

APPENDIX A USACE TN EA/FONSI

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above-Referenced Standard Individual Permit Application

This document constitutes the Environmental Assessment, Section 404(b)(1) Guidelines Evaluation, Public Interest Review, and Statement of Findings for the subject application.

1.0 Introduction and Overview

Information about the proposal subject to one or more of the United States Army Corps of Engineers' (Corps') regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 10 and findings are documented in Section 11 of this memorandum. Further, summary information about the activity including administrative history of actions taken during project evaluation is attached (ORM2 Summary) and incorporated in this memorandum.

1.1 Applicant name

Ford Motor Company, Attn: Kevin Whipp

1.2 Activity location

The project site is located north of Interstate 40 and approximately 2.5 miles south of Stanton, Tennessee, in Haywood County at approximate Latitude 35.416750° and Longitude -89.412960°.

1.3 Description of activity requiring permit

As described in the public notice, the applicant requested permit authorization to permanently fill 13,137 linear feet (l.f.) of stream channel and 4.82 acres of wetlands as part of construction of an electric vehicle and battery manufacturing complex (Blue Oval City) at the West Tennessee Regional Megasite in Haywood County, Tennessee. A detailed explanation of the proposed stream and wetland impacts is further discussed below:

Stream 1A: Proposed impacts to 2,777 l.f. with construction of a 4-sided box culvert as part of railroad yard construction.

Stream 1B: Proposed impacts to 164 l.f. from abandoning and directly filling (97 l.f.) that will result in more direct flow from the proposed Steam 1A culvert into a straightened section of Stream 1B that will extend 67 l.f. to the site's northern property boundary as part of railroad yard construction.

Stream 2: Proposed fill of 2,598 l.f. of the existing stream with flows re-directed to the nearby Stream 9 through a 750 l.f. open, vegetated channel as part of railroad yard construction.

Stream 4A: Proposed fill along its reach of 6,220 l.f. to accommodate construction and use of plant administrative space, employee parking areas, and storm-water detention

facilities. Treated stormwater will be collected and routed to a series of detention facilities that will ultimately discharge into the existing channel at the downstream end of the proposed impact area.

Stream 9: Proposed impacts to 595 l.f. of existing stream with straightening of 113 l.f. into an open, vegetated channel where the newly constructed Stream 2 would enter the channel (see above) and placing 482 l.f. of the downstream reach into a 4-sided box culvert to tie into the proposed Stream 1-A culvert as part of railroad yard construction. See Exhibits 1 and 3 (attached) for details.

Stream 11: Proposed direct fill of 783 l.f. of the far upper reach of the stream as part of railroad yard construction.

Wetland 3: Proposed fill of an approximately 0.42-acre farm pond that has developed wetland characteristics as part of grading for the proposed stamping facility. See Exhibit 5 (attached) for details.

Wetland 9: Proposed fill of 4.40 acres of wetland and other waters as part of railroad yard construction.

The proposed stream and wetland impacts are summarized in Table 1.0, below. The jurisdictional status of the wetlands is addressed in Section 1.4.1.

Table 1.0.

Feature ID	Watershed	Latitude	Longitude	Proposed Stream Impacts (Linear feet)	Proposed Wetland Impacts (Acres)
STREAM 1-A	Little Muddy Creek	35.4329	-89.4414	2,777	-
STREAM 1-B	Little Muddy Creek	35.4331	-89.4413	164	-
STREAM 2	Little Muddy Creek	35.4326	-89.4414	2,598	-
STREAM 4-A	Little Muddy Creek	35.4313	-89.4068	6,220	-
STREAM 9	Little Muddy Creek	35.4291	-89.4439	595	-
STREAM 11	Little Muddy Creek	35.4335	-89.4342	783	-
WETLAND 3 (Farm Pond 5)	Big Muddy Creek	35.4334	-89.4080	-	0.42
WETLAND 9 (including 0.91 acres other WOTUS)	Little Muddy Creek	35.4330	-89.4600	-	4.40
TOTAL				13,137	4.82

1.3.1 Proposed avoidance and minimization measures

The project will avoid direct impacts to 18.1 acres of the 22.9 total acres of wetland that have been delineated on the portion of the West Tennessee Regional Megasite property that is being proposed for the development of this project (Blue Oval City). The project would also avoid direct impacts to 16,848 linear feet of the 29,985 linear feet of streams located on the project site.

The applicant stated that over 25 alternative project sites were evaluated for this project across the United States. The applicant evaluated several alternate on-site configurations in efforts to further avoid the proposed stream and wetland impacts. The applicant concluded that none of the evaluated off-site or on-site alternatives would further minimize the proposed impacts while achieving the project's purpose. Further review and discussion concerning compliance with Section 404 (b)(1) Guidelines is provided in Section 6.

1.3.2 Proposed compensatory mitigation

The applicant is proposing compensatory mitigation for the proposed stream impacts with the implementation of the Cub Creek Permittee-Responsible Mitigation (PRM) site located in Hardeman County, Tennessee. The PRM site would produce 10,347 functional feet of ecological lift by restoring approximately 20,794 linear feet along Cub Creek and several unnamed tributaries. The Cub Creek PRM site is located in the Lower Hatchie River 8-digit HUC (08010208) which is the same HUC8 as the project site. The applicant initially proposed to purchase wetland mitigation credits for proposed wetland impacts at a 2:1 ratio from the Hatchie River Wetland Mitigation Bank in Haywood County, Tennessee, which is also located within the same HUC8 as the project. However, as discussed in Section 1.4.1, the wetlands were determined not to be jurisdictional. The applicant did mitigate for the proposed wetland impacts as part of TDEC's 401 WQC. No mitigation is required as part of the Corps 404 permit.

1.4 Existing conditions and any applicable project history

The site is mapped on the Stanton, TN 7.5-minute USGS Topographic Quadrangle and is located within the Lower Hatchie River 8-digit Hydrologic Unit Code (HUC) [08010208] watershed. Watercourses and wetlands on the south-central and eastern portions of the site drain to the north-northeast into the Big Muddy tributary system (12-digit HUC 080102080402). A smaller portion of the site is drained by the Little Muddy Creek system (12-digit HUC 080102080511). This area is located on the western and north central portions of the site. Current and historic land use of the site consists primarily of extensive row-crop agriculture with lesser amounts of wooded areas.

A review of ORM data indicates there have been several jurisdictional determination requests and permit actions associated with this property.

In 2006, a request for a Section 404 permit and a jurisdictional determination was received and assigned DA File Number 2006-660. In response, a preliminary jurisdictional determination (PJD) was provided in a letter, dated February 9, 2007. The

permit request was subsequently withdrawn by the applicant.

In 2009, a jurisdictional determination request was received and assigned DA File No. MVM-2009-414. A PJD was provided in a letter, dated September 23, 2009. There are no other actions associated with this DA File No.

In 2015, an approved jurisdictional determination (AJD) was requested and assigned DA File No. MVM-2015-295. An approved jurisdictional determination was provided in a letter, dated December 29, 2015. There is an additional permit action associated with DA File No. MVM-2015-295; which is the working DA file for the current project. The State of Tennessee requested a Section 10/404 permit and Section 408 permission for construction of a wastewater forcemain and outfall structure at Randolph Point in Lauderdale County, TN. The forcemain would begin at the West Tennessee Regional Megasite and traverse 36 miles (avoiding impacts to waters of the U.S.) before terminating at an outfall structure on the Mississippi River at Randolph Point. Permissions for the alterations and activities associated with the forcemain outfall structure were granted in a letter, dated July 2, 2021. Tennessee Valley Authority (TVA) issued a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) in February 2016 in accordance with the National Environmental Policy Act of 1969 (NEPA) concerning a future transmission line loop route that would provide a power supply to support development of the West Tennessee Regional Megasite. No permit action or jurisdictional determination requests have been received by the Corps concerning this transmission line route to date.

A review of ORM data indicates that no unauthorized activities have occurred or been reported on the project site.

1.4.1 Jurisdictional Determination

Is this project supported by a jurisdictional determination? Yes. An AJD was requested on December 17, 2021. An AJD was issued for the project on March 3, 2022 according to pre-2015 jurisdictional guidance. The AJD determined there are six wetlands (Wetland 1, 2, 3, 5, 6, and 8) totaling 33.04 acres and 20 streams (RPW Tributary 1-A, 1-B, 1-C, 2, 3, 4-A, 4-B, 5, 6-A, 6-B, 6-C, 6-D, 6-E, 7, 8, 9, 10, non-RPW Tributary 3, non-RPW Tributary 5, and non-RPW Tributary 6) totaling 41,438 linear feet that are considered jurisdictional waters of the United States. There are four ephemeral streams (non-RPW Tributary 1, non-RPW Tributary 2, non-RPW Tributary 4, and non-RPW Tributary 7) totaling 2,985 linear feet, two wetlands and other waters (Wetland 4 and 7 and Other Waters associated with Wetland 7) totaling 4.51 acres, ten erosional features (Erosional Ditch 1-9 and non-RPW Tributary 8) totaling 5,780 linear feet, and five farm ponds (Farm Pond 1-5) totaling 5.47 acres which are not considered jurisdictional wetlands or other waters of the United States.

Note: The applicant's initially proposed impacts to Wetland 3 (reabeled as Farm Pond 5) and Wetland 9 (reabeled as Wetland 7), totaling 4.82 acres, were removed since both wetland areas were determined not to be jurisdictional waters of the United States per pre-2015 jurisdictional guidance. During review of the AJD, Stream 11 was re-

named to RPW 10. All of the streams proposed for impact in the public notice [Stream 1-A, 1-B, 2, 4-A, 9, and 11 (re-named to RPW 10)] were determined to be jurisdictional waters of the United States.

1.5 Permit authority

Table 1-1 – Permit Authority	
Section 10 of the Rivers and Harbors Act (33 USC 403)	
Section 404 of the Clean Water Act (33 USC 1344)	X
Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413)	

2.0 Scope of review for National Environmental Policy Act (i.e., scope of analysis), Section 7 of the Endangered Species Act (i.e., action area), and Section 106 of the National Historic Preservation Act (i.e., permit area)

2.1 Determination of scope of analysis for National Environmental Policy Act (NEPA)

The scope of analysis always includes the specific activity requiring a Department of the Army permit that is located within the Corps' geographic jurisdiction. In addition, we have applied the four factors test found in 33 CFR Part 325, Appendix B to determine if there are portions of the larger project beyond the limits of the Corps' geographic jurisdiction where the federal involvement is sufficient to turn an essentially private action into a federal action.

Based on our application of the guidance in Appendix B, we have determined that the scope of analysis for this review includes the Corps geographic jurisdiction and upland portions beyond the Corps geographic jurisdiction.

These upland components include the entire footprint of the property. There are substantial portions of the property that do not contain waters of the United States and on which upland development could occur without the need for a Corps permit. However, the waters within the proposed footprint are located in different locations across the property. These components have been determined to be within our scope of analysis as the extent of federal involvement is sufficient to turn this essentially private action into a federal action with the resulting environmental consequences of the larger project essentially being products of the Corps' permit action.

Final description of scope of analysis: The NEPA scope of analysis includes the entire project footprint.

2.2 Determination of the Corps' action area for Section 7 of the Endangered Species Act (ESA)

The ESA action area includes the entire limits of disturbance where direct or indirect effects to federally listed species could occur.

2.3 Determination of Corps' permit area for Section 106 of the National Historic Preservation Act (NHPA)

The permit area includes those areas comprising waters of the United States that will be directly affected by the proposed work or structures, as well as activities outside of waters of the U.S. because all three tests identified in 33 CFR 325, Appendix C(g)(1) have been met.

Final description of the permit area: The Section 106 permit area for the project includes the entire limits of disturbance. The applicant's proposed work within upland areas outside the regulated activity meet the three criteria in Appendix C.

3.0 Purpose and Need

3.1 Project purpose and need

Project purpose and need for the project as provided by the applicant and reviewed by the Corps:

The applicant's stated purpose of the project is to construct and operate an expansive complex of electric vehicle production facilities, Blue Oval City, to serve the existing global market and to meet demand for these vehicles. According to the applicant, this market is projected to grow for many decades to come. These proposed facilities and their supporting infrastructure include automotive stamping; body, paint and assembly facilities; vehicle testing facilities; and a battery manufacturing facility. Two rail spurs would be constructed beginning at an existing CSX line to the west providing transportation for both deliveries and exporting finished vehicles in the northern core of the proposed project site. Blue Oval City will also have several access locations to an existing roadway, SR-222, via proposed 2-lane and 4-lane roadways throughout the proposed project site.

3.2 Basic project purpose

Basic project purpose, as determined by the Corps: The basic purpose of the project is to construct an electric car and battery manufacturing facility.

3.3 Water dependency determination

The activity does not require access or proximity to or siting within a special aquatic site to fulfill its basic purpose. Therefore, the activity is not water dependent.

Construction of industrial developments, such as the proposed project, does not require location within wetlands or other special aquatic sites to fulfill its basic project purpose.

3.4 Overall project purpose

Overall project purpose, as determined by the Corps:

The overall project purpose is to construct an electric car and battery manufacturing facility in West Tennessee.

4.0 Coordination

4.1 Public Notice Results

The results of coordinating the proposal on public notice are identified below, including a summary of issues raised, any applicant response and the Corps' evaluation of concerns.

Were comments received in response to the public notice? Yes

Was a public meeting and/or hearing requested, and if so, was one conducted?

No, no public hearing or meeting was requested.

Comments received in response to public notice:

Comment 1: A comment letter was received via email from an adjacent landowner, Mr. Julian Williamson, on January 16, 2022. Mr. Williamson stated that he owns 2 parcels of property adjacent to Blue Oval City. Mr. Williams outlined two properties on the USGS location map that was provided in the Public Notice. His map indicates one of these 2 properties, "Keeling Road Farm", is located adjacent to the north side of the property and immediately north of where the applicant would build the North American Vehicle Logistics (NAVL) railyard area. Mr. Williamson's concerns are that construction of the NAVL could result in increases in water quantity (increased flow and volume) onto his property. STR 1-A and STR-9 would be culverted, and STR-2 would be filled and relocated into a shorter length of open channel than what naturally occurs before tying into the STR 1-A culvert and exiting the NAVL to the north. According to Mr. Williams, he believes that increases in water quantity onto his property as a result of this construction would cause him financial harm by affecting his "planting schedule" and previous financial investments he has made into his agricultural lands. Mr. Williams supported his position by stating, "We have spent a great deal of labor and money improving these acres within the past few years; they are under the coverage of a pivot irrigation system and are high-value investments."

Mr. Williams is also concerned that increases in water quantity onto his property which he believes could increase stream bank erosion of the existing meanders of Little Muddy Creek. He believes these effects could make this area less suitable for wildlife. Mr. Williams currently leases this property to hunters and he is concerned that the area may be rendered less suitable for hunting. Specifically, Mr. Williams states, "Part of my agricultural income is derived from hunting leases; approximately 65 acres of this property are devoted exclusively to this pursuit. Of the parcels I lease for hunting, this is the best property and garners the most income. This income helps justify maintaining the riparian buffers on the east side of the farm, which are vital for wildlife habitat as well as slowing water drainage into Little Muddy Creek as it flows north into the Hatchie

River. Active efforts to mitigate light, noise, and other pollution from Blue Oval City would help ensure the viability of these habitats for hunting and the continued success of preservation efforts in the Hatchie River drainage basin.”

Mr. Williams asked the following questions in relation to the effects that an increase in water quantity may cause: 1. “Have flow studies been done concerning how much the increase in water crossing my property line will be?”; and 2. “Is there a plan to mitigate the speed/volume of water exiting the box culvert, either buffering it into the stormwater detention ponds, or by some other device that will slow the onrush of water during heavy downpours?”.

Mr. Williams’s second property, “Log Cabin Farm”, is located immediately south of the far south-western portion of the project site. This property is not directly south of the NAVL but is south of where future tracks would run to the NAVL from the existing CSX rail line. Mr. Williams notes in his comment letter that he believes this portion of the site drains to the Loosahatchie River and not the Hatchie River.

Mr. Williams states that he does not have “as many concerns” for this property but does state that he has concerns regarding alterations to water flow and volume that could affect his property that he believes could result from railroad construction. He suggests relocating “the southern spur of the railroad bed northward to the crest of the hill” in an effort to minimize this possibility. Similarly, to his concerns about the “Keeling Road Farm” property, he is concerned that potential increases in water flow and volume could affect the “arability” of his existing agricultural and pasture lands down-gradient of the southern spur of the railroad line. Mr. Williams is also concerned that construction of the southern spur would have visual effects for a home that his family owns at 633 Fredonia Loop Road.

Mr. Williams concludes his comment letter by stating that, in general, he has concerns that Blue Oval City may generate light and noise pollution. To address his concern, Mr. Williams states that he is hopeful that “...some serious study would be undertaken with the goal of minimizing the amount of light and noise pollution that will be emanated by this enterprise as a whole...direction, dim, scheduled and focused exterior lighting fixtures as well as regulations for noise, including coupling and uncoupling rail cars could be envisioned, to the benefit of neighbors of Blue Oval City and the environment as a whole.”.

Applicant’s Response: In response to Mr. Williams’s concerns, the applicant provided the following: “The Applicant has conducted post-development analysis and design to ensure that stormwater runoff will not exceed pre-development volume. Stormwater will be released from retention and/or detention basins utilizing an outlet control structure to regulate outfall flow. Stormwater Runoff from offsite will be conveyed through an underground box culvert bypassing these systems. Drainage of the railyard will be conveyed to detention facilities prior to being released through an outlet control structure. Additionally, to reduce outfall velocity and protect against bank erosion, the Applicant’s design prescribes rip-rap to be placed at the entrance and outfall of the stormwater culvert extending under the railyard. Any spill located in the railyard is designed to be contained

on-site for clean-up in compliance with federal, state, and local regulations. The Applicant has ensured that the project's design will be effective in meeting or exceeding light, noise, and other environmental standards, as required by applicable regulatory criteria. Regarding the culvert under Fredonia Loop Road, the project has been designed to minimize earthwork disturbance in this western portion of the Blue Oval City. Stormwater runoff in this area will be conveyed to the east and will not cause negative impact to the referenced culvert and its downstream receiving waters."

Corps' Evaluation: The Corps has reviewed the applicant's rebuttal and concurs with their response. The detailed engineering analysis was reviewed by TDEC for compliance with NPDES and the State's large construction general permit. TDEC has issued these permits which will ensure State requirements concerning storm water runoff are being met. The applicant has stated that the project will not use "high-mast" lighting during construction or operation of the facility. The applicant has also stated that construction of the facility will only occur during daytime hours (first and second shifts) which will prevent noise effects at night. The acquisition of the required State permits and the applicant's response and incorporation of mitigative measures with respect to light and noise effects adequately address the concerns stated by Mr. Williams with respect to the effects the project would have as a result of construction.

Comment 2: A phone call was received from Mr. Glenn Newman on January 19, 2022. Mr. Newman called to state that he owns property west of Highway 222 and south of Truss Road. Mr. Newman further stated that he has concerns of increased flooding onto his property from impervious surfaces that would be created with Blue Oval City.

Applicant's Response: In response to Mr. Newman's concerns, the applicant provided the following: "The Applicant's post-development hydrologic analysis and design will ensure that stormwater runoff will not exceed pre-development volume. Stormwater will be released from retention and/or detention basins utilizing an outlet control structure to regulate outfall flow."

Corps' Evaluation: The Corps has reviewed the applicant's rebuttal and concurs with the applicant. The applicant has taken the required steps to ensure stormwater runoff following construction will not exceed pre-construction conditions. All specific engineering calculations and drawings have been reviewed and approved by TDEC as part of the NPDES permit approval.

Comment 3: The Eastern Shawnee Tribe of Oklahoma (Tribe) provided a comment via email on January 20, 2022. The Tribe stated the project proposes "No Adverse Effect" to their Tribe and they recommend continuing with the project as planned. The Nation did request that work be stopped and to be contacted for further consultation if items of cultural significance are discovered during the course of the project.

Applicant's Response: N/A

Corps' Evaluation: The Corps has considered the Tribe's request to be contacted and

work be stopped upon inadvertent cultural resource discoveries. A special condition will be included with the permit to address this concern as further discussed in Section 10.

Comment 4: Thlopthlocco Tribal Town provided comment via email on January 25, 2022. The Tribe stated they are not aware of any historical or archaeological site in the APE.

Applicant's Response: N/A

Corps' Evaluation: The Corps has reviewed and considered the Tribe's comments.

Comment 5: Choctaw Nation of Oklahoma provided a comment letter, dated February 7, 2022. The Tribe stated the project lies outside their area of historic interest and they defer to other Tribes that have been contacted.

Applicant's Response: N/A

Corps' Evaluation: The Corps has considered the other Tribe's requests to be contacted and work be stopped upon inadvertent cultural resource discoveries. A special condition will be included with the permit to address this concern as further discussed in Section 10.

Comment 6: A letter was received from Mr. Larry J. Smith on January 25, 2022. Mr. Smith provided commentary regarding the wording of the jurisdictional status of streams and wetlands in the public notice. Mr. Smith stated his appreciation that the Hatchie River mitigation bank is being proposed by the applicant for compensatory wetland mitigation. Mr. Smith encouraged the applicant to "plan for and implement measures that would recognize the Memphis Sands groundwater aquifer and its importance." Mr. Smith suggested that the applicant work with the University of Memphis Groundwater Institute on future research opportunities.

Applicant's Response: In response to Mr. Smith's concerns, the applicant provided the following: "The Applicant will avoid, minimize, and mitigate impacts on the proposed project site to all Waters of the United States, as well as all streams, ponds, and wetlands regulated under Tennessee's Water Quality Control Act of 1977. A 2:1 wetland mitigation ratio is appropriate to ensure that any wetland resources and functions affected by the proposed project are replaced at doubled value in perpetuity. The question of financial support has been raised and we are addressing it with the State of TN and our stream mitigation partners. The Applicant recognizes the social and economic importance of groundwater resources at the proposed project site and has met with representatives of the University of Memphis Center for Applied Earth Science & Engineering Research (CAESER). Moreover, the Applicant has developed containment measures in the event of spills and will limit stormwater infiltration to bioretention basins that are designed to treat and filter stormwater runoff prior to infiltration to the subsurface."

Corps' Evaluation: Mr. Smith's comments are noted and were provided to the applicant

for their consideration.

Comment 7: An email was received from Ms. Beverly Cleveland on February 8, 2022. Ms. Cleveland commented that two separate historic burial plots are located within the proposed project site boundaries. Ms. Cleveland provided geographic coordinates and general descriptions of the plots' locations.

Applicant's Response: In response to Ms. Cleveland's concerns, the applicant provided the following: "The Applicant greatly appreciates being provided with this information and has informed the State of Tennessee about the potential burial areas. The areas do not appear to be within the footprint of currently proposed construction. The Applicant will work with the State of Tennessee to ensure any burial sites identified will be provided respect and protection, in accordance with Tennessee Law."

Corps' Evaluation: The Corps concurs with the applicant's rebuttal. Additionally, the coordinates provided by Ms. Cleveland do indicate that the burial areas are outside the applicant's proposed limits of construction.

