

**STATEMENT OF FINDINGS  
AND  
FINDING OF NO SIGNIFICANT IMPACT**

**FOR THE REMOVAL OF HARMS MILL LOWHEAD DAM  
IN LINCOLN COUNTY, TENNESSEE**

**Background**

This FONSI references the U.S. Army Corps of Engineers Nationwide Permits Decision Documents developed in accordance with the National Environmental Policy Act of 1969 (NEPA) and adopts the NEPA Categorical Exclusion implemented by the Tennessee Valley Authority.

Harms Mill Dam is a low head dam located on the Elk River in rural south-central Tennessee in Lincoln County about five (5) miles southwest of the City of Fayetteville, which is the county seat. The dam and the surrounding 2.74 (+/-) acres are owned by the State of Tennessee (Tax Map 78 Parcel 11.00). The dam is located approximately 500 feet east of State Highway 273 (Old Elkton Pike) and is accessible by a one-lane crushed stone drive. The dam and powerhouse, once a functional hydroelectric development prior to 1940, is now an obsolete barrier on the Elk River that blocks fish passage, adversely affects the river ecology, and poses a safety hazard to the recreational public. The dam is partially breached, and the powerhouse has partially collapsed walls and floor. The age and deterioration of Harms Mill Dam and Powerhouse as well as the effects it is having on the Elk River are the basis for Harms Mill Dam being listed as #4 out of over 1,500 dams in the State of Tennessee in need of removal.

The Harms Mill Dam and Powerhouse is listed on the National Register of Historic Places for its contribution to Commerce and for its Engineering. Removal of the dam would provide a public safety benefit, since the Elk River is a major destination for paddlers, and its removal would restore free-flowing waters and protect communities from flooding. Funding for the project is provided by a coalition of partners in natural resources conservation because the dam is the only major barrier on the mainstem of the Elk River and separates 804 linear miles of streams below the dam from 780 miles upstream. Removing the dam would result in 1,114 free flowing miles that are open to fish and aquatic wildlife migration. There are 46 species of greatest conservation need that would benefit from this removal, including 19 species that are federally listed. That is in addition to 139 other fish species that are known to occur in the Elk River.

The proposed action to destroy and remove the entirety of the dam and powerhouse from its current location, leaving only the abutment walls on the banks of the Elk River, is being initiated as a result of the Bipartisan Infrastructure Law (BIL), which includes \$200 million for restoring fish and wildlife passage by removing in-stream barriers and providing technical assistance (U.S.

Fish & Wildlife Service website). More specifically the project will be funded through the National Fish Passage Program (NFPP), which is administrated by the United States Fish and Wildlife Service (USFWS). Other agencies contributing to the project are Tennessee Wildlife Resources Agency (TWRA), the Tennessee Ecological Services Field Office of the USFWS, The Nature Conservancy (TNC), Tennessee Valley Authority (TVA), and Tennessee Department of Environment and Conservation (TDEC).

The funding that USFWS contributes to restoration projects is generally categorically excluded from further NEPA review in accordance with 516 DM 8.5E(1) of the Department of the Interior Existing Categorical Exclusions, whereby financial assistance that meets the follow description is not the type of action that would have significant individual or cumulative effects (DOI Categorical Exclusions 2020 and 40 CFR 1508.4):

E. Financial Assistance.

- (1) State, local, or private entities, in the form of grants and/or or cooperative agreements, including State planning grants and private land restorations, where the environmental effects are minor or negligible.

However, given the fact that removal of the Harms Mill Dam and Powerhouse will result in an adverse effect to historic property and the fact that deconstruction of the partially collapsed structures will cause some temporary adverse effects to federally listed aquatic species, we provide the following statement of findings to clarify the impacts that have already been assessed for significance by both the lead federal agency for the proposed action, the U.S. Army Corps of Engineers (USACE), and a participating federal agency, TVA.

