

PROJECT SPECIAL PROVISION

(10-18-95)

Z-1

PERMITS

The Contractor's attention is directed to the following permit, which has been received by the Department of Transportation from the authority granting the permit.

PERMIT

AUTHORITY GRANTING THE PERMIT

TVA

Tennessee Valley Authority

The Contractor shall comply with all applicable permit conditions during construction of this project. Those conditions marked by * are the responsibility of the department and the Contractor has no responsibility in accomplishing those conditions.

Agents of the permitting authority will periodically inspect the project for adherence to the permits.

The Contractor's attention is also directed to Articles 107-10 and 107-14 of the *Standard Specifications* and the following:

Should the Contractor propose to utilize construction methods (such as temporary structures or fill in waters and/or wetlands for haul roads, work platforms, cofferdams, etc.) not specifically identified in the permit (individual, general, or nationwide) authorizing the project it shall be the Contractor's responsibility to coordinate with the Engineer to determine what, if any, additional permit action is required. The Contractor shall also be responsible for initiating the request for the authorization of such construction method by the permitting agency. The request shall be submitted through the Engineer. The Contractor shall not utilize the construction method until it is approved by the permitting agency. The request normally takes approximately 60 days to process; however, no extensions of time or additional compensation will be granted for delays resulting from the Contractor's request for approval of construction methods not specifically identified in the permit.

Where construction moratoriums are contained in a permit condition which restricts the Contractor's activities to certain times of the year, those moratoriums will apply only to the portions of the work taking place in the waters or wetlands provided that activities outside those areas is done in such a manner as to not affect the waters or wetlands.

Added 9-1-11

REAR 8-29-11

168



Tennessee Valley Authority
Section 26a Approval

Permit # 189772	Reservoir Holston-Cherokee-Douglas WT - Off	Category 3
DOT Project # B-3187 32919.1.1 BRZ-1112		

Name	Company	Address	Phone/Email
	North Carolina Dept. of Transportation	1581 Mail Service Center Raleigh NC 27699-1581	919-250-4037

Tract(s)

Subdivision/Lot(s)	Stream	Mile	Bank	Map Sheet(s)
	Pigeon R		B	184 Quad Sheet NW

The facilities and/or activities listed below are APPROVED subject to the plans and general and special conditions attached.

- 1. Bridge - Vehicular Length (ft., in.): 160'; Width (ft., in.): 26'

This permit SUPERSEDES all previous TVA approvals at this location including permits approved under land record numbers:

TVA Representative: Martha E Podren Date: Aug 29 2011

May require review by U.S. Army Corps of Engineers (USACE). Plans have been forwarded to the USACE.
No construction shall commence until you have written approval or verification that no permit is required.

Applicant is also responsible for all local and state approvals that may be required relating to water quality.
No construction shall commence until you have written approval or verification that no permit is required.