Additional discussion of submitted comments, applicant response and/or Corps' evaluation: N/A

4.2 Additional issues raised by the Corps

N/A

4.3 Comments regarding activities and/or effects outside of the Corps' scope of review

Mr. Julian Williams stated in his January 16, 2022 comment letter he has concerns of dangerous chemicals entering this portion of his property in the event of a diesel spill or other chemical spill occurring in the NAVL. Mr. Williams recommended a "mitigation plan" in the event of a chemical spill or accident to minimize potential harm to the Loosahatchie River watershed.

Corps response: In the event chemical or diesel spills were to occur, these occurrence(s) would occur during operation and not construction of the railroad. Therefore, these effects are outside purview of Section 404 of the Clean Water Act. However, the applicant stated in the rebuttal to Mr. Williams's comments that a spill-prevention plan will be in place during railroad operations such that any potential effects to adjoining properties would not be adverse.

With respect to Mr. Smith's statements concerning the Memphis Sands, groundwater is not considered federally jurisdictional waters of the United States. However, the applicant has prepared a spill prevention plan and has met with CAESAR per Mr. Smith's comments.

5.0 Alternatives Analysis

(33 CFR Part 325 Appendix B, 40 CFR 230.5(c) and 40 CFR 1501.5(c)). An evaluation of alternatives is required under NEPA for all jurisdictional activities. NEPA requires discussion of a reasonable range of alternatives, including the no action alternative, and the effects of those alternatives. An evaluation of alternatives is required under the Section 404(b)(1) Guidelines for projects that include the discharge of dredged or fill material to waters of the United States. Under the Section 404(b)(1) Guidelines, practicability of alternatives is taken into consideration and no alternative may be permitted if there is a less environmentally damaging practicable alternative.

5.1 Site selection/screening criteria

In order to be practicable, an alternative must be available, achieve the overall project purpose (as defined by the Corps after considering the applicant's needs and type of project being proposed), and be feasible when considering cost, logistics and existing technology.

Criteria for evaluating alternatives as evaluated and determined by the Corps:

Access to existing infrastructure (i.e. railroads and highways/Interstates), ability to connect to utilities, acquisition costs, adequacy of parcel size, site suitable for construction (i.e. topography), environmental factors (i.e. presence of wetlands and streams).

5.2 Description of alternatives

5.2.1 No action alternative

The no-action alternative would not result in stream or wetland impacts. Selection of a no-build alternative would not change population density, land-use, land-use practices, or agricultural impacts to water quality since the project would not be built. According to the applicant, "Neither would these (on-site) alternatives benefit the proposed stream mitigation site that has been selected to be used for this project. Similarly, if any of the no-build alternatives were selected for the Site, no additional economic benefits would be provided from the Site to the local community or to the State. It should be considered that, because the Site has been assembled and promoted by the State of Tennessee as a Regional Megasite on which social and economically-advantaged facilities can be located, it is likely that the Site would be developed eventually for large-scale industrial purposes, and necessary impacts to Site resources will be incurred."

5.2.2 Off-site alternatives

Off-site alternative 1: The applicant considered a 1,600-acre project location in the South. The applicant stated, "...the site had extreme topographical challenges both in the rate of change as well as the overall amount of cut and fill required to make the project buildable."

Off-site alternative 2: The applicant evaluated a project location in the Southeast and stated, "...the site lacked good interstate access, as it was 20 miles from an interstate and did not have a direct route. It is important that the project is located adjacent to or within a few miles to an interstate for logistical efficiency. In addition, the project location had a main water and gas line that cut through the project location that would have to be relocated and could not be accomplished within the needed project timeline."

Off-site alternative 3: The applicant evaluated a 1,400-acre project location in the Midwest and determined the site "...is not a greenfield property, and the environmental due diligence could not be completed in the needed project timeline."

Off-site alternative 4: The applicant evaluated another project location in the South but stated the "...useable size of the project location was impacted by wetlands identified across the proposed project location. This effectively reduced the size of the buildable project area to below 500 acres, which was not large enough to accommodate the project."

5.2.3 On-site alternatives

On-site alternative 1 (applicant's preferred alternative): The applicant's preferred alternative is to place dredged or fill material into a total of 13,137 linear feet of stream channel as part of the construction of an electric vehicle and battery manufacturing complex at the West Tennessee Regional Megasite in Haywood County, Tennessee. The facilities proposed and supporting infrastructure would consist of automotive stamping, body paint and assembly facilities, vehicle testing facilities, and a battery manufacturing facility. Two rail spurs leading from an existing CSX rail line to the west will provide transportation for both deliveries and exporting finished vehicles in the northern portion of the project site.

The applicant determined through their evaluation of alternatives that the preferred alternative avoids and minimizes impacts to streams and wetlands on the site to the greatest extent possible. Within the NAVL railyard area, the preferred alternative would minimize stream channelization and culverting lengths to the greatest extent practicable, while still conveying natural hydrology from south of the railyard to northern receiving waters. The preferred alternative would result in impacts to 2,777 linear feet of Stream 1A as opposed to completely culverting this stream as it occurs on the property for 5,625 linear feet. The applicant is avoiding direct impacts to 430 linear feet Stream 1-B by only impacting 164 feet through culverting, straightening, and filling. The applicant would fill 2,598 linear feet of Stream 2 and replace a 750 foot section of the channel into an open vegetated channel directing flows into Stream 9. The upper portion of Stream 9 would also be left in an open, vegetated channel for 113 feet. The applicant states that the preferred alternative would reduce stream alterations from 9,455 feet to 6,134 feet which would achieve a 35% minimization in stream alterations as compared to On-site alternative 3 which is described below. Within the Frame Rail Line area, the applicant further asserts that the preferred alternative avoids and minimizes impacts to Stream 11 to the greatest extent possible. The preferred

alternative reduces the length of Stream 11 filling from 960 linear feet to 783 linear feet. The proposed impacts to Stream 11 would also be limited to the far upstream portion of the channel which the applicant asserts has more ephemeral characteristics, thereby, resulting in little to no loss of stream hydrology and overall function.

The applicant is proposing to fill 6,220 linear feet of Stream 4-A and compensate for the altered downstream hydrologic contributions by directing treated stormwater through detention basins designed to discharge cleaned stormwater. This alternative would avoid using Stream 4-A for in-stream treatment or impounding its flow in detention basins. Further discussion concerning other on-site alternatives to the applicant's preferred alternative are described below.

On-site alternative 2: The applicant evaluated an alternative design within the NAVL railyard area in attempts to avoid impacts to Streams 1-A, 1-B, 2, and 9. Under this scenario, 6,134 linear feet of stream would not be impacted. The applicant rejected this design since they believe complete avoidance of streams proposed for impact would not allow for construction of the NAVL railyard area. It is the applicant's assertion that the NAVL railyard area is an integral component of the overall project and without its construction, the project would not be constructed. Under this scenario, the applicant would not achieve the project's purpose and would, therefore, not be a practicable alternative.

On-site alternative 3: The applicant evaluated a second alternative within the proposed NAVL railyard area. This alternative called for maintaining the natural flow patterns of the streams in a south to north direction with the use culverts. The applicant asserted that this alternative would result in greater stream impacts consisting of 9,455 linear feet of stream encapsulation within this portion of the property as compared to the preferred alternative which would impact 6,134 linear feet of stream. Therefore, the applicant rejected this alternative.

On-site alternative 4: The applicant evaluated a third alternative within the NAVL railyard area that would leave stream channels traversing the NAVL railyard as open channels with vegetative buffers. This alternative would avoid culverting and/or filling 3,356 linear feet within Streams 1-A, 1-B, and 9. This alternative would require spans at road and railroad crossings. The applicant rejected this alternative because of required rail design slope control that would result in the addition of 20 – 25 feet of fill material over existing grade throughout the stream alignments. Additionally, the applicant determined the use of spans and the presence of open channels would present an unacceptable safety hazard in an area designed for vehicular activity. The applicant also determined this alternative would be impracticable from a geotechnical perspective, as 4-sided box culverts provide protection against erodible channel beds. The applicant noted that high-erodible soils are present throughout much of the project area. From a logistical and environmental standpoint, this alternative would not be considered practicable.

On-site alternative 5: The applicant evaluated an alternative within the area proposed for the Frame Rail Line. This alternative would completely avoid the proposed impacts

to Stream 11 and Wetland 9. The applicant determined that property boundary and facility configuration constraints would preclude avoidance such that the project could not be built. This alternative would not result in the applicant achieving the project's purpose and, therefore, would not be considered practicable.

On-site alternative 6: The applicant evaluated a second alternative within the proposed Frame Rail Line area that would impact 960 linear feet of Stream 11. This alternative would facilitate anticipated construction of ancillary facilities to the north of the Final Assembly area and the Frame Rail Line. The applicant rejected this alternative because anticipated facilities have not yet been designed and alteration of Steam 11 would be contingent on final design decisions that the applicant has not yet made. Additionally, this alternative would result in greater impacts to Stream 11 than the preferred alternative.

On-site alternative 7: The applicant evaluated an alternative to avoid impacts to Stream 4-A and Wetland 3 (note: Wetland 3 was determined to be Farm Pond 5 in the AJD) by relocating the administrative complex and stamping facility and their attendant features to another location within the overall facility. The applicant determined this alternative would be costly and not logistically practicable when taking into consideration existing topography. Operation of the facility would also be greatly impaired and avoidance of construction of these facilities would fail to achieve the project purpose. From a logistical and costs perspective, this alternative would not be practicable.

On-site alternative 8: The applicant evaluated a second alternative to the proposed impacts to Stream 4-A and Wetland 3 (Farm Pond 5) by avoiding alterations to the current alignment of Steam 4-A. This alternative would result in Stream 4-A being maintained in an open channel through the administrative and employee parking complex. This alternative would also avoid impacts to Wetland 3 (Farm Pond 5). The applicant determined that extensive grading and difficult slopes in the area proposed for the stamping facility are present that would result in additional costs and logistical considerations. From a logistical standpoint (i.e. existing topography) and costs standpoint, this alternative would not be practicable.

5.3 Alternatives evaluation under the Section 404(b)(1) Guidelines and NEPA

Each of the alternatives (both on and off-site) evaluated by the applicant are considered reasonable under NEPA. As demonstrated below, the applicant's preferred alternative is the least environmentally damaging alternative under the Guidelines.

5.4 Least environmentally damaging practicable alternative under the Section 404(b)(1) Guidelines

The applicant's preferred alternative is the least environmentally damaging practicable alternative for the project. The applicant's evaluation of several off-site and on-site alternatives did not meet the established screening criteria identified in Section 5.1. Therefore, these alternatives are not considered practicable under the Guidelines.

6.0 Evaluation for Compliance with the Section 404(b)(1) Guidelines

The following sequence of evaluation is consistent with 40 CFR 230.5

6.1 Practicable alternatives

Practicable alternatives to the proposed discharge consistent with 40 CFR 230.5(c) are evaluated in Section 5

The statements below summarize the analysis of alternatives:

In summary, based on the analysis in Section 5 above, the no-action alternative, which would not involve discharge into waters of the United States, is not practicable.

For those projects that would discharge into a special aquatic site and are not water dependent, the applicant has demonstrated there are no practicable alternatives that do not involve special aquatic sites.

It has been determined that there are no alternatives to the proposed discharge that would be less environmentally damaging (Subpart B, 40 CFR 230.10(a)).

The proposed discharge in this evaluation is the practicable alternative with the least adverse impact on the aquatic ecosystem, and it does not have other significant environmental consequences.

6.2 Candidate disposal site delineation (Subpart B, 40 CFR 230.11(f))

Each disposal site shall be specified through the application of these Section 404(b)(1) Guidelines:

Specific disposal sites would include each of the streams where a discharge of dredged or fill material would occur. These streams include Stream 1A, Stream 1B, Stream 2, Stream 4A, Stream 9, and Stream 11. Wetland 3 (Farm Pond 5) and Wetland 9 (Wetland 7) are being proposed for filling in addition to the streams. However, through the AJD process the Corps determined both of these wetlands are not within the geographic jurisdiction of the Corps and are not being further considered according to the Guidelines.

6.3 Potential impacts on physical and chemical characteristics of the aquatic ecosystem (Subpart C 40 CFR 230.20-40 CFR 230.25)

The following has been considered in evaluating the potential impacts on physical and chemical characteristics (see Table 2):

Table 2 – Potential Impacts on Physical and Chemical Characteristics						
Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Substrate					X	
Suspended particulates/ turbidity				X		
Water			X			
Current patterns and water circulation			X			
Normal water fluctuations			X			
Salinity gradients	X					

Discussion:

Substrate: The applicant’s proposal to fill 10,347 functional feet (13,137 linear feet) of stream channel would permanently remove existing aquatic resource substrate. The applicant is proposing to mitigate these losses by restoring 20,794 linear feet along Cub Creek and several unnamed tributaries at the Cub Creek Permittee-Responsible Mitigation (PRM) site in Hardeman County, Tennessee. This PRM site is in the Lower Hatchie River 8-digit HUC (08010208) which is the same HUC8 as the impact site. The applicant’s proposed mitigation will offset these impacts and result in a long-term yet minor effect.

Suspended particulates/turbidity: Some increases in sedimentation are expected during and following construction. Prior to initiating work, the applicant will install erosion and sediment control measures in uplands around the perimeter of the streams to minimize the potential for the introduction of sediment into waterbodies. The applicant offered the following with respect to specific erosion control measures that will be undertaken on the site:

Prior to initiating work, the applicant will install erosion prevention and sediment control (EPSC) measures in upland areas to minimize the potential for the introduction of sediment into jurisdictional aquatic resources. Orange protective fencing will be installed around wetland and stream areas that will not be directly impacted by construction activities. These EPSC measures will be monitored and maintained in good working condition throughout construction activities. Once EPSC controls have been established, the rough grading of the site will be initiated. Work is being phased to allow existing vegetative areas or buffers to remain as long as possible.

To minimize effects to streams, if required, the applicant will create a dry work area using coffer dams/flumes or pumps prior to conducting work. Excavated soil will be stockpiled in an upland location adjacent to either bank. These stockpile areas will be

stabilized utilizing standard erosion prevention and sediment control measures to minimize the potential for the introduction of sediment into the stream. For box culverts, the concrete forms will be constructed for the foundations of structures and wingwalls, where applicable, and the concrete will be poured into the forms to create the structures. The areas immediately adjacent to the proposed box culverts would be backfilled with clean soil, graded to engineered elevations, and stabilized. For channelized reaches, the feature will be graded to engineered specifications and stabilized with sod and turf-reinforced biodegradable matting. Once the box culverts are complete and the channelized reaches are stabilized, the water in channels proposed for impact or the previously bypassed water will be rerouted into the newly constructed box culverts or channels.

Stream-specific activities that are designed to minimize impacts include the following:

1. Stream 1-A: The headwall and box culvert will be constructed alongside the current alignment of the Stream 1A channel. The box culvert will extend down to Stream 1-B and will include a junction in its upper reaches to accommodate a constructed box culvert that will convey flow from redirected portions of Stream 2 and Stream 9.
2. The proposed Stream 9 channelization reach, headwall and box culvert will be constructed alongside the current Stream 9. The Stream 9 channelization reach will be permanently stabilized immediately with sod and turf-reinforced biodegradable matting but will not be connected to flow in Stream 9 until satisfactory stabilization has occurred.
3. The proposed channel for Stream 1-B will be excavated, alongside the current Stream 1-B channel. This channelized reach will extend from the end of the newly-constructed Stream 1-A box culvert near the Site's northern property line.
4. The proposed channel from Stream 2 to Stream 9 will be excavated and permanently stabilized immediately with sod and turf-reinforced biodegradable matting, but not yet connected to flow until satisfactory stabilization has occurred.
5. Flow in Stream 1-A will be joined to the newly-constructed Stream 1-A box culvert.
6. Flow in Stream 9 will be joined to the newly-channelized and box-culverted reaches of Stream 9.
7. The excavated channel between Stream 2 to Stream 9 will be connected at to Stream 9, then connected to Stream 2, diverting flow from Stream 2 to Stream 9.
8. Stream 2, north of the diversion channel to Stream 9, will be filled and compacted with clean suitable fill from on-site sources.

9. Relict channels of Streams 1-A, 1-B, and 9 will be cleared of trees and soils/substrates unsuitable for construction will be removed from relict stream bed and banks.
10. Relict channels will be filled and compacted to the top of the former stream bank with clean suitable fill materials from on-site sources.
11. If no further disturbance or cover is anticipated, then appropriate permanent stabilization (e.g., topsoil, sod, seed, matting) will be applied immediately.
12. For fill placement in Streams 4A and 11, erosion control measures, such as silt fence, biodegradable erosion matting, diversion berms, and sediment traps will be constructed near the downstream terminal reaches of proposed fill placement. Flow will be diverted to erosion control BMPs prior to initiation of fill placement, which will begin at the furthest upstream extent of channel alteration. Fill will proceed downstream, with the erosion control BMPs trapping the resulting sediment to prevent entry to existing downstream waters. All fill material will be clean suitable fill from on-site sources.

These measures along with other erosion control best management practices required by the State will result in short term effects that are minor.

Water – The applicant would encapsulate or fill 13,137 linear feet of stream. The applicant’s post-development analysis and design will ensure that stormwater runoff will not exceed pre-development volume. The applicant’s design includes retention and/or detention basins utilizing outlet control structures, and rock riprap to regulate outfall flow and velocities. Permanent loss of stream habitat will be mitigated off-site and within the Hatchie River watershed as discussed in Section 8.0. Effects as compared to current water conditions will be negligible.

Current water patterns and water circulation – Current water patterns and circulation patterns will deviate from existing conditions with the placement of portions of affected streams in culverts or through direct fill. The applicant has stated that their design will ensure that stormwater runoff will not exceed pre-development volume as discussed in “Water”, above. Permanent loss of stream habitat will be mitigated off-site and within the Hatchie River watershed as discussed in Section 8.0. Effects as compared to current water patterns and circulation will be negligible.

Normal water fluctuations - On-site storm water management features will attenuate any fluctuations in water circulation patterns currently present on the site. Effects will be negligible.

6.4 Potential impacts on the living communities or human uses (Subparts D, E and F)

6.4.1 Potential impacts on the biological characteristics of the aquatic ecosystem (Subpart D 40 CFR 230.30)

The following has been considered in evaluating the potential impacts on biological characteristics (see Table 3):

Table 3 – Potential Impacts on Biological Characteristics						
Biological Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Threatened and endangered species		X				
Fish, crustaceans, mollusk, and other aquatic organisms				X		
Other wildlife				X		

Discussion:

Threatened and endangered species: See discussion in Section 9.1.

Fish, crustaceans, mollusk, and other aquatic organisms: The streams being affected by the project are intermittent streams that are supporting or have the potential to support aquatic organisms. The applicant will mitigate these impacts at the Cub Creek PRM site such that the effects to aquatic organisms are short-term and minor.

Other wildlife: The property is predominantly agricultural with wooded areas being limited to streams and other drainage features on the property. As such, there is little habitat available for wildlife in general. However, there are some wildlife species that would be expected to utilize the site. Common wildlife species (i.e. white-tail deer, possums, squirrels, etc.) likely utilize these wooded areas for general needs and as protective corridors when traversing the site. The applicant is avoiding one of the larger streams on the site (Stream 6-A) and its existing riparian corridor. This corridor will provide an opportunity for wildlife to continue to traverse the site following construction. The project is also in close proximity to the Hatchie River and its adjacent wetlands and bottomland hardwood forests. Wildlife species that could not return to the site following construction, would most likely utilize these areas in response to the applicant’s proposed activity. Considering the proximity of the site to the Hatchie River and its expansive riparian corridor along with the existing agricultural nature of the majority of the site, effects to other wildlife will be short-term and minor.

6.4.2 Potential impacts on special aquatic sites (Subpart E 40 CFR 230.40)

The following has been considered in evaluating the potential impacts on special aquatic sites (see Table 4):

Table 4 – Potential Impacts on Special Aquatic Sites						
Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Sanctuaries and refuges		X				
Wetlands		X				
Mud flats		X				
Vegetated shallows		X				
Coral reefs	X					
Riffle pool complexes				X		

Discussion:

Sanctuaries and refuges: There are no sanctuaries and refuges present on the project site. The project will have no effect to these resources.

Wetlands: There are no wetlands within the geographic jurisdiction of the Corps per pre-2015 jurisdictional guidance. TDEC does consider these wetlands to be state waters and the applicant is mitigating for the permanent wetland loss.

Mud flats: There are no mud flats present on the project site. The project will have no effect to these resources.

Vegetated shallows: There are no vegetated shallows present on the project site. The project will have no effect to these resources.

Coral reefs: The project is located outside of a coastal zone. There is no possibility of coral reefs being present on the project site. Therefore, coral reefs are N/A.

Riffle pool complexes: Riffle pool complexes could be present within the intermittent streams that would be impacted. However, field observations have indicated that existing substrate for the intermittent streams is primarily silt with occasional sand and gravel deposits. If riffle and pool complexes are present, encapsulation and direct filling of the streams would result in loss of these riffle pool complexes. The applicant’s PRM plan will mitigate this loss by allowing for the return of riffle pool complexes within the same HUC-8 as the proposed impacts such that the effects are short-term and minor.

6.4.3 Potential impacts on human use characteristics (Subpart F 40 CFR 230.50)

The following has been considered in evaluating the potential impacts on human use characteristics (see Table 5):

Table 5 – Potential Impacts on Human Use Characteristics						
Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Municipal and private water supplies		X				
Recreational and commercial fisheries	X					
Water-related recreation	X					
Aesthetics					X	
Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves		X				

Discussion:

Municipal and private water supplies: It is anticipated that the applicant will connect to a public water supply for potable water. Provided the public water supply is available to meet the needs of the development, there will be no effect to municipal water supplies. The State of Tennessee is in the process of constructing a wastewater discharge line that terminates at the Mississippi River near Randolph Point in Lauderdale County, Tennessee. This discharge line will serve the wastewater needs of the Regional Megasite, including the subject project area. The discharge has previously been authorized by the Tennessee Department of Environment and Conservation’s NPDES/Section 401 Water Quality Certification.

Aesthetics: The project site is almost entirely agricultural with wooded areas limited to streams and other drainages. There are no developments that are of the size and appearance as the proposed project. As such, the project has the potential to cause adverse effects to aesthetics. There are a limited number of single-family residences along the south side of Keeling Road and north of the project site. These residences are approximately 0.25-mile north of the NAVL Railyard area. There is an existing wooded area that would be in-between these residences and the project site which are not being removed by the project. These woods would assist in serving as a visual and noise buffer between the residences and the railyard. There are a limited number of single-family residences further south along Fredonia Road, Fredonia Loop Road, Rena Anderson Road and Thorpe Drive. Similarly, to the residences along Keeling Road, there are existing woods present between the project site and these residences. These woods are not being removed with the project and would serve as a visual and noise buffer. Additionally, the applicant has stated that the project’s design will be effective in meeting or exceeding light, noise, and other environmental standards, as stipulated by applicable industry standards. There will be no adverse effects from an aesthetics

standpoint to residences in Stanton, TN which is approximately 2.5 miles north of the project site. It is expected that effects from changes in aesthetics would be long-term but no more than minor for residences in the immediate vicinity of the project site.