**Proposed Action**

The Powerhouse and Dam are located on approximately 2.74 acres on the north bank of the Elk River (River Mile 77.04). The proposed action will consist of removal and demolition of the abandoned powerhouse and dam using standard, heavy civil-works type equipment. Best management practices to ensure release of sediments or pollutants is minimized will include use of floating silt curtains, bulk bags for temporary cofferdams, silt fences for erosion control, and emergency cleanup spill kits. No hazardous material will be used or stored on the project sites. An existing gravel access road will be fortified and used to construct temporary access to a river access road.

Post-demolition, fill material used for the river access road will be removed along with dam and powerhouse demolition material and gravel pads. The original grade and conditions of the access road will be restored. The area under consideration for burial of demolition debris is west from Harms Lane and north of Hwy 273. Disposal of the reinforced concrete spoil may occur on this nearby parcel that has been surveyed for archeological resources with a negative finding. The proposed disposal site is located in a 500-year floodplain. Should disposal impact the Elk River floodplain or adjacent wetlands, then TVA will not issue its permit. In such a case, the material would be transported to an approved disposal site. Stream bank areas in the project area

will be stabilized with nonwoven geotextile and rip-rap, as needed and any disturbed upland areas used for staging equipment will be stabilized and seeded.

### **Scoping and Public Participation**

In addition to the public participation process provided in the publication of this document, the proposed removal of Harms Mill Dam has received local media attention on several occasions in the past year as funding sources for the project have been identified. Related public involvement include a public notice and comment period for the project's Aquatic Resource Alteration Permit (ARAP) from TDEC that began on June 7, 2023 and signs posted at the proposed project site by TWRA.

In carrying out the functions relating to the discharge of dredged or fill material under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, USACE will issue a general permit that has already provided public notice and opportunity for public hearing on a nationwide basis. Information about the U.S. Army Corps of Engineers Regulatory Program, including nationwide permits, may be accessed at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits/>.

This FONSI is made available for public notice on the Tennessee Ecological Services Field Office website (<https://www.fws.gov/office/tennessee-ecological-services>) following public notice to the Lincoln County, Tennessee community in the Elk Valley Times, the newspaper of record for the City of Fayetteville and county seat of Lincoln, Co., TN.

### **Environmental Impacts**

The proposed action requires three regulatory permits: an ARAP from TDEC, a 26a permit from TVA, and a Section 404 permit from the USACE. The following describes the environmental impacts analyzed pursuant to the National Environmental Policy Act (NEPA) of 1969 by the two federal agencies, TVA and USACE.

#### *TVA Categorical Exclusion*

The proposed action requires TVA approval for demolition of a structure that will affect navigation, flood control, or public lands along the shoreline of a tributary to the Tennessee River. TVA will issue this permit under Section 26a of the Tennessee Valley Authority Act of 1933 in accordance with its Procedures for Implementation of the National Environmental Policy Act (85 FR 17434, March 27, 2020). TVA's implementation of NEPA provides for a categorical exclusion (CE) of:

#29. Actions to restore and enhance wetlands, riparian, and aquatic ecosystems that generally involve physical disturbance of no more than 10 acres, including, but not limited to, construction of small water control structures; revegetation actions using native materials; construction of small berms, dikes, and fish attractors; removal of debris and sediment following natural or human-caused disturbance events; installation of silt fences; construction of limited access routes for purposes of routine maintenance and management; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.

