

FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
US 64 RELOCATION - HIWASSEE RIVER
SECTION 26A APPROVALS, PERMANENT EASEMENT, AND
TRANSMISSION LINE RELOCATIONS
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
CHEROKEE COUNTY, NORTH CAROLINA

Proposed Action and Need

North Carolina Department of Transportation (NCDOT) proposes to relocate a 4.9-mile section of US Highway 64 (US 64) from east of US 19 in Murphy to east of NC 141 near Peachtree in Cherokee, County. NCDOT has requested that Tennessee Valley Authority (TVA) grant a permanent easement over approximately 55 acres on Hiwassee Reservoir Tract No. XTFBR-32H for new right-of-way (ROW) for the proposed relocation. NCDOT has also requested Section 26a approval under the TVA Act for a total of 21 stream crossings including, two bridges across the Hiwassee River at about river miles 97.2 (west crossing) and 101.3 (east crossing), and for crossings of Martin and Hampton Creeks. In addition, the project would involve the relocation of portions of TVA's Murphy-Blairsville 161-kilovolt (kV) transmission line, the Murphy-Nottley 69-kV transmission line and the Murphy Chatuge 69-kV transmission line to allow construction of a new route for US 64. TVA proposes to grant the proposed permanent easement, approve the river and stream crossings, and relocate TVA's transmission lines. In assessing the impacts of its proposed actions, TVA is adopting the 1994 Federal Highway Administration (FHWA) EA and 1995 FONSI, and further supplementing it to document TVA's consideration of the project information generated since 1995.

Alternatives

The FHWA completed an EA in which the impacts for a no build and eight build alternatives were evaluated. In addition to a No Action Alternative, two build alternatives (designated C1 and C2) were determined to be the only feasible alternatives and were analyzed in detail. Alternative C1 was chosen as the preferred alternative. For the purposes of this supplemental EA, TVA considered the action and no action alternatives, along with appropriate mitigation and relocation of portions of TVA's transmission line.

Impacts Assessment

TVA independently reviewed the impacts assessed in the 1994 FHWA EA. As a cooperating agency, TVA provided scoping comments and commented on the draft EA. Since the completion of the FHWA EA, new information regarding threatened and endangered species has become available, resulting in design changes. Additionally, TVA has completed the design of the transmission line relocations and identified three new areas of ROW that lie outside the original scope of the project studied in the FHWA EA. Based upon a review of the TVA Natural Heritage Project database and an onsite investigation on December 15, 2004, by NCDOT biologists, additional survey work was needed in these three new areas to verify the absence of Indiana bats (*Myotis sodalists*) and the Small-whorled Pogonia (*Isotria medeoloides*). The U.S. Fish and Wildlife Services (USACE) has concurred with the commitments to survey these areas as described in the following Mitigation section.

A total of 6,812 linear feet of stream would be permanently impacted, although 1,150 feet of stream would be restored utilizing natural stream design. The remaining impacts would be offset by compensatory mitigation provided by the Ecosystem Enhancement Program (EEP). Protected aquatic animal species are not likely to be adversely affected with proper implementation of the Avoidance and Minimization Measures and Proposed Measures to Offset Impacts identified in the Biological Assessment (BA). Impacts to streams associated with the transmission line relocation are not anticipated to occur, because only three short sections of new ROW and replacement of structures in the same location are involved. All perennial stream crossings should be designated as Streamside Management Zones (SMZ) (Category A) prior to the transmission line construction. Proper implementation of silt and sediment control structures, and containment and disposal of all wastes generated during construction, would result in short-term, insignificant impacts to surface water, aquatic ecology, and listed aquatic animals. No designated Wild and Scenic Rivers, or streams on the Nationwide Rivers Inventory or their tributaries, or unique or important aquatic habitats occur at or adjacent to the project site.

Eight jurisdictional wetlands would be permanently impacted for a total of 0.82 acres, which includes fill and excavation. No temporary fill in wetlands is planned during construction. NCDOT proposes to offset the permanent wetland impacts by compensatory mitigation provided by the EEP. No wetlands were identified on or adjacent to the transmission line relocation project area.

TVA also reviewed the potential for the proposed action to contribute to the spread of exotic or invasive species and to affect neotropical migratory birds, unique or important terrestrial habitats such as caves, and significant managed areas. TVA determined that no impacts are anticipated to these resources as a result of the proposed action.

TVA in consultation with the North Carolina State Historic Preservation Officer (SHPO) determined the area of potential effect (APE) for those portions of the relocated transmission line right of way, which did not fall within the APE for the NCDOT undertaking. On January 4, 2005, TVA consulted by letter and submitted a draft report to the SHPO seeking their concurrence with TVA's findings and recommendations, specifically that no historic properties would be affected by the proposed project. The SHPO has not commented (to date--2/11/05) regarding TVA's findings and recommendations, this no objection meets the requirements of 36 CFR Part 800.4.(d)(1)(i) and fulfills the agency official's responsibilities under Section 106 of the National Historic Preservation Act.

Construction of the new transmission line over the Hiwassee River could involve locating support structures within the 100-year floodplain. Construction in the floodplain should present no problems under Executive Order 11988 provided the TVA subclass review criteria for transmission line location in floodplains are followed. The transmission line relocation between structures 31 and 36, and the modifications between structures 56 and 58 on the Murphy-Chatuge transmission line would not involve work within the 100-year floodplain. Upon review of the bridge plans, the vertical clearances meet TVA minimum requirements and should not interfere with recreational navigation. There should be little to no impact to recreation associated with the proposed transmission line work. Temporary visual discord would be probable during construction phases in the proposed project vicinity. These discordant elements would remain temporary in nature and their impacts would conclude with the construction period.

