

Attachment 3 – Responses to Public Notices



United States Department of the Interior

FISH AND WILDLIFE SERVICE

446 Neal Street
Cookeville, TN 38501

W/W
Kuw
1/27/04

January 21, 2004

Lt. Colonel Byron G. Jorns
District Engineer
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, Tennessee 37214

Attention: Mr. K. Wade Whittinghill, Regulatory Branch

Subject: Public Notice 03-100. Application by Nolichucky Sand Company, Incorporated, to Dredge Sand and Gravel from the Nolichucky River in Greene County, Tennessee.

Dear Colonel Jorns:

Fish and Wildlife Service (Service) personnel have reviewed the subject public notice. The proposed dredge project would operate on the Nolichucky River between River Miles 49.0 and 51.0 in Greene County, Tennessee. The current permit (issued September 20, 1999), allowing dredging between River Miles 49.0 and 50.3, is due to expire September 30, 2004. The requested permit, if approved, would authorize continued dredging in the previously permitted reach and additional dredging between River Miles 50.3 and 51.0. The project would involve the annual removal of approximately 200,000 tons of sand and gravel bedload deposits using an eight-inch cutterhead suction dredge mounted on a floating barge. These materials would be transported to the south shore for product processing. The applicant proposes to operate the dredge between January 30 and November 15 for approximately 10 hours per day. The proposed plan also includes that all work will comply with the Tennessee Water Quality Control Act of 1977, including 1994 amendments and associated regulations. The following constitute the comments of the U.S. Department of the Interior, provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Endangered species collection records available to the Service do not indicate that federally listed or proposed endangered or threatened species occur within the impact area of the project. We note, however, that collection records available to the Service may not be all-inclusive. Our data base is a compilation of collection records made available by various individuals and resource agencies. This information is seldom based on comprehensive surveys of all potential habitat and thus does not necessarily provide conclusive evidence that protected species are present or absent at a specific

locality. However, based on the best information available at this time, we believe that the requirements of section 7 of the Endangered Species Act of 1973, as amended, are fulfilled. Obligations under section 7 of the Act must be reconsidered if (1) new information reveals impacts of the action that may affect listed species or critical habitat in a manner not previously considered, (2) the action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or critical habitat designated that might be affected by the action.

We do not anticipate significant adverse impacts to fish and wildlife or their habitats as a result of this project. Assuming the conditions listed in Public Notice No. M2003-08 by the Tennessee Department of Environment and Conservation are followed (see attachment), we would have no objection to the issuance of a permit for the work described.

We appreciate the opportunity to review the subject permit application. Please contact Robbie Sykes (telephone 931/528-6481, ext. 209) of my staff if you have questions regarding the information provided in this letter.

Sincerely,



Lee A. Barclay, Ph.D.
Field Supervisor

Attachment

xc: Dan Sherry, TWRA, Nashville, TN
Dan Eagar, TDEC, Nashville, TN
Dave Turner, TDEC, Knoxville, TN
Stephanie Fulton, EPA, Atlanta, GA

Permit Coordinator: Dave Turner
Mining Section
Division of Water Pollution Control
2700 Middlebrook Pike
Suite 220
Knoxville, TN 37921

Aquatic Resource Alteration Permit Conditions

1. The work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.
2. TWRA prohibits any public access within the Nolichucky Refuge during the late waterfowl season. This time frame is proclaimed by TWRC annually in August within framework of USFWS. All activities must be approved by TWRA prior to any access during this time frame.
3. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in Rule 1200-4-3-.03 of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the prevention of any discharge that causes a condition in which visible solids; bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.
4. All proposed dredging must maintain a minimum distance of thirty feet from both right and left banks and must be restricted to river section. Dredge areas shall exclude all embayments or sloughs. In some areas, the use of the riparian vegetation may extend beyond thirty feet, the use of the tree canopy as a guide may suffice as a dredge buffer zone.
5. No dredge activity within five hundred feet upstream and five hundred feet downstream of Bird's Bridge. The Bird's Bridge buffer zone must be established with visual bank markers.
6. Nolichucky Sand Company must submit quarterly reports detailing daily operations that include the amount dredged and location of the dredge by river mile.
7. Nolichucky Sand Company must inspect both right and left riverbanks for any instability i.e. slumps of bank material or trees and report to Division within 24 hours of the event.
8. Nolichucky Sand Company, prior to operation, must have land base treatment in place and construction specification certified by your engineer. This certification must be forwarded to the Division.

This does not obviate requirements of other federal, state or local laws. In particular, work shall not commence until the applicant has received the federal §404 permit from the U. S. Army, Corps of Engineers.

The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.



MAR 15 2004

TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

Doc Type: EA-Administrative Record
Index Field: Agency Comment
Project Name: Nolichucky Sand
Project No.: 2003-116

March 8, 2004

Mr. Jon Loney
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

RE: TVA, NOLICHUCKY RM 50.1-51.0L/SAND MINE, UNINCORPORATED,
GREENE COUNTY

Dear Mr. Loney:

The Tennessee State Historic Preservation Office has reviewed the above-referenced Draft Supplemental Environmental Assessment for compliance with Section 106 of the National Historic Preservation Act. The Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

After considering the documentation submitted, it is our opinion that there are no National Register of Historic Places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to your proceeding with the project.

You may direct questions or comments to Jennifer M. Barnett (615) 741-1588, ext. 17. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jmb

Davis, Stanford E.

From: Whittinghill, Keith W LRN [keith.w.whittinghill@us.army.mil]
Sent: Friday, March 19, 2004 1:48 PM
To: Davis, Stanford E.
Subject: Nolichuckey Sand Company - March 12, 2004 Update Regarding TDEC Issues, Draft Supplemental Environmental Assessment, and Circulation Timing for a Draft FONSI

STAN

appreciate the update regarding TDEC issues.

have reviewed the DSEA and find it to be clearly written and thorough in its content. have nothing to add.

will be waiting to hear something regarding the resolution of TDEC issues and be looking for the draft FONSI.

THANKS

WADE

03/24/2004

Davis, Stanford E.

Subject: Nolichucky Sand Company Bird Bridge Dredge DSEA - TWRA Comments

From: Mark Fagg [mailto:Mark.Fagg@state.tn.us]

Sent: Wednesday, March 24, 2004 12:03 PM

To: Davis, Stanford E.

Subject: RE: Nolichucky Sand Company - March 12, 2004 Update Regarding TDEC Issues Draft Supplemental Envi

Stan:

The TWRA has no objects or problems with the DSEA as written. Please keep me informed as changes/updates occur in regards to TDEC and this project.

Mark Fagg

TWRA