GENERAL STANDARDS AND CONDITIONS

Section 26a and Land Use

General Conditions

- 1) You agree to make every reasonable effort to construct and operate the facility authorized herein in a manner so as to minimize any adverse impact on water quality, aquatic life, wildlife, vegetation, and natural environmental values.
- 2) This permit may be revoked by TVA by written notice if:
 - a) the structure is not completed in accordance with approved plans;
 - b) if in TVA's judgement the structure is not maintained in a good state of repair and in good, safe, and substantial condition;
 - c) the structure is abandoned;
 - d) the structure or work must be altered to meet the requirements of future reservoir management operations of the United States or TVA, or;
 - e) TVA finds that the structure has an adverse effect upon navigation, flood control, or public lands or reservations.
 - f) all invoices related to this permit are not timely paid.
- 3) If this permit for this structure is revoked, you agree to remove the structure, at your expense, upon written notice from TVA. In the event you do not remove the structure within 30 days of written notice to do so, TVA shall have the right to remove or cause to have removed, the structure or any part thereof. You agree to reimburse TVA for all costs incurred in connection with removal.
- 4) In issuing this Approval of Plans, TVA makes no representations that the structures or work authorized or property used temporarily or permanently in connection therewith will not be subject to damage due to future operations undertaken by the United States and/or TVA for the conservation or improvement of navigation, for the control of floods, or for other purposes, or due to fluctuations in elevations of the water surface of the river or reservoir, and no claim or right to compensation shall accrue from any such damage. By the acceptance of this approval, applicant covenants and agrees to make no claim against TVA or the United States by reason of any such damage, and to indemnify and save harmless TVA and the United States from any and all claims by other persons arising out of any such damage.
- 5) In issuing this Approval of Plans, TVA assumes no liability and undertakes no obligation or duty (in tort, contract, strict liability or otherwise) to the applicant or to any third party for any damages to property (real or personal) or personal injuries (including death) arising out of or in any way connected with applicant's construction, operation, or maintenance of the facility which is the subject of this Approval of Plans.
- 6) This approval shall not be construed to be a substitute for the requirements of any federal, state, or local statute, regulation, ordinance, or code, including, but not limited to, applicable building codes, now in effect or hereafter enacted. State 401 water quality certification may apply.
- 7) The facility will not be altered, or modified, unless TVA's written approval has been obtained prior to commencing work.
- 8) You understand that covered second stories are prohibited by Section 1304.204 of the Section 26a Regulations.
- 9) You agree to notify TVA of any transfer of ownership of the approved structure to a third party. Third party is required to make application to TVA for permitting of the structure in their name (1304.10). Any permit which is not transferred within 60 days is subject to revocation.
- 10) You agree to stabilize all disturbed areas within 30 days of completion of the work authorized. All land-disturbing activities shall be conducted in accordance with Best Management Practices as defined by Section 208 of the Clean Water Act to control erosion and sedimentation to prevent adverse water quality and related aquatic impacts. Such practices shall be consistent with sound engineering and construction principles; applicable federal, state, and local statutes, regulations, or ordinances; and proven techniques for controlling erosion and sedimentation, including any required conditions under Section 6 of the Standard Conditions.
- 11) You agree not to use or permit the use of the premises, facilities, or structures for any purposes that will result in draining or dumping into the reservoir of any refuse, sewage, or other material in violation of applicable standards or requirements relating to pollution control of any kind now in effect or hereinafter established.

- 12) The Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act apply to archaeological resources located on the premises of land connected to any application made unto TVA. If LESSEE (or licensee or grantee (for easement) or applicant (for 26a permit)) discovers human remains, funerary objects, sacred objects, objects of cultural patrimony, or any other archaeological resources on or under the premises, LESSEE (or licensee, grantee, or applicant) shall immediately stop activity in the area of the discovery, make a reasonable effort to protect the items, and notify TVA by telephone (865-228-1374). Work may not be resumed in the area of the discovery until approved by TVA.
- 13) You should contact your local government official(s) to ensure that this facility complies with all applicable local floodplain regulations.
- 14) You agree to abide by the conditions of the vegetation management plan. Unless otherwise stated on this permit, vegetation removal is prohibited on TVA land.
- 15) You agree to securely anchor all floating facilities to prevent them from floating free during major floods.
- 16) You are responsible for accurately locating your facility, and this authorization is valid and effective only if your facility is located as shown on your application or as otherwise approved by TVA in this permit. The facility must be located on land owned or leased by you, or on TVA land at a location approved by TVA.
- 17) You agree to allow TVA employees access to your water use facilities to ensure compliance with any TVA issued approvals.
- 18) It is understood that you own adequate property rights at this location. If at any time it is determined that you do not own sufficient property rights, or that you have only partial ownership rights in the land at this location, this permit may be revoked. TVA may require the applicant to provide appropriate verification of ownership.
- 19) In accordance with 18 CFR Part 1304.9, Approval for construction covered by this permit expires 18 months after the date of issuance unless construction has been initiated.

Standard Conditions (Only items that pertain to this request have been listed.)

