA, TVA concludes that approval of the Section 26a permits, license area, and deed modification for the Breakers of Swan Bay at TRM 64.8 L would not be a major federal action significantly affecting the environment. Therefore, an environmental impact statement is not required.

Charles P. Nicholson for

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Date Signed