

File No. 2006-01245

FINAL ENVIRONMENTAL ASSESSMENT
STATEMENT OF FINDINGS
AND
FINDINGS OF NO SIGNIFICANT IMPACT

(File No. 2006-01245)

Mr. Joe Christopher

Application for Deposit of Fill Material for Private Impoundment Structure on an Unnamed
Tributary of Round Island Creek, Tennessee River Mile 298.0R,
In Athens, Limestone County, Alabama

U.S. ARMY CORPS OF ENGINEERS
Nashville District, Regulatory Branch

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12/14/07
Date

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1.0 Proposed Activity

1.1 Background. On 14 June 2006, the Corps of Engineers, Decatur Regulatory Office (OP-F/W) conducted a pre-application meeting and jurisdictional inspection of the proposed project site with the applicant, Mr. Joe Christopher (see Appendix A for Memorandum for Record (MFR)). On 27 November 2006, Mr. Christopher submitted an application to the Corps of Engineers (CE) pursuant to Section 404 of the Clean Water Act (CWA) for a proposed impoundment structure for private use for his new residential development, Watercress Subdivision. Another onsite inspection was made by the CE Project Manager (Amy Robinson), TVA, OP-F/W, and the applicant on 21 December 2006, to obtain additional information concerning the proposed action (see Memorandum for Record (MFR) in Appendix A with project photographs).

The original proposed action, as described in Public Notice 07-08 (Appendix B), consisted of the discharge of fill material below the plane of ordinary high water for the construction of an earthen impoundment structure across a small above-headwaters tributary to create an 11.5-acre reservoir. The proposed action is located on an unnamed tributary of Round Island Creek, a tributary to Tennessee River Mile 298.0R, in Athens, Limestone County, AL. The proposed lake would encompass an existing one-acre lake located on the property. The existing lake impounds approximately 500' of the unnamed tributary, and the proposed lake would impound an additional 700' of the same tributary stream. The maximum depth of the lake would be 7.25' deep. The applicant proposes to mitigate the loss of stream functions and values of the unnamed tributary by creating a riparian area from 60' to 120' wide. The purpose of the work would enhance recreational opportunities for the resident of Watercress Subdivision, such as for fishing, canoeing, golf driving range (with floating golf balls), a walking trail, and increased aesthetic views. The scope of work includes the area of the impoundment structure and the lake.

After review of the public notice for the proposed work, an onsite meeting was held with interested agencies and the applicant on 21 February 2007 (see MFR in Appendix A), to discuss the concerns of the proposal. Following the meeting, the applicant agreed to revise the proposed work and mitigation plan. Revised plans and mitigation plan were submitted to this office on 28 August 2007 (see Appendix C). The interested agencies submitted comments regarding the proposed mitigation plan (See Responses in Appendix C). After further review of the mitigation plan, an onsite meeting was held with Mr. Christopher and his consultant, Jeff Shelby, on 20 September 2007 (see Appendix D). The applicant submitted the final project plans and mitigation plan on 22 September 2007 (see Appendix D). The applicant minimized the impacts by reducing the lake surface area size from the original 11.6 acres to 8.6 acres. Also, the lake depth was increased from less than 6' to maintain at least a 7.25' depth. The mitigation plan was revised to incorporate the following measures; 1) the restoration of the 300' of the unnamed tributary with a meandering pattern and native tree plantings for a buffer zone from 75' wide to 200' wide; 2) establishment of a permanent 8.7-acre conservation easement/riparian buffer along Round Island Creek and the unnamed tributary; 3) planting of an additional ½ - acre area with native tree

species within the conservation easement area; and 4) placement of two stepped water impediment structures within the unnamed tributary near its confluence with Round Island Creek. The revised plans were coordinated and approved by the interested agencies (see Responses in Appendix D). Thus, this Environmental Assessment (EA) will address the final project plans and mitigation plan.