Mitigation

TVA-specific measures

- I. Including TVA's General and Standard Conditions, the Section 26a approval will be conditioned with measures 1, 3, and 4 previously identified in the NCDOT Biological Assessment, and that NCDOT will coordinate the surveys for the small whorled pogonia with Pat Cox, TVA Botanist, at (865) 632-3609 or pbcox@tva.gov.
 1. Erosion Control Measures: The areas adjacent to the Hiwassee River will be identified as "Environmentally Sensitive Areas" on the Erosion Control plans for this project. Within in these areas the following shall apply.
 - Provide 50-foot buffer zone (both sides of the stream) that allow for clearing by not grubbing until immediately before grading operations.
 - Limit grubbing operations to within 10 days of grading.
 - Erosion and Sediment Control Measures to be installed immediately after clearing.
 - Require "seeding and mulching" to be performed immediately following grade establishment.
 - Require staged seeding - 20 foot fill sections or 2 acres, whichever is less.
 - Erosion and Sediment Control Measures must be cleaned out when 1/2 full.
 - Increase sediment storage capacity by 50 percent above standard BMP guideline.
 3. Deck drains will be placed at the ends of each planned bridge and run into grassed swales so no direct stormwater discharge will occur over the Hiwassee River or Martin Creek.
 4. NCDOT will conduct final surveys (just prior to construction) in the footprint of projects impacting waters known to contain protected mussel species. NCDOT is anticipating that few individuals will be found in surveys of the footprint and is proposing to relocated these mussels to appropriate upstream habitat. The preconstruction survey will be incorporated into the relocation plan that will be developed.
- II. For the additional areas proposed for new transmission line ROWs, no tree cutting or any sort of disturbance shall occur until the following conditions have been met and USFWS has provided concurrence.
 - Areas 1 and 3 will be assessed by BHE Environmental (NCDOT contractor) no earlier than June 25, 2005. If suitable corridors for mist-netting are available, they will conduct mist-netting according to the Indiana Bat Recovery Plan.
 - If BHE is unable to effectively mist-net, then they will conduct a thorough habitat assessment in all areas likely to be affected by the transmission line work.
 - If as a result of the survey work, Indiana bats are unlikely to be affected by the transmission line work, then tree clearing may commence as soon as the bat survey work is completed, probably in early July 2005.
 - If Indiana bats are likely to be adversely affected by the transmission line work, then no tree clearing will occur in the transmission line relocation areas between April 15 and October 15 of any given year.

- NCDOT will survey all three transmission line relocation areas where suitable habitat exists for small whorled pogonia in early May of 2005. A TVA botanist will have the opportunity to be present during the survey.
- If no small whorled pogonia is found in Area 2, then tree clearing may commence immediately.
- If no small whorled pogonia is found in Areas 1 or 3, then tree clearing may commence as soon as Indiana Bat issues are resolved.
- If the small whorled pogonia is found in Area 1, 2, or 3, then no tree clearing or any sort of disturbance shall occur in that until impacts to the pogonia habitat are avoided and protected and consultation with USFWS is completed.

III. During construction, strict adherence to the BMPs in Muncy (1999) as outlined in Appendices I-V of Attachment 2 will be required. Prior to the transmission line construction:

- Sensitive areas will be marked along the transmission line corridors prior to construction.
- All perennial stream crossings shall be designated as Streamside Management Zones.
- Clearing for the transmission line corridors will not occur until USFWS has issued concurrence that their conditions outlined above, in number II, have been met.

Conclusion and Findings

TVA has supplemented the FHWA-prepared EA to document its consideration of the project information generated since 1995 and has determined the impacts on the environment and agency comments have been adequately addressed; and necessary mitigation has been identified. The 1994 FHWA-prepared EA is attached and incorporated by reference.

For compliance with Executive Order 11988, culverts, bridges, the grading, and fill associated with bridge approach are considered to be repetitive actions in the floodplain for which there is no practicable alternative. Construction in the floodplain should present no problems under Executive Order 11988 provided the TVA subclass review criteria for transmission line location in floodplains are followed. For compliance with Executive Order 11990, there is no practicable alternative and measures to minimize impacts to wetlands will be undertaken. For compliance with Section 106 of the National Historic Preservation Act, TVA has determined that there are no historic properties affected on these sections. The SHPO did not provide comments regarding TVA's findings and recommendations; this no objection meets the requirements of 36 CFR Part 800.4.(d)(1)(i) and fulfills the agency official's responsibilities under Section 106 of the National Historic Preservation Act. TVA has determined that endangered and threatened species are not likely to be adversely affected as a result the identified mitigation measures. On January 18, 2005, USFWS concurred that requirements under Section 7 of the Act have been fulfilled regarding the listed species for the highway project. Approval on the transmission line clearing can be obtained after the conditions listed above have been met. TVA has determined that with the proper implementation of commitments resulting from the reviews of the FHWA and NCDOT, BMPs required by TVA Standard Conditions (5a-e and 6a-i), and the TVA-specific measures, all impacts would be reduced to insignificant levels. Based on the EA, we conclude that the Section 26a approval for stream crossings, the permanent easement

for the TVA land, and the relocation of the transmission lines would not be a major federal action significantly affecting the environment. Accordingly, an Environmental Impact Statement is not required. This FONSI is contingent upon successful implementation of the previously identified mitigation measures and the reasonable and prudent measures identified in the Biological Assessment.



February 16, 2005

Jon M. Loney, Manager
NEPA Administration
Environmental Policy and Planning
Tennessee Valley Authority

Date Signed