

FINDING OF NO SIGNIFICANT IMPACT TENNESSEE VALLEY AUTHORITY

RIVERTON DEVELOPMENT SECTION 26A APPROVAL Nickajack Reservoir, Hamilton County, Tennessee

Riverton LLC (the Applicant) has applied for a Shoreline Construction Permit under Section 26a of the Tennessee Valley Authority (TVA) Act associated with development of the master-planned, mixed-use Riverton community (Project) on approximately 155 acres of private land (the Project Area). The Project Area is located along the Nickajack Reservoir on the Tennessee River, in Chattanooga, Hamilton County, Tennessee. The proposed Project would include approximately 304 homes, commercial space, roads, utilities, stormwater appurtenances, riprap, and residential floating docks. TVA's action includes the approval of the placement of fill within the 500-year floodplain, the approval of use of portions of a TVA transmission right-of-way (ROW), and approval of riprap and residential docks along the shoreline.

The Project Area has approximately 3,400 feet of frontage on the north bank of the Tennessee River on the Nickajack Reservoir between river miles 469.4 and 468.8 (right descending bank). The Project Area has access to adjacent or nearby City of Chattanooga recreational facilities (e.g., Champions Tennis Club, Rivermont Park, Dupont Park). Current land cover and uses in the Project Area include the nine-hole Lupton City Golf Course, dense scrub forest, a network of unimproved trails and roads, a TVA transmission ROW, and City of Chattanooga sewer ROWs.

TVA's purpose of and need for action is to decide whether to issue a Section 26a permit for shoreline construction activities and approve use of portions of a TVA transmission ROW as part of the Applicant's proposed residential and commercial development project along the waterfront of the Nickajack Reservoir. In addition, TVA's interest in this project arises from its commitment to support economic growth within the Tennessee River Valley region. This Proposed Action would accommodate continued population growth in Hamilton County while generating additional property tax revenue for the County and City of Chattanooga. The Applicant's purpose and need is to commercially develop a master-planned, mixed-use community along the Nickajack Reservoir waterfront in general proximity (an approximately 5-mile radius) to the Chattanooga city-center.

Section 26a of the TVA Act requires TVA approval prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstructions affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or its tributaries. TVA's Section 26a jurisdiction extends to the limits of the Tennessee River watershed. On TVA reservoirs that jurisdiction typically applies to the limits of the 500-year floodplain or to the upper limits of TVA's flowage rights, whichever is higher.

Because the proposed development includes activities that would be located within the 500-year floodplain, TVA has Section 26a jurisdiction over portions of the Project Area and must consider whether to approve or deny the Section 26a permit application. TVA must also review and approve the use of a segment of a TVA transmission ROW easement within the Project Area to ensure the use does not affect the function and reliability of its transmission system. TVA's permitting authority applies to approximately 88 acres of the Project Area, lands within the 500-year floodplain and the TVA transmission ROW.

Environmental Assessment

TVA prepared an environmental assessment (EA), consistent with the requirements of the National Environmental Policy Act (NEPA), to consider the potential environmental effects of granting the Applicant's request. In the EA, incorporated by reference herein, TVA analyzed two alternatives: a no action alternative in which TVA would not approve the applicant's request and the Proposed Action alternative. The Proposed Action is to issue a Section 26a permit allowing the Applicant to (1) place fill within the 100- and 500-year floodplain, (2) use portions of a TVA transmission ROW, and (3) install 75 linear feet of riprap stabilization and 16 residential floating docks along the Nickajack Reservoir shoreline. By allowing these actions, the Section 26a permit would facilitate the development of the proposed 155-acre Project that would include construction of approximately 304 homes, commercial space, roads, utilities, stormwater appurtenances, riprap, and residential docks.

To ensure that the potential effects of the Project are properly analyzed, the EA addressed resources present within the entire 155-acre Project Area, although TVA's permitting authority applies to approximately 88 acres of the Project Area. TVA evaluated the following issues in the EA: Vegetation, Aquatic Ecology, Wildlife, Threatened and Endangered Species, Wetlands, Managed and Natural Areas, Cultural Resources (Archaeological and Architectural Resources), Floodplains, Surface Water, Navigation, Parks and Recreation, Transportation, Land Use, Visual Resources, Solid and Hazardous Waste and Hazardous Materials, Socioeconomics and Environmental Justice, Public Health and Safety, Noise, Geology and Groundwater, and Air Quality.