2) Ownership Rights

- b) You are advised that TVA retains the right to flood this area and that TVA will not be liable for damages resulting from flooding.
- e) You recognize and understand that this authorization conveys no property rights, grants no exclusive license, and in no way restricts the general public's privilege of using shoreland owned by or subject to public access rights owned by TVA. It is also subject to any existing rights of third parties. Nothing contained in this approval shall be construed to detract or deviate from the rights of the United States and TVA held over this land under the Grant of Flowage Easement. This Approval of Plans does not give any property rights in real estate or material and does not authorize any injury to private property or invasion of private or public rights. It merely constitutes a finding that the facility, if constructed at the location specified in the plans submitted and in accordance with said plans, would not at this time constitute an obstruction unduly affecting navigation, flood control, or public lands or reservations.

3) Shoreline Modification and Stabilization

- c) Bank, shoreline, and floodplain stabilization will be permanently maintained in order to prevent erosion, protect water quality, and preserve aquatic habitat.

5) Bridges and Culverts

- a) You agree to design/construct any instream piers in such a manner as to discourage river scouring or sediment deposition.
- b) Applicant agrees to construct culvert in phases, employing adequate streambank protection measures, such that the diverted streamflow is handled without creating streambank or streambed erosion/sedimentation and without preventing fish passage.
- c) Concrete box culverts and pipe culverts (and their extensions) must create/maintain velocities and flow patterns which offer refuge for fish and other aquatic life, and allow passage of indigenous fish species, under all flow conditions. Culvert floor slabs and pipe bottoms must be buried below streambed elevation, and filled with naturally occurring streambed materials. If geologic conditions do not allow burying the floor, it must be otherwise designed to allow passage of indigenous fish species under all flow conditions.
- d) All natural stream values (including equivalent energy dissipation, elevations, and velocities; riparian vegetation; riffle/pool sequencing; habitat suitable for fish and other aquatic life) must be provided at all stream modification sites. This must be accomplished using a combination of rock and bioengineering, and is not accomplished using solid, homogeneous riprap from bank to bank.

- e) You agree to remove demolition and construction by-products from the site for recycling if practicable, or proper disposal—outside of the 100-year floodplain. Appropriate BMPs will be used during the removal of any abandoned roadway or structures.

6) Best Management Practices

- a) You agree that removal of vegetation will be minimized, particularly any woody vegetation providing shoreline/streambank stabilization.
- b) You agree to installation of cofferdams and/or silt control structures between construction areas and surface waters prior to any soil-disturbing construction activity, and clarification of all water that accumulates behind these devices to meet state water quality criteria at the stream mile where activity occurs before it is returned to the unaffected portion of the stream. Cofferdams must be used wherever construction activity is at or below water elevation.
- c) A floating silt screen extending from the surface to the bottom is to be in place during excavation or dredging to prevent sedimentation in surrounding areas. It is to be left in place until disturbed sediments are visibly settled.
- d) You agree to keep equipment out of the reservoir or stream and off reservoir or stream banks, to the extent practicable (i.e., performing work "in the dry").
- e) You agree to avoid contact of wet concrete with the stream or reservoir, and avoid disposing of concrete washings, or other substances or materials, in those waters.
- f) You agree to use erosion control structures around any material stockpile areas.
- g) You agree to apply clean/shaken riprap or shot rock (where needed at water/bank interface) over a water permeable/soil impermeable fabric or geotextile and in such a manner as to avoid stream sedimentation or disturbance, or that any rock used for cover and stabilization shall be large enough to prevent washout and provide good aquatic habitat.
- h) You agree to remove, redistribute, and stabilize (with vegetation) all sediment which accumulates behind cofferdams or silt control structures.
- i) You agree to use vegetation (versus riprap) wherever practicable and sustainable to stabilize streambanks, shorelines, and adjacent areas. These areas will be stabilized as soon as practicable, using either an appropriate seed mixture that includes an annual (quick cover) as well as one or two perennial legumes and one or two perennial grasses, or sod. In winter or summer, this will require initial planting of a quick cover annual only, to be followed by subsequent establishment of the perennials. Seed and soil will be protected as appropriate with erosion control netting and/or mulch and provided adequate moisture. Streambank and shoreline areas will also be permanently stabilized with native woody plants, to include trees wherever practicable and sustainable (this vegetative prescription may be altered if dictated by geologic conditions or landowner requirements). You also agree to install or perform additional erosion control structures/techniques deemed necessary by TVA.

