

**U.S FENCE, INC. – PROPOSED FINANCIAL ASSISTANCE AND  
REQUEST FOR SECTION 26A APPROVAL  
FOR STREAM ENCAPSULATION, ADJACENT WETLAND FILL  
AND BRIDGE CONSTRUCTION – UNNAMED TRIBUTARY TO  
WHITEHORN CREEK, CONFLUENT TO BENT CREEK  
AND NOLICHUCKY RIVER, HAWKINS COUNTY,  
TENNESSEE – ADOPTION OF THE ENVIRONMENTAL  
ASSESSMENT (EA) PREPARED BY THE UNITED STATES ARMY CORPS  
OF ENGINEERS (USACE) AND FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

**Purpose and Need**

U.S. Fence, Inc. (USF), one of the largest producers of fencing material in the United States (U.S.), proposes to expand its existing plant and associated facilities. The proposed development site is located in Bulls Gap, Tennessee and is zoned Industrial. This proposed expansion would increase production capacity and improve operations. It would occur over most of a 47-acre tract of land owned by USF. New facilities and infrastructure would include distribution and warehouse facilities, product storage yard, access road, construction of two bridges, sediment ponds and construction and storm water management facilities. Plans provided TVA also include a new railroad spur which could be built. In order to obtain needed space to expand, USF would be required to encapsulate 600 feet of stream in a 60-inch concrete pipe and divert normal flow into a relocated 1,950-foot section of an unnamed tributary to Whitehorn Creek. Facilities construction would also require placement of fill over 0.61-acre of adjacent wetlands at five locations on the site. A portion of these newly constructed facilities over the encapsulated stream would directly connect to an existing plant building. Construction of an obstruction and placement of fill in the floodplain (wetland area) both require Tennessee Valley Authority (TVA) approval under Section 26a of the TVA Act. Because of the economic benefits associated with increased production, TVA is also proposing to provide financial assistance to USF for its planned expansion. The impacts of TVA's economic assistance for plant expansion are included in this evaluation. This project also requires a permit under Section 404 of the Clean Water Act. USACE, in cooperation with TVA, prepared the attached environmental assessment (EA) to consider the impacts of the agencies permit approvals.

USF currently employs 600 people at this plant and several hundred new jobs are projected over the next five years. Capital investment of this kind further demonstrates USF's commitment to the Bulls Gap community and Hawkins County area. USF and the local and regional economy would benefit from the revenue, and from the increased employment, sales and tax base that would be generated by this expansion.

**Background**

In response to previous plans submitted by USF, USACE issued an individual 404 permit for stream alterations on December 12, 2003. This work was advertised in Public Notice (PN) 03-88 prior to a USF decision to change its site development plans. Upon notification of plan changes, USACE and TDEC conducted an onsite pre-application meeting with USF and its agent, Marshall Miller & Associates, Inc. (MM&A), on March 10, 2004, to determine if other waters of the United States and jurisdictional wetlands would be affected by the new proposal. During the onsite inspection, a 60-foot portion of the tributary creek was observed to have already been encapsulated in accordance with previously authorized work (see

Appendix C in the attached EA). This work is a part of the 600-foot of encapsulation that was advertised in Joint PN No. 04-58 (see Public Review section below). Some work in progress at the time, not requiring federal or state authorization, was also inspected. The meeting also served to clarify additional wetland delineation work needed as well as locations and lengths of stream likely to be affected and mitigated. MM&A subsequently provided USACE revised lengths of stream proposed to be affected. Modifying the information in the original PN advertising the work, these revised distances served as a basis for the evaluation included in the attached EA.

### **Alternatives**

USACE considered three alternatives: no action, applicant's proposed action and approval of the project with modifications or conditions. The additional conditions under the third alternative include monitoring of the mitigation and dedication of a restrictive covenant affecting the mitigation property. Based on USACE review, other sites that do not have streams or wetlands may be available, but do not meet the site criteria established by the applicant. USF considered factors such as infrastructure, access, visibility, site conditions, and customer base. Based on these factors, USF considers expansion onto its adjoining property as the option that best meets its purpose and need. The use of the property for commercial facilities would be compatible with the current zoning. The purchase of additional non-contiguous land that does not meet the applicant's purpose and need would not be economically or logistically practicable. Because of the likelihood that the project would have minimal environmental impacts and the possibility that similar development on other sites would have equal or greater impacts, there is no practicable alternative to construction at the proposed site. As described in the attached EA, TVA believes these alternatives cover a reasonable range of actions that address the applicant's purpose and need for the project. TVA concurs with USACE's decision to approve the project with modifications or conditions.