There are no recreational and commercial fisheries, water-related recreation or parks, national and historical monuments, national seashores, wilderness areas, research sites and similar preserves at the project site. The project will have no effect to these human use characteristics.

6.5 Pre-testing evaluation (Subpart G, 40 CFR 230.60)

The following has been considered in evaluating the biological availability of possible contaminants in dredged or fill material (see Table 6):

Physical substrate characteristics	X
Hydrography in relation to known or anticipated sources of contaminants	
Results from previous testing of the material or similar material in the vicinity of the project	
Known, significant sources of persistent pesticides from land runoff or percolation	
Spill records for petroleum products or designated (Section 331 of the Clean Water Act hazardous substances	
Other public records or significant introduction of contaminants from industries, municipalities, or other sources	X
Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	

Discussion: The applicant will use upland areas on the site as a primary source of fill. If additional fill material is required for construction, these materials will be obtained by the applicant from a commercial source. A search of EPA's Enviromapper website (<https://geopub.epa.gov/myem/efmap/index.html?ve=11,35.042546,-89.666620&pText=Stanton,%20Tennessee>) indicates a hazardous waste site is not present on the project site.

It has been determined that testing is not required because the discharge and extraction sites are adjacent, subject to the same sources of contaminants and have substantially similar materials. Although the discharge material may be a carrier of contaminants, it is not likely to degrade the disposal site.

6.6 Evaluation and testing (Subpart G, 40 CFR 230.61)

Discussion: If necessary, the applicant will obtain fill from a commercial source. Testing is not required for possible contaminants prior to the proposed discharge.

6.7 Actions to minimize adverse impacts (Subpart H)

The following actions, as appropriate, have been taken through application of 40 CFR 230.70-230.77 to ensure no more than minimal adverse effects of the proposed discharge (see Table 7):

Table 7 – Actions to Ensure Adverse Effects are Minimized	
Actions concerning the location of the discharge	X
Actions concerning the material to be discharged	X
Actions controlling the material after discharge	X
Actions affecting the method of dispersion	
Actions affecting plant and animal populations	
Actions affecting human use	

Discussion: Public information obtained from EPA’s Enviromapper website indicates that hazardous waste is not present on the project site. In the event the applicant needs to obtain additional fill material, the applicant will obtain this fill from a commercial source. Fill material obtained from a commercial source is not expected to be a carrier of contaminants in toxic amounts. The applicant will utilize State-approved BMPs to control fill material during and after the discharge.

6.8 Factual Determinations (Subpart B, 40 CFR 230.11)

The following determinations are made based on the applicable information above, including actions to minimize effects and consideration for contaminants (see Table 8):

Table 8 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Physical substrate					X	
Water circulation, fluctuation and salinity				X		
Suspended particulates/turbidity				X		
Contaminants		X				
Aquatic ecosystem and organisms				X		
Proposed disposal site					X	
Cumulative effects on the aquatic ecosystem			X			

Table 8 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Secondary effects on the aquatic ecosystem			X			

Discussion:

Physical substrate – See discussion in Section 6.3.

Water circulation, fluctuation and salinity – See discussion in Section 6.3.

Suspended particulates/turbidity – See discussion in Section 6.3.

Contaminants – See discussion in Section 6.5.

Aquatic ecosystem and organisms – See discussion in Section 6.4.1.

Proposed disposal site – Based on the evaluation described in Sections 6.5-6.7, the streams would be filled with material that is not a source of contamination. The discharge of fill material would result in the permanent loss of 13,137 linear feet of stream. This loss is being mitigated by the applicant such that the effects are long-term and minor.

Cumulative and secondary effects on the aquatic ecosystem – The applicant is avoiding 16,848 linear feet of the 29,985 linear feet of streams that occur on the property. There are no jurisdictional wetlands within Corps jurisdiction that are being permanently or temporarily filled with the project. Considering the applicant is mitigating all stream impacts within the subject watershed, the project will have a negligible effect from a cumulative or secondary standpoint on organisms that utilize aquatic ecosystems to fulfill their life cycle.

6.9 Findings of compliance or non-compliance with the restrictions on discharges (40 CFR 230.10(a-d) and 230.12)

Based on the information above, including the factual determinations, the proposed discharge has been evaluated to determine whether any of the restrictions on discharge would occur (see Table 9):

Table 9 – Compliance with Restrictions on Discharge		
Subject	Yes	No
1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with		X

Table 9 – Compliance with Restrictions on Discharge		
Subject	Yes	No
less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)		
2. Will the discharge cause or contribute to violations of any applicable water quality standards?		X
3. Will the discharge violate any toxic effluent standards (under Section 307 of the Clean Water Act)?		X
4. Will the discharge jeopardize the continued existence of endangered or threatened species or their critical habitat?		X
5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?		X
6. Will the discharge cause or contribute to significant degradation of waters of the United States?		X
7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?	X	

Discussion:

1. See Alternatives Analysis (Section 5) and Compliance with Section 404(b)(1) Guidelines demonstration (Section 6), above.
2. The review shown above in Section 6 indicates the 404 activity will not adversely affect water quality. It will be incumbent upon the applicant to follow the conditions of TDEC’s 401 water quality certification and to utilize appropriate erosion control BMPs during and after construction. The applicant taking these measures will ensure water quality within downstream waters is not adversely affected.
3. The discharge will not violate any toxic standards under Section 307 of the Act.
4. See Section 9.1, below.
5. The project is not located in a marine sanctuary.
6. The project will not result in significant degradation of waters of the United States. The applicant is offering sufficient compensatory stream mitigation and has taken the steps to avoid wetland impacts.
7. The applicant is taking appropriate and practicable steps in demonstrating avoidance and minimization as described in Section 1.3.1, above.

7.0 General Public Interest Review (33 CFR 320.4 and Regulatory Guidance Letter 84-09)

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public

interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments.

7.1 Public interest factors review

All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail (see Table 10):

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation: See below for discussion.			X			
2. Economics: See below for discussion.					X	
3. Aesthetics: See below for discussion.				X		
4. General Environmental Concerns: See below for discussion.			X			
5. Wetlands: See below for discussion.	X					
6. Historic Properties:			X			
7. Fish and Wildlife Values: See below for discussion.				X		
8. Flood Hazards: See below for discussion.	X					
9. Floodplain Values: See below for discussion.			X			
10. Land Use: See below for discussion.				X		
11. Navigation:						X
12. Shoreline Erosion and Accretion:						X
13. Recreation: See below for discussion.	X					
14. Water Supply and Conservation:						X
15. Water Quality: See below for discussion.			X			
16. Energy Needs:						X
17. Safety: See below for discussion.				X		

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
18. Food and Fiber Production: See below for discussion.				X		
19. Mineral Needs:						X
20. Consideration of Property Ownership:						X
21. Needs and Welfare of the People: See below for discussion.					X	

Additional discussion of effects on factors above:

Conservation: The project would result in the permanent loss of 13,137 linear feet of stream. The applicant will mitigate this loss with the establishment of the Cub Creek PRM site in the same watershed (Hatchie River 8-digit HUC) as the impacts. TDEC does consider the 4.82 acres of wetland the applicant is proposing to fill to be state waters. The applicant is mitigating this loss as part of the 401 WQC. Effects are neutral through mitigation.

Economics: The project will provide jobs and a source of revenue during construction and operation. Economic benefits will be realized by the project proponent as well as the general public. A discussion of the specific economic benefits is provided in Section 7.2.

Aesthetics: Sec Section 6.4.3, above.

General Environmental Concerns: The project site is predominately agricultural with some wooded areas mainly adjacent to existing streams and other drainageways. The main environmental concern with this project would be the applicant’s proposed filling of 13,137 linear feet of stream. The project would not fill any wetlands within the geographic jurisdiction of the Corps. The steps the applicant is taking to mitigate permanent stream losses are further discussed in Section 8.0. TDEC does consider the 4.82 acres of wetland the applicant is proposing to fill to be state waters. The applicant is mitigating this loss as part of the 401 WQC.

Wetlands: The project would not result in impacts to wetlands within the geographic jurisdiction of the Corps per pre-2015 jurisdictional guidance. TDEC does consider the 4.82 acres of wetland the applicant is proposing to fill to be state waters. The applicant is mitigating this loss as part of the 401 WQC.

Historic Properties: The Tennessee State Historic Preservation Office has concurred that the proposed project will have no adverse effect to historic properties listed or eligible for listing in the National Register of Historic Places (NRHP), provided that avoidance and minimization measures – to which the applicant has agreed in a letter of commitment dated May 13, 2022 – are maintained.

Fish and Wildlife Values: The property is predominately agricultural with wooded areas being limited to narrow drainages. As such, the property does not contain diverse habitat suitable for a wide-range of wildlife species. Wildlife that currently inhabit the property are common species such as raccoons, possums, white-tailed deer and amphibians such as chorus frogs. Most larger wildlife species would traverse the property while moving to and from more preferred habitat (i.e. Hatchie River floodplain). The project will have no effect on federally listed species. Effects to fish and wildlife values will be negligible when taking into consideration the applicant proposed compensatory mitigation for the proposed stream impacts.

Flood hazards: The property is not located in an area zoned as a special flood hazard area by FEMA.

Floodplain values: The applicant's mitigation plan will mitigate the loss of stream function, including sediment, nutrient and carbon transport to downstream waters. The applicant is also constructing storm water management features that will meet State standards for controlling post-construction run-off. The efforts being made by the applicant to mitigate the proposed stream losses along with adequate, storm water management that meets State standards will not contribute to further degradation of floodplain values.

Land use: The property would be converted from primarily agriculture to a large-scale electric car and battery manufacturing facility. There are approximately 10.8 million acres of agricultural land in the state of Tennessee (https://www.nass.usda.gov/Statistics_by_State/Tennessee/About_Us/index.php). The project would remove approximately 3,300 acres of the currently available 10.8 million acres of agriculture in the state of TN. Effects on land use change will be negligible.

Recreation: The streams on the property do not support recreational opportunities for the public. There will be no effect to the use of streams on the site as a source of recreation.

Water Quality: Adverse effects to water quality would occur as a result of the permanent encapsulation and losses of 13,137 linear feet of intermittent stream. The applicant will mitigate these effects with the implementation of the Cub Creek Permitted-Responsible Mitigation (PRM) site located in Hardeman County, Tennessee. The PRM site would produce 10,347 functional feet of ecological lift by restoring approximately 20,794 linear feet along Cub Creek and several unnamed tributaries. The Cub Creek PRM site is located in the Lower Hatchie River 8-digit HUC (08010208) which is the same HUC8 as the project site. TDEC conditionally authorized Section 401 Water Quality Certification on March 21, 2022.

Safety: The project will result in increases in traffic during construction. The State has subsequently constructed a new Highway 222 just to the east of the original Highway 222 in anticipation of additional traffic. The old Highway 222 remains in place and could still be utilized by the local community to travel to and from Stanton, TN or south to Interstate 40. The applicant's proposed activity will have a negligible effect on safety.

Food and fiber production: There are approximately 10.8 million acres of agricultural land in the state of Tennessee (https://www.nass.usda.gov/Statistics_by_State/Tennessee/About_Us/index.php). The project would remove approximately 3,300 acres of the currently available 10.8 million acres of agriculture in the state of TN. Conversion of 3,300 acres of agriculture to an industrial development will have no effect on food and fiber production.

Needs and Welfare of the People: The project will improve the economy of West Tennessee as further discussed below in Section 7.2.

7.2 Public and private need

The relative extent of the public and private need for the proposed structure or work:

According to an analysis prepared by the Center for Economic Research in Tennessee (the research division of the Tennessee Department of Economic & Community Development), the project will provide substantial social and economic benefits to the region.^{1,2} The project is anticipated to generate approximately 27,000 new jobs and \$1.02 billion in annual earnings. This workforce includes 5,760 direct new jobs in Haywood County with total annual earnings of \$329.9 million, and an additional 21,300 indirect and induced new jobs in the state with total annual earnings of \$698.2 million. Indirect³ and induced⁴ jobs support the company's operations, as well as company employees and their families.

¹ Analysis prepared using an impact model developed by Impact DataSource, an economic consulting, research and analysis firm founded in 1993. The model was developed for TNECD to forecast economic and fiscal impacts of business development opportunities. To derive projections of economic and fiscal changes, the model relies on project-specific information as well as other assumptions and parameters including tax rates and industry-specific RIMS II multipliers sourced from the U.S. Bureau of Economic Analysis.

² Annual projections reflect estimates for the first year during which the project becomes fully operational.

³ Indirect jobs include individuals employed at supplier organizations to the company.

⁴ The company's direct and indirect economic impacts induce additional economic activity in the region, supported by workers spending parts of their salaries in the state. Induced impacts in the region can be seen in industries such as retail stores, real estate, and healthcare practitioners.

Moreover, the project is anticipated to contribute \$3.5 billion each year to Tennessee's gross state product (value added). The project's operations are projected to generate \$9.1 billion annually in economic output⁵ from direct and indirect economic activity. Value added, or contribution to state GDP, is the portion of total economic output which excludes the cost of intermediate inputs.

The project is anticipated to generate additional temporary construction benefits, including \$5.6 billion in capital investments (an initial period of construction where \$5.6 billion will be spent on buildings and other property improvements, furniture, fixtures, and equipment); 33,000 temporary direct, indirect, and induced jobs supported during the construction period; and the equivalent of approximately 15,700 direct workers during the project's construction and 17,300 indirect and induced workers employed in the region.

It is anticipated that \$1.87 billion in salaries will be produced related to project construction activity. Workers employed directly in the project's construction will earn an estimated \$1.05 billion in salaries, with an additional \$829.6 million in estimated salaries paid to indirect and induced workers supporting the project and its workers.

The project is anticipated to generate the following fiscal impacts for the State of Tennessee:

- \$22.4 million in state tax revenues annually

This includes sales tax collections generated by company purchases and by purchases of food and general items made by employees of the company and the workforce indirectly supporting the company's operations. In addition, these projections include franchise and excise taxes generated by the company and its supplier network, and additional miscellaneous taxes and user fees generated through direct and indirect impacts.

- \$17.3 million in net fiscal benefits for the State of Tennessee annually

Net benefits reflect the \$22.4 million in state revenues less costs to the State of Tennessee for providing services to citizens and businesses. The services and costs provided by the state include educational services, law and safety services, health and social services and the costs of infrastructure assets and maintenance.

- \$178.9 million in state sales and use tax collections generated during the construction period

The construction of the company's facility in Haywood County will generate \$178.9 million in state sales and use tax collections through construction and company expenditures on furniture, fixtures, and equipment.

⁵ Economic output is the value of goods and services produced in the state as a result of the company's operations as well as the operations of indirect and induced economic activity. Economic output can be thought of as the revenue generated by the direct business and spin-off businesses.

The project is anticipated to generate significant local fiscal impacts in Haywood and surrounding counties in West Tennessee. These benefits include:

- \$6.8 million in local sales and use tax collections annually

This includes sales tax collections generated annually through direct business purchases and through purchases of food and general items made by direct and indirect worker spending.

- \$70.3 million in local sales and use tax collections generated during the construction period

The construction of the company's facility will generate \$70.3 million in local sales and use tax collections through construction, improvements, and company expenditures on furniture, fixtures, and equipment.

From a private needs standpoint, it is expected that the applicant will realize financial gain once the facility is in operation.

7.3 Resource use unresolved conflicts

If there are unresolved conflicts as to resource use, explain how the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work was considered.

There were no unresolved conflicts identified as to resource use.

7.4 Beneficial and/or detrimental effects on the public and private use

The extent and permanence of the beneficial and/or detrimental effects that the proposed work is likely to have on the public and private use to which the area is suited is described below:

Detrimental effects are expected to be minimal and permanent.

Beneficial effects are expected to be more than minimal and permanent.

7.5 Climate Change

The proposed activities within the Corps' federal control and responsibility likely will result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered de minimis. Greenhouse gas emissions associated with the Corps' federal action may also occur from the combustion of fossil fuels associated with

the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions from the Corps' action have been weighed against national goals of energy independence, national security, and economic development and determined not contrary to the public interest.

7.6 Consideration of cumulative impacts

Cumulative impacts are the result of the combined effects of multiple activities that occur in a particular waterbody that persist over time. Cumulative impacts can accrue to a waterbody in a number of ways. Cumulative impacts occur when there are repetitive permitted activities at a specific waterbody over time, and the resources in that waterbody are not able to fully recover between each occurrence of a permitted activity. Cumulative impacts can also occur as a result of multiple permitted activities occurring in a waterbody over time. Cumulative impacts can also be evaluated at watershed scale, by considering multiple permitted activities occurring in that watershed over time. This section of the decision document may include a discussion of activities permitted through Department of the Army authorizations that have occurred in the waterbody or watershed over time, and how the proposed activity discussed in this decision document will contribute to cumulative effects to that waterbody or watershed and whether that contribution to cumulative impacts, as evaluated against the current environmental baseline, would be determined to be "not contrary to the public interest."

ORM database analysis of cumulative impacts authorized by Corps permits within the Lower Hatchie HUC8 watershed (08010208) for the five years ending on March 9, 2022 show the following: 4.69 acres of permanent loss of WOTUS, 5.05 acres of authorized fill of WOTUS, and authorized impacts to 0 linear feet of WOTUS. Compensatory mitigation of 8.3 acres has been required for impacts to wetlands during this time. There have been no Section 404 permits issued authorizing permanent stream losses in the Lower Hatchie watershed in the past 5 years. The Lower Hatchie River HUC8 watershed consists of 2,530.8 stream miles in the state of Tennessee (TDEC Lower Hatchie River Watershed Water Quality Management Plan, 2007). The applicant's proposal to permanently fill 13,137 linear feet of intermittent stream is substantially less than the number of available stream channels in the watershed. The applicant is also avoiding direct impacts to 16,848 linear feet of the 29,985 linear feet of streams located on the project site. This avoidance accounts for over half (56%) of all streams located on the project site. No perennial streams are being directly affected by the project. The project's proposed impacts to streams could be considered large, however, there have been no authorized DA permits within the past 5 years resulting in permanent stream losses (linear feet of WOTUS). The proposed impact is not necessarily precedent setting while taking into consideration historical impacts to streams that have occurred since the initiation of large scale agriculture. Many of these impacts occurred prior to the Section 404 Clean Water Act program. It is expected that authorizations within the watershed will increase with continued development as a result of the project. However, it is currently unknown which watershed will experience additional stream and wetland impacts in the future. Additionally, the applicant has stated that plans have not been developed that

would determine the locations of future speculative facilities. The project site is located along the border between the Lower Hatchie River HUC8 watershed and the Loosahatchie River HUC8 watershed. Future stream and wetland impacts could be distributed between the Lower Hatchie River watershed and the Loosahatchie River watershed. Additionally, future permit actions will be subject to the requirements of Section 404 of the Clean Water Act, if discharges of fill into jurisdictional aquatic resources are proposed with future development plans.

When considering the overall impacts that will result from the proposed activity, in relation to the overall impacts from past, present, and reasonably foreseeable future activities, the contribution of the proposed activity to cumulative impacts in the area, are not considered to be significant, as described above. Compensatory mitigation will be required to help offset the impacts to eliminate or minimize the proposed activity's incremental contribution to cumulative effects within the geographic area. The project would result in the permanent fill of 13,137 linear feet of stream within compensatory mitigation being offered through the establishment of the Cub Creek PRM site as discussed in Section 8.0.

8.0 Mitigation

(33 CFR 320.4(r), 33 CFR Part 332, 40 CFR 230.70-77, 40 CFR 1508.1(s))

8.1 Avoidance and minimization

Avoidance and Minimization: When evaluating a proposal including regulated activities in waters of the United States, consideration must be given to avoiding and minimizing effects to those waters. Avoidance and minimization are described in Section 1 above.

Describe other mitigative actions including project modifications implemented to minimize adverse project impacts? (see 33 CFR 320.4(r)(1)(i)) The applicant has not implemented additional project modifications in efforts to further reduce stream impacts.

8.2 Compensatory mitigation requirement

Is compensatory mitigation required to offset environmental losses resulting from proposed unavoidable impacts to waters of the United States? Yes

Provide rationale: The applicant's proposed fill of 13,137 linear feet resulting in permanent stream loss is considered more than minor without compensatory mitigation to offset lost stream functions.

8.3 Type and location of compensatory mitigation

8.3.1 Mitigation bank service area

Is the impact in the service area of an approved mitigation bank? The project is located within the service area of the Hatchie River Wetland Mitigation Bank. Although the

wetlands the applicant is proposing to fill are not within the geographic jurisdiction of the Corps, TDEC does consider these wetlands to be state waters. The applicant is mitigating this loss as part of the 401 WQC. The project is not located within the service area of an approved stream mitigation bank.

If yes, does the mitigation bank have the appropriate number and resource type of credits available? The Hatchie River Wetland Mitigation Bank does have the number of credits available to meet the needs of TDEC's 401 WQC.

8.3.2 In-lieu fee program service area

Is the impact in the service area of an approved in-lieu fee program? No

If yes, does the in-lieu fee program have the appropriate number and resource type of credits available? No

8.3.3 Compensatory mitigation

Selected compensatory mitigation type/location(s) (see Table 11):

Table 11 – Mitigation Type and Location	
Mitigation bank credits	
In-lieu fee program credits	
Permittee-responsible mitigation under a watershed approach	X
Permittee-responsible mitigation, on-site and in-kind	
Permittee-responsible mitigation, off-site and/or out-of-kind	

8.3.4 Mitigation hierarchy

Does the selected compensatory mitigation option deviate from the order of the options presented in 33 CFR 332.3(b)(2)-(6)? No.

If yes, provide rationale for the deviation, including the likelihood for ecological success and sustainability, location of the compensation site relative to the impact site and their significance within the watershed, and/or the costs of the compensatory mitigation project (see 33 CFR §332.3(a)(1)):

8.3.5 Watershed approach

Does the selected compensatory mitigation option follow a watershed approach? Yes. The proposed PRM site is in the same 8-digit HUC as the proposed impacts.

Is the impact in a watershed with a watershed plan? No. TDEC Lower Hatchie River Watershed Water Quality Management Plan, 2007 is not sufficiently detailed to affect the location of the mitigation site.

If yes, is the compensatory mitigation consistent with the watershed plan?

8.4 Amount of compensatory mitigation

The PRM site would produce 10,347 functional feet of ecological lift by restoring approximately 20,794 linear feet along Cub Creek and several unnamed tributaries.

Rationale for required compensatory mitigation amount: The amount of compensatory mitigation being offered utilizes the Tennessee Stream Quantification Tool. This quantitative method has been accepted by both the Memphis District and TDEC. The amount of mitigation (in functional feet) has been reviewed by both the Memphis District and TDEC and determined to be acceptable for this project.

