

ADOPTION AND FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
PROPOSED KNOXVILLE SOUTH WATERFRONT PUBLIC IMPROVEMENTS
KNOX COUNTY, TENNESSEE

The City of Knoxville (City) proposes to improve three sections of riverfront in its downtown area. The proposed public improvements between Tennessee River Miles 647.4 and 649.1 are part of the revitalization plan the City adopted in 2006 to improve the area over a 20-year period. The City's current proposal involves constructing several land- and water-based features along the south side of the Tennessee River waterfront, also known as the Knoxville South Waterfront.

The City's proposal requires approval by the Tennessee Valley Authority (TVA) under Section 26a of the TVA Act, as well as Department of the Army (DA) approval from the United States Army Corps of Engineers (USACE) pursuant to Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act, and Tennessee Department of Environment and Conservation (TDEC) approval under Section 401 of the Clean Water Act. USACE and TVA jointly prepared the attached environmental assessment (EA) to evaluate the potential environmental impacts of the City's proposed actions. The EA is incorporated herein by reference.

The decision before TVA is whether to issue Section 26a approval for the construction of the proposed public improvements, which include a new concrete staircase and landing, a timber deck, floating docks, floating walkways, a paved overlook, a riverfront walkway, landforms and recreational lawn areas, creation of a small wetland, a timber pier, a concrete kayak ramp, a pile-supported dock and boathouse structure, roadway improvements, new sidewalk areas, a parking area, a fixed fishing deck, bank excavation, 3,751 feet of riverbank stabilization, and addition of approximately 2,930 cubic yards of fill material.

The EA evaluated three alternatives: Alternative 1, the No Action Alternative; Alternative 2, the Applicant's Proposed Action; and Alternative 3, the Applicant's Proposed Action With Added Special Conditions. Under the No Action Alternative, there would be no construction or work requiring permit approval by USACE, TVA, or TDEC. TVA would not issue Section 26a approval, and USACE and TDEC would not issue their respective approvals. Under Action Alternative 2 or 3, USACE, TVA, and TDEC would issue their respective permits and approvals for the City's proposed public improvement project. The Action Alternatives differ in that Alternative 3 includes additional conditions and mitigation measures to reduce potential adverse environmental effects.

TVA's preferred alternative is Alternative 3, Applicant's Proposed Action With Added Special Conditions, because it provides more safeguards than Alternative 2 to protect the environment while allowing the City's proposed Knoxville South Waterfront improvement project to proceed.

Public and Intergovernmental Review

On September 18, 2008, USACE and TVA issued Joint Public Notice (JPN) 08-51 to advertise the proposed work and to solicit comments from the public and local, state, and federal agencies on the proposal. Comments on the JPN were received from the United States Fish

and Wildlife Service (USFWS), the Tennessee Historical Commission (THC), Knoxville Community Development Corporation, Ingram Barge Company, Magnolia Marine Transport Company, and several individuals. The USFWS commented that it did not anticipate significant adverse impacts to federally listed species or their habitats and Endangered Species Act requirements under Section 7 had been fulfilled. THC indicated that based on currently available information, the project as currently proposed “may adversely affect” properties eligible for listing in the National Register of Historic Places (NRHP) and requested that TVA begin consultation with its office. TVA responded to the request and initiated consultation with the Tennessee State Historic Preservation Officer (TN SHPO). The issues raised by the commercial navigation companies have been addressed in the final EA.

USACE and TVA released a draft EA for public comment from May 1 through May 30, 2009. Four written comments and four telephone inquiries were received regarding the draft EA, and all of these comments have been addressed in the final EA.

TDEC opened a public comment period prior to issuance of its 401 Water Quality Certification for the proposed project to allow for an additional opportunity for public involvement.

Because the proposed shoreline stabilization activities and a portion of the fill materials would be located within the published floodway, a No Rise Certification was provided by the City for both floodway encroachment and encroachment upon the no-fill line.

Impacts Assessment

The EA concludes there would be no effect on federally listed as endangered and threatened or state-listed species. Impacts to water quality would be minor and temporary. Impacts to terrestrial wildlife and their habitat would be insignificant. The proposed project would alter the visual character of the waterfront. Visual impacts would be positive but insignificant overall. Existing noise levels would not significantly increase.

Based on the information available to USACE and TVA, the proposed public improvements would not displace any minority or low-income group. Therefore, these segments of the population would not be impacted disproportionately by the proposed action. Furthermore, the USACE and TVA have concluded that the proposal would satisfy the requirements of Executive Order (EO) 12898 (Environmental Justice).