1.2 Decision Required. Section 301 of the CWA prohibits the discharge of dredged or fill material into waters of the U.S. unless authorized by the DA pursuant to Section 404 of the same Act. TVA approval of obstructions constructed in, on, or along the Tennessee River and its tributaries is required. The unnamed tributary of Round Island Creek is waters of the U.S. as defined by 33 CFR Part 328. DA and TVA permits are required; therefore, the CE and TVA must decide on issuance of a permit for the proposal, issuance of a permit with conditions, or denial of the permit.

1.3 Other Approvals Required. Other federal, state, and local approvals may be required for the proposed work. On 28 September 2007, a conditional Water Quality Certification was issued by the state of Alabama, Department of Environmental Management (ADEM), pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards would not be violated by the work (see Appendix E). A Section 26a permit would be required from TVA for the proposed action.

2.0 Public Involvement Process. On 26 January 2007, Public Notice 07-08 (Appendix B) was issued to advertise the proposed work. All written responses are included in Appendix F. Summaries of the responses are as follows:

General Public Comments. No comments were received from the general public. There were no requests for a public hearing.

Agency Comments.

a. By letter dated 23 February 2007, the U.S. Fish and Wildlife Service (USFWS) stated that, according to their records there are no federally listed threatened and endangered species identified in or near the proposed construction site. Nevertheless, USFWS strongly recommends that activities be conducted in a manner so as to reduce the potential for impacting fish and wildlife resources located in Round Island Creek and the Tennessee River. USFWS indicated that the original proposed mitigation plan was not sufficient to offset proposed impacts to the existing stream. As discussed during an onsite inspection/meeting, USFWS representatives recommended increasing the mitigation measures and/or minimizing the impacts to the existing stream. They indicated they are concerned with the water quality within the impoundment area due to the shallow water depth throughout the lake and the quality of water discharged from the impoundment. These water quality concerns would also impact the downstream water quality of

the unnamed tributary and Round Island Creek. Thus, USFWS does not support the proposal to impound the tributary.

b. By letter dated 22 February 2007, the state of Alabama, Department of Conservation and Natural Resources (DCNR), responded that the proposed mitigation, as it appears in the public notice, is not sufficient to offset the proposed impacts and would result in a net loss of stream habitat. As discussed during an onsite inspection/meeting, the applicant agreed to revise the mitigation measures and submit a more comprehensive mitigation plan.

To address the agencies' concerns regarding the size of the lake, water quality, and the insufficient proposed mitigation for the project, the applicant revised the proposed lake plans and the proposed mitigation plan. Final project plans and mitigation plan were submitted in September 2007 (see Appendix D). The plans were forwarded to all interested agencies for review and coordination. By letters dated 12 September 2007 and 24 September 2007, respectively, DNCR and USFWS responded back that the proposed plans and mitigation appear to adequately offset the environmental impacts from the proposed activities (see Appendix D). ADEM indicated that it does not review mitigation plans for projects and the water quality certification is strictly based on the site where the project is taking place (see Appendix D). Thus, all agencies concur that the new project plans and mitigation plan would adequately offset the potential environmental impacts.

c. The Alabama Historical Commission (AHC) responded by letter dated 7 February 2007, stating that there are three sites located near the project and one site eligible for nomination to the National Register of Historic Places (NRHP) has been undetermined. They requested clarification whether the project would affect cultural resources.

The applicant had a survey performed and submitted a report titled "*Phase I Cultural Resource Survey of a Proposed 9 Acre Lake Impoundment near Athens, Limestone County, Alabama,*" written by The University of Alabama, Office of Archaeological Research, dated March 2007 (see Appendix G). The survey report concluded that no archaeological sites or historic properties were identified. Based on the lack of cultural material recovery and overall low potential for prior occupation within the survey area, it is the surveyor's opinion that the proposed lake impoundment would have no impact on any cultural resources.

AHC reviewed the survey report and responded back by letter dated 12 April 2007 (see Appendix G). AHC stated that they have determined that the project activities would have no adverse effect on cultural resources eligible for or listed in the NRHP. Therefore, they concur with the proposed project activities.