Additional Conditions

1. All equipment used on site should be cleaned prior to use to ensure it is free of invasive weed seeds or plant parts.
2. Disturbed areas should be revegetated with native and nonnative noninvasive plant species. Clean and weed-free rock should be used for riprap in the area of new bridge construction.
3. All provisions of the MOA executed to mitigate the adverse effects to Site 31HW5 must be followed.
4. All nondiscretionary conservation measures, TCs and RPMs agreed to in the Biological Opinion by NCDOT to minimize take of the elktoe and impacts to its DCH in the project area must be followed.



RLR# 189772

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

December 4, 2008

RECEIVED

JAN - 9 2008

STATE PROJECT: B-3187
WBS ELEMENT: 32919.1.1
F. A. PROJECT: BRZ-1112(2)
COUNTY: Haywood
DESCRIPTION: Bridge No. 79 over West Fork Pigeon River on SR 1112

Tennessee Valley Authority
Susan B. Fuhr, Manager
Attn: Mark Odom
Holston-Cherokee-Douglas Watershed Team
106 Tri-Cities Business Park Drive
Gray, Tennessee 37615-3497

Dear Ms. Fuhr,

The Board of Transportation purposes to replace bridge No. 79 in Haywood County. In addition to the package previously submitted to you, we are sending one copy of the addendum to the Planning Document dated October 3, 2008 for your review.

We request the Tennessee Valley Authority review and approve the attached plans as required by Section 26a of the Tennessee Valley Act of 1933, as amended.

If you have questions concerning this application, please contact Quang Nguyen, P. E. at (919) 250-4077.

Your prompt review and response will be appreciated.