### **Affected Environment and Impacts**

USF lies in the southwest corner of Hawkins County in the Bulls Gap community of east Tennessee. The general surrounding environs are characterized by sparse commercial development along Tennessee State Route (SR) 66 intermingled with rural residential, pastureland, old fields and young to mature mixed hardwood woodlots. Expansion to the northeast of the existing plant would occur along the south side of SR 66 and north of the Norfolk Southern Railway Corporation right-of-way. The 47-acre site is largely previously farmed pastureland and early succession open land with some partially wooded areas. An unnamed tributary and Whitehorn Creek flow through portions of the site. Steep forested ridges occur to the southeast, particularly on Bays Mountain along the Hawkins/Greene County line.

Whitehorn Creek, its unnamed tributary and adjacent wetland lie in the northeast to southwest trending valley near the plant site location described above. The stream proposed to be affected is approximately 3 feet wide and with normal flow only about 4 inches deep. The small jurisdictional wetland contains emergent vegetation and its hydrology is primarily supported by over bank flooding from the adjacent stream channel. Although of little wildlife habitat value, this wetland would be filled and no longer provide filtration of water (color, odor, nutrients, etc.) prior to entering the tributary of Whitehorn Creek. Stream alteration associated with this proposal would result in permanent loss of 1,950 feet of open stream. This loss would be offset by USF through

the creation of 2,118 feet of open stream, along with the planting of vegetation along the stream banks. Sediment ponds would meet Tennessee Department of Environment and Conservation (TDEC) storm water pollution prevention plan (SWPPP) standards. As a part of the SWPPP, sediment pond outlets are designed to discharge into the mitigation wetland, the unnamed tributary or Whitehorn Creek proper. Regardless, stream flows would eventually return to Whitehorn and the Bent Creek sub-watersheds. Creation of the stream and wetland mitigation areas could slightly improve water temperatures by providing shading which does not currently exist.

On October 29, 2004, TDEC issued its 401 Water Quality Certification (WQC) to USF certifying that water quality standards will not be violated if the work is conducted in accordance with the certification. A copy of this certification is included in the attached EA as Appendix D. There would be a permanent loss of 0.61 acres of special aquatic sites. This impact would be offset, at a 2:1 ratio, by the restoration of 1.22 acres of prior converted wetland onsite. This site, formerly used to support agriculture, contains hydric soil, would be planted to native hydric vegetation and monitored for success. A portion of the hydric soil from the impacted wetland areas, containing a native plant seed source, would be excavated and spread over the wetland restoration site.

Bulls Gap participates in the National Flood Insurance Program and regulates activities occurring in the floodplain. The development proposed by USF was approved by Bulls Gap on July 31, 2003. Bulls Gap's approval is contingent on certain restrictions that will minimize impacts to the floodplain.

The USF project site is a previously disturbed parcel, virtually devoid of trees and consisting primarily of naturally invading small trees, shrubs, and herbaceous vegetation resulting from past farming and pasture practices. Low quality wildlife would be permanently lost; however, because of the prevalence of similar habitat in the area, this loss would be insignificant. This loss would also be offset by the mitigation conducted by USF to revegetate relocated channel banks and restore a wetland area. There are no threatened or endangered species known to occur on or adjacent to the site. Strict adherence to SWPPP conditions required by TDEC would ensure that this project does not adversely impact Whitehorn Creek. Long-term water quality effects from both wetland fill and stream encapsulation and relocation would be negligible with implementation of the proposed mitigation. To accommodate increased production at the USF facility, existing air and water emissions treatment systems at the plant would be upgraded. No new types of waste streams would be created and there would be only slight and insignificant increases in solid waste generation. Even without the railroad spur, increases in traffic of trucks hauling raw materials and finished product, and of employees commuting would have minor and insignificant impacts on area transportation systems.

USACE, TDEC, and TVA have issued several permits in this general area in the past requiring compensatory mitigation to reduce project impacts to levels of insignificance. Considering past, present, and future proposals, there would be only minimal cumulative impacts associated with the USF proposal.