3.0 Environmental and Public Interest Factors Considered

3.1 Introduction. 33 CFR § 320.4(a) states the decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. All factors that may be relevant to the proposal must be considered. Public Notice 07-08 listed factors that may be relevant to the proposal. The following sections show which factors are relevant in this proposal and, if relevant, provide a concise description of the impacts.

3.2 Physical/Chemical Characteristics and Anticipated Changes. The relevant blocks are checked and include a description of the impacts.

(x) substrate. The proposed footprint of the impoundment structure would displace a 5' wide x 30' long, intermittent stream channel with culverts and earth material. According to the applicant, the impoundment structure would impound enough water to create an 8.6-acre lake. An existing lake, which currently impounds approximately 500' of the same unnamed tributary, would be encompassed within the new lake. An additional 700' of the unnamed tributary would be covered by water for the lake expansion. According to the applicant, with the exception of the footprint of the structure, no-earth moving activities would occur in the stream channel.

(x) suspended particulates, turbidity. The proposed structure would be constructed during low flow times of the year. Short-term increases in turbidity would be expected during construction. However, with the implementation of good erosion control measures during construction, effects from turbidity would be minimal. Erosion control measures are also required by TVA and specific within the ADEM Water Quality Certification (see Appendix E).

(x) currents, circulation, drainage patterns, base flow. The proposed structure would change the base flow of the stream by impounding the stream flow for an additional 700' of stream length. The unnamed tributary is an intermittent stream; thus, it does not flow year round. If the work is performed during the low flow period and/or dry period of the year, no interruptions to the base flow and downstream currents would be realized. Also, a notch would be constructed on the impoundment structure to allow for normal water discharge after completion of the lake.

(x) water quality (temperature, color, odor, nutrients). The proposed work would change the characteristics of the additional 700' of stream to a lake. The impounded water would likely stratify temperatures in the summer months with cool water on the bottom and warmer water on top. Existing trees around the lake would likely provide good shade to cool the pond to keep top temperatures from warming too much. In addition, the applicant has agreed to plant native tree species along the edge of the new lake. Thus, if issued, the DA and TVA permits would be conditioned such that the applicant plant native tree species along the edge of the new lake. Due to agencies' concerns regarding the effects of the original lake size and shallow water depth on the water quality of the lake and downstream effluent, the applicant revised the lake plans. The

original lake size was reduced from 11.6 acres to the revised 8.6 acres. Also, the depth of the lake was increased to maintain at least a 7.25' depth. A conditional water quality certification was issued for the proposed work by ADEM on September 28, 2007. The applicant's proposed work would incorporate an erosion control plan to minimize erosion and sedimentation, in accordance with the conditions of the certification conditions. In addition, the proposed mitigation would benefit the water quality conditions of the unnamed tributary by planting tree species for shading. Also, the water quality of Round Island Creek is expected to improve as a result of the improved water quality of the unnamed tributary and permanent protection within a conservation easement.

(x) flood control functions. The new, revised lake plans were designed by Harry Vice, Civil Engineer and Land Surveyor, in accordance with appropriate storage and flood information and calculations. According to the applicant, the lake would at no time be impounded on any other property than his own private property, including during flood events. Floodwaters would overtop the impoundment structure. The floodplain and floodway boundary of the unnamed tributary and Round Island Creek are shown on the revised plans.

(x) storm, wave and erosion buffers. The revised plans show a riprap blanket immediately downstream of the discharge point/flume from the impoundment structure to dissipate and transition the flow into the tributary. The DA and TVA permits would be conditioned so that if erosion has the potential to increase in any areas of the lake and tributary, the applicant would sufficiently stabilize these areas with riprap material and/or bioengineering methods.

3.3 Biological Characteristics and Anticipated Changes. The relevant blocks are checked and include a description of the impacts.