In the EA, TVA found that the Project would result in negligible to minor adverse impacts to aquatic ecology and wildlife during construction and after the area had been developed. Potential impacts to aquatic habitat in the Tennessee River would be negligible given the implementation of best management practices to reduce runoff and sedimentation during construction. Impacts to vegetation in the project area would be long-term and adverse, primarily associated with the clearing of approximately 60 acres of forest. Impacts would not be significant because of the type and prevalence of the herbaceous plant communities that would be impacted. There would be minor impacts to wildlife associated with displaced species and the loss of habitat. TVA also found that impacts to threatened and endangered species would be avoided through adherence to best management practices identified during consultation with the U.S. Fish and Wildlife Service.

The Project would result in the placement of fill in a total of 0.50 acres of three wetlands. Other wetlands would be avoided. There would be minor impacts to the 100-year and 500-year floodplains in the Project Area and negligible impacts from the loss of power storage on

Nickajack Reservoir. The alteration of 376 feet of ephemeral stream channel would result in minor adverse impacts to surface water. BMPs and permit requirements would ensure that impacts to surface waters would be reduced. As noted below, the Applicant would mitigate impacts to wetlands and waters to the extent required.

The development would also result in minor adverse impacts on land use. While the undeveloped Project Area would be developed into a residential and mixed-use area, the new development would generally be consistent with other properties in the vicinity. The Project would result in negligible impacts to managed and natural areas near the Project Area, and the conversion of the Project Area from a natural setting to a development would result in minor adverse impacts to visual resources. While there may be adverse impacts on water-based recreation (from installation of private docks), the proposed addition of greenways for walking and biking would be a beneficial recreation impact.

The Applicant consulted with a number of agencies to ensure that any impacts to navigation on Nickajack Reservoir would be minor. In the EA, TVA also found that transportation impacts to local roadways may be minor to moderate, with the additional traffic volume expected on arterial roads and highways resulting from construction activities and new residents. In addition, construction activities are likely to result in increased noise levels that represent a short-term minor to moderate adverse impact to those near the Project Area.

The proposed development is anticipated to have beneficial socioeconomic impacts, primarily through additional employment opportunities (in the short term) and tax revenues (in the long term). Some minor long-term adverse impacts may affect residents near the development, should there be an associated increase in property taxes. There would be no adverse impacts to environmental justice communities from the proposal. The Project would have no adverse impacts on health and safety to the general public. Construction crews and contractors would adhere to health and safety plans and policies to protect the employees during the construction period, which is estimated to be two-years.

Soil disturbance during construction activities (e.g., grading and earthmoving) would not affect geological conditions directly or indirectly. While previous groundwater monitoring in the Project Area indicated the presence of tetrachloroethene (PCE), subsequent monitoring did not detect PCE. As described in the EA, there have been several site assessments conducted over the past 22 years to determine whether previous activities in the Project Area resulted in the presence of solid or hazardous waste/materials requiring mitigation. A recent site assessment revealed evidence of three recognized environmental conditions or controlled recognized environmental conditions in connection with the Project Area: impacts on groundwater from the adjoining former mill site, past solid waste disposal and dumping, and municipal sewer system overflows. The potential groundwater and waste issues would be addressed by the Applicant through the implementation of a Soil Management Plan, construction BMPs, and compliance with applicable permit and regulation requirements during construction. These measures, as well as engineering controls to limit exposure to impacted soils during construction, would minimize and mitigate impacts from potentially contaminated soils. The Project would result in generation of solid waste during clearing, construction, and operation of the development.

The Project would also result in temporary impacts on air quality during construction and would be similar to other medium-scale construction and development projects. The quantity and duration of construction-related emissions would vary and be spread out over the two-year construction phase, further minimizing short-term impacts on air quality. Air emissions during construction and operation would have a minor transient impact on off-site air quality and would be well below applicable ambient air quality standards. The potential impacts to air quality from activities within the development after construction would be negligible in the context of local and regional air quality.

In its review, TVA determined that three archaeological sites within the Project Area were determined to be eligible for inclusion in the National Register of Historic Places. Through consultation with the Tennessee State Historic Preservation Office (SHPO), TVA and the SHPO formed a Memorandum of Agreement (MOA) that provides guidance for the avoidance, minimization, and mitigation of adverse effects to the sites from the Project. Through avoidance, there would be no adverse effects to two of the sites. Consistent with the terms of the MOA, data recovery excavations would be performed to address effects on the third site. There would be no adverse effects to historic architectural resources within the vicinity of the Project.