The proposed improvements would be in close proximity to the floodplain. The Knoxville South Waterfront Development office has evaluated other alternatives to the proposed floodplain fill activities and provided documentation to support a no practicable alternative determination. The project would result in the loss of about 1.0 acre-foot of flood control storage and 1.0 acre-foot of power storage. Methods used to minimize loss of floodplain functions and values will include standard construction controls to minimize erosion and sedimentation, such as use of permeable surfaces where practicable to control runoff, waste, and spoils disposal to avoid contamination of groundwater and surface water. Implementation of the standard control measures would minimize adverse impacts to the floodplain. The proposal complies with EO 11988 (Floodplain Management) and the TVA Flood Control Storage Loss Guideline. A functionally limited 0.14-acre scrub-shrub wetland exists in the area of River Plain Park (Project 9). The site is adjacent to the Tennessee River and was once a sump on property previously used by Texaco. The City has proposed to mitigate for the loss of the wetland with the creation of a new 0.4835-acre wetland (at a 3.45:1 creation ratio) that would function to filter storm water from new street and park runoff. The original plan was to mitigate the wetland loss by offering a 4:1 creation ratio, but due to property size and geometry constraints, the designers

were able to achieve only a 3.45:1 wetland creation ratio. USACE and TVA concur that a 3.45:1 mitigation ratio is adequate given the limited value of the existing wetland. The wetlands will be monitored for five years. The monitoring plan will include vegetation, hydrology, and soils' assessments. The permittee shall prepare annual reports to be submitted to the USACE and shall include adequate photographic documentation. Therefore, with the implementation of the proposed wetland mitigation, impacts to wetlands would be insignificant. Moreover, the USACE and TVA have concluded that the proposal would satisfy the requirements of EO 11990 (Wetlands).

The construction of the kayak landings and regrading of the riverbank would impact 1,420 feet of shallow-water spawning habitat in Fort Loudoun Reservoir; however, shallow-water spawning habitat is not uncommon in this stretch of the river. Installation of riprap along the riverbank would provide 3,751 feet of additional potential shallow-water spawning habitat for aquatic species. The proposed floating docks and piers would also provide attachment surfaces and shading for fish and aquatic organisms. Impacts to aquatic organisms would be insignificant as aquatic organisms would recolonize after construction is complete and would have adequate habitat for shallow-water spawning.

The stretch of the reservoir near the proposed project is mainly urban in character and generally receives light to moderate recreational boating use. Under Action Alternatives 2 and 3, development of the proposed initiatives would complement other water-oriented recreation facilities in the area and provide additional opportunities for public access to the downtown Knoxville waterfront. The development of kayak access facilities in the Gay Street Stair Project would lead to some increase in nonmotorized boating activity along this stretch of the river. However, this increase would not have a measurable impact on overall boating patterns and other recreation activities in the area. Recreational impacts and benefits would be similar under Alternatives 2 and 3; however, the additional conditions in Alternative 3 would decrease potential navigation impacts and provide additional recreational safeguards. Impacts to water-related recreation would be insignificant.

In order to avoid potential navigation impacts, Section 26a and DA permit approvals would be subject to special conditions that would improve navigation safety by requiring that the use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States. With the implementation of special permit conditions, there would be no significant impact on the navigation channel, and no new navigation aids would be required.

A programmatic agreement (PA) has been executed by TVA, USACE, the TN SHPO, and the City to address potential adverse effects of the proposal to historic properties eligible for listing in the NRHP. The PA directs the City regarding the handling of historic properties, findings of human remains, discoveries after the surveys, and other considerations regarding phased compliance responsibilities. The PA allows for phased identification and evaluation of historic properties within the area of potential effects and appropriate treatment of historic properties that are eligible for inclusion in the NRHP. The TN SHPO has concurred with this approach. Surveys for historic properties and any necessary evaluation will proceed in accordance with the PA. Execution of the PA will minimize potential impacts to historic properties, and TVA's obligations under Section 106 of the National Historic Preservation Act have been met.

Mitigation and Permit Conditions

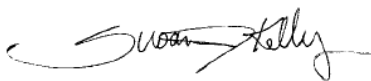
In addition to adherence to routine permit conditions, including the use of construction-related best management practices, the following mitigation measures would be required. These

measures and conditions would reduce the potential for adverse environmental effects and would be included as additional conditions in the Section 26a permit:

- A preconstruction meeting must be held among representatives of the USACE Nashville District, TVA, permittee, and contractors to discuss the conditions of this permit. The contractors must present their method of operation for the work at this meeting. If the method of operation includes additional work such as temporary access pads/fills, structures, etc., below elevation 813 feet mean sea level, another permit may be required before construction begins. Contact J. Ruben Hernandez of the USACE office at telephone number (615) 369-7519 to arrange the required meeting.
- The permittee must install and maintain, at its expense, any safety lights and signals prescribed by the United States Coast Guard, through regulations or otherwise, on its authorized facilities. Permittee shall provide documentation of such purchases and installation to TVA's 26a permitting office.
- The permittee must agree to protect the mitigation areas in perpetuity using the standard TDEC land use restrictions language. Copy of the deed with necessary restrictions to protect the mitigation areas shall be provided to TVA's 26a permitting office.
- To ensure that cultural resources would not be adversely affected, identification and evaluation of historic properties shall proceed in accordance with the executed PA. All administrative costs to implement the PA will be the responsibility of the permittee.

Conclusion and Findings

TVA has independently reviewed the jointly prepared EA and found it to be adequate. TVA is therefore adopting the EA. Based upon the analyses in the EA, TVA has concluded that the issuance of Section 26a approval for this proposal would not be a major federal action significantly affecting the environment. Accordingly, preparation of an environmental impact statement is not required. This finding of no significant impact is contingent upon adherence to the executed PA related to historic properties as described above and in the EA.



September 24, 2010

Susan J. Kelly, Senior Manager
Federal Determinations
Environmental Permits and Compliance
Environment and Technology
Tennessee Valley Authority

Date Signed