(x) special aquatic sites (wetlands, mudflats, pool and riffle areas, vegetated shallows, sanctuaries and refuges, as defined in 40 CFR §§ 230.40-45). According to the application and review of available information, no wetlands would be filled or impounded by water under the proposed action.

(x) habitat for fish and aquatic organisms. According to the USFWS, no habitat for federally listed or proposed threatened or endangered species would be affected by the proposed action. Further, the stream channel to be impounded does carry enough flow for fish habitat during most times of the year. Some microorganisms may be present within the gravelly channel bottom. The lake would create an 8.6-acre water habitat for fish species behind the impoundment structure. In dry summer months, the impounded water would likely provide year-round habitat for a variety of aquatic species. The plans were revised to maintain a water depth of at least 7.25' to also create a more suitable habitat for fish species. It is expected that the proposed mitigation plan would benefit the habitat for fish and aquatic organisms within the unnamed tributary. The restoration of the unnamed tributary would allow for a more natural, undisturbed channel with tree plantings for shading. Also, the placement of over 700' of Round Island Creek within a conservation easement would permanently protect the habitat for fish and aquatic organisms.

This could potentially be beneficial for the downstream Threatened & Endangered mussel species.

(x) wildlife habitat. The area proposed for impoundment has historically been utilized for pasture, hay, and farming practices. The upland areas that would surround the proposed lake are currently under construction for a residential development. Thus, if a lake would not be constructed within the 8.6 acres, the area would be potentially developed with additional homes. Therefore, the proposed lake would provide more habitat for fish and wildlife than a subdivision. Also, the lake would adjoin the 8.7-acre forested conservation easement and provides excellent wildlife habitat. The proposed work may enhance wildlife by providing a year round source of water.

(x) endangered or threatened species. USFWS responded by letter dated February 23, 2007, that, according to their records, there are no federally listed threatened and endangered species identified in or near the proposed construction site (see Appendix F).

(x) biological availability of possible contaminants in dredged or fill material. Only clean materials, free of possible contaminants, would be used for the proposed impoundment structure. There is no evidence that any excavated material in the area would contain contaminants.

3.4 Human Use Characteristics and Anticipated Impacts. The relevant blocks are checked and include a description of the impacts.

(x) existing and potential water supplies; water conservation. No impacts are expected to occur from the proposed work.

(x) water-related recreation. The applicant indicated that one of the main purposes of the lake was for enhanced water-related recreation for the Watercress Subdivision residents and guests. The creation of an 8.6-acre lake would promote some small craft recreation (canoeing) and swimming, as well as bank and boat fishing. Also, the applicant is going to establish a water golf driving range (with floating golf balls).

(x) aesthetics. From the applicant's point of view, the proposed lake would be very appealing and an aesthetic benefit to his property for the residents of the Watercress Subdivision. The applicant indicated that he would construct a walking trail along the buffer zone of the lake (to be planted with native trees) for the residents and guests to enjoy the aesthetics of the lake. Thus, it is anticipated that the lake would provide an aesthetically pleasing place to enjoy fishing, nature, and hiking.

(x) navigation. No impacts would occur to navigation.

(x) safety. The state of Alabama would regulate the proposed construction of the impoundment structure under the state's safe dams compliance program, if the dam were public. This is a private small dam that is exempt from the program, according to the state.

(x) traffic/transportation patterns. No impacts would occur.

(x) energy consumption or generation. No impacts would occur.

(x) air quality. It has been determined that the proposed activities would not exceed de minimis levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR §93.153.

(x) noise. During construction, this area would experience increases in noise levels from construction equipment. Work would occur during the daylight hours. Once construction is finished, noise levels should return to normal.