8.5 Permittee-Responsible Mitigation

For permittee-responsible mitigation identified in 8.3.3 above, the final mitigation plan must include the items described in 33 CFR 332.4(c)(2) through (c)(14) at a level of detail commensurate with the scale and scope of the impacts. As an alternative, the district engineer may determine that it would be more appropriate to address any of the items described in (c)(2) through (c)(14) as permit conditions, instead of components of a compensatory mitigation plan. Presence of sufficient information related to each of these requirements in the applicant’s mitigation plan is indicated by “Yes” in Table 12. “No” indicates absence or insufficient information in the plan, in which case, additional rationale must be provided below on how these requirements will be addressed through special conditions or why a special condition is not required:

Table 12 – Permittee-Responsible Mitigation Plan Requirements		
Requirement	Yes	No
Objectives	X	
Site selection	X	
Site protection instrument	X	
Baseline information	X	
Determination of credits	X	
Mitigation work plan	X	
Maintenance plan	X	
Performance standards	X	
Monitoring requirements	X	
Long-term management plan	X	
Adaptive management plan	X	
Financial assurances	X	
Other information:		

For any “No”, provide rationale on how the subject component(s) of the compensatory mitigation plan will be addressed as special conditions or why no special conditions are required:

N/A

9.0 Compliance with Other Laws, Policies and Requirements

9.1 Section 7(a)(2) of the Endangered Species Act (ESA)

Refer to Section 2.2 for description of the Corps' action area for Section 7 of the ESA.

9.1.1 Lead federal agency for Section 7 of the ESA

Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? No

If yes, identify that agency, the actions taken to document compliance with Section 7 of the ESA and whether those actions are sufficient to ensure the activity(s) requiring Department of the Army authorization is in compliance with Section 7 of the ESA:

The project is privately funded and the Corps is the lead federal agency documenting compliance with Section 7 of the ESA. Additional consultation is necessary to ensure compliance of the regulated activity with Section 7 of the ESA.

9.1.2 Listed/proposed species and/or designated/proposed critical habitat

Are there listed or proposed species and/or designated critical habitat or proposed critical habitat that may be present or in the vicinity of the Corps' action area? No.

Effect determination(s), including no effect, for all known species/habitat, and basis for determination(s): No effect. The TN SLOPES agreements were reviewed, and it was determined that the project does not occur within a consultation zone for any of the listed species in the Memphis District. The Corps has determined that it has fulfilled its responsibilities under Section 7(a)(2) of the ESA.

9.1.3 Section 7 ESA consultation

Consultation with either the National Marine Fisheries Service and/or the United States Fish and Wildlife Service was initiated and completed as required, for any determinations other than "no effect" (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation)

9.2 Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Essential Fish Habitat (EFH)

N/A, there is no essential fish habitat in this district's area of responsibility.

9.2.1 Lead federal agency for EFH provisions of the Magnuson-Stevens Act

Has another federal agency been identified as the lead agency for complying with the EFH provisions of the Magnuson-Stevens Act with the Corps designated as a cooperating agency and has that consultation been completed? No

If yes, identify the agency, the actions taken to document compliance with the Magnuson-Stevens Act and whether those actions are sufficient to ensure the activity(s) requiring Department of the Army authorization is in compliance the EFH provisions.

9.2.2 Magnuson-Stevens Act

Did the proposed project require review under the Magnuson-Stevens Act? No

9.2.3 EFH species or complexes

Were EFH species or complexes considered? No

Effect determination and basis for that determination: N/A

9.2.4 National Marine Fisheries Service consultation

Consultation with the National Marine Fisheries Service was initiated and completed as required (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation)

9.3 Section 106 of the NHPA

Refer to Section 2.3 for permit area determination.

9.3.1 Lead federal agency for Section 106 of the NHPA

Has another federal agency been identified as the lead federal agency for complying with Section 106 of the NHPA with the Corps designated as a cooperating agency and has that consultation been completed? No

If yes, identify that agency, and whether the undertaking they consulted on included the Corps' undertaking(s). Briefly summarize actions taken by the lead federal agency.

The project is privately funded and the Corps is the lead federal agency documenting compliance with Section 106 of the NHPA. Additional consultation is necessary to ensure compliance of the regulated activity with Section 016 of the NHPA.

9.3.2 Historic properties

Known historic properties present? Yes.

Four historic properties that are eligible for listing in the National Register of Historic Places (NRHP) are located adjacent to the project. These include the Greenleaf Cemetery, the Fredonia Baptist Church, the Greater Fredonia Baptist Church, and structure HD-20), as well as one not eligible cemetery (Maclin Cemetery).

9.3.3 Consultation with the appropriate agencies, tribes and/or other parties for effect

determinations

Consultation was initiated and completed with the appropriate agencies, tribes and/or other parties for any determinations other than “no potential to cause effects.” (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation)

The Memphis District Regulatory Archaeologist reviewed the proposed project and relevant documentation available at the State of Tennessee Division of Archaeology (TDOA) and records on the Tennessee Historic Commission (THC) database. Soil data from the USDA’s Natural Resources Conservation Service (NRCS), Trail of Tears routes from the National Park Service (NPS), and the Tennessee database of Civil War sites were also consulted.

On December 29, 2021, the Regulatory Archaeologist initiated Section 106 consultation with a determination of no effect to historic properties to the Tennessee State Historic Preservation Officer (TN SHPO) and 17 federally-recognized tribes (Absentee-Shawnee Tribe of Oklahoma, Alabama-Quassarte Tribal Town, Chickasaw Nation, Coushatta Tribe of Louisiana, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Jena Band of Choctaw Indians, Kialegee Tribal Town, Kickapoo Tribe of Oklahoma, Poarch Band of Creek Indians, Ponca Tribe of Oklahoma, Sac and Fox Nation of Oklahoma, Seminole Nation of Oklahoma, Shawnee Tribe, Thlopthlocco Tribal Town, Tunica-Biloxi Tribe of Louisiana, and the United Keetoowah Band of Cherokee). The Eastern Shawnee Tribe and Chickasaw Nation responded to the coordination effort. The Chickasaw Nation and Choctaw Nation stated they have no objection to the project. Neither Tribe expressed concerns over the project. Both Tribes requested to be notified in the event the Corps becomes aware of the need to enforce other statutes under ARPA, AIRFA, NEPA, NAGPRA, NHPA and professional standards or the project inadvertently discovers an archeological site or object(s). The Eastern Shawnee Tribe requested to be immediately contacted as well as the appropriate state agencies (within 24 hours). The Eastern Shawnee also asked that all ground disturbing activity be stopped until the Tribe and State agencies are consulted.

The TN SHPO (archaeology) concurred with our determination on December 30, 2021 for archaeological cultural resources. On January 8, 2022, the TN SHPO (architecture) requested that an architectural survey be performed, which was submitted to the TN SHPO for review on March 8, 2022. There were no historic properties within the permit area, but five within the viewshed of the permit area that were a concern. These historic properties were revisited, and an addendum report was submitted to the TN SHPO. In a letter dated April 13, 2022, the TN SHPO disagreed with the eligibility determinations and indicated they had reached out to the Advisory Council on Historic Preservation (ACHP) for guidance on how to address multiple federal undertakings. We received a request for information from the ACHP on April 14, 2022 regarding our Section 106 consultation thus far and we submitted a written response on May 5, 2022. On May 13, 2022, the Memphis District received a letter from the TN SHPO concurring with our determination of no adverse effect, provided that avoidance and mitigation measures

outlined in the applicant's letter of commitment were met; the concurrence letter was provided to the ACHP via email, stating that the Corps has closed the loop with the TN SHPO and will be finalizing the permit decision.

9.4 Tribal Trust Responsibilities

9.4.1 Tribal government-to-government consultation

Was government-to-government consultation conducted with federally-recognized tribe(s)? No

Provide a description of any consultation (s) conducted including results and how concerns were addressed.

9.4.2 Other Tribal consultation

Other Tribal consultation including any discussion of Tribal Treaty rights?

N/A

9.5 Section 401 of the Clean Water Act – Water Quality Certification (WQC)

9.5.1 Section 401 WQC requirement

Is a Section 401 WQC required, and if so, has the certification been issued or waived?

An individual WQC is required and has been granted.

The applicant submitted the 401 Water Quality Certification to include the nine federal elements on January 21, 2022. A reasonable period of time (RPOT) of 120 days was established for TDEC to take action on the certification request. The RPOT would expire on May 21, 2021. TDEC conditionally issued 401 Water Quality Certification in a letter, dated March 21, 2022.

9.5.2 401(a)(2) Process

If the certifying authority granted an individual WQC, did the United States Environmental Protection Agency make a determination that the discharge 'may affect' water quality in a neighboring jurisdiction? No. A 401(a)(2) request for determination was submitted to EPA on March 22, 2022. EPA responded to the request on March 24, 2022 with the following: "EPA considered the potential for potential for water quality impacts to a neighboring jurisdiction from the project as certified. EPA does not foresee water quality effects in a neighboring jurisdiction from the regulated activity. EPA will not issue a "may affect" determination for this project pursuant to CWA Section 401(a)(2)."

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If Yes, provide an explanation of the determination of the effect on neighboring jurisdiction.

9.6 Coastal Zone Management Act (CZMA)

9.6.1 CZMA consistency concurrence

Is a CZMA consistency concurrence required, and if so, has the concurrence been issued, objected, or presumed?

N/A, a CZMA consistency concurrence is not required.

9.7 Wild and Scenic Rivers Act

9.7.1 National Wild and Scenic River System

Is the project located in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system? No

9.8 Effects on Corps Civil Works Projects (33 USC 408)

9.8.1 Permission requirements under Section 14 of the Rivers and Harbors Act (33 USC 408)

Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy, or use a Corps Civil Works project?

No, there are no federal projects in or near the vicinity of the proposal. The Google Earth .kmz file provided by the Section 408 review officer was reviewed to make this determination.

9.9 Corps Wetland Policy (33 CFR 320.4(b))

9.9.1 Wetland Impacts

Does the project propose to impact wetlands? There are no wetlands within the geographic jurisdiction of the Corps per pre-2015 jurisdictional guidance. TDEC does consider the 4.82 acres of wetland the applicant is proposing to fill to be state waters. The applicant is mitigating this loss as part of the 401 WQC.

Based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.

9.10 Other (as needed)

N/A

9.11 Compliance Statement

The Corps has determined that it has fulfilled its responsibilities under the following laws, regulations, policies, and guidance:

Table 13 – Compliance with Federal Laws and Responsibilities		
Laws, Regulations, Policies, and Guidance	Yes	N/A
Section 7(a) (2) of the ESA	X	
EFH provisions of the Magnuson-Stevens Act		X
Section 106 of the NHPA	X	
Tribal Trust	X	
Section 401 of the Clean Water Act	X	
CZMA		X
Wild and Scenic Rivers Act		X
Section 408 - 33 USC 408	X	
Corps Wetland Policy (33 CFR 320.4(b))	X	
Other:		

10.0 Special Conditions

10.1 Special condition(s) requirement(s)

Are special conditions required to ensure minimal effects, ensure the authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the laws above? Yes

If no, provide rationale:

10.2 Required special condition(s)

Special Condition 1: Compensatory mitigation for permanent impacts to 13,137 linear feet of stream shall be accomplished with the implementation of the Cub Creek Permittee-Responsible Mitigation (PRM) Site in Hardeman County, Tennessee. The PRM site is expected to generate 10,491 functional feet of ecological lift with restoration of 20,795 linear feet of stream and adjacent wetlands. The Cub Creek PRM mitigation plan, dated March 2022, must be implemented and all requirements specified must be adhered to. Implementation of the Cub Creek PRM site must occur prior to work within waters of the U.S. on the project site.

Rationale: Compensatory stream mitigation is needed to offset the loss of aquatic resource function from impacts to 13,137 linear feet of stream channel. To ensure there is no temporal lag, work within waters of the U.S. must not occur prior to implementation of the Cub Creek PRM plan.

Special Condition 2: If artifacts or archaeological features are encountered during project implementation, all activities are to cease and the Corps of Engineers

Regulatory Division is to be contacted immediately. Artifacts may include arrowheads, broken pieces of pottery, glass, metal objects or tools, fragments of bone (human, animal, or otherwise unrecognizable). Archaeological features may include building foundations, trash pits, human burials, postholes, or discrete stains in the soil. If bones are found, they should NOT be removed or photographed; the uncovered bones should be covered with a thin layer of soil, and the local sheriff and Corps of Engineers Regulatory Division should be contacted immediately. Contractors should be made aware of these procedures.

Rationale: The special condition is generally included for all Section 404 permits and is intended to ensure proper procedures are followed in the event that artifacts or other cultural materials are encountered during construction.

Special Condition 3: The notice of land-use restriction provided as part of the Cub Creek PRM plan must be signed and registered with the County prior to work within waters of the U.S. on the project site. A copy of the recorded instrument must be provided to the Corps of Engineers within 30 days of being recorded.

Rationale: Having the instrument signed and registered with the County prior to impacts to waters of the U.S. will ensure that the necessary protections are in place for the mitigation site prior to project impacts such that temporal loss will not occur.

Special Condition 4: A copy of the insurance policy, as outlined in the March 2022 Cub Creek PRM plan, must be provided, executed and returned to the Corps of Engineers prior to the deposition of dredged or fill material into waters of the United States (Streams 1A, 1B, 2, 4A, 9, and 11).

Rationale: A copy of the insurance policy and execution of financial assurances will ensure that adequate finances are available to carry out the required mitigation in the case of a default by the applicant. It is appropriate to require the financial assurance to be executed prior to fill activities within the streams proposed for permanent fill to ensure there will not be temporal lag.

Special condition 5: The conditions of the Section 401 water quality certification (attached) must be followed.

Rationale: The applicant must follow the conditions of the Section 401 water quality certification to ensure state water quality standards are being met.

Special condition 6: The avoidance and minimization measures to historic properties that are listed or eligible for listing in the NRHP as described in the applicant's Letter of Commitment dated, May 13, 2022, shall be implemented and maintained (attached).

Rationale: The TN SHPO concurred with our determination of No Adverse Effect, provided that these measurements are implemented and maintained.

11.0 Findings and Determinations

11.1 Section 176(c) of the Clean Air Act General Conformity Rule Review:

The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed *de minimis* levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

11.2 Presidential Executive Orders (EO)

11.2.1 EO 11988, Floodplain Management

This action is not located in a floodplain.

11.2.2 EO 12898, Environmental Justice

Based upon available information, the Corps has determined that portions of the proposed project within our federal control and responsibility would not have a disproportionately high and adverse human health or environmental effect on minority populations, low income populations, and/or disadvantaged communities historically marginalized or overburdened by pollution that may be present in the vicinity of the project.

EO 12898 directs federal agencies to identify and address, as appropriate, any disproportionately high adverse human health or environmental effects of federal actions to minority and/or low-income populations. Its purpose is to focus federal attention on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities. Public involvement, via Public Notices, as well as Tribal coordination and consultation concerning the Project, has been an integral part of reviewing for this project to ensure that concerns of all people are considered in the decision-making process. As informed by CEQ's Environmental Justice Guidance Under the National Environmental Policy Act (1997), the identification of a disproportionately high and adverse impact on minority and low income populations does not preclude a proposed agency action from going forward, nor does it necessarily compel a conclusion that a proposed action is environmentally unsatisfactory. If an agency determines there is a disproportionately high and adverse impact to minority populations and low-income populations, an agency may wish to consider heightening its focus on meaningful public engagement regarding community preferences, considering an appropriate range of alternatives (including alternative sites), and mitigation and monitoring measures.

The methodology, consistent with EO 12898, to accomplish this Environmental Justice (EJ) analysis includes identifying low-income and minority populations within the Project area using the EJ Screen Mapper Tool (<https://ejscreen.epa.gov/mapper/>) developed by

the Environmental Protection Agency and with the use of The Council on Environmental Quality (CEQ) Climate and Economic Justice Screening Tool.

This project is located in Haywood County, Tennessee. The portion of Haywood County where the project would be built is predominately agricultural. The largest population center is Brownsville, TN which is located approximately 14.5 miles from the project site. Stanton, TN, is located approximately 2.5 miles directly north of the project site. A buffer of 3 miles was selected to capture an adequate representation of the population considering the proximity of Stanton, TN to the project site.

As shown in Table 14, the estimated population of Haywood County is 17,864 (U.S. Census Bureau 2021) and the percent people of color population is 70% within the 3-mile radius of the project site. The percentage of people of color is 57% within Haywood County (US Census Bureau 2021), which is higher than the percentage of people of color (including Black, American Indian, Asian, Native Hawaiian, Hispanic or Latino, or two or more races) reported within the State of Tennessee which is 21.7% (US Census Bureau 2021).

The CEQ Climate and Economic Justice Screening Tool indicates that there is an EJ community present within US Census Bureau Tract GEOID10_Tract 47075930. There are three threshold criteria that are exceeded. The local community meets the criteria of an EJ community based on a prevalence of certain diseases, meeting the definition of a low income community, being greater than or equal to the 90th percentile for energy burden, being greater than or equal to the 90th percentile for unemployment, and having a higher education enrollment rate of less than 20%.

The EJ Screen Mapper tool estimated an approximate population of 721 within a 3-mile buffer around the project site. The minority populations of the area at 70% is considerably higher than the state average of 22.8%. The per capita income of the population within the area is \$21,378 and the state average is \$29,859. The population over 65 years of age is 14%, while the Haywood County average is 19.7% and the state average is 16.7%. The communities within the 3-mile buffer area do include a minority population as described above and shown on Table 14 as the percentage is greater than the 50th percentile and is greater than the general population (of the state). In this case, as defined by the U.S. Census Bureau (2021) the buffer area for this project does not contain a “poverty area” as the percent of the population below the poverty level in Haywood County is 18.7% which is below the 50th percentile and is above the state average of 13.6%. The average in Haywood County is 5.1% higher than the state average and 8.3 % higher than the national average of 11.4% (US Census Bureau 2019).

Table 14. Environmental Justice Considerations

Demographic Characteristic	Within 3-mile radius of project site (EPA EJSCREEN)	Haywood County (US Census Bureau 2020)	Tennessee (US Census Bureau 2021)

Estimated population	721	17,864	6,975,218
Black or African American	58%	50.6%	17.1%
Hispanic or Latino	12%	4.3%	5.7%
White (excluding Hispanic or Latino)	39%	47.3	73.5%
Per capita income	\$21,378	\$21,839 (2015-2019)	\$29,859 (2015-2019)
Median household income	Not provided	\$37,905 (2015-2019)	\$53,320 (2015-2019)
Percent below poverty level	Not provided	18.7	13.6
Population by Age (65 +)	14%	19.7%	16.7%

Environmental Justice is a national goal and is defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. As discussed, the project will have the potential to affect a minority population that is present within a 3-mile radius of the project site. The project being evaluated consists of the construction of a large, industrial manufacturing plant that would manufacture electric cars and batteries. During construction of a facility of this type, there are potential impacts that could arise during construction of the facility. Potential impacts that could arise and that have been identified during the EJ review during construction include increases in traffic and noise and particulate matter. In general, the magnitude and intensity of these impacts would be greater for individuals and residences closest to the project site and would diminish with distance.

According to the applicant, during construction, there will be short-term increases with the generation of dust or particulate matter (PM). To minimize these effects, the applicant will utilize best-management practices according to State standards that sufficiently address the needs of the State’s large construction general permit. Incorporating BMPs during construction will help to ensure adverse effects from particulate matter will be kept to a minimum. Virtually the entire facility would be constructed on what is now agricultural ground currently in production. In the long-term, the conversion from agriculture to hard-surfaces will decrease PMs to include dusts as compared to current conditions. The applicant prepared a Prevention of Significant Deterioration (PSD) evaluation as part of the required state air quality permit. The results of their report concluded that the proposed project will neither cause nor contribute to a violation of any NAAQS and/or PSD Increment for particulate matter (PM₁₀ and PM_{2.5}) as well as CO and NO₂. It is not expected that effects during construction pertaining to these EJ indexes will have a disproportionately high effect on minority communities.

It is anticipated that there will be increases in traffic from workers and commercial vehicles traveling to and from the facility during construction. In anticipation of this increase, the State has previously constructed a new SR 222 leading from I-40 to Stanton, TN and is located just east of the facility. Beginning at I-40, SR 222 traverses north for approximately 2 miles as a divided four-lane road. From that point, SR 222 narrows down to a two-lane road as it continues into Stanton, TN. The old Highway 22 is a two-lane rural highway and located approximately 0.8 miles to the east of SR 222. SR 222 will assist in alleviating traffic concerns to and from the facility in the short-term and during construction. Additionally, the local community will continue to have the option of traveling along the old Highway 22. While it is expected that traffic increases will result in short-term, disproportionately high effects to minority communities are not expected. If there are any additional road infrastructure needs identified in the long-term and during operation of the facility, it is expected these needs would be addressed by the state.

The expected economic benefits to the immediate area as well as the region of West Tennessee and potentially beyond is described in Section 7.2. In addition to the economic benefits, the applicant has stated that the project will benefit the environment. The project will be an advanced, carbon-neutral production facility within 2-3 years of construction. Once constructed, the facility will provide electric vehicles and batteries to the local community and beyond. The increased use of electric vehicles and batteries will create less reliance on gas-powered cars and other machinery. In the long-term, the effects of ozone on the local community would be reduced with utilization of new, electric technologies.

These data collected from EPA's EJ Mapper Screen Tool and CEQ's Climate and Economic Justice Screening Tool indicate the area within a three-mile radius and within US Census Bureau Tract GEOID10_Tract 47075930 consists predominately of people of color, has prevalence of certain diseases greater than or equal to the 90th percentile, meets the definition of low income, and has a low percentage of students enrolled in higher education. However, disproportionately high effects are not expected to occur to this community with construction of the facility. Short and long-term economic benefits are expected which will improve the economic standing and, over the long-term, could improve education and employment opportunities and overall general health of the local community during and after construction of the facility.

11.2.3 EO 13112, Invasive Species, as amended by EO 13751

There are no invasive species issues involved in this proposed project.

11.2.4 EO 13212 and EO 13302, Energy Supply and Availability

The proposal is not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

11.3 Findings of No Significant Impact

Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an environmental impact statement will not be required.

11.4 Compliance with the Section 404(b)(1) Guidelines

The proposed discharge complies with the Guidelines, with the inclusion of the appropriate and practicable special conditions to minimize pollution or adverse effects to the affected ecosystem.


11.5 Public interest determination

Having reviewed and considered the information above, I find that the proposed project is not contrary to the public interest. The permit will be issued with appropriate conditions included to ensure minimal effects, ensure the authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the authorities identified in Section 9.

PREPARED BY:

James M. Elcan

James M. Elcan
Biologist, Permit Manager
Regulatory Division

 Digitally signed by James M. Elcan
Date: 2022.05.16 11:08:43 -05'00'
Date: _____

REVIEWED BY:

 Date: 2022.05.16
11:17:50 -05'00'


Benjamin S. Pitcock
Supervisor
Regulatory Division

Date: _____

REVIEWED BY:




Roger S. Allan
Deputy Chief
Regulatory Division

 2022.05.16 11:27:08 -05'00'
Date: _____

APPROVED BY:



Gregg W. Williams
Chief
Regulatory Division

 Date: 2022.05.16 11:36:37 -05'00'
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APPENDIX B USACE KY EA/FONSI

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above-Referenced Standard Individual Permit Application

This document constitutes the Environmental Assessment, Section 404(b)(1) Guidelines Evaluation, Public Interest Review, and Statement of Findings for the subject application.