Public Involvement

On June 1, 2023, TVA issued the draft EA for public review and comment. The availability of the draft EA was announced in a newspaper advertisement (*Times Free Press*, Chattanooga), and the draft EA was posted on TVA's website. An article about the Project and the public comment period was published by the *Times Free Press* on June 5, 2023. TVA did not receive any public comments during the 30-day review period.

Necessary Permitting and Consultation

All necessary permits, permit modifications, licenses, and approvals would be obtained by the Applicant for activities it implements within the 155-acre Project Area. The list below identifies additional regulations, programs, permits, approvals, or other authorizations from federal, state, or local authorities that may be required before the Project Area could be developed:

- An aquatic resource alteration permit (ARAP), which serves as a Section 401 Water Quality Certification in Tennessee, and a Section 404 permit from the US Army Corps of Engineers (USACE), are required for activities that involve point source discharges of dredge or fill into Waters of the US (WOTUS) or Waters of the State of Tennessee. The applicant has applied for an ARAP from the Tennessee Department of Environment & Conservation (TDEC) and a USACE Section 404 Individual Permit. The USACE public notice for the Individual Permit was published in January 2023. Per USACE guidelines, the USACE would issue the Individual Permit after the TVA Section 26a permit is issued.
- A National Pollutant Discharge Elimination System (NPDES) general permit is required under Section 402 of the Clean Water Act for discharge of pollutants found in stormwater runoff associated with construction activities that disturb greater than one acre into WOTUS or Waters of the State of Tennessee. The development and approval of a Stormwater Pollution Prevention Plan (SWPPP) is a component of this permit.

Construction Best Management Practices (BMPs) to minimize impacts to water quality would be outlined in the SWPPP. An NPDES permit was obtained in August 2022.

- Approval from TVA, USACE, and the U.S. Coast Guard (USCG) regarding the proposed lakeward extension of facilities along the Tennessee River.
- Department of the Army Permit pursuant to Section 10 of the Rivers and Harbors Act of 1899, issued by the USACE.
- Rezoning applications to support commercial and high-density residential uses at the subject property have been approved by local authorities.
- A City Storm Water Variance is required because fill material would be placed within the City-mandated 60-foot water quality buffer adjacent to approximately 100 linear feet of stream S-1. The Applicant submitted a Water Quality Buffer Plan to the City in April 2022 and the Storm Water Variance was approved in June 2022. A revised Water Quality Buffer Plan and associated variance request will be submitted to the City based on the most recent site grading plans.
- A City Land Disturbance Permit would be applied for before the commencement of grading or clearing activities.
- Approval that the portion of the Project located within the 100-year floodplain is compliant with the City of Chattanooga Flood Ordinance for Residential Construction (Sec. 38-365) was obtained in March 2023.
- Final building permits would be applied for by property owners/builders upon completion of site grading, installation of road and utility infrastructure, and upon final plat approval.

During the preparation of this EA, TVA consulted with several federal and state agencies. As noted above, in April 2021, TVA initiated consultation with the Tennessee Historical Commission and 13 federally recognized tribes in compliance with Section 106 of the National Historic Preservation Act (NHPA) to address potential adverse effects to three archaeological sites within the Project Area. As part of the consultation process, a Memorandum of Agreement was developed to mitigate adverse impacts on sensitive archaeological resources.

Because the Project is partially located within the 100-year floodplain, the Applicant is required to meet the requirements of the National Flood Insurance Program and the City of Chattanooga's floodplain management ordinance. To satisfy these requirements, the City reviewed the Project grading plans to ensure that the lowest floor of any building would be at or above elevation 660.5 feet, which would be one foot above the 100-year flood elevation, and that no fill material would be placed within either the Tennessee River floodway or the floodway of an unnamed tributary to the Tennessee River. The Applicant received City of Chattanooga flood review approval in March 2023.

TVA initiated consultation with the USFWS in August 2021 in compliance with Section 7 of the Endangered Species Act. In their response on August 24, 2021, the USFWS concurred with TVA's "not likely to adversely affect" findings for certain federally listed species and acknowledged TVA's "no effect" findings for other federally listed species.

As noted above, TVA also consulted with the USACE regarding the Applicant's permit requirements and with the USCG to discuss whether the proposal would affect navigation on the Tennessee River.