(x) historic properties and cultural values. The applicant commissioned survey and submitted a report titled "*Phase I Cultural Resource Survey of a Proposed 9 Acre Lake Impoundment near Athens, Limestone County, Alabama*," written by The University of Alabama, Office of Archaeological Research, dated March 2007 (see Appendix G). The survey report concluded that no archaeological sites or historic properties were identified. Based on the lack of cultural material recovery and overall low potential for prior occupation within the survey area, it is the surveyor's opinion that the proposed lake impoundment would have no impact on any cultural resources. AHC reviewed the survey report and responded back by letter dated April 12, 2007 (see Appendix G). AHC stated that they have determined that the project activities would have no adverse effect on cultural resources eligible for or listed in the NRHP. Therefore, they concur with the proposed project activities.

(x) land use classification/zoning. The city of Athens and/or Limestone County government would be the lead agency in reviewing compliance with the zoning of the property.

(x) conservation. The applicant would establish a buffer around the lake that would be planted with native tree species. Also, the applicant indicated that he would construct a walking trail around the lake within the buffer zone. The proposed mitigation plan would permanently protect approximately 8.7 acres within a conservation easement. Approximately ½-acre of this area would be replanted with native tree species. The remaining area of the proposed conservation easement is currently forested and encompasses 700' of Round Island Creek. If the DA and TVA permits are issued, each would be conditioned to require incorporation of a Conservation Easement and/or Deed of the Property be provided for the proposed 8.7-acre parcel to remain in permanent protection.

(x) economics. During construction of the lake, it is anticipated it would economically benefit the contractor performing the work. Also, the sale of goods for the project, labor force, and local markets would be expected to economically benefit. Further, the 8.6-acre lake addition to the property is expected to greatly increase the applicant's value of the property during sale of the lots. Also, it is expected to increase the property values of the existing property owners currently within the subdivision through enhanced water-related recreation opportunities and aesthetic views. Also, the county and/or city would economically benefit from the increased tax base from the new homes within the development.

(x) environmental justice. The project has been reviewed with respect to environmental justice and it has been determined that there is no disproportionate concentration of minority or low-income persons within the vicinity of the project site. There would be no residential relocations caused by the proposed action.

(x) consideration of private property. No impacts are expected to occur. No adjoining property owners commented during the public notice period regarding the proposed work.

(x) mineral needs. No impacts are expected to occur.

(x) food and fiber production. While this property has historically been utilized for agricultural purposes, the 8.6-acre lake is not expected to impact food and fiber production.

3.5 Cumulative and Secondary Impacts.

An important aspect of environmental review is consideration of how actions by others have and will affect the same resources. Cumulative environmental effects for the proposed facility were assessed in accordance with guidance provided by the President's Council on Environmental Quality (EPA 315-R-99-002, May 1999). This guidance provides a process for identifying and evaluating cumulative effects under the National Environmental Policy Act. For purposes of cumulative impact assessment, a subjective five-year focus period for reasonably foreseeable future actions includes:

- Construction of other impoundment structures on this tributary
- Future development of the lands that surround the 8.6-acre lake
- Adjacent existing and/or proposed subdivisions performing similar works

Future associated work that may be proposed in the vicinity determining the magnitude and significance of effects; modifying to avoid, minimize or mitigating effects, and planning for monitoring and adaptive management would have to be addressed on a case-by-case basis. Overall, while there would be permanent impacts on the tract; given the relatively small area of impact and the relatively low physical and biological functions present in the impact area, the proposal is not anticipated to have a cumulative or secondary effect upon the existing environment and the sustainability of important resources would not be adversely affected.

4.0 Alternatives

4.1 Introduction. This section discusses alternatives given detailed consideration as required by 33 CFR § 320.4(a)(2) and 40 CFR § 230.10. The relevant environmental issues identified in Chapter 3.0 were used to formulate the alternatives.