1.0 Introduction and Overview

Information about the proposal subject to one or more of the United States Army Corps of Engineers' (Corps') regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 10 and findings are documented in Section 11 of this memorandum. Further, summary information about the activity including administrative history of actions taken during project evaluation is attached (ORM2 Summary) and incorporated in this memorandum.

1.1 Applicant name

Mr. Kevin Whipp
Ford Land
17000 Rotunda Drive
Dearborn, MI 48120

1.2 Activity location

Unnamed Tributaries of Nolin River and adjacent wetlands located on a 1,550-acre site southwest of KY-222 (Glendale Hodgenville Road W) and I-65 in Glendale, Hardin County, Kentucky (Latitude: 37.588248°N; Longitude: 85.886739°W).

1.3 Description of activity requiring permit

The applicant proposes to permanently discharge approximately 94,000 cubic yards of clean fill into jurisdictional waters, including 18,751 linear feet (lft) of perennial streams, 7,581 lft of intermittent streams, 1,944 lft of ephemeral streams, and 16.1 acres of wetland. In addition, the proposal would include a temporary impact to 15 lft (<0.001 acre) of an ephemeral stream. All streams onsite are unnamed tributaries to Nolin River. The temporary impact would be required as temporary crossing using timber matting. The stream would be returned to preconstruction contours and elevation when construction is complete. The permanent impacts would be required for the construction of the proposed Blue Oval SK Battery Park. The development's 728-acre project area would include two 4,000,000 square foot lithium-ion battery manufacturing facilities, over two dozen auxiliary buildings totaling greater than 600,000 square feet to support administrative and process-related functions, and associated infrastructure.

1.3.1 Proposed avoidance and minimization measures

The proposed project design would avoid impacts to 6,816 lft of one perennial stream, 6,247 lft of intermittent streams, 4,216 lft of ephemeral streams, 4.5 acres of wetland, and 4.1 acres of open water ponds. Due to the size of the two lithium-ion battery manufacturing facilities, auxiliary buildings, stream relocation, and associated infrastructure, additional avoidance and minimization could not be achieved and still allow for the facility to be constructed. Impacts to streams and wetlands would be mitigated through the purchase of credits from the Kentucky Department of Fish and Wildlife Resources (KDFWR) Wetland and Stream Mitigation Program (ILF Program).

1.3.2 Proposed compensatory mitigation

To mitigate for the proposed permanent impacts to 28,276 lft of streams and 16.1 acres of wetlands, the applicant proposes to purchase credits from the KDFWR ILF Program. The applicant would be required to purchase 44,030 stream adjusted mitigation units (AMUs) and 38.5 wetland AMUs. No mitigation would be required for the proposed temporary impacts because the stream would be returned to preconstruction contours and elevation when construction is complete. Additional information regarding mitigation can be found in Section 8.4.

1.4 Existing conditions and any applicable project history

The proposed project area is currently used for agriculture and is interspersed with some forested areas within riparian corridors and wetlands. Aquatic resources on site include perennial, intermittent, and ephemeral stream channels, palustrine, emergent, and forested wetlands, and ponds. On-site streams generally flow south through the project area to a tributary of the Nolin River. Perennial streams that would be impacted by the proposed development range from 5 to 15 feet wide, and have a combination of silt, gravel, and cobble substrates. Intermittent streams range from 2 to 6 feet wide and are dominated by silt and gravel substrates. Ephemeral streams range from 1 to 2 feet wide and have substrates of silt. Stream quality of all onsite streams were evaluated through the use of the EPA Rapid Bioassessment Protocols (RBP). Habitat and physical characterization information from RBP assessments indicate that these streams are within the poor narrative habitat rating. On-site wetlands are generally located adjacent to ponds, stream channels, or within depressions in fields used for agriculture. Emergent wetlands that would be impacted by the proposed development range in size from 0.03 to 1.83 acres, are dominated by grasses and sedges, and are frequently disrupted by agricultural practices. The scrub-shrub wetland that would be impacted is 0.71 acres and is dominated by young willows. Forested wetlands range in size from 0.09 to 5.25 acres and are frequently dominated by mature red maple trees.

The property is currently owned by Elizabethtown/Hardin County Industrial Foundation, Inc. The applicant is currently working through the purchase of the property. Previous authorizations on-site include two nationwide permits to install culverts for access roads (LRL-2004-00083 and LRL-2009-01228).

A letter of permission was issued to The Kentucky Transportation Cabinet (KYTC) on December 19, 2019 (LRL-2019-284-ncc, KYTC Item No. 4-20.00) to upgrade the

existing Exit 86 (KY-222) interchange just north of the project tract. This upgrade would provide additional capacity for traffic entering and exiting the area adjacent to the site.

1.4.1 Jurisdictional Determination

Is this project supported by a jurisdictional determination? Yes, an approved jurisdictional determination and a preliminary jurisdictional determination. Eight ponds, two streams, and ten wetlands were determined to be isolated (non-jurisdictional) and were documented on an approved jurisdictional determination dated January 19, 2022. The remaining waters on-site were documented on a preliminary jurisdictional determination dated January 19, 2022 and are evaluated as jurisdictional “waters of the U.S.” for the purpose of this DA application review.

1.5 Permit authority

Table 1 – Permit Authority	
Section 10 of the Rivers and Harbors Act (33 USC 403)	
Section 404 of the Clean Water Act (33 USC 1344)	X
Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413)	

2.0 Scope of review for National Environmental Policy Act (i.e., scope of analysis), Section 7 of the Endangered Species Act (i.e., action area), and Section 106 of the National Historic Preservation Act (i.e., permit area)

2.1 Determination of scope of analysis for National Environmental Policy Act (NEPA)

The scope of analysis always includes the specific activity requiring a Department of the Army permit that is located within the Corps’ geographic jurisdiction. In addition, we have applied the four factors test found in 33 CFR Part 325, Appendix B to determine if there are portions of the larger project beyond the limits of the Corps’ geographic jurisdiction where the federal involvement is sufficient to turn an essentially private action into a federal action.

Based on our application of the guidance in Appendix B, we have determined that the scope of analysis for this review includes the Corps geographic jurisdiction and upland portions beyond the Corps geographic jurisdiction.

These upland components include area of development between the regulated waters used for site grading, staging, and site access. These components have been determined to be within our scope of analysis as the extent of federal involvement is sufficient to turn this essentially private action into a federal action with the resulting environmental consequences of the larger project essentially being products of the Corps’ permit action.

Final description of scope of analysis: The entire 1,550-acre project tract is within the Corps’ scope of analysis.

2.2 Determination of the Corps' action area for Section 7 of the Endangered Species Act (ESA)

Work proposed in the uplands would include construction of portions of the proposed warehouse buildings and infrastructure. Due to the location and the number of waters within the proposed project tract, redesign of the project to minimize or avoid impacts to waters would not be feasible. Construction of the battery plant could not occur but for the impacts to jurisdictional waters. Since impacts to waters is necessary to develop the project tract, the regulated work is essential to the completeness of the overall project and the work in the uplands has direct association with the work to be authorized, the entire 1,550-acre project tract is within the Corps action area.

2.3 Determination of Corps' permit area for Section 106 of the National Historic Preservation Act (NHPA)

The permit area includes those areas comprising waters of the United States that will be directly affected by the proposed work or structures, as well as activities outside of waters of the U.S. because all three tests identified in 33 CFR 325, Appendix C(g)(1) have been met.

Final description of the permit area: The entire 1,550-acre project tract is within the permit area.

3.0 Purpose and Need

3.1 Project purpose and need

Project purpose and need for the project as provided by the applicant and reviewed by the Corps:

The applicant, Ford Motor Company, produces automobiles and commercial vehicles under the Ford brand and luxury cars under the Lincoln Luxury Brand.

The purpose of the project is to construct a lithium-ion battery manufacturing park to supply lithium-ion batteries to help meet the growing demand for electric and hybrid vehicles. The Applicant has identified a need for a manufacturing park, to supply locally manufactured batteries to next generation electric Ford and Lincoln vehicles assembled in North America with potential markets including the Blue Oval City assembly complex currently under development in Stanton, Tennessee, and assembly plant in Louisville, Kentucky, Avon, Ohio, and Claycomo, Missouri.

According to information provided by the applicant, increased production of batteries for powering electric vehicles is crucial for supporting the escalating market demand for electric vehicles. The National Highway Traffic Safety Administration has proposed new fuel economy standards that would require a dramatic increase in the production and sale of electric vehicles to meet the model year 2026 standards. Additionally, the White House has set an ambitious target that by 2030, electric vehicles will comprise half of all vehicle sales. Ford's plan is to produce vehicles to meet that demand by rapidly scaling

the production of battery electric vehicles to meet the ever-increasing need. Increased domestic production of batteries to power electric vehicles would support this key national policy and climate change goal. To meet this goal, Ford expects up to 50% of its vehicle volume to be fully electric by 2030.

3.2 Basic project purpose

Basic project purpose, as determined by the Corps: The purpose of the project is to construct a lithium-ion vehicle battery manufacturing park.

3.3 Water dependency determination

The activity does not require access or proximity to or siting within a special aquatic site to fulfill its basic purpose. Therefore, the activity is not water dependent. Special aquatic sites within the project area to be impacted include 16.1 acres of wetlands and infrequent sections of riffle-pool complexes along 18,751 linear feet of perennial streams.

3.4 Overall project purpose

Overall project purpose, as determined by the Corps:

The overall project purpose is to construct a lithium-ion vehicle battery manufacturing park in central Kentucky to support regional vehicle assembly plants.

4.0 Coordination

4.1 Public Notice Results

The results of coordinating the proposal on public notice are identified below, including a summary of issues raised, any applicant response and the Corps' evaluation of concerns.

Were comments received in response to the public notice? Yes

Was a public meeting and/or hearing requested, and if so, was one conducted?

Yes, a public meeting/hearing was requested but was not held. A total of 4 requests for public hearing were received. The Corps determined that issues related to our scope of analysis have been adequately addressed through the public interest review process. Therefore, the Corps determined a public hearing would not be conducted. Those who requested a public hearing were notified in letters of the Corps' decision in letters dated May 12, 2022.

Comments received in response to public notice:

Comment 1: The United States Environmental Protection Agency (USEPA) responded to the public notice in an email dated March 4, 2022. The USEPA requested a copy of

the 404 application, alternatives analysis, and avoidance and minimization measures. In addition, the USEPA requested a secondary and cumulative effects analysis including the reasonably foreseeable operational impacts from lithium battery manufacturing and proposed pretreatment program for discharge of process water.

Applicant's Response: The applicant responded to the USEPA's comments on March 16, 2022 and the requested information was provided to the USEPA on March 17, 2022 and March 24, 2022. The USEPA responded in an email on March 29, 2022 that they had no additional comments and that they do not foresee water quality effects in a neighboring jurisdiction from the regulated activity.

Corps' Evaluation: N/A

Comment 2: The Kentucky Energy and Environment Cabinet's Department for Environmental Protection responded to the public notice in a letter dated February 24, 2022.

This letter included comments from the following agencies:

The Kentucky Division of Air Quality (KDAQ) noted that the project must comply with 401 KAR 63:010 (requirements for the handling of fugitive air emissions), 401 KAR 63:005 (regulations for open burning) and suggested the utilization of alternatively fueled equipment, implement emissions controls available to their equipment and reduce equipment idling time. Further, KDAQ suggested adherence to applicable local government regulations.

The Kentucky Division of Water (KDOW) stated that the project would require an Individual Water Quality Certification. A Stormwater Construction (KYR10) permit has been issued (Permit #KYR10Q116). When industrial activity starts, a storm water discharge permit may be required from the Surface Water Permits Branch. The Groundwater Section of the Watershed Management Branch explained the need to development a groundwater protection plan (GPP) during both construction and in operation if necessary.

In addition, the Water Supply Section identified that the project is within the Hardin County Water System Designated Source Water Protection Area, Zone #3. The streams proposed to be filled are tributaries of the Nolin River and are located upstream of the Hardin County Water District #2 water intake at river mile 78.7 on the Nolin River. They recommend that a Source Water Protection Plan be established that includes Best Management Practices (BMPs) that prevent, reduce, or eliminate stormwater runoff, soil erosion, and movement of nutrients and contaminants into unprotected waterways and contingency planning strategies for accidents and emergencies.

Applicant's Response: The applicant is pursuing the appropriate authorizations with the KDAQ and KDOW to ensure the proposed project would meet the requirements of federal and state air and water quality regulations. The applicant submitted a permit application to the Kentucky Division for Air Quality (KDAQ) for all of the processes and

resulting air emissions from the proposed facility. Based on the level of each pollutant emitted from the facility, this permit application was subject to both Commonwealth of Kentucky air quality regulations and federal Prevention of Significant Deterioration (PSD) permit requirements

Corps' Evaluation: The applicant obtained a 401 Individual Water Quality Certification WQC# 2022-026-7 (AI# 170550) on March 28, 2022, which addresses water quality concerns. The applicant stated that they would develop a GPP or Source Water Protection Plan if required by state law/regulation.

Comment 3: Carolyn Bow responded to the public notice in an email on February 11, 2022 with concerns about the effects of pollution from the facility on her organic farm, Nolin River, and Nolin Lake.

Applicant's Response: The facility has been designed so that any potential spill would be contained on site for cleanup in compliance with federal, state, and local regulations. In addition, the applicant has developed structural containment for chemical and waste storage areas as preventative measures in the event of a spill.

Corps' Evaluation: The Corps has determined that these concerns were adequately addressed through the 401 WQC.

Comment 4: Ms. Lori Howlett responded to the public notice in an email on February 26, 2022 with concerns about the effects of the proposed facility on water quality, flooding, air quality, light and noise pollution, increased property taxes, and crime rate. Ms. Howlett requested a public hearing.

Applicant's Response: The facility is designed to avoid any impacts to or contact with underground sources of drinking water. Drinking water quality would not be affected by this project. No process water or stormwater would be discharged to any aquifer or groundwater feature, and no injection wells or infiltration trenches are proposed. All stormwater runoff would be routed through extended detention basins and discharged at the surface within natural stream channels.

The applicant submitted a permit application to the Kentucky Division for Air Quality (KDAQ) for all of the processes and resulting air emissions from the proposed facility.

The applicant has stated that the project's design would be effective in meeting or exceeding light, noise, and other environmental standards, as required by applicable regulatory criteria. Hardin County zoning regulations include specific restrictions for industrial sites to protect adjacent properties from impacts, and lighting must be approved by the County Engineering Department. The zoning regulation states, "No lighting shall be permitted which would glare onto any street, into any adjacent property, or be deemed as lighting trespass, e.g., the shining of light produced by a fixture beyond the boundaries of the property on which such fixture is located."

According to the applicant, this project, like any other economic development project

would not change local property tax rates. The effects of inflation and property value increases, independent of a new facility, will continue to impact the amount of property taxes paid.

According to the applicant, local law enforcement would continue to be vigilant in protecting the local community. Currently, Hardin County has a police force that would serve the Glendale site. It is backed up by the Kentucky State Police and Elizabethtown Police Department.

Corps' Evaluation: The Corps evaluated the requests for a Public Hearing and determined a Public Hearing was not required. See memo dated May 12, 2022. The Corps has determined that the other concerns were adequately addressed.

Comment 5: Paul Howlett and Houston Howlett responded to the public notice in an email on February 27, 2022 and representatives from Pepper Farms responded in a letter dated March 4, 2022. They expressed concerns regarding hazardous wastes that could be produced by the facility and how the applicant would prevent contamination of groundwater supply. In addition, they expressed concerns about the effects of the facility on the potential conversion of the area from primarily agricultural land to urban development and manufacturing. Additional concerns include logistical considerations for the expected influx of workers in the area during construction and facility operations, the effects of the proposed facility on flooding in the area, and the effects of the facility on local crime and potential impacts to Historic Properties, specifically the previously demolished Paul Hamm house and potential artifacts from union soldier occupation related to Camp Nevin located south of the project area. These responses also included requests for a public hearing.

Applicant's Response: The battery park is proposed to operate according to best in class environmental practices. These practices strive to reduce or eliminate the environmental impacts of the facility. All wastes generated and stored on-site would meet all federal, state, and local regulations, which include stringent requirements to install equipment and implement procedures to avoid impacts to the environment and to develop containment measures to prevent impacts in the event of an accidental spill. The applicant stated that they would develop a GPP or Source Water Protection Plan if required.

The Elizabethtown-Hardin County Industrial Development Foundation (EHCIDF) was established in 1956 for the purpose of creating jobs and elevating Hardin County as a top destination for advanced manufacturing, distribution, and industrial companies. The Glendale Megasite has been owned by the EHCIDF for 20 years, and the property's zoning was changed to I-2, heavy industrial, years ago. The Megasite has been actively promoted and marketed by the Kentucky Cabinet for Economic Development (KCED) and EHCIDF for a large-scale development such as the Blue Oval SK Battery Park. The Hardin County Planning and Development Commission conducted a Glendale Study (2003), which involved multiple town forums held in Glendale's East Hardin Middle School to solicit comments and recommendations concerning local residents' preferences and potential impacts on the Glendale community. The Hardin County

Comprehensive Plan includes an Industrial Element with a Comprehensive Development Guide that features the Megasite and summarizes the Glendale Study. The Comprehensive Development Guide provides information about development of the Megasite and a Transportation Improvement Plan for the site. The loss of farmland is an unfortunate but unavoidable impact of industrial, commercial, and residential development. Hardin County officials and the Hardin County Planning and Development Commission understood that farmland would be impacted when the Megasite was promoted for industrial development and zoning was changed to heavy industrial. Development of the battery park is consistent with the Hardin County Comprehensive Plan and is strongly supported by local and state governments. Any subsequent development that occurs in the vicinity of the Megasite must comply with zoning regulations. None of the surrounding area is zoned agricultural (A-1). See Exhibit included as Attachment #3. Current zoning is heavy industrial (I-2) for the Megasite; urban residential (R-1) for the Glendale community; interstate commercial zone (B-1) and general commercial zone (C-2) at the KY 222 Interchange; light industrial (I-1) and industrial holding zone (IH) between I-65 and US 31W; and rural residential (R-2) in the remainder of the area adjacent to the Megasite.

The project would impact numerous streams and wetlands, reduce concentration time for rainfall events, and add large areas of impervious surfaces that would increase runoff rates and volumes. Many stormwater features are being added to the site to address any potential impacts to downstream areas. Three stormwater management basins are being developed with a combined capacity of nearly seven million cubic feet (52,363,636 gallons) to control the release of stormwater so that peak flows entering the existing stream channel do not exceed pre-development discharge rates. The basins would meet the requirements of Hardin County for water quality and peak flow attenuation of a 10-year and 100-year, one-hour storm, as well as a 100-year, six-hour storm (the "design storms"). Discharge from these basins into the natural stream channel at the south end of the site is designed to be at, or below, pre-development discharge rates. As such, adverse impacts downstream are not expected based on the assessment of historically-based design storms.

Camp Nevin, a Union Civil War camp, was located south of the project tract along the Nolin River. An archaeological metal detecting survey conducted within the proposed project tract found no evidence of significant military activity within the project tract. It is the Corps' understanding that unauthorized metal detecting has occurred within the project tract over a prolonged period of time in violation of the Kentucky Antiquities Act. It is possible that the consistent and prolonged looting of the project tract has erased any significant evidence of Camp Nevin. However, research conducted by Powell (2004 [revised 2005]) resulted in the recommendation of a proposed National Register of Historic Places (NRHP) boundary for Camp Nevin south of Gilead Church Road along the Nolin River and east of the project tract, which supports the findings of the metal detecting survey. It is unclear if the nomination was reviewed by a federal agency or the KHC. As such, it is unclear if Camp Nevin is considered eligible for listing in the NRHP. If the Camp is considered eligible, then the proposed project would be located in its viewshed; however, the viewshed has already been impacted by the construction of Interstate 65 and the construction of modern residences south of Gilead Church

Road. The proposed project is unlikely to adversely impact any characteristics that might make Camp Nevin eligible for listing in the NRHP.

Corps' Evaluation: The Corps evaluated the requests for a Public Hearing and determined a Public Hearing was not required. See memo dated May 12, 2022. The applicant's response to concerns about potential impacts to contamination of groundwater supply was discussed previously under Comment 4. The Corps has determined the other concerns were adequately addressed.

Comment 6: Mr. John Edwards responded to the public notice in an email on March 1, 2022 and expressed concerns about how stream flow patterns and volume would change after construction of the facility.

Applicant's Response: The applicant's response to this concern was discussed in Comment 5.

Corps' Evaluation: The Corps has determined that these concerns were adequately addressed.

Additional discussion of submitted comments, applicant response and/or Corps' evaluation: N/A

4.2 Additional issues raised by the Corps

N/A

4.3 Comments regarding activities and/or effects outside of the Corps' scope of review

N/A.

5.0 Alternatives Analysis

(33 CFR Part 325 Appendix B, 40 CFR 230.5(c) and 40 CFR 1501.5(c)). An evaluation of alternatives is required under NEPA for all jurisdictional activities. NEPA requires discussion of a reasonable range of alternatives, including the no action alternative, and the effects of those alternatives. An evaluation of alternatives is required under the Section 404(b)(1) Guidelines for projects that include the discharge of dredged or fill material to waters of the United States. Under the Section 404(b)(1) Guidelines, practicability of alternatives is taken into consideration and no alternative may be permitted if there is a less environmentally damaging practicable alternative.

5.1 Site selection/screening criteria

In order to be practicable, an alternative must be available, achieve the overall project purpose (as defined by the Corps after considering the applicant's needs and type of project being proposed), and be feasible when considering cost, logistics and existing technology.

Criteria for evaluating alternatives as evaluated and determined by the Corps: Site size, location, logistics, utilities, topography, and aquatic resource/other environmental impacts.

Size: A large site of approximately 1,400 to 1,600 acres is required for the battery park. Sufficient area on a single site is necessary to accommodate the two battery plants, recycling facility, suppliers, support facilities, and infrastructure. The acreage beyond the proposed project footprint is required to accommodate potential sustainability projects, appurtenant support facilities and infrastructure, and future flexibility. The electric vehicle industry is new and its development in the marketplace and its role in fulfilling national climate goals is not fully defined. The applicant requires flexibility to allow for changes and developments in this new industry.

Location: The proposed facility must be centrally located to potential markets for efficient distribution of batteries. Potential markets include the Ford and Lincoln assembly plants in Louisville, Kentucky, Blue Oval City in Stanton, Tennessee, Avon, Ohio, and Claycomo, Missouri. Central Kentucky provides a logistically preferable location to efficiently distribute batteries to the identified potential markets. While Central Kentucky is the logistically preferred location, the applicant also looked at alternatives in other parts of the United States.

Logistics: Proximity to an interstate highway is crucial to accommodate transportation needs for the manufacturing facility. Proximity to a mainline railway is necessary as a potential transportation alternative. According to the applicant, the auto industry relies on “just in time” shipping, meaning that plants do not keep much inventory on site and rely on daily transportation. Redundancies in transportation options are critical to ensuring continuity of operations in unexpected circumstances. Access to a riverport is a benefit as a future and potential transportation option of shipping via waterways.

