

TENNESSEE VALLEY AUTHORITY

FINDING OF NO SIGNIFICANT IMPACT AND ADOPTION OF U.S. ARMY CORPS OF ENGINEERS ENVIRONMENTAL ASSESSMENT

SECTION 26a APPROVAL FOR BRIDGES OVER MIDDLE CREEK AND CULVERTS IN TRIBUTARIES TO MIDDLE CREEK ASSOCIATED WITH THE FOUR-LANE CONSTRUCTION OF A 2.78-MILE SECTION OF STATE ROUTE 449 (MIDDLE CREEK ROAD), SEVIER COUNTY, TENNESSEE

Proposed Action and Need

The Tennessee Department of Transportation (TDOT) submitted a Section 26a application for bridges, channel relocations, and culverts associated with the four-lane widening and construction on new location of SR 449 (Middle Creek Road) from Center View Road to US 411 (Dolly Parton Parkway) in Sevierville. The project is part of an effort to relieve traffic congestion in the Pigeon Forge-Sevierville area. This project would provide an alternate to the heavily-used US 441 (Parkway) corridor.

U.S. Army Corps of Engineers (USACE) prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) dated March 11, 2004, for the proposed project. A copy of the USACE EA and FONSI are attached. TVA was a Cooperating Agency in preparation of the USACE EA.

Alternatives

The EA prepared by the USACE evaluated three alternatives. Under No Action, no work would take place in streams requiring permits, and the highway improvement project would likely not be built. Under the Applicant's Proposed Action, the roadway would be built. As mitigation for 534 feet of stream length reduction and encapsulation, TDOT would pay into the Tennessee in-lieu fee stream mitigation program. Mitigation for filling of 1.84 acres of wetlands would be mitigated by creating and restoring, at a 3:1 ratio, 5.52 acres of wetland adjacent to the project. Under the Applicant's Proposed Action with Additional Mitigation and/or Special Conditions, the required wetland mitigation would be increased to a 4:1 ratio. The additional mitigation would be obtained by purchasing 0.72 wetland credits at the Shady Valley Wetland Mitigation Bank.

Impacts Assessment

The project would not affect endangered or threatened species. About two thirds of the highway corridor is agricultural (row crops and pasture) and 1/3 is forested in mixed hardwoods typical of the Ridge and Valley region. About 1900 feet of stream channel would be disturbed, along with two acres of wetlands. The project would likely improve traffic flow and traffic safety in the Sevier County area and potentially benefit air quality by reducing the number of vehicles idling in the Pigeon Forge area. Two archaeological sites eligible for the National Register of Historic Places would be affected by the project. One of these is a prehistoric site and the other is a historic farmstead. Archaeological data recovery was undertaken on the two sites, and human burials were identified at one of them. Based on comments received from Native American tribes, TVA would require

that the burials be preserved in situ and capped if feasible. Alternatively, the remains would be reinterred as near the original interment site as possible. In addition, three National Register-eligible structures would be affected. Two of them, the Robert Marshall Barn and the William Trotter Barn, would not be adversely affected. A third structure, the Amos C.F. Trotter Barn, has been moved to avoid an adverse effect. Finally, the roadway project would produce a visual effect on the Trotter-McMahan Farmstead; vegetative screening provided to the farmstead would ensure that the visual effect is not adverse.

Mitigation

Standard Best Management Practices for erosion and sedimentation control would be included as conditions of the Section 26a approval. In addition, on-site wetland mitigation, purchase of wetland mitigation credits, and stream mitigation measures including purchase of credits from the in-lieu fee stream program are required by USACE as a condition of their section 404 permit and by the Tennessee Department of Environment and Conservation as conditions of their Section 401 Water Quality Certification. As a result of TVA's consultation under Section 106 of the National Historic Preservation Act, TVA would issue its approval with the following special condition:

- No construction or other disturbance shall take place in the vicinity of archaeological site 40SV65 until two Native American Graves have been treated in consultation with affiliated Indian tribes. Buried human remains will be preserved in situ and capped if feasible or they will be reinterred as near the original interment site as possible. Reinterment specifications are provided in the comments of the Thlopthlocco Tribal Town of February 17, 2004.
- The Trotter-McMahan Farmstead will be visually protected by vegetative screening.

Public and Intergovernmental Review

On November 1, 2002, USACE issued Joint Public Notice No. 02-72 to advertise the proposed roadway project. Comments were received from the Tennessee Historical Commission (THC) and the U.S. Fish and Wildlife Service (FWS). FWS indicated that the adequacy of the proposed mitigation effort had not been demonstrated and asked that avoidance and minimization be further investigated. After discussions with FWS and the applicant, USACE determined that an expanded wetland mitigation ratio would substantially address the FWS concerns.

THC initially replied that No National Register of Historic Places listed or eligible property would be affected by the undertaking. However, in a second follow-up letter, they indicated that the project may adversely affect National Register eligible properties. USACE and THC subsequently disagreed about the Area of Potential Effect (APE) for the project. In order to bring the Section 106 process to a conclusion, TVA decided to take the lead in Section 106 consultation. On February 5, 2004, TVA sent THC a letter with its determination that the APE should be the entire road project based on the short roadway length and the large number of wetland and stream crossings (13). TVA also consulted with Indian tribes on the treatment of two Native American burials in the path of the project uncovered by the city of Sevierville. By letter of February 18, 2004, THC agreed with TVA's determinations on the APE, and on the mitigation or treatment necessary to avoid adverse effects. THC determined that certain historic properties had

already been adversely impacted prior to the commencement of any federal involvement in the project. However, with the onset of federal involvement, conditions specified in the section on Mitigation and the precaution taken of moving the Amos C.F. Trotter Barn will ensure that no further adverse effects to historic properties will occur.

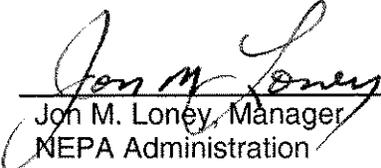
TVA also solicited and received comments from 10 Native American tribes. Comments were received from the Eastern Band of Cherokee Indians, Thlopthlocco Tribal Town, and United Keetoowah Band. As indicated in the mitigation section, TVA will require that the remains be treated in accordance with the recommendations of these tribes.

A Water Quality Certification from the state of Tennessee, in accordance with Section 401 of the Clean Water Act was issued by letter of April 23, 2003.

Conclusion and Findings

TVA has independently reviewed the impacts assessed in the USACE EA and determined that its scope, consideration of alternatives, and contents are appropriate, and that the impacts on the environment have been adequately assessed. There are no threatened or endangered species present in the 2.8-mile roadway corridor. Potential adverse impacts to historic properties would be mitigated to insignificant levels as indicated in the Mitigation section. TVA has decided to adopt the USACE EA. It is attached and incorporated by reference.

Based on the EA, we conclude that the issuance of a Section 26a permit for the bridges, culverts, and stream relocations associated with the construction of Middle Creek Road between Center View Road and US 411 would not be a major federal action significantly affecting the environment. The FONSI is contingent upon successful implementation of Best Management Practices for sediment and erosion control, purchase of credits from the Tennessee in-lieu program for stream mitigation, on-site and wetlands mitigation bank purchases, visual screening of the Trotter-McMahan Farmstead, and treatment of human burials in accordance with the wishes of Native American tribes.



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Date Signed