4.2 Description of Alternatives. Only reasonable alternatives have been considered in detail, as specified in 40 CFR § 1508.14(a).

a. No Action. No action may be brought about by (1) the applicant electing to modify the proposal to eliminate work under the jurisdiction of the Corps or TVA or (2) Corps or TVA denial of the permit. If denied, the proposed work would not be performed and the applicant's need would not be met.

b. The Proposed Action. The proposed work consists of the placement of fill material into an unnamed tributary for construction of an impoundment structure. The impoundment structure would be constructed to create a lake for the residents of Watercress Subdivision. The work would involve temporarily diverting the stream flow around the proposed impoundment structure location. The existing stream bed would be excavated down at the structure for the new lake bottom, and the impoundment structure would be constructed of earthen material. The impoundment would be constructed to maintain 7.25'. A spillway would be constructed at the existing stream location at approximately 50' wide with a concrete cap. A 4'-wide notch would be constructed at the top of the spillway to allow a continuous base flow to discharge from the impoundment structure into the existing stream. The proposed lake would have a surface area of approximately 8.6 acres, which would encompass an existing one-acre lake located on the property (see Appendix D for Revised Final Plans). The unnamed tributary has previously been impacted in the past from channelization and straightening for agricultural uses. The construction of the impoundment structure would be performed during a low flow period of the unnamed tributary. The applicant has proposed onsite mitigation for the impounded stream (see Appendix D for Final Mitigation Plan).

The purpose of the proposed lake would be to enhance recreational opportunities for the residents of Watercress Subdivision. The applicant indicated the lake would be used for fishing, canoeing, and a golf driving range (with floating golf balls). Also, the lake would provide the residents an aesthetic view of a lake and a walking trail.

c. Applicant's Proposed Action with Special Conditions. This alternative would be composed of the applicant's proposal with the inclusion of additional special conditions (described in Section 5.5) that would minimize and mitigate unavoidable adverse impacts.

4.3 Comparison of Alternatives.

a. No Action. With this alternative, the applicant would not impound 700' of the unnamed tributary channel. The applicant would continue to develop the surrounding property with the

Watercress Subdivision; however, without the recreational benefits of the 8.6 acre lake, the property's value, aesthetics, and water-related recreation opportunities would decrease. Other impacts and benefits associated with the proposed action would not occur. Selection of the no action alternative would not meet the needs of the applicant.

b. The Proposed Action. With this alternative, the applicant would perform the proposed work. Approximately 700' of the unnamed tributary would be impounded for additional aquatic habitat and recreational opportunities. An 8.6-acre lake would be created. No properties listed in or eligible for the National Register of Historic Places would be affected. No state or federally listed or proposed threatened or endangered species would be affected. No opposition to the proposal was brought forward from adjacent property owners. All initial concerns raised from environmental agencies during the public interest review have been resolved through onsite meetings, revised plans, and onsite mitigation measures. If appropriate mitigation measures discussed in this document are implemented, impacts to the environment would be minimized.

c. Applicant's Proposal with Special Conditions. The impact of this proposal would be similar to the description in b. above. The addition of recommended special permit conditions would minimize adverse impacts to the environment. This alternative would have the least adverse impacts of the options under consideration.

5.0 Findings

5.1 Consideration of Public Comments. No comments were received from the general public or adjacent property owners. There were no requests for public hearings. The USFWS's and DCNR's recommended mitigation measures have been proposed by the applicant and are included in the Final Mitigation Plan (see Appendix D).

5.2 Clean Air Act General Conformity Rule Review. The proposal has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act, and it has been determined that the activities proposed under this permit will not exceed de minimis levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the CE continuing program responsibility and cannot be practicably controlled by the CE, and for these reasons, a conformity determination is not required for a permit.

5.3 Water Quality Certification. On 28 September 2007, a conditional Water Quality Certification was issued by the state of Alabama, Department of Environmental Management (ADEM), pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards would not be violated by the work (see Appendix E).