According to the applicant, demand for electric vehicles by consumers and environmental policy leaders is immediate. Battery production must begin and ramp up quickly to meet this demand. This fact makes time a critical factor for the project as the project must be constructed and operational no later than 2025, in order to supply electric vehicles assembled at Ford and Lincoln’s North American plants. The consequence of significant delays would cause a cascading effect through the business, be unreasonably costly to the applicant, and jeopardize the applicant’s ability to meet the purpose of the project. To support the required project schedule, an acceptable site must be “shovel-ready” with all required zoning, access, and utilities, and no unusual circumstances that would add any substantial delay to the project.

Utilities: Battery plants require large amounts of electricity and water. According to the applicant, the proposed battery plants would require 160 MW of electricity and approximately 3.0 MGD of water. An acceptable site must have sufficient water and electrical service available at the site and must be ready to connect with utility infrastructure constructed on-site to support the plants and other facilities. The site must also have access to a large-diameter sewer line to accommodate wastewater treatment

needs.

Topography: A suitable site must not involve extensive earthwork or cut and fill areas, which would increase site preparation costs and the time required for construction of the facilities.

Aquatic Resource Impacts and Other Environmental Impacts: The total area/linear feet of aquatic resource impacts and the quality of the aquatic resource impacts will be evaluated. Other environmental impacts to be considered include impacts to endangered species, impacts to suitable habitat for wildlife, and impacts to historic/archaeological resources.

5.2 Description of alternatives

5.2.1 No action alternative

The no action alternative would involve no discharge of dredged or fill material into waters of the United States and no DA permit would be required. Given the total site area required to accommodate the required manufacturing infrastructure, no off-site alternatives or on-site alternatives were identified that would accommodate the required infrastructure without the need to discharge dredged or fill material into waters of the United States. This alternative would not allow for the construction of manufacturing facilities to produce batteries for electric vehicles. The applicant would not be able to produce sufficient supplies of batteries required for electric vehicles, and vehicle production would not meet the consumer demand. Therefore, the no action alternative does not meet the purpose and need for the proposed project and is not a practicable alternative.

5.2.2 Off-site alternatives

Off-site alternative 1: This alternative is on a 1,600-acre site in the southern United States. This site is of sufficient size, has good transportation access via an adjacent interstate highway and rail line. In addition, water, electricity, and natural gas are available at the site. However, the property includes a pond, streams, and wetlands, and approximately half of the site is within a floodplain. This site also has extreme topographical challenges for site preparation. Lastly, this property is located in a hurricane zone, which creates the potential for facility damage and loss of workforce during hurricane season as well as more expensive construction.

Off-site alternative 2: This alternative is on a 1,643-acre site located in proximity to the proposed Blue Oval City assembly complex in Stanton, TN. This site is of sufficient size and has access to water and electricity. However, this site is approximately 20 miles away from an interstate highway with no direct routes between the site and the interstate. In addition, a water main and natural gas pipeline is located through the site that would require relocation prior to site preparation and construction. This would significantly increase the site preparation cost and could not be accomplished within the necessary timeframe. Similarly, the site has more than 220 feet of elevation change

across the site and extensive cut and fill would be necessary. The site also contains streams, wetlands, and ponds.

Off-site alternative 3: This alternative is on a 1,400-acre site in the Midwest United States. The property is of sufficient size, has good site access, and has adequate water and electricity available. However, this property is a brownfield site that would require environmental due diligence to evaluate the potential for contamination, and any necessary remediation would need to be conducted prior to construction. This would cause a significant increase in site preparation costs and could not be completed within the required timeframe.

Off-site alternative 4: This alternative is on a 1,376-acre site in the southern United States. The site has access to an interstate highway but does not have readily available access to a wastewater system and the status of water and electrical service is unknown. The site topography varies 160 feet in elevation across the site which would require extensive cut and fill work, significantly increasing costs and site preparation time. In addition, the site is heavily forested, is within a floodplain, and has wetlands scattered across the site. This would reduce the useable areas to less than 500 acres which is not large enough to accommodate the battery park.

Off-site alternative 5: This alternative would be at the Bluegrass Crossings Business Centre in Ohio County, Kentucky. This 1,100-acre site is located in western Kentucky at the intersection of the William N. Natcher Parkway and Wendell H. Ford Western Kentucky Parkway. This site has access to water, sewer, natural gas, electricity, and broadband. The site contains streams, wetlands, and ponds, and is dominated by forests and agricultural land. This site is not large enough to accommodate the battery park.

Off-site alternative 6: This alternative would be at the Memphis Regional Megasite in Haywood County, Tennessee. This 4,100-acre site is located in western Tennessee and has access to Interstate 40 and a CSX Rail Line. This site is currently under evaluation from the Memphis District Regulatory Program for Ford's other development, the Ford Blue Oval City (MVM-2015-295).

5.2.3 On-site alternatives

On-site alternative 1 (applicant's preferred alternative): The applicant's preferred alternative site is the 1,550-acre Megasite in Glendale, Kentucky. The property provides sufficient acreage required for the battery plants, associated facilities, infrastructure, and future expansion (access roads, parking lots, loading/unloading areas, etc). The site is adjacent to 1-65 and the KY-222 interchange (exit 86) which provides access for trucking as well as for employees commuting to and from work. The Kentucky Transportation Cabinet (KYTC) is currently in the process of upgrading the exit 86 interchange to provide additional capacity for traffic entering and exiting the area. KYTC is also proceeding with a project to widen KY 1136 (Gilead Church Road) which is along the southern boundary of the site.

It is currently anticipated that most deliveries and shipments would be handled by trucking. However, this site also has access to a CSX mainline railway on the western boundary of the site as well access to the Port of Louisville on the Ohio River approximately 47 miles north of the site if multimodal transportation becomes beneficial in the future.

Elevation over the site changes 50 to 75 feet which would require minimal cut and fill. Construction of the battery park within the required timeframe is supported by this shovel-ready site. This site meets the Kentucky Cabinet for Economic Development shovel-ready criteria, which include appropriate industrial zoning, accessibility, sufficient utility service (electricity, treated water, natural gas, sanitary sewer), and previous documentation of environmental features.

Nearly all of the required utilities are available at this site: 69 kilovolts (kV) of electricity (Kentucky Utilities), 16-inch water line at the site with a 24-inch line north of the site (Hardin County Water District No. 2), 18-inch force main sewer line along the south and western boundaries of the site, and three 8-inch gravity lines on the site (Hardin County Water District No. 2 – Sewer Collection). Kentucky Utilities is currently working with the applicant to design the required electrical infrastructure on the site.

The applicant's preferred alternative would impact 28,275 linear feet of stream, 16.1 acres of wetland, and 65.6 acres of potential threatened and endangered bat habitat. A stream relocation project using natural stream design would be completed on the east side of the property, which would minimize stream/riparian zone functional loss. The stream relocation is considered part of the project plan and is not considered compensatory mitigation. No historic properties eligible for listing in the National Register of Historic Places would be impacted and this alternative would avoid eight of the ten archaeological sites previously recommended for Phase II investigation.

On-site alternative 2: On-site alternative 2 would have located the battery park on the western half of the Megasite. This alternative is not practicable because the western half of the property would not accommodate the two 4,000,000 square foot battery plants and appurtenant structures. In addition, this orientation would impact three to five of the ten archaeological sites previously recommended for Phase II investigation.

On-site alternative 3: On-site alternative 3 would have located the battery park on the eastern half of the Megasite in an east/west orientation. This orientation is not practicable as it would require a 9-foot difference in elevation between the two battery plants which would limit access and feasibility of shared use appurtenant structures. In addition, this orientation would require the installation of an additional several thousand feet of gravity pipe to go around the buildings as both storm and sanitary systems must discharge to the south. This alternative would also limit opportunities for future potential expansion by encroaching an additional 1,000 feet west compared to the north/south orientation (preferred alternative). Lastly, this orientation would impact three of the ten archaeological sites previously recommended for Phase II investigation.

On-site alternative 4: On-site alternative 4 would include the same building configuration as the preferred alternative but would encapsulate the streams rather than constructing the stream relocation. The applicant stated that they operate according to best in class environmental practices. Although encapsulation would be more cost-effective, creation of a natural channel design stream relocation would be more environmentally beneficial. The stream relocation would provide the same development function as encapsulation, moving water through the site, but would provide more ecological benefits than encapsulation.

5.3 Alternatives evaluation under the Section 404(b)(1) Guidelines and NEPA

On-site alternative 1: On-site alternative 1 is the applicant's preferred alternative. This alternative meets the project purpose and is practicable considering location, cost, logistics, and existing technology. The aquatic resource impacts proposed under the applicant's preferred alternative include streams and wetlands impacted by previous agricultural activities. Therefore, the alternatives analysis has been completed in consideration of the overall limited quality and scope of these aquatic resource/environmental impacts.

On-site alternative 2 and On-site alternative 3 are not practicable based on logistics and cost. On-site alternative 4 would be more financially cost-effective but would be a more environmentally damaging alternative.

Off-Site Alternative 1, Off-Site Alternative 2, Off-Site Alternative 3, Off-Site Alternative 4, Off-Site Alternative 5, and Off-Site Alternative 6 are not practicable based on location, logistics and cost. Upon reviewing the alternatives provided by the applicant and other alternatives identified by the Corps, if the sites were found to be not practicable due to size, logistics, topographical constraints, and utilities, additional information related to the aquatic resources/environmental impacts was not required. Given the site size requirements and logistical considerations required to meet the project purpose, no other off-site or on-site alternatives were identified that would meet the project purpose with less aquatic resource/environmental impacts than the applicant's preferred alternative.

5.4 Least environmentally damaging practicable alternative under the Section 404(b)(1) Guidelines

The applicant's preferred alternative (Onsite alternative 1) meets the project purpose and is practicable considering costs, logistics and existing technology. The least environmentally damaging practicable alternative is onsite alternative 1.

6.0 Evaluation for Compliance with the Section 404(b)(1) Guidelines

The following sequence of evaluation is consistent with 40 CFR 230.5

6.1 Practicable alternatives

Practicable alternatives to the proposed discharge consistent with 40 CFR 230.5(c) are evaluated in Section 5

The statements below summarize the analysis of alternatives:

In summary, based on the analysis in Section 5 above, the no-action alternative, which would not involve discharge into waters of the United States, is not practicable.

For those projects that would discharge into a special aquatic site and are not water dependent, the applicant has demonstrated there are no practicable alternatives that do not involve special aquatic sites.

It has been determined that there are no alternatives to the proposed discharge that would be less environmentally damaging (Subpart B, 40 CFR 230.10(a)).

The proposed discharge in this evaluation is the practicable alternative with the least adverse impact on the aquatic ecosystem, and it does not have other significant environmental consequences.

6.2 Candidate disposal site delineation (Subpart B, 40 CFR 230.11(f))

Each disposal site shall be specified through the application of these Section 404(b)(1) Guidelines:

Perennial streams that would be impacted by the proposed development range from 5 to 15 feet wide, and have a combination of silt, gravel, and cobble substrates. Intermittent streams range from 2 to 6 feet wide and are dominated by silt and gravel substrates. Ephemeral streams range from 1 to 2 feet wide and have substrates of silt. Habitat and physical characterization information from RBP assessments indicate that these streams are within the poor narrative habitat rating. On-site wetlands are generally located adjacent to ponds, stream channels, or within depressions in fields used for agriculture. Emergent wetlands that would be impacted by the proposed development range in size from 0.03 to 1.83 acres, are dominated by grasses and sedges, and are frequently disrupted by agricultural practices. A scrub-shrub wetland that would be impacted is 0.71 acres and is dominated by young willows. Forested wetlands range in size from 0.09 to 5.25 acres and are frequently dominated by mature red maple trees.

6.3 Potential impacts on physical and chemical characteristics of the aquatic ecosystem (Subpart C 40 CFR 230.20-40 CFR 230.25)

The following has been considered in evaluating the potential impacts on physical and chemical characteristics (see Table 2):

Physical and Chemical Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Substrate					X	
Suspended particulates/ turbidity				X		
Water				X		
Current patterns and water circulation				X		
Normal water fluctuations				X		
Salinity gradients	X					

Discussion:

Substrate: The proposed project would have a minor long-term effect on substrate. The substrate within the streams and wetlands would be eliminated because the area would be filled with clean earthen material obtained on-site to prepare the site for construction of the proposed facilities. The proposed mitigation, in the form of the purchase of credits from the in-lieu fee program would mitigate for the substrate loss. In addition, the applicant is proposing the relocation of one of the tributaries onsite. The stream relocation would utilize existing stream bed material from the impacted streams in the stream relocation on-site which would help off-set the loss of substrate.

Suspended particulates/turbidity: The project would be constructed using appropriate construction best management practices (BMPs) to minimize erosion and sediment transport from the site. The applicant would be required by the Kentucky Division of Water’s Stormwater Construction Permit to install and maintain erosion controls during construction and re-vegetate cleared areas upon completion of construction as part of the Stormwater Pollution Prevention Plan (SWPPP). Thus, suspended particulates/turbidity effects would be minimized through appropriate on-site sediment and erosion controls.

Water: The proposed work would have a minor, short-term effect on water clarity, nutrients and chemical content, physical and biological content, dissolved gas levels, pH, and temperature due to elimination of the resource through the discharge of clean fill materials into 28,276 linear feet of streams and 16.1 acres of wetlands. This effect would be considered short-term because after construction and finalization of the relocated stream and detention basins, many ecological and hydrologic functions of the streams and wetlands such as retention and attenuation of flood waters, runoff storage, and provision of life cycle dependent aquatic habitat would be reestablished. In addition, the proposed mitigation, in the form of the purchase of credits from the in-lieu fee program, would mitigate the impacts to jurisdictional waters on the site.

Current patterns and water circulation/normal water fluctuations: The proposed work would have a minor, short-term effect on the circulation and drainage patterns of the site. This effect would be considered short-term because after construction and finalization of the relocated stream and detention basins, water would continue to flow through the site from higher in the watershed. The detention basins are designed to protect against flooding and would prevent downstream erosion by storing water temporarily and releasing it slowly. Therefore, peak flows into downstream waters would not exceed pre-development discharge rates. The relocated stream has been designed with a large floodplain to accommodate for stream flows above bankfull elevation.

6.4 Potential impacts on the living communities or human uses (Subparts D, E and F)

6.4.1 Potential impacts on the biological characteristics of the aquatic ecosystem (Subpart D 40 CFR 230.30)

The following has been considered in evaluating the potential impacts on biological characteristics (see Table 3):

Table 3 – Potential Impacts on Biological Characteristics						
Biological Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Threatened and endangered species			X			
Fish, crustaceans, mollusk, and other aquatic organisms					X	
Other wildlife			X			

Discussion:

Threatened and Endangered Species: The Corps completed informal consultation with the U.S. Fish and Wildlife Service (USFWS) and determined that the listed species would not be in jeopardy from the proposed activity. The applicant would remove 65.6 acres of “potential” habitat for the Indiana bat and the northern long-eared bat during the unoccupied time frame (October 15 – March 31) and 1.4 acres of potential habitat during the occupied timeframe excluding June and July. Contributions to the Imperiled Bat Conservation Fund (IBCF) have been made to mitigate for the removal of 67.0 acres of “potential” habitat. See Section 9.1 for additional information regarding consultation with USWFS.

Fish, crustaceans, mollusks, and other aquatic organisms/other wildlife: The proposed work would have a minor, long-term effect on the habitat within the streams and wetlands for these aquatic and terrestrial organisms as they would be eliminated

because the area would be filled with clean earthen material obtained on-site to prepare the site for construction of the proposed facility. The proposed mitigation, in the form of the purchase of credits from the ILF program would mitigate for the loss of habitat. The proposed stream relocation would reestablish some ecological functions lost as a result of the discharge of fill material into streams through the use of natural channel design principles.

6.4.2 Potential impacts on special aquatic sites (Subpart E 40 CFR 230.40)

The following has been considered in evaluating the potential impacts on special aquatic sites (see Table 4):

Table 4 – Potential Impacts on Special Aquatic Sites						
Special Aquatic Sites	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Sanctuaries and refuges	X					
Wetlands					X	
Mud flats	X					
Vegetated shallows	X					
Coral reefs	X					
Riffle pool complexes					X	

Discussion: The proposed project would completely fill 16.1 acres of wetlands. However, the applicant proposes the construction of three detention basin which would replace some of the wetland functions on-site including water storage, ground water recharge, and water quality improvements through sediment trapping. In addition, the applicant proposes to use natural channel design principles in the stream relocation on-site including rifle, run, pool, glide complexes, woody debris, and natural streambed substrate which would help off-set impacts to riffle-pool complexes. Lastly, the mitigation, in the form of the purchase of credits from an ILF program would mitigate for the loss of these special aquatic sites.

6.4.3 Potential impacts on human use characteristics (Subpart F 40 CFR 230.50)

The following has been considered in evaluating the potential impacts on human use characteristics (see Table 5):

Table 5 – Potential Impacts on Human Use Characteristics						
Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Municipal and private water supplies			X			

Table 5 – Potential Impacts on Human Use Characteristics						
Human Use Characteristics	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Recreational and commercial fisheries	X					
Water-related recreation	X					
Aesthetics					X	
Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves	X					

Discussion:

The proposed project is located within the Hardin County Water System Designated Source Water Protection Area, Zone #3 and the streams proposed to be filled discharge into tributaries of the Nolin River upstream of the Hardin County Water District #2 water intake at river mile 78.7. In addition, according to public notice comments there are local residents that utilize groundwater as a water source. The applicant would follow all federal, state, and local regulations to protect municipal and private water supplies.

The proposed project is expected to have a minor long term effect on the aesthetics of the surrounding area. Existing land uses in close proximity of the proposed development include roads, single-family homes, commercial development, agricultural fields and forested land. Although the proposed development is not typical with respect to the current surrounding land use, the site is adjacent to an interstate highway and is zoned for heavy industrial development. Local zoning regulations address potential aesthetic concerns such as the potential for increased light and noise.

There are no parks, national and historic monuments, national seashores, wilderness areas, research sites, and similar preserves within the project area.

6.5 Pre-testing evaluation (Subpart G, 40 CFR 230.60)

The following has been considered in evaluating the biological availability of possible contaminants in dredged or fill material (see Table 6):

Table 6 – Possible Contaminants in Dredged/Fill Material	
Physical substrate characteristics	X
Hydrography in relation to known or anticipated sources of contaminants	
Results from previous testing of the material or similar material in the vicinity of the project	
Known, significant sources of persistent pesticides from land runoff or	

Table 6 – Possible Contaminants in Dredged/Fill Material	
percolation	
Spill records for petroleum products or designated (Section 331 of the Clean Water Act hazardous substances	
Other public records or significant introduction of contaminants from industries, municipalities, or other sources	
Known existence of substantial material deposits of substances which could be released in harmful quantities to the aquatic environment by man-induced discharge activities	

Discussion: The applicant proposes to use clean, on-site, earthen and rock fill which would not be likely to be a carrier of contaminants because it would be composed of naturally occurring inert material. Any DA permit, if issued, would contain a special condition requiring the use of clean fill material.

It has been determined that testing is not required because the proposed material is not likely to be a carrier of contaminants because it is comprised of sand, gravel or other naturally occurring inert material.

6.6 Evaluation and testing (Subpart G, 40 CFR 230.61)

Discussion: N/A

6.7 Actions to minimize adverse impacts (Subpart H)

The following actions, as appropriate, have been taken through application of 40 CFR 230.70-230.77 to ensure no more than minimal adverse effects of the proposed discharge (see Table 7):

Table 7 – Actions to Ensure Adverse Effects are Minimized	
Actions concerning the location of the discharge	X
Actions concerning the material to be discharged	X
Actions controlling the material after discharge	X
Actions affecting the method of dispersion	
Actions affecting plant and animal populations	X
Actions affecting human use	X

Discussion: The applicant proposes to use clean, on-site, earthen material and rock to fill and re-grade the site to achieve the necessary elevation and grade to construct the proposed project. Proper sediment and erosion control measures would be utilized and maintained to reduce sediment runoff during construction before the site is stabilized.

6.8 Factual Determinations (Subpart B, 40 CFR 230.11)

The following determinations are made based on the applicable information above, including actions to minimize effects and consideration for contaminants (see Table 8):

Table 8 – Factual Determinations of Potential Impacts						
Site	N/A	No Effect	Negligible Effect	Minor Effect (Short Term)	Minor Effect (Long Term)	Major Effect
Physical substrate					X	
Water circulation, fluctuation and salinity				X		
Suspended particulates/turbidity				X		
Contaminants			X			
Aquatic ecosystem and organisms					X	
Proposed disposal site	X					
Cumulative effects on the aquatic ecosystem			X			
Secondary effects on the aquatic ecosystem			X			

Discussion:

Substrate: The proposed project would have a minor long-term effect on substrate. The substrate within the streams and wetlands would be eliminated because the area would be filled with clean earthen material obtained on-site to prepare the site for construction of the proposed facilities. The proposed off-site stream and wetland mitigation, in the form of the purchase of credits from the ILF program would mitigate for the substrate loss. In addition, the applicant proposes to use existing stream bed material in the stream relocation on-site which would help off-set the loss of substrate.

Current patterns and water circulation/normal water fluctuations: The proposed work would have a minor, short-term effect on the circulation and drainage patterns of the site. This effect would be considered short-term because after construction and finalization of the relocated stream and detention basins, water would continue to flow through the site from higher in the watershed. The detention basins are designed to protect against flooding and would prevent downstream erosion by storing water temporarily and releasing it slowly. Therefore, peak flows into downstream waters would not exceed pre-development discharge rates. The relocated stream has been designed with a large floodplain to accommodate for stream flows above bankfull elevation.

Suspended particulates/turbidity: The project would be constructed using appropriate construction best management practices (BMPs) to minimize erosion and sediment transport from the site. The applicant proposes to install and maintain erosion controls during construction and re-vegetate cleared areas upon completion of construction.

Thus, suspended particulates/turbidity effects would be minimized through appropriate on-site controls.

Contaminants: The proposed fill material would be comprised of sand, gravel, or other naturally occurring inert material, therefore contaminants would have a negligible effect.

Aquatic ecosystem and organisms: The proposed work would have a minor, long-term effect on the habitat within the streams and wetlands for these aquatic and terrestrial organisms as they would be eliminated because the area would be filled with clean earthen material obtained on-site to prepare the site for construction of the proposed facility. The proposed mitigation, in the form of the purchase of credits from the ILF program would mitigate for the loss of habitat. The proposed stream relocation would reestablish some ecological functions lost as a result of the discharge of fill material into streams through the use of natural channel design principles.

Proposed Disposal Site: All excavated material would be disposed of on-site.

Cumulative effects on the aquatic ecosystem and secondary effects on the aquatic ecosystem: The proposed project would have a negligible cumulative effect on the aquatic ecosystem. The proposed on-site stream relocation and off-site stream and wetland compensatory mitigation, in the form of the purchase of credits from the ILF program, would minimize potential cumulative effects.