Sincerely,

G. R. Perfetti ^{GRHN}
G. R. Perfetti, P. E.
State Bridge Design Engineer

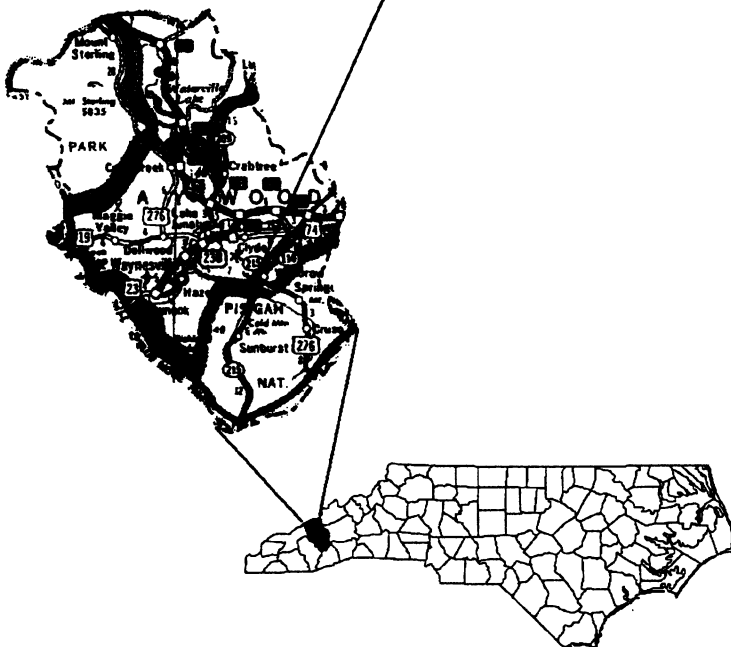
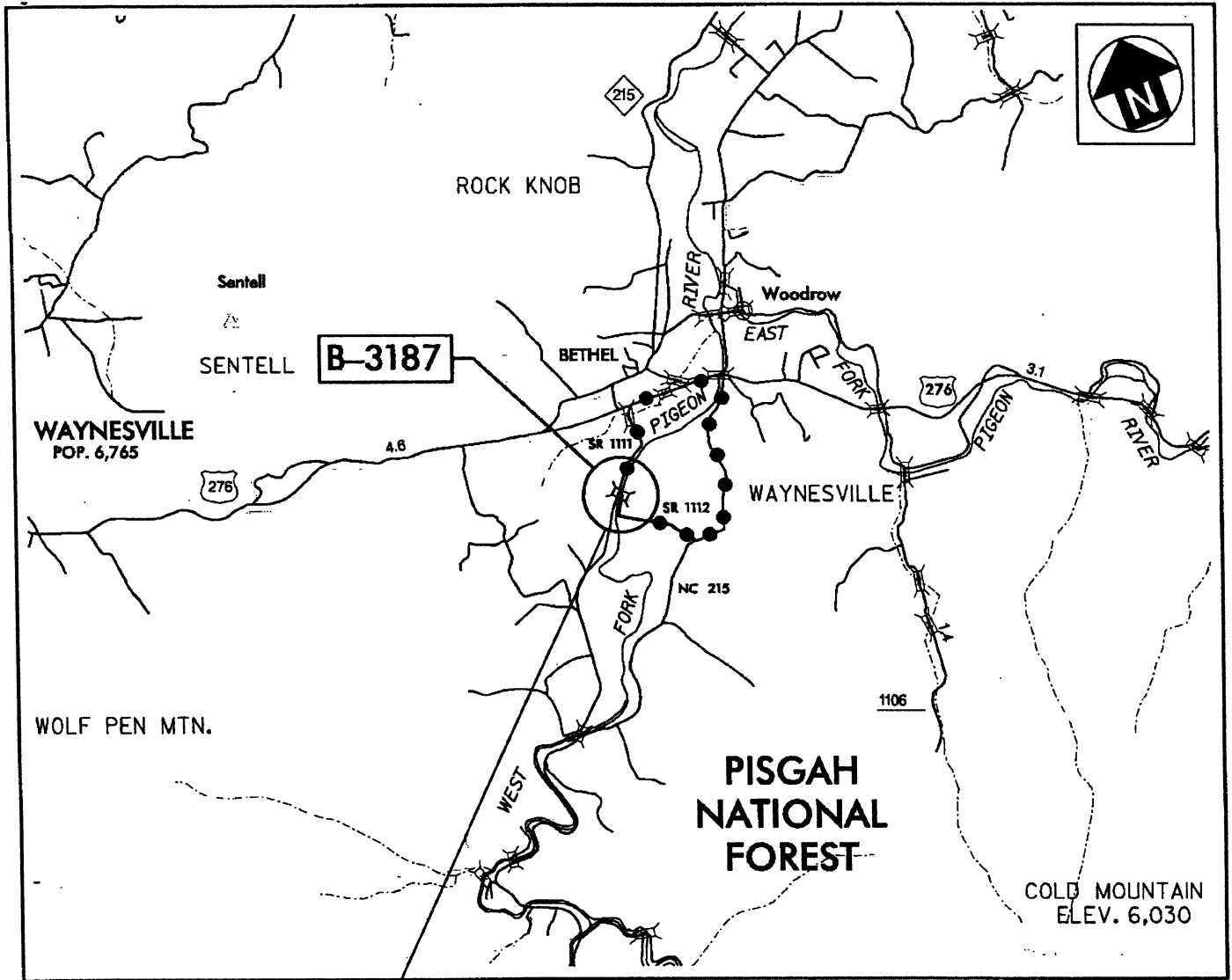
GRP/QHN/kmb