Prior to submitting its Section 26a permit application, the Applicant engaged in public and agency outreach regarding the proposed Project. This outreach included coordination with TDEC, the City of Chattanooga, and the USACE regarding resource surveys and associated permitting. Representatives of the Applicant also met in person with the Lupton City Homeowners Association on multiple occasions and engaged in 12 public meetings of the Chattanooga City Council and the Planning Commission.

Mitigation Measures and Environmental Commitments

Through the project planning and permitting process, numerous design modifications have been incorporated into the Proposed Action Alternative that avoid or minimize impacts to sensitive resources identified within the Project Area. In addition to the standard conditions for a Section 26a permit and other necessary permits, which include mitigation measures, BMPs and other requirements, TVA would require implementation of the following mitigation measures to avoid, minimize, or resolve adverse impacts on the environment:

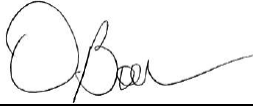
- Adherence to the following National Register of Historic Places (NRHP) Section 106 MOA stipulations:
 - Avoid two NRHP-eligible sites (40HA73 and 40HA115).
 - Allow Tribal access to sites 40HA73 and 40HA115.
 - Conduct data recovery excavations at site 40HA538.
 - Include culture histories provided by Tribes in the full technical report on 40HA538.
 - Adhere to the Human Burial Treatment Plan included as Appendix F of the MOA.
 - Train onsite construction personnel and the Riverton Homeowner's Association on the importance of preserving archaeological resources.
- Activities occurring within the TVA transmission ROW would be subject to TVA's General Conditions such as adhering to U.S. Occupational Safety and Health Administration requirements, preventing future soil erosion, and prohibiting the stockpiling of soils within the ROW.
- Project activities would be conducted in a manner to ensure that waste materials are contained, and the introduction of pollution materials to receiving waters would be minimized.
- To offset impacts to aquatic resources, the Applicant has purchased 1 wetland mitigation credit from the Sequatchie Valley Wetland Mitigation Bank and 150.4 stream mitigation credits from Smokey Run Mitigation Bank. The Applicant has provided TVA with verification that these credits have been purchased.

- To minimize the potential for the introduction of sediment into jurisdictional aquatic resources, erosion prevention and sediment control measures would be installed in upland areas. The proposed erosion prevention and sediment control measures would comply with the TDEC General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.
- A Soil Management Plan would be implemented to minimize impacts from the movement of Project Area soils (see Appendix C of the EA).
- To minimize impacts from stormwater runoff, a SWPPP would be developed and implemented during construction.
- The lowest floor of any building would be at or above elevation 660.5 feet.
- No fill material, including riprap bank stabilization, would be located within the Tennessee River floodway.
- The riprap would be placed no more than two feet from the existing shoreline at the top of Nickajack Reservoir's operating range (elevation 634.5).
- As described in Section 3.8 of the EA (Navigation), the proposed floating docks would be reviewed and approved individually through a separate Section 26a permit process. At that time, TVA, the USACE, and USCG may require the following additional conditions, depending on the dock facility:
 - Floating docks would extend no further than 100 feet into the Nickajack Reservoir, thereby minimizing concerns regarding navigation and safety.
 - The floor elevation of any fixed dock should be a minimum of 1.5 feet above the normal summer pool elevation 634.0 feet.
 - The 100-year flood elevation at this site is estimated to be 659.4 feet mean sea level. As a minimum, any fixed facilities should be designed to prevent damage to stored boats by forcing them against the roof during a 100-year flood event.
 - The Applicant is to be advised in writing that the facilities will be on a commercial navigation channel or marked recreational channel and may be vulnerable to wave wash and possible collision damage from passing vessels.
 - All floating structures must be firmly anchored to prevent them from floating free in a high flow or flood event.
 - The USCG may require lighting on the docks for visibility by commercial navigation traffic during overnight transiting of the area.

Conclusion and Findings

Based on the findings of the EA, TVA concludes that approval of the Applicant's proposal would not be a major federal action significantly affecting the environment. This determination is contingent upon the implementation of the mitigation measures identified above that minimize or avoid potential impacts to environmental resources, implementation of the BMPs, and

adherence to all applicable regulatory and permitting requirements. Accordingly, an environmental impact statement is not required.



Dawn Booker
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NEPA Compliance

07/24/2023

Date Signed