## **Public Review**

On August 11, 2004, USACE issued Joint PN No. 04-58 to advertise the proposed work. The notice was distributed to a wide list of interested parties. The Tennessee Historical Commission (THC), Tennessee Wildlife Resources Agency (TWRA), U.S. Fish and Wildlife Service (USFWS), TDEC, and one private citizen commented in response to the PN. By letter dated August 19, 2004, THC stated that a detailed archaeological survey of the area of potential effect was needed (Appendix E). USF completed an archaeological survey in response to this request and the THC issued a letter of no objection based on the survey (dated September 2004 and included as Appendix F in the attached EA). By letter dated September 15, 2004, THC stated that the project area contains no archaeological resources eligible for listing in the National Register of Historic Places and it had no objection to the implementation of the project (see Appendix E).

By letter dated September 8, 2004, TWRA indicated that the stream mitigation appeared insufficient because the reconstructed stream channel would be too wide and that its purpose would be for flood control. TWRA also indicated that the wetland mitigation ratio should be greater because the approach was more consistent with creation than restoration. By letter dated September 10, 2004, USFWS stated that based on their records, it is their belief that there are no federally listed or proposed endangered or threatened plant or animal species in the impact area of the project, and that requirements of Section 7 of the Endangered Species Act of 1973, as amended, are fulfilled. However, USFWS supported TWRA's contention that the reconstructed stream channel would be too wide and also suggested that the stream/wetland mitigation plans be altered to separate restored habitat types. By letter dated September 2, TDEC asked a number of questions to clarify the nature of the project and the related stream and wetland impacts. By letter received August 30, 2004, Mr. Bob Baier, Whitesburg, Tennessee, expressed general opposition to the project. No additional comments were received. Copies of comments and applicant's rebuttal are included in Appendix E of the attached EA.

Regarding the TWRA and USFWS comments, the streambed and wetlands are impacted by mowing and have marginal habitat value. USACE has taken agency comments into account by requiring appropriate mitigation, monitoring for success and protection in perpetuity. The wetland and stream systems are separated and the proposed tree plantings are in accordance with USFWS recommendations. The proposed stream width was sized for the location utilizing Rosgen technology and is not designed for flood control. USACE also believes the reconstructed stream channel would manage normal flows and function properly. TDEC evaluated the proposed mitigation plan for the relocation of the stream and restored wetlands and issued its WQC for the proposal. The mitigation site has been evaluated onsite by USACE, determined to be prior converted (farmed pasture) wetlands and would only require a 2:1 ratio if restored. Impacts to the existing stream would be offset by USF's mitigation (channel relocation and revegetation onsite) and would no longer be directly impacted by mowing and farming. The environment would benefit from the creation of the new streambed that would be protected and vegetated with natural vegetation. TVA believes that with mitigation, the proposed work would result in minor impacts.

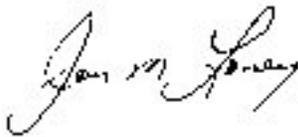
Regarding Mr. Baier's letter, USACE has determined that USF has complied with existing laws and processes related to Section 404 of the Clean Water Act. TVA concurs with USACE's determination.

### **Mitigation**

Because onsite mitigation is feasible and preferable to offset project impacts, USACE will require USF to mitigate lost stream and wetland values in accordance with approved plans. Regular monitoring and reporting over 5 years will ensure success of the required mitigation and a restrictive covenant will serve to offset lost values in perpetuity. USACE and TDEC will require that conditions of the state's Section 401 WQC be met. TVA concludes that wetland and stream impacts would be adequately mitigated on site. No mitigation would be required for the minor and insignificant impacts due to increased production resulting from the expansion of the USF facility.

### **Conclusion and Findings**

TVA has independently reviewed the USACE EA and found it to be adequate. TVA adopts the USACE EA. Because of space constraints on the USF property, TVA concludes that there is no practicable alternative to wetland fill and construction in the Whitehorn Creek and unnamed tributary floodplains. With mitigation mentioned above, the project would be consistent with Executive Orders 11988 (Floodplains Management) and 11990 (Protection of Wetlands). Furthermore, based on the applicant's survey and THC letter, TVA concurs that the project would have no effect on historic properties. Based on the attached EA, including the described wetland and stream impact mitigation measures, TVA concludes that approval of this minor wetland fill and stream obstruction proposal, as well as the provision of financial assistance to USF, would not be a major federal action significantly affecting the quality of the environment. Accordingly, an environmental impact statement is not required.



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

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*December 6, 2004*

Date