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
STRUCTURE DESIGN
1581 MAIL SERVICE CENTER
RALEIGH NC 27699-1581

TELEPHONE: 919-250-4037
FAX: 919-250-4082

WEBSITE: WWW.DOH.DOT.STATE.NC.US

LOCATION:
CENTURY CENTER COMPLEX
BUILDING A
1000 BIRCH RIDGE DRIVE
RALEIGH NC 27610



LEGEND

●●●● Studied Detour Route

	<i>North Carolina</i>											
	<i>Department Of Transportation</i>											
<i>Project Development & Environmental Analysis</i>												
HAYWOOD COUNTY BRIDGE NO. 79 ON SR 1112 (CHAMBERS FARM LANE) OVER WEST FORK PIGEON RIVER B-3187												
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FIGURE 1

Document Type: EA-Administrative Record
 Index Field: Finding of No Significant Impact (FONSI)
 Project Name: North Carolina Department of Transportation – Bridge 79, Haywood County
 Project Number: 2003-16

FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
 SECTION 26a APPROVAL FOR BRIDGE NO. 79 ON
 STATE ROUTE 1112 (CHAMBERS FARM LANE)
 HAYWOOD COUNTY, NORTH CAROLINA

The North Carolina Department of Transportation (NCDOT) has requested approval under Section 26a of the Tennessee Valley Authority (TVA) Act for the proposed replacement of Bridge No. 79 over West Fork Pigeon River on State Route (SR) 1112 in Haywood County, North Carolina. While the replacement bridge structure would not have bridge piers in the waters of the West Fork Pigeon River, the bridge piers would be constructed within the 100-year floodplain. The replacement structure would be approximately 160 feet in length and provide a minimum 26-foot roadway width, allowing two 9-foot travel lanes and 4-foot shoulders. The bridge replacement is necessary due to the poor condition of the existing Bridge No. 79; according to Federal Highway Administration (FHWA) standards, the existing bridge is considered structurally deficient and functionally obsolete. In accordance with its procedures for implementing the National Environmental Policy Act (NEPA), TVA has prepared an environmental assessment (EA) addressing the proposed action.

NCDOT/FHWA completed a categorical exclusion (CE) in December 2002 in which five Build Alternatives (Alternatives 1-5) and one No Build Alternative (Alternative 6) were studied with respect to the existing Bridge No. 79. Thereafter, a reassessment of alternatives was conducted, and three new alternatives (Alternatives 7-9) were evaluated in a CE addendum in 2008. As a result of this reassessment, Alternative 1, Replacing the Existing Bridge With a New Bridge 700 Feet Upstream, was selected as the Preferred Alternative by NCDOT.

TVA completed Categorical Exclusion Checklist (CEC) 20045 to evaluate potential impacts of the proposed new bridge construction. Based on preliminary evaluation of the proposed bridge replacement project, TVA concluded that impacts to wetlands, farmlands, recreation, air, noise, visual resources, and socioeconomics would be negligible (minor) or insignificant. TVA's EA further considers potential impacts associated with the issuance of Section 26a approval on floodplains, terrestrial and aquatic ecology, threatened and endangered species, and cultural resources. Two alternatives are considered by TVA in this EA—a No Action Alternative under which TVA would not issue Section 26a approval for the proposed bridge replacement structure and a Build Alternative (the NCDOT/FHWA Preferred Alternative, Alternative 1) under which TVA would issue Section 26a Permit approval for the proposed project as requested by the NCDOT.

Under the Build Alternative, the new replacement bridge would be constructed approximately 700 feet upstream of the existing Bridge No. 79, and approximately 0.3 acre of vegetation would be removed for the construction of the new bridge. The vegetation communities present within and around the project area are common and representative of the region, and NCDOT would implement construction-related best management practices (BMPs), which would result in insignificant impacts to the terrestrial plants of the region. TVA would require preventative measures listed under *Mitigation* to minimize the spread of invasive exotic weed species as directed by Executive Order 13112. Construction of the proposed replacement bridge would convert a very small amount of existing riparian habitat to roadway, and the project activities may temporarily displace commonly occurring wildlife species currently present in the area. The

project area is already regularly disturbed by agricultural practices, residential activity, and vehicular traffic, and wildlife that inhabit or frequent the area are likely tolerant of human disturbance. Therefore, impacts to terrestrial animals of the region are anticipated to be insignificant.