5.4 Section 404 (b)(1) Determination. The purpose of Section 404(b)(1) of the CWA is to restore and maintain the chemical, physical, and biological integrity of the waters of the U.S.

through the control of discharges of fill material, as published in 40 CFR Part 230. Section 230.10 requires that the discharge of fill material into waters of the U.S. associated with the proposed work meet certain restrictions in order to be authorized: (a) there are no other practicable alternatives to the proposal that would have less adverse impacts on the aquatic environment, (b) the discharge would not adversely impact water quality, violate state water quality or toxic effluent standards, or jeopardize the continued existence of a threatened or endangered species as identified under the Endangered Species Act, (c) the discharge would not cause or contribute to the significant degradation of waters of the US, and (d) the project would minimize to the extent possible the adverse impacts on the aquatic environment. Based on the probable impacts addressed above, compliance with the restrictions, and information concerning the fill materials to be used, the proposed work complies with the guidelines and the intent of Section 404(b)(1) of the CWA. (see Appendix H.)

5.5 Recommended Special Permit Conditions. The following recommended special permit conditions, when applicable, are necessary to comply with federal law, while affording appropriate and practicable environmental protection.

- a. The work must be in accordance with any plans attached to the permit. You must have a copy of this permit available on the site and ensure that all contractors are aware of its conditions and abide by them. *Justification: Recommended at 33 CFR Part 325, Appendix A.*
- b. The structure shall be constructed during low flow periods of the year and a silt containment boom, or equivalent, shall be placed between the construction work and the downstream end of the work until completion. It is your responsibility to perform routine maintenance on the structure/culverts to keep them clean from debris and open. *Justification: To minimize turbidity and water quality impacts.*
- c. You must perform the measures as outlined in the Mitigation Plan and attached to this permit. *Justification: To ensure proposed mitigation measures are carried out.*
- d. You must contact this office at least two weeks prior to construction of the impoundment structure so that a pre-construction meeting may be held. Also, you must contact this office upon commencement and completion of the Mitigation Plan measures. *Justification: To ensure project compliance.*
- e. Copies of photographs taken during the middle stage of construction and after the project is finished shall be forwarded to this office by mail or email, Attn: Amy Robinson. *Justification: For a record of the progress.*

5.6 Findings of No Significant Impact (FONSI). Based on a full consideration of the EA, information obtained from cooperating federal/state agencies, and comments received from the interested public, I have concluded that issuance or denial of the requested permit would not constitute a major federal action that would significantly affect the quality of the human environment. This constitutes a FONSI; therefore, the preparation of an Environmental Impact

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Statement is not required. This FONSI was prepared in accordance with paragraph 7a, Appendix B, 33 CFR 325, February 3, 1988.

5.7 Public Interest Determination. The information in this document indicates that the proposed action would meet the recreational needs of the applicant, while providing a diverse habitat with the construction of 8.6-acre lake for aquatic life and wildlife. It is expected that the proposed mitigation plan would benefit the environment over a period of time with the preservation of 8.7 acres of forested land adjacent to the unnamed tributary and Round Island Creek, which is habitat for threatened and endangered mussels approximately one mile downstream of the project. Also, the mitigation would involve the restoration of the unnamed tributary immediately downstream of the proposed impoundment structure to the confluence of Round Island Creek. The proposed project would not affect any federally-protected species or properties eligible for or listed in the National Register of Historic Places. It is expected that the proposed project would economically benefit the applicant by increasing the sale of lots/homes within the residential development as a result of the enhanced water-related opportunities and aesthetic values. In turn, it is expected to economically benefit the existing home owners within the development. The development would provide some economic benefit to the county/city from the increased tax base. Also, economic benefits are expected to occur for the contractor performing the work, the work force, and the sale of goods and materials in the local community. Issuance of a permit for the proposed action provides benefits to the applicant and meets his needs.

I have weighed the potential benefits that may be accrued as a result of the proposed action against its reasonably foreseeable detrimental effects and conclude that permit issuance would not be contrary to the public interest. The general conditions contained within the DA permit together with incorporating the recommended special conditions adequately address the environmental concerns identified in this document.

FOR THE COMMANDER:

12/14/07

Date



Bradley N. Bishop
Chief, Western Regulatory Section
Operations Division