



US Army Corps
of Engineers

Public Notice

Public Notice No. 05-70

Date: August 26, 2005

Nashville District

Application No. 2005-01814 Expires: September 26, 2005

Please address all comments to:

Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214

Attn: Lisa Morris, telephone 615/369-7504; Fax 615/369-7501

NOTE: Comments previously submitted to TVA regarding this proposal will be considered with the comments received on this public notice.

**JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
TENNESSEE VALLEY AUTHORITY
STATE OF ALABAMA**

SUBJECT: Proposed Harbor Limits, Marina Slips with Floating Wave Break, Fishing/Mooring Piers, Fuel Dock, Trash Break, Boat Ramp, Roads, Dredging and Retaining Wall for Boat Lift Dry Storage and Associated Upland Development at Elk River Mile 1.5, Right bank, Lauderdale County, AL (Elk River Marina)

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) permit pursuant to **Section 10 of the Rivers and Harbors Act of 1899** and **Section 404 of the Clean Water Act (CWA)**, a Tennessee Valley Authority (TVA) 30-year easement on approximately 92-acres of TVA land, XWR-21PT, and approval pursuant to **Section 26a of the TVA Act**, and a state of Alabama Department of Environment and Conservation water quality certification pursuant to Section 401 of the CWA. Before any federal permit can be issued, the state must certify that applicable water quality standards will not be violated by the proposed work. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: Mr. Gilbert Bubba Doss
Bubba's Marine Construction, LLC
2400 Highway 101
Rogersville, AL 35652

LOCATION: Elk River Mile 1.5, Right Bank, Wheeler Lake, Lauderdale, Alabama. The Elk River is a tributary of the Tennessee River at Mile 285.0, Right Bank. USGS Quad- Rogersville, AL, lat: 34-47-00; lon 87-17-00. TVA Tract No. XWR-21PT.

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DESCRIPTION OF PROPOSED WORK: The applicant proposes to develop approximately 92-acres of TVA land, Tract No. XWR-21PT, through a 30-year easement. TVA would establish harbor limits for the proposed marina. The development would be called Elk River Marina. The entire property consists of approximately 92 acres of unimproved timberland that contains an estimated 3,950 usable linear feet of water frontage. Plans for the upland property include the construction of roads, an RV park (potential of 200 campsites), nature trails, a marina store, restaurant, and boat dry storage facility to be constructed in several phases. The commercial water use facilities include construction of a 50 boat slip marina, a concrete wave break, a concrete trash break with fuel dock, two fishing-mooring piers, dredging and a retaining wall to accommodate a fork boat lift launching area, a launching ramp, and riprap. A future phase may include the construction of 50 additional boat slips.

The following is a description of the proposed commercial water use facilities. The marina would consist of four docks - 40 covered boat slips and 10 uncovered boat slips for sailboats:

Dock A – 118’ x 68’ with 30’ slips for 10 boats

Dock B – 118’ x 68’ with 30’ slips for 10 boats

Dock C – 193’ x 128’ with 60’ slips for 20 boats

Dock D – 168’ x 233’ with 80’ slips for 20 boats

An 800’L x 8’W floating concrete trash break with fuel dock and sewage pump out system would extend along the eastern side of the slips and a 400’L x 8’W floating concrete wind and wave break would be installed on the west. A boat lift launch area would be constructed in a small cove to the east of the slips in front of the proposed dry storage building. Normal summer pool (NSP) of the lake is Elevation 556.

To accommodate the boat lift, a 300’ long area across the NSP shoreline would be dredged to bottom Elevation 545, out 70’, requiring the removal of approximately 2,700 cubic yards of material. Spoil would be removed by hydraulic dredge and pumped to an upland location above Elevation 560 and stabilized or utilized throughout construction as backfill above the 560 contour in some inland areas needing fill. A 300’ long sheet pile retaining wall would be constructed along the dredged shoreline. At the mouth of the cove to the west of the boat slips, two fishing pier/mooring docks on steel piling with concrete decks would each extend 50’ from the shoreline with a 200’ x 8’ platform.

A 30’ wide boat launching ramp (top Elevation 560; bottom Elevation 549) and parking lot would be constructed adjacent to the marina store, and 300 feet of the shoreline would be stabilized from lake bottom Elevation 553 to top Elevation 556 using 67 cubic yards of stones (sizes 6" to 18" diameter) over filter fabric. In addition, a paved two-lane road would be constructed from the current end of County Road 77 through the property to give access to the marina. The road would cross an unnamed

tributary with a 48" diameter drain culvert on a riprap base and backfilled with gravel then finished with 6" of crusher run gravel. Plans of the proposed work are attached.

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The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the work, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

On May 31, 2005, the applicant submitted a land use request for the 92-acre tract of TVA land for use as a recreational development (Elk River Resort). TVA solicited public scoping comments from June 26, 2005 through July 29, 2005. However, TVA continued to receive comments through mid-August of 2005 and are using these comments to identify environmental issues to be analyzed in an environmental assessment (EA). Issues were identified for the following resource areas: recreation, navigation and boating safety/congestion, water quality, roads/traffic, terrestrial ecology/natural resources, threatened and endangered species, cultural resources, solid waste disposal, visual resources, noise, security concerns, property access/property values, and land use. These issues will be addressed in an EA that TVA is preparing and a draft EA will be made available for public review and comment, including an open house (in Mid-October) to receive comments from the public and other interested parties. The draft EA will also consider comments generated from this public notice. Under a Memorandum of Understanding (MOU) between the Corps of Engineers and TVA, TVA will be the lead agency in conducting the environmental review and the Corps of Engineers will be a

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cooperating agency. TVA anticipates the release of the draft EA in October 2005. The draft EA is available on the TVA website at <http://www.tva.com/environment/reports/index.htm>. The EA will be put into a final form prior to a final decision concerning issuance or denial of the requested permits.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. TVA is conducting a Phase I archeological survey for the 92 acres of TVA land and shoreline fronting the proposed development. TVA will provide a survey report and determination of their findings to the office of the State Historic Preservation Officer. The EA will include a summary of the survey and TVA's determination of findings.

Based upon available information, the proposed work would not destroy or endanger any federally-listed, threatened, or endangered species or their critical habitats, as identified under the Endangered Species Act. Some members of the public commented that several species of federally-endangered species could be potentially affected by the proposed action. TVA is conducting site surveys and will address any potential impacts to any threatened or endangered species in the EA. At this time, the preliminary analysis conducted by TVA does not indicate any potential affects to any threatened and endangered species. Therefore, initiation of formal consultation procedures with the US Fish and Wildlife Service is not planned at this time.

In addition to the DA permit, the TVA permits, and the water quality certification, other federal, state, and/or local approvals may be required for the proposed work. In addition to other provisions of its approval, TVA would require the applicant to employ best management practices to control erosion and sedimentation to prevent adverse aquatic impacts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a hearing. **Written statements received in this office on or before September 26, 2005, will become a part of the record and will be considered in the determination.** Any response to this notice should be directed to the Regulatory Branch, Attn: Lisa Morris, at the above address. It is not necessary to comment separately to TVA since copies of all comments will be sent to them and become part of their records on the proposal.

To provide electronic comments, go to: <http://www.tva.com/environment/reports/index.htm>, select the appropriate project: Elk River Resort Request for Recreational Easement and Approval for Marina Facilities. Point of contact with TVA is Debra Rutherford, Project Leader, PO Box 1010, Muscle Shoals, AL 35662, telephone (256) 386-3058.