6.9 Findings of compliance or non-compliance with the restrictions on discharges (40 CFR 230.10(a-d) and 230.12)

Based on the information above, including the factual determinations, the proposed discharge has been evaluated to determine whether any of the restrictions on discharge would occur (see Table 9):

Table 9 – Compliance with Restrictions on Discharge		
Subject	Yes	No
1. Is there a practicable alternative to the proposed discharge that would be less damaging to the environment (any alternative with less aquatic resource effects, or an alternative with more aquatic resource effects that avoids other significant adverse environmental consequences?)		X
2. Will the discharge cause or contribute to violations of any applicable water quality standards?		X
3. Will the discharge violate any toxic effluent standards (under Section 307 of the Clean Water Act)?		X
4. Will the discharge jeopardize the continued existence of endangered or threatened species or their critical habitat?		X
5. Will the discharge violate standards set by the Department of Commerce to protect marine sanctuaries?		X
6. Will the discharge cause or contribute to significant		X

Table 9 – Compliance with Restrictions on Discharge		
Subject	Yes	No
degradation of waters of the United States?		
7. Have all appropriate and practicable steps (Subpart H, 40 CFR 230.70) been taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem?	X	

Discussion: It has been demonstrated in Section 5 that there are no practicable nor less damaging alternatives that would satisfy the project’s basic purpose. As noted above in Section 6.8, the fill material proposed for discharge would not be expected to contain contaminants. Section 10.1 addresses that the proposed project would not jeopardize endangered or threatened species. In addition, the proposed project would have no impacts to marine sanctuaries.

7.0 General Public Interest Review (33 CFR 320.4 and Regulatory Guidance Letter 84-09)

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments.

7.1 Public interest factors review

All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail (see Table 10):

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
1. Conservation: The applicant proposes to mitigate for the loss of 16.1 acres of wetland and 28,275 linear feet of streams through the purchase of wetland and stream credits from the ILF program. Thus, impacts would be neutral as a result of these measures.			X			

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
2. Economics: The proposed project would have a positive impact on the local economy by providing 4,000 jobs for workers during the construction phase of the project. The completed project would provide economic benefits through the creation of 5,000 permanent job opportunities and stimulating economic development through the construction of lithium batteries for electric vehicles.					X	
3. Aesthetics: Existing land uses in close proximity of the proposed development is primarily agriculture with some roads including highways and an interstate, and residential and commercial development. The aesthetic impacts to this area are expected to be minor/negligible.				X		
4. General Environmental Concerns: Several public notice comments were received from members of the public related to effects of the proposed project on air quality, water quality, flooding, and hazardous waste. The applicant responded to these comments that the proposed project would meet all federal, state, and local regulations regarding these concerns. See Section 4.1 for more information. The Kentucky Division of Water issued individual WQC# 2022-026-7 on March 28, 2022. After reviewing the requested additional information about the project, the USEPA responded on March 29, 2022 that they had no additional comments. In addition, the impacted streams and wetlands would be mitigated through purchase of credits from the ILF program. Detrimental impacts to the general environment are not anticipated as a result of the proposed project.			X			
5. Wetlands: The applicant proposes to mitigate for impacts to 16.1 acres of wetland through the purchase of 38.5 wetland adjusted mitigation units from the ILF program. In addition, the proposed detention basins on-site would replace some hydrologic functions of the wetlands.			X			
6. Historic Properties: The Corps determined that the proposed project would have no adverse effect to historic properties. See Section 9.3 for more information.			X			

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
7. Fish and Wildlife Values: Requirements of Section 7 of the Endangered Species Act have been fulfilled for this project. The USFWS concurred with the Corps' and the Department of Energy's determination of effect in a letter dated March 25, 2022 and emails dated March 31, 2022 and May 11, 2022. Refer to section 9.1. Impacts to fish and wildlife habitat in wetlands, streams, and forested areas would be offset with mitigation. The USFWS did not provide any comments related to general fish and wildlife value concerns. The uplands at the site provide limited fish and wildlife value due to past agricultural use.			X			
8. Flood Hazards: The proposed project is not expected to increase flood hazards in the area. The detention basins are designed to protect against flooding and would prevent downstream erosion by storing water temporarily and releasing it slowly. Therefore, peak flows into downstream waters would not exceed pre-development discharge rates. The relocated stream has been designed with a large floodplain to accommodate for stream flows above bankfull elevation. Therefore, flood control functions would be minimally affected by this project.				X		
9. Floodplain Values: It is the responsibility of the applicant to obtain all approvals from local and state agencies for impacts to floodplains. The project site does not contain any mapped floodplains and therefore did not require a floodplain permit from the Kentucky Division of Water.	X					
10. Land Use: The project parcel consists primarily of agricultural land. The proposed project would change these land uses to industrial development. Although the project area is currently used agriculture, it is zoned for heavy industrial use, therefore the proposed development would be consistent with zoning regulations. Additional information about wetland/stream mitigation can be found in Section 8. Thus, proposed impacts to this factor are expected to be negligible.				X		
11. Navigation: Navigation is not a factor associated with this proposal.	X					

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
12. Shoreline Erosion and Accretion: Proper erosion control measures would be installed prior to and during construction of the project to reduce the effects of erosion and accretion on-site. The filling of streams could cause accretion patterns to change downstream because the stream functions (i.e. some floodwater storage) would be eliminated. However, the onsite stream relocation plan and stormwater detention basins would mitigate these potential downstream effects.			X			
13. Recreation: There are no known water-related recreational areas in the vicinity of the proposed project that would be affected by the proposed work.	X					
14. Water Supply and Conservation: The KDOW identified that the proposed project is within the Hardin County Water System Designated Source Water Protection Area, Zone #3. In addition, the confluence of the UTs of Nolin River downstream of the project area with the Nolin River are upstream of the Hardin County Water District #2 water intake at river mile 78.7. The applicant has stated that they will ensure compliance with all federal, state, and local regulations in relation to water supply and conservation. Therefore, any adverse effect from the proposed activity on water supply/conservation is expected to be negligible.				X		
15. Water Quality: The Kentucky Division of Water issued a conditioned Individual 401 Water Quality Certification (WQC# 2022-026-7; AI: 170550) dated March 28, 2022 indicating compliance with state water quality standards.			X			
16. Energy Needs: The proposed development would require a considerable amount of energy to operate the facility. However, sufficient infrastructure is either existing or under development to ensure the energy needs of the facility would not have an adverse effect on the surrounding community.				X		

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
17. Safety: During construction it is anticipated that the appropriate site safety measures would be implemented. Therefore, no safety issues are expected as a result of this project. The Kentucky Transportation Cabinet has plans to upgrade the existing Exit 86 (KY-222) interchange just north of the project tract. This upgrade would provide additional capacity for traffic entering and exiting the site.				X		
18. Food and Fiber Production: The parcel consists primarily of agricultural land. The parcel has been used for corn and soybean production. The loss of this food production is considered to be of minimal effect.				X		
19. Mineral Needs: There would be a negligible effect on mineral needs resulting from the use of mineral resources for the production of batteries at the proposed facility.				X		
20. Consideration of Property Ownership: The proposed project would allow for the productive use of the landowner’s property. Comments were received during the public notice from adjacent landowners. It was determined that the concerns expressed by the public have been identified and the data necessary for evaluating those concerns are available in the application file. The proposed project is expected to have a negligible impact on adjacent property owners. See Section 4.1 for additional information regarding property ownership.				X		

Table 10 – Public Interest Factors						
Factor	None	Detrimental	Neutral (mitigated)	Negligible	Beneficial	Not Applicable
21. Needs and Welfare of the People: The proposed project would have a positive impact on the local economy by providing 5,000 full-time jobs and 4,000 construction jobs. The completed project would provide economic benefits through the creation of permanent job opportunities in Hardin County. During the 106 Review, the Corps noted that three burials had been relocated from within the project tract to a location outside of the project tract. The Corps directed the applicant to conduct additional survey to ensure that no additional graves remained. The survey identified nineteen additional graves that were missed in 2003. Descendants of the individuals interred in the cemetery were identified, and a meeting was held with the family to ensure that the relocation would occur in accordance with the family’s wishes. Overall, the family approved of the cemetery relocation plan prepared by Cultural Resource Analysts, Inc.					X	

Additional discussion of effects on factors above: N/A

7.2 Public and private need

The relative extent of the public and private need for the proposed structure or work:

The public need for the facility would be the generation of jobs and lithium-ion batteries for use in electric vehicles. The facility would directly and indirectly create jobs during construction and through the continued operation of the facility. The private need would be the economic gain from the production of lithium-ion batteries to be used in the upcoming production of electric vehicles.

7.3 Resource use unresolved conflicts

If there are unresolved conflicts as to resource use, explain how the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work was considered.

There were no unresolved conflicts identified as to resource use.

7.4 Beneficial and/or detrimental effects on the public and private use

The extent and permanence of the beneficial and/or detrimental effects that the proposed work is likely to have on the public and private use to which the area is suited is described below:

Detrimental effects are expected to be minimal and permanent.

Beneficial effects are expected to be more than minimal and permanent.

The proposed project would have a positive impact on the local economy by providing 5,000 full-time jobs and 4,000 construction jobs. The completed project would provide economic benefits through the creation of permanent job opportunities. Therefore, the project would result in beneficial effects for public and private entities. Detrimental effects related to the proposed development include impacts to “waters of the U.S.” which would be mitigated through the purchase of stream and wetland credits from the ILF program.

7.5 Climate Change

The proposed activities within the Corps’ federal control and responsibility likely will result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered de minimis. Greenhouse gas emissions associated with the Corps’ federal action may also occur from the combustion of fossil fuels associated with the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions from the Corps’ action have been weighed against national goals of energy independence, national security, and economic development and determined not contrary to the public interest.

7.6 Consideration of cumulative impacts

Cumulative impacts are the result of the combined effects of multiple activities that occur in a particular waterbody that persist over time. Cumulative impacts can accrue to a waterbody in a number of ways. Cumulative impacts occur when there are repetitive permitted activities at a specific waterbody over time, and the resources in that waterbody are not able to fully recover between each occurrence of a permitted activity. Cumulative impacts can also occur as a result of multiple permitted activities occurring in a waterbody over time. Cumulative impacts can also be evaluated at watershed scale, by considering multiple permitted activities occurring in that watershed over time. This section of the decision document may include a discussion of activities permitted through Department of the Army authorizations that have occurred in the waterbody or watershed over time, and how the proposed activity discussed in this decision document will contribute to cumulative effects to that waterbody or watershed and

whether that contribution to cumulative impacts, as evaluated against the current environmental baseline, would be determined to be “not contrary to the public interest.”

The geographic scope for the cumulative effects assessment is the HUC 10 watershed, 0511000110, Middle Nolin River. Since 2016, impacts within the HUC 10 included road improvements, access roads, utility line and pipeline projects, underground utility lines, residential and commercial development, dredging, bank stabilization and airport runway construction. According to the National Land Cover Database from 2016 obtained from ORM2, the HUC 10 encompasses approximately 235,464 acres (952.9 square kilometers) of land. Of this area, approximately 0.09 percent is classified as forested wetland, 0.01 percent as emergent wetland, and 0.34 percent as open water. Deciduous forests make up 21.86 percent of the watershed, 2.68 percent being evergreen forests and 0.41 being scrub/shrub. Approximately 8.8 percent of the watershed was developed (typically residential/commercial development) by 2016. Pasture/hay cover is 29.5 percent and cultivated crops are 25.7 percent of the watershed. As a result of construction activities since March 2016, Corps permits have authorized permanent fill impacts to 1.2 acres of wetland and 9,462 lft of streams within the HUC 10 watershed.

Although impacts to 6,816 lft of one perennial stream, 6,247 lft of intermittent streams, 4,216 lft of ephemeral streams, and 4.5 acres of wetland were avoided with the proposed project, it is possible that these aquatic resources could be impacted by future site expansion in the next 10 years and beyond. Additionally, it is likely that this project would drive some future commercial and residential development (and associated infrastructure) in the watershed in the next 10 years on sites containing wetlands and streams. However, any impacts to jurisdictional streams and wetlands would be evaluated by the Corps under future DA permit applications, and avoidance and minimization measures would be required as a part of that review. Any unavoidable impacts to jurisdictional aquatic resources associated with future development would likely require compensatory mitigation to ensure aquatic resource impacts are fully offset.

Stressors on special aquatic sites include loss of watershed functions associated with the removal of trees and filling of wetland/stream areas from development, increases in impervious surfaces, and pollutants introduced by runoff resulting in a degradation of water quality. However, when considering the scope and quality of the overall impacts to aquatic resources that will result from the proposed activity in relation to the overall impacts from the past, present, and reasonably foreseeable future activities, the incremental contribution of the proposed activity to cumulative impacts in the HUC 10 watershed is considered to be minor. This determination is based in part on the compensatory mitigation that will be required to offset the aquatic resource impacts which would minimize the activity’s incremental contribution to cumulative effects within the HUC 10 watershed. Additionally, the project plan includes a stream relocation using natural stream design which further minimizes aquatic resource losses in the watershed. The DA permit, if issued, would require the use of BMPs during construction, as well as compliance with the 401 Individual Water Quality Certification, thus further minimizing the potential for cumulative impacts.

8.0 Mitigation

(33 CFR 320.4(r), 33 CFR Part 332, 40 CFR 230.70-77, 40 CFR 1508.1(s))

8.1 Avoidance and minimization

Avoidance and Minimization: When evaluating a proposal including regulated activities in waters of the United States, consideration must be given to avoiding and minimizing effects to those waters. Avoidance and minimization are described in Section 1 above.

Describe other mitigative actions including project modifications implemented to minimize adverse project impacts? (see 33 CFR 320.4(r)(1)(i))

The proposed project design would avoid impacts to 6,816 lft of one perennial stream, 6,247 lft of intermittent streams, 4,216 lft of ephemeral streams, 4.5 acres of wetland, and 4.1 acres of open water ponds. Additionally, the applicant has proposed to construct a 11,092 linear foot-long stream relocation along the eastern edge of the property to maintain flow through the site and ensure that the proposed project would not create a rise in the 100-year flood levels downstream of the project area. The proposed channel would use natural channel design techniques and would use a combination of Rosgen B and C Type Stream Channels. In-stream grade control structures, riffle/run/pool/glide complexes, woody material, and bed substrate from existing streams on-site would provide channel stability as well as macroinvertebrate habitat. Along the banks and floodplain, a natural riparian planting scheme including seed, woody stem, and root production method (RPM) container trees has been designed to establish a riparian corridor. This relocated stream would replace some of the ecologic and hydrologic functions of the streams and would help minimize the loss of aquatic resources.

8.2 Compensatory mitigation requirement

Is compensatory mitigation required to offset environmental losses resulting from proposed unavoidable impacts to waters of the United States? Yes

Provide rationale: The proposed project would permanently impact 18,751 linear feet (lft) of perennial streams, 7,581 lft of intermittent streams, 1,944 lft of ephemeral streams for a total of 28,275 lft of streams and 16.1 acres of wetland. Mitigation for streams and wetlands would be required to ensure that the adverse environmental impacts are no more than minimal and to ensure the loss of aquatic resource function is fully offset. No mitigation would be required for the proposed temporary impact because the stream would be returned to preconstruction contours and elevation when construction is complete.

8.3 Type and location of compensatory mitigation

8.3.1 Mitigation bank service area

Is the impact in the service area of an approved mitigation bank? No

If yes, does the mitigation bank have the appropriate number and resource type of credits available? N/A

8.3.2 In-lieu fee program service area

Is the impact in the service area of an approved in-lieu fee program? Yes

If yes, does the in-lieu fee program have the appropriate number and resource type of credits available? Yes

8.3.3 Compensatory mitigation

Selected compensatory mitigation type/location(s) (see Table 11):

Table 11 – Mitigation Type and Location	
Mitigation bank credits	
In-lieu fee program credits	X
Permittee-responsible mitigation under a watershed approach	
Permittee-responsible mitigation, on-site and in-kind	
Permittee-responsible mitigation, off-site and/or out-of-kind	

8.3.4 Mitigation hierarchy

Does the selected compensatory mitigation option deviate from the order of the options presented in 33 CFR 332.3(b)(2)-(6)? No

8.4 Amount of compensatory mitigation

Since there aren't any mitigation banks in the service area of the project, the applicant would be required to purchase 44,030 stream adjusted mitigation units (AMUs) and 38.5 wetland AMUs from the Kentucky Department of Fish and Wildlife Resources (KDFWR) Stream and Wetland Mitigation Program (FILO). The impacts and mitigation calculations can be found in Table 6, titled "Compensatory Mitigation Calculation (Streams) and Compensatory Mitigation Calculation (Wetlands)" found in Attachment H.1 of the application.

Rationale for required compensatory mitigation amount:

The applicant utilized the U.S. Environmental Protection Agency's (USEPA) Rapid Bioassessment Protocol (RBP) for Use in Wadable Streams and Rivers (RBP)(1999) to evaluate the quality of the streams within the project boundary. The RBP assesses stream habitat based on 10 parameters. Each parameter is assigned a value of 0 or 20 or in some parameters, 0 to 10 for each bank of the stream. The condition category is divided into 4 groups: Poor, marginal, suboptimal, and optimal. Generally, an overall stream score of 0-50 would indicate poor habitat quality, 51-100 would indicate marginal, 101-150 would indicate suboptimal, and 151-200 would indicate optimal

stream habitat quality. Overall stream condition should be referenced in different ecoregions to the best and poorest quality streams to determine relative stream quality. The site lies within the Pennyroyal Bioregion. Streams in this Bioregion receiving a score of 0-131 would be considered poor/non-supporting, a score of 132-145 would be considered fair/supporting but threatened and partially supporting, and a score of 146-200 is considered excellent/fully supporting. On-site streams received scores ranging from 42-131 with one intermittent stream scoring 133. Therefore, all but one intermittent stream rated as low quality/poor for the Bioregion.

Poor quality perennial streams would be mitigated at a 1.5:1 ratio, fair quality intermittent streams would be mitigated at a 1.5:1 ratio, poor quality intermittent streams would be mitigated at a 1:1 ratio, and poor quality ephemeral streams would be mitigated at a 0.5:1 ratio. Impacts to all wetland types would be mitigated at a 2:1 ratio based on the quality of the wetlands. The wetlands proposed to be impacted are either highly disturbed by agricultural operations or are dominated by a single species and are of poor quality. Emergent wetlands that would be impacted are dominated by grasses and sedges and are frequently disturbed by agricultural practices. One scrub-shrub wetland proposed to be impacted is dominated by young willows. Forested wetlands proposed to be impacted are dominated by mature red maple trees with a sparse understory and therefore provide limited habitat/forage value for wildlife.

Credits purchased from the ILF program would require an additional 20% credits purchased for temporal loss. Temporal loss refers to the amount of time from the impact to when the credits are created in the ILF project sites. In the Corps experience, it generally takes three years from the initial proposal of an ILF site to when they break ground to completion of the restoration and release of credits; however it varies from project to project on the length of time to obtain those credits. Therefore, the 20% requirement for purchasing ILF credits replaces that time lost.

9.0 Compliance with Other Laws, Policies and Requirements

9.1 Section 7(a)(2) of the Endangered Species Act (ESA)

Refer to Section 2.2 for description of the Corps' action area for Section 7 of the ESA.

9.1.1 Lead federal agency for Section 7 of the ESA

Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? The Corps is the lead federal agency. However, the U.S. Department of Energy (DOE) is a cooperating agency for the purposes of Section 7 coordination.

9.1.2 Listed/proposed species and/or designated/proposed critical habitat

Are there listed or proposed species and/or designated critical habitat or proposed critical habitat that may be present or in the vicinity of the Corps' action area? Yes

Effect determination(s), including no effect, for all known species/habitat, and basis for determination(s):

Gray bat: The Corps and the DOE have determined that the proposed project may affect and is not likely to adversely affect the gray bat. Based on the assessment provided by the applicant, the proposed project site contains no summer or winter cave habitat. The proposed project site contains potential foraging and migrating habitat along 5 perennial streams that would be impacted as a result of the proposed project. Riparian widths along perennial streams range from less than 6 meters wide to greater than 18 meters wide however the majority of riparian widths are less than 6 meters wide. In addition, there are potential riparian foraging habitat corridors in the area around the project site that could be utilized by the gray bat. The Service concurred with the Corps and the DOE's determination in a letter dated March 25, 2022.

Northern Long-Eared Bat (NLEB): The Corps and the DOE have determined that the proposed project may affect and is likely to adversely affect the NLEB. The applicant proposed to remove 65.6 acres of "potential" NLEB habitat during the unoccupied timeframe (October 15 to March 31). A NLEB Consultation and 4(d) Rule Consistency determination key was completed on the Information for Planning and Consultation (IPAC) website on March 7, 2022. After reviewing the report and the IPaC generated Consistency letter, the activity is consistent with the U.S. Fish and Wildlife Service's January 5, 2016, Programmatic Biological Opinion, which addresses activities excepted from "take" prohibitions applicable to this species. Thus, tree removal activities associated with the proposed project are not prohibited in accordance with the 4(d) rule at 50 CFR §17.40(o). The Service concurred with the Corps and the DOE's determination in a letter dated March 25, 2022. Additional coordination was conducted with the Service on March 31, 2022 in response to a request from the applicant to clear an additional 0.8 acre of potential habitat. The Corps and the DOE determined that the additional tree clearing would still be consistent with the 4(d) rule. The Service concurred with the Corps and the DOE's determination in a letter dated March 25, 2022.

Indiana bat: The Corps and the DOE have determined that the proposed project may affect and is likely to adversely affect the Indiana bat. The applicant proposed to remove 65.6 acres of "potential" Indiana bat habitat during the unoccupied timeframe (October 15 to March 31). The applicant mitigated for potential impacts through a voluntary contribution to the Imperiled Bat Conservation Fund (IBCF) and therefore would be covered under the existing intra-Service Biological Opinion (2016 Programmatic Biological Opinion for Bats). The applicant coordinated directly with the Service related to the Indiana Bat on December 13, 2021 and January 10, 2022. The Service responded to the applicant's requests for technical assistance on December 21, 2021 and January 21, 2022. Contributions were made to the IBCF on January 11, 2021 and February 10, 2022. The Service concurred with the Corps and the DOE's determination in a letter dated March 25, 2022.

Snuffbox Mussel: The Corps and the DOE have determined that the proposed project would have no effect on the snuffbox mussel due to lack of suitable habitat. None of the

streams on-site are large enough to represent suitable habitat for the snuffbox mussel. Concurrence from the Service is not required for “no effect” determinations.

Additional coordination was conducted with the Service on March 31, 2022, in response to a request from the applicant to clear an additional 0.8 acre of potential habitat during the occupied timeframe excluding June and July. The Corps and the DOE’s determination for the Gray Bat, Indiana bat, NLEB, and Snuffbox Mussel did not change with this additional tree clearing provided the applicant made an additional contribution to the IBCF to mitigate for potential impacts. This contribution to the IBCF was made on May 5, 2022.

