

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

WAL-MART JOHNSON CITY

REQUEST FOR SECTION 26A APPROVAL FOR STREAM CHANNEL ENCAPSULATION, UNNAMED TRIBUTARY TO KNOB CREEK AND WATAUGA RIVER, WASHINGTON COUNTY, TENNESSEE

Purpose and Need

Wal-Mart Stores East, LP (Wal-Mart) proposes to construct a Sam's Club Wholesale Club store and supporting infrastructure in Johnson City, Washington County, Tennessee. As a requirement for the development of this site, Wal-Mart also proposes to fill and encapsulate 919 feet of an unnamed stream channel confluent to Knob Creek and Watauga River. See Public Notice 05-64 in Appendix B of the attached EA for the project location map and detailed plans of the proposal.

Wal-Mart evaluated alternative sites in the area that would not result in impacts to waters of the United States or TVA jurisdiction; however, these sites were not feasible for the proposal because of constraints such as size of the tract, need for relocation of utilities, and potential environmental impacts greater than the proposed tract (see Alternatives Site Analysis in Appendix F in the attached EA). Wal-Mart also considered various design alternatives that could potentially avoid or minimize stream impacts on this site, but determined that the project could not economically proceed without the alteration of the unnamed tributary stream. Furthermore, based on recent development trends, this site would likely be developed in the near future for commercial or institutional purposes by others. The general area surrounding the site has been commercially developed with fast food restaurants, gas stations, retail stores, and motels. Wal-Mart's proposal would provide improved business and wholesale services to the community and provide economic benefits to investors. The new store would increase the number of short-term construction jobs and also, in the long-term, benefit the local economy and tax base and increase future permanent job opportunities for Washington County and the city of Johnson City. Due to the limited value of the stream and aquatic resources proposed to be impacted, further consideration of other sites was determined to be unwarranted.

U.S. Army Corps of Engineers (USACE) staff conducted site inspections on August 2, 2005. Because stream impacts would exceed the thresholds for a Nationwide Permit, an individual Section 404 permit was deemed to be required for the project.

Construction of a permanent obstruction by placement of fill and encapsulation of an unnamed stream channel confluent to the Tennessee River system also requires approval under Section 26a of the TVA Act. USACE, in cooperation with TVA, prepared the attached EA to assess the environmental impacts of the permitting decisions of the federal agencies.

Alternatives

USACE considered four alternatives: no action, applicant's final proposed action, other available sites, and appropriate mitigation not included in proposed action. As described in Section 4.2 of the attached EA, TVA believes these alternatives cover a reasonable range of actions that address the applicant's purpose and need for the project. Under the applicant's final proposed action, Wal-Mart would mitigate the affects of the stream encapsulation needed to complete its Sam's Club construction project.

Affected Environment and Impacts

The site lies in the Ridge and Valley Physiographic Province of upper east Tennessee. This portion of the province is generally characterized as having steep mixed-hardwood-forested northeast to southwest trending ridges with a diversity and abundance of fish and terrestrial wildlife. The forest and lesser plant communities and wildlife species in this area are common to the region.

Current zoning by the city of Johnson City, Tennessee, is compatible with the proposed development. This area near the site is rapidly developing as a result of its proximity to Interstate 26 and East Tennessee State University. The larger surrounding environs are characterized by commercial and business developments, road and railway transportation corridors, city parkland and suburban residential areas, intermingled with some open lands, pastureland, and young to near mature mixed hardwood ridges and old fields. USACE visited the site, located in the northern portion of Johnson City, Tennessee, on August 2, 2005, (see Appendix A of the attached EA for a memorandum of the onsite visit and site photographs). The site is vegetated with pasture grasses with an occasional tree. The riparian zone of the stream that would be impacted by the proposal contains a young-mature mixed hardwood forest. The existing habitat is of relatively low quality in this area. This unnamed tributary to Knob Creek is approximately two feet wide and 4 to 6 inches deep and appears to support minimal aquatic insect life. Wal-Mart would encapsulate approximately 919 feet of this stream, which originates from a spring located next to a small log house on the applicant's property.

There are no wetlands or special aquatic habitats on the sites. Approximately 919 feet of the loose cobble unnamed stream would be lost when it is encapsulated in a 1,119-foot long 84-inch corrugated metal pipe (CMP). There would likely be releases of sediment and resultant turbidity and minor water quality impacts associated with the installation of the CMP. However, work would be performed in the dry or during periods of low flow and other sound engineering and construction onsite best management practices would be used to further minimize potential impacts. Because Wal-Mart would successfully implement Best Management Practices (BMPs) and other mitigation measures, onsite stream encapsulation impacts would be short-term and minor. Additionally, this permanent stream loss would be offset by payment of \$183,800 (919 feet of stream x \$2,000/foot) to the Tennessee Stream Mitigation Program (TSMP). Therefore, long-term, water quality effects from stream encapsulation are expected to be negligible.

