

U.S. ARMY CORPS OF ENGINEERS  
NASHVILLE DISTRICT

FINDING OF NO SIGNIFICANT IMPACT

Buzzard Rock Resort and Marina  
Lake Barkley

1. Buzzard Rock Resort and Marina has requested approval for an after-the-fact request to update their wastewater system. Prior to U.S. Army Corps for Engineers (Corps) approval, Buzzard Rock Resort and Marina restored and expanded their septic system to comply with a deficiency letter from local health department. Corps Park Rangers discovered the newly restored and expanded septic system on government property within the Buzzard Rock Resort and Marina leased area on July 12, 2014. As a result of restoring/expanding the septic system, Buzzard Rock Resort and Marina removed a minimum of 117 trees by either cutting trees at the base and/or pushing them over with construction equipment in an area approximately 1.25 acres. Further investigation and coordination with the City of Kuttawa, Kentucky revealed that Buzzard Rock Resort and Marina was offered the alternative to connect to the City's sewer system. In a letter dated April 9, 2012, the City of Kuttawa referenced state regulations 902 KAR 45:005 5-403.11, 902 KAR 10:085 Section 13(2)(a), and 902 KAR 7:010 Section 5. 902 KAR 45:005 5-403.11 which states "Sewage shall be disposed through an approved facility that is: (A) A public sewage treatment plant; or (B) An individual sewage disposal system that is sized, maintained, and operated according to law." 902 KAR 10:085 Section 13(2)(a) states "The repair or alteration of an on-site sewage treatment system shall be permitted if: a municipal or public sewage treatment system is not available." According to the City of Kuttawa, sewer is and has been available to Buzzard Rock. 902 KAR 7:010 Section 5 states "All sewage and waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed, and operated in accordance with the requirements of the cabinet; provided, however, if a public sewerage system subsequently becomes available, connections shall be made thereto and the hotel sewerage system shall be discontinued."

2. Once recognizing the impacted acreage, the Corps coordinated with the U.S. Fish and Wildlife Service (Service) to determine if any Threatened & Endangered (T&E) species could have been impacted by the project. The Service responded by letter on November 12, 2014. The Service determined that the federally endangered Indiana bat (*Myotis sodalis*) may have inhabited the project area between April 1<sup>st</sup> through October 15<sup>th</sup>. This time of year is referred to as the "occupied" time. Based on the Corps correspondence the 1.25 acres of forested habitat was removed between June and July

prior to Section 7 consultation. These trees were removed during the timeframe when the species would be utilizing the habitat if present. Since this action has occurred prior to consultation and additional analysis is no longer possible, the project proponent must enter into a Memorandum of Agreement (MOA) with the Service to account for the incidental take of Indiana and/or Northern long-eared bats. The contribution amount that the MOA requires would be based on the 1.25 acres that were removed.

3. The proposed project (Alternative 2) is to connect Buzzard Rock to the City of Kuttawa sewer system. This alternative would include the installation of one or more lift station(s) placed within Buzzard Rock's lease area. Gravity sewer lines from Buzzard Rock's facilities would connect to the installed lift station where a four inch force sewer line, approximately 540 linear feet (LF), would connect to the city's sewer system. The installation of the lift station, gravity line connections, and force main sewer line would require new ground disturbance and minimal tree removal resulting in minimal habitat loss. The unauthorized new septic system would either be (1) left in place and professionally filled or (2) professionally removed.

4. The existing conditions and potential impacts of alternatives available to the Corps regarding the proposed project were described and evaluated in an Environmental Assessment (EA), prepared pursuant to the National Environmental Policy Act (NEPA), Council for Environmental Quality regulations (40 CFR, 1500-1508) and the Corps implementing regulation, Policy and Procedures for Implementing NEPA, ER 200-2-2, 1988 (33 CFR 230). The EA evaluated two separate alternatives in detail for the proposed project. These are: Alternative 1 – No Action Alternative and Alternative 2 – Connect to the City of Kuttawa Sewer System. The EA revealed minimal impacts for the proposed project on physiography and topography, aquatic resources, wetlands, water quality, and archeological and historic resources. However, the No Action Alternative would not be in compliance with local ordinances. The proposed action is in compliance with the state law, the Clean Air Act, and Executive Order 12898 for Environmental Justice. None of the alternatives described in this environmental assessment would disproportionately place any adverse environmental, economic, social, or health impacts on minority and low-income populations.

5. The EA, along with the unsigned Finding of No Significant Impact (FONSI), was circulated for a 30 day public and agency review on **DATE**. Public comments received during the review period will be considered before finalizing the EA and FONSI.

6. Coordination with the Service and Kentucky Division of Fish and Wildlife, per the Fish and Wildlife Coordination Act (FWCA 48 Stat, 401, as amended; 16 U.S.C. 661 et seq.), was initiated by the circulation of the EA and unsigned FONSI. Coordination with the Service regarding the Endangered Species Act was initiated by letter in November 2014.

7. Sections 106 and 110 of the National Historic Preservation Act of 1966 (NHPA), as amended require consideration of cultural resources prior to a federal undertaking and to preserve historic properties which are owned and controlled by the agency.

8. I have reviewed the proposed wastewater system installation, the public and agency comments, local ordinances, and the EA in light of the general public interest. I have determined that issuing the respective approvals, and allowing the Buzzard Rock Resort and Marina to connect to the City of Kuttawa's Sewer System would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the NEPA of 1969, as amended. Accordingly, I have concluded that preparation of an Environmental Impact Statement would not be required.

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DATE

Stephen F. Murphy  
Lieutenant Colonel, U.S. Army  
District Commander