In order for TVA's CE to apply, the action must not have an extraordinary circumstance that cannot be mitigated through the application of other environmental regulatory processes. It is our understanding that TVA's CE applies for the following reasons:

- 1) The TWRA-owned parcel that consists of the powerhouse, dam, and staging area is approximately 2.74 acres. The aquatic project footprint is estimated at 300 feet (91 meters) upstream and downstream of the dam (2.47 acres). The disposal area is approximately 60 feet by 200 feet (0.28 acres). If all these areas were directly impacted by the project, no more than 5.5 acres are expected to be physically disturbed.
- 2) TWRA in coordination with the USACE will fully mitigate adverse effects to the historic property through the development of a Memorandum of Agreement (MOA) in consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.
- 3) The USFWS in consultation with the USACE has concurred the proposed action may affect, but is not likely to adversely affect any terrestrial species protected under the Endangered Species Act (ESA) of 1973, as amended via correspondence sent on May 5, 2023. The aquatic species protected or petitioned for protection under the ESA that are likely to occur in the project area and are likely to be temporarily adversely affected by the proposed project are: boulder darter, Alabama lampmussel, cracking pearlymussel, shiny pigtoe, slabside pearlymussel, snuffbox, rabbitsfoot mussel, longsolid, the petitioned Tennessee clubshell, and the petitioned Tennessee pigtoe. Additionally, unoccupied designated critical habitat (DCH) for the fluted kidneyshell is likely to be adversely affected. The USACE initiated formal consultation on the above-listed species and DCH on July 18, 2023. The USFWS has issued its Biological Opinion on the effects of the proposed project to these species and DCH in accordance with its regulations (50 CFR §402) and ensure no net loss to adversely affected species. The USFWS expects that the overall beneficial effects of the proposed action will fully mitigate temporary adverse effects to federally protected species while providing beneficial effects to aquatic species in this reach of the Elk River.
- 4) Physical alterations to properties of waters of the State require an ARAP (a Section 401 Water Quality Certification pursuant to the Clean Water Act). By State regulation, TDEC may not issue an ARAP permit for activities that will adversely affect State-listed threatened or endangered species or result in more than a minimal adverse effect to resource values. TWRA in coordination with TDEC will ensure that all requirements for the ARAP are met and/or fully mitigated to meet the conditions of the permit.

## *USACE Nationwide Permit Decision Documents*

The proposed action requires USACE authorization for discharge of dredged or fill material into waters of the U.S. including wetlands pursuant to Section 404 of the Clean Water Act. The USACE will issue this permit as a Nationwide Permit that has been analyzed in accordance with the NEPA at a nationwide level. Nationwide permits are a type of general permit designed to authorize certain activities that have only minimal individual and cumulative adverse environmental effects and generally comply with the related laws cited in 33 CFR 320.3. Activities that result in more than minimal individual and cumulative adverse environmental effects cannot be authorized by NWPs. The USACE will issue a Nationwide Permit for the proposed action under its conditions for Nationwide Permit 53, Removal of Low-Head Dams, and Nationwide Permit 13, Bank Stabilization.

The USFWS hereby adopts the NEPA implemented by TVA and the USACE as described above.

### **Environmental Commitments**

Measures to mitigate and/or minimize adverse effects to protected species and their habitats are incorporated into the proposed project design as described in the USFWS Harms Mill Dam Biological Opinion, issued September 12, 2023 (Appendix A). Section 7 of the Endangered Species Act of 1973, as amended (the Act), provides authorities to the USFWS and other Federal agencies regarding Interagency Cooperation in carrying out the purposes of the Act, including developing measures to avoid or minimize effects to listed species resulting from Federal actions. For the purposes of this action, these measures include the following:

- 1) Retain dam wingwall to provide bank protection and minimize use of rip-rap and hard armoring on far-right bank.
- 2) Implement standard best management practices to minimize sediment and other pollutants from entering the Elk River.
- 3) Stabilize any stream bank areas to prevent erosion that may result from restored stream flow.
- 4) Seed and otherwise stabilize any upland disturbed areas.
- 5) Ensure minimal impacts to resource values, including species and their habitats.
- 6) Boulder darter collection and relocation prior to the start of dam demolition.
- 7) Mussel sweeps and relocations prior to the start of dam demolition.