The final version of the Tennessee Department of Environment and Conservation (TDEC) 2004 list of "impaired waters" in Watauga River Watershed identifies 12.13 miles of Knob Creek as impacted due to habitat loss, nitrates, loss of biological integrity, and Escherichia coli. This portion of the stream probably supports a few species of minnows and small fish, but largely because of impacts from agriculture, it is listed as Category 5 with one or more designated uses impaired. No state or federally listed aquatic threatened or endangered species are known from the unnamed tributary of in the immediate vicinity of its confluence with Knob Creek. BMPs and other measures would reduce the potential for cumulative impacts and not cause the currently impaired water quality conditions in Knob Creek to worsen. TDEC issued Section 401 Water Quality Certification #NRS 05.193 to the Wal-Mart on January 12, 2006, certifying that water quality standards will not be violated if the work is conducted in accordance with the certification (Appendix C in the attached EA).

No state or federally listed terrestrial or aquatic threatened or endangered species or designated critical habitat is known from the proposed project site or immediate vicinity. Based on review of all relevant information, USACE and TVA reached a "no effect" determination. By letter dated September 29, 2005, the U.S. Fish and Wildlife Service (USFWS) concurred that no such species occurred in the impact area of the project and stated that they believe the requirements of Section 7 of the Endangered Species Act of 1973, as amended, have been fulfilled (Appendix D in the attached EA). Based on the information submitted and by letter dated September 7, 2005, the Tennessee Historical Commission (THC) stated that there is no National Register of Historic Places (NRHP) listed or eligible properties affected by this undertaking. The THC indicated that it had no objection to the implementation of the project (Appendix D in the attached EA).

Because of the applicant's evaluation of alternative sites for this development, TVA concurs that there is no practicable alternative to development in the small floodplain of the unnamed tributary to Knob Creek. Minimal floodplain impacts would be offset by the construction of a storm-water detention basin to replace the existing floodplain functions. Washington County is a participant in the Federal Emergency Management Agency's National Flood Insurance Program (NFIP) and Wal-Mart would comply with applicable floodplain management requirements.

Public Review

On August 29, 2005, Joint Public Notice (JPN) No. 05-64 was issued to advertise the proposed work and to determine the overall public interest. The JPN was distributed to a wide list of interested parties that included federal, state, and local agencies, elected officials, private and public organizations, news agencies, individuals, and adjacent property owners. By letter dated September 22, 2005, Tennessee Wildlife Resources Agency (TWRA) stated that the proposed construction site is not a good one on which to build a retail store. TWRA further stated that comments cannot be provided without reviewing a detailed mitigation plan for the compensation of the loss of waters. USACE contacted Mr. Rob Todd, TWRA, by phone on February 14, 2006, to discuss the

applicant's use of the TSMP. During this discussion, Mr. Todd stated that TWRA would not object to the use of the in-lieu-fee for this proposal. The THC, TWRA, and USFWS commented in response to the public notice. No additional comments were received from members of the general public and no public meeting or hearing was requested.

THC had no objection to the implementation of the project. With mitigation as proposed, including the payment of \$183,800 to the TSMP, TWRA and USFWS had no objection to the proposed work (Appendix D in the attached EA).

Mitigation

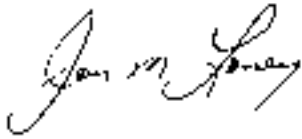
TVA's Section 26a approval is contingent upon successful implementation of BMPs for erosion and sediment control including TVA General Conditions 1, 9, and 10, and Standard Conditions 3c, and 6a, 6c through 6i. USACE will require strict adherence to BMPs and sound engineering and construction standards and practices. Consistent with other conditions included in the attached EA, disturbance to riparian vegetation shall be kept to a minimum during construction. Stream encapsulation will be performed in the dry, during periods of low flow, or stream flow will be pumped or piped around the encapsulation area until the encapsulation is complete. Other BMPs, including sediment basins and control barriers such as hay bales and silt fences, shall be utilized in all phases of the construction to further minimize potential impacts. A storm-water detention basin will be constructed to offset the loss of existing floodplain functions and minimize floodplain impacts.

Wal-Mart will pay \$183,800 to the TSMP to offset values lost by the unnamed stream encapsulation. This payment will be made within sixty (60) days of receipt of their invoice and a copy of the purchase agreement shall be submitted to USACE. Because of existing aquatic habitat in the unnamed stream is not high quality and continues to be impacted by adjoining land use (farm with cattle accessing a large part of the stream bank), TVA believes that payment into the in-lieu-fee program is appropriate. These funds will be used to enhance other poor quality stream habitats in the area. TDEC will ensure that Wal-Mart abides by all specific conditions in its Water Quality Certification (#NRS 05.193) that are designed to avoid or minimize impacts of soil erosion and resultant stream turbidity.

Conclusion and Findings

TVA has independently reviewed the USACE EA and found it to be adequate and, therefore, TVA adopts the USACE EA. Because there is no upland alternative for Wal-Mart's proposed development, TVA concludes that there is no practicable alternative to construction in the floodplain. No wetlands and no NRHP listed or eligible properties would be affected by this Sam's Club Wholesale Club store construction and operation. The proposed project would have no effect on any state or federally listed terrestrial or aquatic threatened or endangered species or designated critical habitat. With mitigation mentioned above, the project would be consistent with Executive Orders 11988 (Floodplains Management). Based on the attached EA, including the described

stream impact mitigation measures, TVA concludes that approval of this minor fill and stream alteration proposal would not be a major federal action significantly affecting the quality of the environment. Accordingly, an environmental impact statement is not required.



April 3, 2006

Jon M. Loney, Manager
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Date Signed

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