The proposed replacement bridge would require roadway refurbishments, new roadway approaches, and removal of trees on the land adjacent to the bridge, which could potentially affect surface water runoff and sediment load entering the stream. Implementation of roadway construction-related BMPs, along with the additional NCDOT protective measures for sensitive watersheds, would reduce surface water quality impacts to insignificant levels. NCDOT has also developed a storm water management plan, an erosion-control plan, and other measures to prevent accidental impacts from falling debris, as well as spillage of substances harmful to the aquatic environment. No bridge structures for the Bridge No. 79 replacement are proposed to be located in the riverbed, and therefore, a Section 404 (of the Clean Water Act) authorization is not required. Likewise, no Section 401 certification would be required for the project.

No federally listed plant or terrestrial animal species or habitat to support those species was observed within the action area. Based on the absence of appropriate habitat for federally and state-listed plant or terrestrial animal species, no effects on federally or state-listed plant or terrestrial animal species are anticipated. The protective measures identified to protect water quality should result in insignificant impacts to the hellbender. Bald eagles and their associated habitat were not observed in the project area.

Two aquatic animal species, the federally listed Appalachian elktoe mussel and state-listed wavy-rayed lampmussel, have been reported within the project area. The proposed project site also occurs within designated critical habitat (DCH) for the Appalachian elktoe mussel. The NCDOT would implement special water quality protective measures for sensitive watersheds as well as adhere to United States Fish and Wildlife Service (USFWS) Reasonable and Prudent Measures (RMPs) and Terms and Conditions (TCs) that are actions designed to protect and minimize take of the Appalachian elktoe and adverse effects to DCH. These additional measures are identified in a biological opinion (BO) issued by the USFWS on May 23, 2011, in which the USFWS determined that the proposed project would not jeopardize the continued existence of this species and would not adversely affect or destroy DCH. TVA would require agency general and standard conditions (BMPs) for water quality protection, and no additional special protective measures would be necessary.

Haywood County is a participant in the National Flood Insurance Program (NFIP), and any development must be consistent with applicable regulations. The proposed bridge would be constructed within the 100-year floodplain, would be designed to meet the requirements of the NFIP administered by the Federal Emergency Management Agency, and would be in compliance with local flood ordinances. Furthermore, consistent with Executive Order 11988, a bridge is considered a repetitive action in the floodplain that would result in minor impacts because there would be no increase in upstream flood elevations.

FHWA has previously consulted with the North Carolina State Historic Preservation Officer (NC SHPO) and determined that the bridge replacement would have an adverse effect to Archaeological Site 31HW5. In February 2009, the FHWA and NC SHPO executed a memorandum of agreement (MOA) in order to mitigate the adverse effects to Site 31HW5. By letter dated August 14, 2009, TVA communicated to the NC SHPO that TVA concurs that the mitigation measures (data recovery, etc.) identified in the MOA would adequately mitigate the adverse effects of bridge replacement and that the MOA adequately addresses the impact of

TVA's permitting action. The NC SHPO concurred that TVA has fulfilled its obligation under Section 106 of the NHPA in a letter dated August 21, 2009.

Mitigation

1. In order to prevent the spread or introduction of exotic invasive species, all equipment used on site should be cleaned prior to use to ensure it is free of invasive weed seeds or plant parts.
2. Disturbed areas should be revegetated with native or nonnative noninvasive plant species. In addition, clean and weed-free rock should be used for riprap in the area of new bridge construction.
3. TVA Section 26a approval requires compliance with the MOA executed to mitigate the adverse effects to Site 31HW5.
4. TVA Section 26a approval requires compliance with nondiscretionary conservation measures, TCs, and RPMs agreed to in the BO by the NCDOT to minimize take of the elktoe and impacts to its DCH in the project area.

Conclusion and Findings

Based on the findings in the EA, TVA concludes that issuance of a Section 26a approval for the new bridge construction would not be a major action significantly affecting the environment. Accordingly, preparation of an environmental impact statement is not required.



August 19, 2011

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

Date Signed