The following measures to mitigate and/or minimize adverse effects to historic properties are described in the USACE Harms Mill Dam and Powerhouse MOA, completed September 26, 2023 (Appendix B). The authority for development of these mitigation measures is found in Section 106 of the National Historic Preservation Act.

- 1) Prior to authorizing any demolition or other activity that could damage any building, structure or associated feature, the Corps will ensure that the low-head dam and associated buildings and structures will be documented in accordance with the Level III standards and guidelines of the Historic American Engineer Record (HAER) ([www.nps.gov/hdp/standards/index.htm](http://www.nps.gov/hdp/standards/index.htm)).
- 2) The Corps shall ensure that TWRA will work with the Consulting Parties to

Install public interpretive signage at or near the location of the dam and powerhouse that is being removed. Prior to installation of the interpretive signage, the location, language, historic photos, layout and type will be reviewed and approved by the Consulting Parties. The interpretive signage should be readily visible to the public within the new proposed boat launch area.

### **Evaluation of Significant factors**

#### **(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.**

The impacts for the proposed action will be beneficial to the recovery of the boulder darter and protected mussel species although dewatering the project site and habitat disturbance will occur as a result of the demolition of the dam and this will have temporary adverse effects on species and the DCH. However, these impacts are not likely to jeopardize the continued existence of the species nor adversely modify the DCH. The environmental commitments to collect and relocate boulder darters and mussels will minimize adverse effects such that no net loss of protected species is expected from the balance of the project's temporary adverse effects and consequential long-term beneficial effects.

#### **(2) The degree to which the proposed action affects public health or safety.**

The proposed action will greatly benefit public safety by removing a low head, breached dam and a collapsing powerhouse. Low head dams cause many drownings each year due to the underflow of water. The breached dam and collapsing powerhouse are unstable and could break apart at any time, quickly moving massive blocks of concrete that would destroy whatever is in their path.

#### **(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

The archeological survey of the project area concluded it is unlikely that any intact, subsurface archaeological deposits are present. The assessment of historic and potentially historic properties concluded that the undertaking would not result in adverse effects to any properties other than the historic Powerhouse and Dam, that would be mitigated by the authority of the MOA. The proposed project occurs in an ecologically critical area and the long-term benefits of the action will add value to it.

#### **(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.**

The proposed action is not expected to be highly controversial and will provide a benefit to public safety and recreation by restoring the free-flowing river.

**(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The proposed action is not expected to have unique or unknown risks that may have possible effects on the human environment.

**(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

This is not the first time that a low head dam has been removed in Tennessee. The proposed action is part of a nationwide initiative to remove obsolete dams as partially funded by the Bipartisan Infrastructure Law.

**(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.**

The proposed action is not expected to have significant cumulative impacts.

**(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.**

The proposed action is expected to adversely affect the Powerhouse and Dam. TWRA will mitigate for the loss or destruction of this historical resource as described herein and in the MOA with SHPO.

**(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.**

The proposed action may adversely affect the boulder darter, seven federally listed mussel species, and DCH for the fluted kidneyshell. The conservation measures that will be implemented to minimize adverse effects, the temporary nature of the effects, and the immediate and long-term beneficial effects of the proposed project in an ecologically critical area all support a minimal degree of adverse impacts to endangered or threatened species.

**(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.**

The proposed action complies with all State and Federal laws.

### **Determination**

The effects of this project have been appropriately and thoroughly considered under various regulatory authorities, to include public scoping opportunities that are responsive to concerns and issues raised by the public. The Service considered the environmental effects using relevant scientific information and knowledge of site-specific conditions gained from documented surveys. My finding of no significant impact is based on the context of the project and intensity of effects using the ten factors identified in 40 CFR 1508.27(b). Therefore, it is my determination that the proposal does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2) (c) of the National Environmental Policy Act of 1969 (as amended). As such, an environmental impact statement is not required.

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Mike Oetker  
Acting Regional Director, Southeast Region  
U.S. Fish and Wildlife Service

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Date