Additional coordination was conducted with the Service on May 5, 2022 in response to a request from the applicant to clear an additional 0.6 acre of potential habitat during the occupied timeframe excluding June and July. The Corps and DOE’s determination for the Gray Bat, Indiana bat, NLEB, and Snuffbox Mussel did not change with this additional tree clearing provided the applicant made an additional contribution to the IBCF to mitigate for potential impacts. The Service concurred in an email dated May 11, 2022. This contribution to the IBCF was made on May 17, 2022.

9.1.3 Section 7 ESA consultation

Consultation with either the National Marine Fisheries Service and/or the United States Fish and Wildlife Service was initiated and completed as required, for any determinations other than “no effect” (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation)

9.2 Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Essential Fish Habitat (EFH)

N/A, there is no essential fish habitat in this district's area of responsibility.

9.3 Section 106 of the NHPA

Refer to Section 2.3 for permit area determination.

9.3.1 Lead federal agency for Section 106 of the NHPA

Has another federal agency been identified as the lead federal agency for complying with Section 106 of the NHPA with the Corps designated as a cooperating agency and has that consultation been completed? The Corps is the lead federal agency. However, the U.S. Department of Energy (DOE) is a cooperating agency for the purposes of Section 106.

9.3.2 Historic properties

Known historic properties present? Yes

One NRHP-eligible property, HD-189, a residence, coal house, and servants quarters,

was previously located in the project tract; however, the residence, coal house, and servants quarters were demolished between 2003 and 2004 and HD-189 no longer retains sufficient integrity to be eligible for listing in the National Register of Historic Places (NRHP).

Camp Nevin, a Union Civil War camp, was located south of the project tract along the Nolin River. An archaeological metal detecting survey conducted within the proposed project tract along Gilead Church Road found no evidence of significant military activity within the project tract. In 2004 [revised 2005] Powell recommended a NRHP boundary for Camp Nevin south and east of the project tract; however, it is unclear if the nomination was reviewed by a federal agency or the Kentucky Heritage Council/State Historic Preservation Office (KHC). As such, it is unclear if Camp Nevin is considered eligible for listing in the NRHP.

Additional consultation was necessary to ensure compliance of the regulated activity with Section 106 of the NHPA.

Effect determination and basis for that determination: No adverse effect. Between 2008 and 2010, the entire 1500-acre project tract was surveyed for archaeological sites. A total of 77 archaeological sites were recorded during the surveys. Archaeological sites 15Hd742, 15Hd743, 15Hd751, 15Hd753, 15Hd754, 15Hd755, 15Hd757, 15Hd758, 15Hd759, 15Hd762, 15Hd763, 15Hd764, 15Hd765, 15Hd772, 15Hd774, 15Hd775, 15Hd777, 15Hd794, 15Hd795, 15Hd825, 15Hd826, 15Hd827, 15Hd828, 15Hd829, 15Hd836, 15Hd837, and 15Hd838 were recorded as single-component precontact sites. Single-component historic sites recorded included: 15Hd717, 15Hd749, 15Hd769, 15Hd782, 15Hd783, 15Hd784, 15Hd785, 15Hd786, 15Hd787, 15Hd788, 15Hd792, 15Hd793, 15Hd797, 15Hd799, 15Hd835, 15Hd843, and 15Hd844; and multicomponent precontact/historic-period sites recorded included: 15Hd744, 15Hd745, 15Hd746, 15Hd747, 15Hd750, 15Hd752, 15Hd756, 15Hd760, 15Hd761, 15Hd766, 15Hd767, 15Hd768, 15Hd770, 15Hd771, 15Hd773, 15Hd776, 15Hd778, 15Hd779, 15Hd780, 15Hd781, 15Hd789, 15Hd790, 15Hd791, 15Hd796, 15Hd798, 15Hd830, 15Hd831, 15Hd832, 15Hd833, 15Hd834, 15Hd839, 15Hd840, 15Hd841, and 15Hd841. Archaeological sites 15Hd742, 15Hd743, 15Hd744, 15Hd745, 15Hd746, 15Hd747, 15Hd749, 15Hd792, 15Hd799, and 15Hd832 were recommended for Phase II archaeological testing to clarify their NRHP eligibility; the remaining sites were recommended not eligible for the NRHP.

Phase II testing conducted at sites 15Hd742, 15Hd743, 15Hd744, 15Hd799, and 15Hd792 showed that all five sites lack intact subsurface features and deposits, lack research potential, and do not meet the criteria for inclusion in the NRHP. Sites 15Hd745, 15Hd746, 15Hd747, 15Hd749, and 15Hd832, which were recommended for Phase II testing, would be avoided by the proposed undertaking in accordance with the avoidance plan prepared by Cultural Resource Analysts, Inc., titled Archaeological Site Avoidance Plan for the Proposed Blue Oval SK Batter Park, Glendale Megasite, Hardin County, Kentucky (Kerr 2022). The Corps would include a special condition in permit requiring compliance with the plan.

The 2008 Phase I archaeological survey report indicated that the archaeological consultant was informed of a cemetery located within the project tract approximately 300 m south of site 15Hd717. The informant stated that 3 burials were relocated at the request of the Hardin County/Elizabethtown Industrial Foundation (HCEIF), but that more graves were present. The consultant visually examined the indicated location, but no trenching or additional assessment of the area was undertaken at that time.

In 2022, the Corps directed the applicant to examine the area through trenching or another appropriate method to determine if a cemetery was, in fact, present. Delineation at the Best Cemetery was undertaken by a qualified archaeological consultant through the use of mechanical stripping of the ground surface and manual soil probing using a stainless-steel probe with a case-hardened tip. Nineteen grave shafts were identified as a result of the fieldwork.

Background research conducted by the consultant found that the cemetery was associated with David Best an African American farmer born in 1861. It is possible that Mr. Best was born enslaved; however, that could not be confirmed. Census records indicate that by 1900 Mr. Best owned a farm in the project tract, likely in/near the location of site 15Hd717, but did not yet own the property where the cemetery is located. The land on which the cemetery is located was purchased by Mr. Best in three land acquisitions between 1903 and 1911; it is unclear if a cemetery was present on any of the tracts prior to Mr. Best's purchase. Mr. Best died in 1937 and may have been interred in the cemetery. According to Delbert Best, David Best's grandson, David Best's grave was relocated to a new location south of his grandson's house. Little information is available about the graves that were relocated in 2003 by the HCEIF, but they may have also included David Best's third wife, Tinny Best and an infant.

National Park Service Bulletins No 15 and 41 provide guidance on assessing cemeteries for NRHP eligibility. (NPS Bulletin 41:15-17; NPS Bulletin 15:34-36). Bulletin 41 states that "cemeteries...shall not be considered eligible for the National Register" under Criteria A, B, or C unless the cemetery also meets Criterion Consideration D, which states that the cemetery "...derives its primary importance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events."

Based on the known death dates of individuals likely buried in the cemetery, it does not appear to derive importance from age, nor does it exhibit distinctive design features or appear to be associated with historic events. The fact that David Best, an African American farmer, was able to purchase a significant amount of property in the years following the Civil War is both impressive and interesting. However, Mr. Best's grave has been relocated from the cemetery, so even if research found that Mr. Best met the definition of a person of "transcendent" importance, the cemetery would not meet Criterion Consideration D since Mr. Best is no longer buried there. The cemetery does not appear to be eligible for the NRHP under Criteria A, B, or C.

Since the cemetery appears to be late 19th/early 20th century, it is unlikely to provide significant information regarding early settlement in Hardin County. Aside from David

Best and, possibly, his wife Tinny and David Best Jr., it is unclear who the other 19 graves might belong to, or even if they are associated with the Best family. The layout of the cemetery itself is that of a typical small, family cemetery located on a knoll with the rows laid out north/south and graves laid out east/west. Based on the information available the cemetery is unlikely to provide significant information on “folkways, burial customs or artistic traditions of an ethnic or cultural group” or migration patterns, subsistence, and health of a distinguishable cultural group. The cemetery does not appear to be meet the criteria for inclusion in the NRHP under Criterion D.

If Camp Nevin, a Union Civil War camp, is considered eligible for the NRHP, then the proposed project would be located in its viewshed; however, the viewshed has already been impacted by the construction of Interstate 65 and the construction of modern residences south of Gilead Church Road. The proposed project is unlikely to adversely impact any characteristics that might make Camp Nevin eligible for listing in the NRHP.

The cemetery does not appear to meet the criteria for inclusion in the NRHP, the proposed project is unlikely to adversely affect any characteristics that might make Camp Nevin eligible for the NRHP, and sites 15Hd745, 15Hd746, 15Hd747, 15Hd749, and 15Hd832, which were recommended for Phase II testing, would be avoided and protected from direct impacts. Work proposed near the archaeological sites would impact their surroundings but would not adversely affect the integrity of the avoided sites; therefore, a no adverse effect determination is appropriate.

9.3.3 Consultation with the appropriate agencies, tribes and/or other parties for effect determinations

Consultation was initiated and completed with the appropriate agencies, tribes and/or other parties for any determinations other than “no potential to cause effects.” (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation)

The determination of no adverse effect and supporting documentation was submitted via email to the KHC, the DOE, United Keetoowah Band of Cherokee, Cherokee Nation, Eastern Band of Cherokee Indians, Shawnee Tribe, Eastern Shawnee Tribe, Absentee Shawnee Tribe, Delaware Nation, Delaware Tribe, Osage Nation, Hardin County Judge/Executive, Elizabethtown Planning and Development/Historic Preservation Commission, Elizabeth-Hardin County Industrial Foundation, Hardin County Historical Society, and Hardin County History Museum on April 8, 2022.

The Elizabethtown-Hardin County Industrial Foundation and the Hardin County Judge/Executive replied via email on 8 April 2022 that they did not have any comments. The Kentucky Heritage Council/State Historic Preservation Office (KHC) concurred with the Corps’ determination of no adverse effect in a letter dated April 9, 2022.

Although the Corps recommended that the Best Cemetery did not meet the criteria for inclusion in the NRHP and the KHC concurred, the Corps organized a consultation meeting with descendants of David Best to discuss the proposed relocation of the

graves that were missed in 2003. The meeting was held on April 26, 2022 at the Hardin County Government Building. The purpose of the meeting was to discuss the proposed cemetery relocation plan and ensure that descendants felt that the relocation plan was appropriate and respectful; seventeen descendants of David Best attended the meeting, including at least four grandchildren. Although some of the family was opposed to relocating the cemetery, the majority were in favor and approved the cemetery relocation plan. Therefore, if issued, the permit would contain a special condition for the applicant to implement the cemetery relocation plan and to follow all applicable state and local laws related to the relocation of the cemetery associated with Site 15Hd717.

9.4 Tribal Trust Responsibilities

9.4.1 Tribal government-to-government consultation

Was government-to-government consultation conducted with federally-recognized tribe(s)? Yes

Provide a description of any consultation (s) conducted including results and how concerns were addressed.

Invitations to consultant, including the Corps' determination of no adverse effect and supporting documentation were sent via email to all federally-recognized tribes with an interest in the area: United Keetoowah Band of Cherokee, Cherokee Nation, Eastern Band of Cherokee Indians, Shawnee Tribe, Eastern Shawnee Tribe, Absentee Shawnee Tribe, Delaware Nation, Delaware Tribe, Osage Nation. In an email dated April 8, 2022, the Osage Nation indicated that they have returned to their pre-pandemic policy of only reviewing hard copies of review requests. The Corps directed the applicant's agent to send a hard copy of the invitation to consult letter and all supporting documentation to the Osage. The agent sent the documentation via certified mail on April 12, 2022. No other responses or comments were received from the coordinating Tribal Nations.

9.4.2 Other Tribal consultation

Other Tribal consultation including any discussion of Tribal Treaty rights?

N/A

9.5 Section 401 of the Clean Water Act – Water Quality Certification (WQC)

9.5.1 Section 401 WQC requirement

Is a Section 401 WQC required, and if so, has the certification been issued or waived?

An individual WQC is required and has been granted. The Kentucky Division of Water issued WQC# 2022-026-7; AI: 170550) on March 28, 2022.

9.5.2 401(a)(2) Process

If the certifying authority granted an individual WQC, did the United States Environmental Protection Agency make a determination that the discharge 'may affect' water quality in a neighboring jurisdiction? No. The Public Notice constituted Clean Water Act Section 401 (a)(2) notification to the USEPA. The USEPA provided a response stating that they do not foresee water quality effects in a neighboring jurisdiction from the regulated activity and will not issue a "may affect" determination for this project. USEPA provided this response in an email dated March 29, 2022, therefore (a)(2) coordination is complete.

9.6 Coastal Zone Management Act (CZMA)

9.6.1 CZMA consistency concurrence

Is a CZMA consistency concurrence required, and if so, has the concurrence been issued, objected, or presumed?

N/A, a CZMA consistency concurrence is not required.

9.7 Wild and Scenic Rivers Act

9.7.1 National Wild and Scenic River System

Is the project located in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system? No

9.8 Effects on Corps Civil Works Projects (33 USC 408)

9.8.1 Permission requirements under Section 14 of the Rivers and Harbors Act (33 USC 408)

Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy, or use a Corps Civil Works project?

No, there are no federal projects in or near the vicinity of the proposal.

9.9 Corps Wetland Policy (33 CFR 320.4(b))

9.9.1 Wetland Impacts

Does the project propose to impact wetlands? Yes Wetland impact public interest review

Based on the public interest review herein, the beneficial effects of the project outweigh the detrimental impacts of the project.

9.10 Other (as needed)

N/A

9.11 Compliance Statement

The Corps has determined that it has fulfilled its responsibilities under the following laws, regulations, policies, and guidance:

Table 13 – Compliance with Federal Laws and Responsibilities		
Laws, Regulations, Policies, and Guidance	Yes	N/A
Section 7(a) (2) of the ESA	X	
EFH provisions of the Magnuson-Stevens Act		X
Section 106 of the NHPA	X	
Tribal Trust	X	
Section 401 of the Clean Water Act	X	
CZMA		X
Wild and Scenic Rivers Act	X	
Section 408 - 33 USC 408	X	
Corps Wetland Policy (33 CFR 320.4(b))	X	
Other:N/A		

10.0 Special Conditions

10.1 Special condition(s) requirement(s)

Are special conditions required to ensure minimal effects, ensure the authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the laws above? Yes

10.2 Required special condition(s)

Special Condition 1: The Permittee shall advise USACE in writing prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.

Rationale: To ensure compliance with the submitted plans as reviewed.

Special Condition 2: All work authorized by this permit shall be performed in strict compliance with the attached plans entitled “Project Plans, LRL-2021-443-sea, Pages 1 – 23”, which are a part of this permit. Any modification to these plans affecting the authorized work shall be approved by the U.S. Army Corps of Engineers, Louisville District (USACE) prior to implementation.

Rationale: To ensure compliance with the submitted plans as reviewed.

Special Condition 3: The Permittee shall provide receipt of payment from the Kentucky Department of Fish and Wildlife Resources (KDFWR) Stream and Wetland Mitigation Program (FILO) for the purchase of 44,030 stream Adjusted Mitigation Units (AMUs)

and 38.5 wetland AMUs. Credits must be purchased prior to the discharge of fill material into “waters of the United States”. Please note that the cost per credit is determined by KDFWR, in accordance with the requirements set forth in 33 CFR 332.8 and may increase or decrease. Inquiries regarding credit purchase may be made directly to KDFWR by calling Mr. Clifford Scott at (502) 564-5101, by email at: clifford.scott@ky.gov, or in writing at: Kentucky Department of Fish and Wildlife Resources, Division of Fisheries, #1 Sportsman’s Lane, Frankfort, Kentucky, 40601.

Rationale: Compensatory mitigation is required to offset losses of “waters of the United States” resulting from proposed unavoidable impacts and to ensure that individual and cumulative adverse environmental impacts are no more than minimal.

Special Condition 4: The permittee shall comply with all conditions of the Section 401 Water Quality Certification No 2022-026-7, dated March 28, 2022, issued by the Kentucky Division of Water, which are incorporated herein by reference.

Rationale: To ensure compliance with Section 401 of the Clean Water Act.

Special Condition 5: The permittee shall follow the “Archaeological Site Avoidance Plan” dated January 24, 2022 for all sites that have not been subjected to Phase II testing but have been recommended for Phase II testing.

Rationale: This is to ensure compliance with Section 106 of the National Historic Preservation Act.

Special Condition 6: The permittee shall follow the “Proposal for the Relocation of the Historic Best Cemetery, Hardin County, Kentucky” dated April 15, 2022. Any modification to this plan affecting the authorized work shall be approved by the U.S. Army Corps of Engineers, Louisville District (USACE) prior to implementation. The permittee shall follow all applicable state and local laws related to the relocation of the cemetery associated with Site 15Hd717. If any previously unknown historic, cultural or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the permittee must immediately notify the district engineer of what was found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

Rationale: This is to ensure compliance with Section 106 of the National Historic Preservation Act.

Special Condition 7: All tree clearing activities shall follow the plan titled “Exhibit 1 – Tree Clearing Areas (Revised)” dated May 4, 2022. Tree clearing in the “Original Area” (63.6 acres) and “Expanded Area 1” (2.0 acres) shall be conducted during the unoccupied timeframe (October 15 to March 31). Tree clearing in “Expanded Area 2” (0.8 acre) and “Expanded Area 3” (0.6 acre) shall be conducted during the occupied

timeframe excluding June and July.

Rationale: This is to ensure compliance with Section 7 of the Endangered Species Act.

Special Condition 8: The permittee shall follow the “Stream Relocation Monitoring Plan” dated January 18, 2022. Any modification to this plan affecting the authorized work shall be approved by the U.S. Army Corps of Engineers, Louisville District (USACE) prior to implementation.

Rationale: To ensure compliance with the submitted plans as reviewed.

Special Condition 9: The Permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit. A copy of this permit, including all conditions, drawings and attachments shall be available at the project site during the construction phase of this project. A description of the authorized work, as provided in the DA permit shall be displayed at the project site during construction.

Rationale: To ensure that all parties involved in the construction of the proposed project are aware of all the terms and conditions of the DA permit and that ENG FORM 4336 is displayed during construction at the project site.

Special Condition 10: The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, construction debris, metal and plastic products, and concrete block with exposed reinforcement bars. Soils used for fill shall not be contaminated with any toxic substance in concentrations governed by Section 307 of the Clean Water Act. Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source.

Rationale: To ensure compliance with the Clean Water Act.

Special Condition 11: The Permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas.

Rationale: To ensure the avoidance/minimization of aquatic resource impacts.

Special Condition 12: Within 30 days from the date of completing the authorized work, the Permittee shall restore the temporary 15 linear feet of ephemeral stream impacts to pre-existing contours and elevations. The affected areas shall be re-vegetated as appropriate to minimize erosion and ensure site stability.

Rationale: To ensure the avoidance/minimization of aquatic resource impacts.

Special Condition 13: Unless otherwise depicted on the approved work plans, culverts greater than 48 inches in diameter shall be buried at least one foot below the bed of the stream. Culverts 48 inches in diameter and less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic life passage during drought or low flow conditions and maintain the existing channel slope. Culverts shall be constructed in a manner that ensures channel stability.

Rationale: To ensure the avoidance/minimization of aquatic resource impacts.

11.0 Findings and Determinations

11.1 Section 176(c) of the Clean Air Act General Conformity Rule Review:

The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed *de minimis* levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

11.2 Presidential Executive Orders (EO)

11.2.1 EO 11988, Floodplain Management

Alternatives to location within the floodplain, minimization and compensatory mitigation of the effects were considered above.

11.2.2 EO 12898, Environmental Justice

Based upon available information, the Corps has determined that portions of the proposed project within our federal control and responsibility would not have a disproportionately high and adverse human health or environmental effect on minority populations, low income populations, and/or disadvantaged communities historically marginalized or overburdened by pollution that may be present in the vicinity of the project.

Supporting Information on the Corps' Determination: The Climate and Economic Justice Screening Tool produced by the Council on Environmental Quality was utilized on May 4, 2022 to assess if there are disadvantaged communities in the vicinity. The census tract in which the project area is located (21093001600) does not contain any communities identified as disadvantaged. An adjacent census tract approximately 5 miles north of the project area in Elizabethtown, Kentucky (21093001500) contains communities that are disadvantaged in two categories: health burdens (asthma) and

associated thresholds (low-income households and higher education non-enrollment) and workforce development (poverty) and associated thresholds (high school degree non-attainment and higher education non-enrollment). In addition, the adjacent census tract located approximately 2.5 miles to the east in LaRue County, Kentucky (21123960102) contains communities that are disadvantaged in one category: health burdens (heart disease) and associated thresholds (low-income households and higher education non-enrollment).

The U.S. EPA's Environmental Justice Screening and Mapping Tool, EJScreen, was accessed on May 4, 2022 to assess the census block groups within and around the project area. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it. Specifically, the low income and People of Color (POC) socioeconomic indicators compared to national percentiles were evaluated. POC include those who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. Low income includes those households where the household income is less than or equal to twice the federal "poverty level". The census block group in which the proposed project would be located is in the 17th percentile for low income and 15th percentile for POC. The census block group north of the project tract discussed previously is in the 85th percentile for low income and 44th percentile for POC. The census block to the east previously discussed is in the 66th percentile for low income and 10th percentile for POC. In addition, the census block adjacent to the south (210930016004) is in the 75th percentile for low income and the 3rd percentile for POC.

11.2.3 EO 13112, Invasive Species, as amended by EO 13751

There are no invasive species issues involved in this proposed project.

11.2.4 EO 13212 and EO 13302, Energy Supply and Availability

The proposal is not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

11.3 Findings of No Significant Impact

Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an environmental impact statement will not be required.

11.4 Compliance with the Section 404(b)(1) Guidelines

The proposed discharge complies with the Guidelines, with the inclusion of the appropriate and practicable special conditions to minimize pollution or adverse effects to the affected ecosystem.

11.5 Public interest determination

Having reviewed and considered the information above, I find that the proposed project is not contrary to the public interest. The permit will be issued with appropriate conditions included to ensure minimal effects, ensure the authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the authorities identified in Section 9.


PREPARED BY:

 Date: 2022.05.19
11:09:33 -04'00'

Sarah Atherton
Project Manager, South Branch
Regulatory Division

Date: _____

REVIEWED BY:

David  Digitally signed by David
Baldrige
Date: 2022.05.19 11:16:40
-04'00'

David Baldrige
Chief, South Branch
Regulatory Division

Date: _____

APPROVED BY:



Eric Reusch
Chief, Regulatory Division

Date: _____

APPENDIX C AGENCY AND TRIBAL CORRESPONDENCE

Appendix C – Agency Coordination

Stanton, Tennessee – BlueOval City Battery Plant

Organization	Contact Date	Summary of Contact
Tennessee Department of Transportation	8/23/22 12/15/2022	Phone call regarding respective project progress Environmental Assessment (EA) with the draft Finding of No Significant Impact (FONSI)
Tennessee Historical Commission (THC)	8/25/2022 8/26/2022 8/30/2022 12/15/2022	Notice of Intent to Prepare an Environmental Assessment (EA) NOI letter submitted via THC portal THC Concurrence EA with the draft FONSI
Tennessee Valley Authority (TVA)	8/9/2022 8/16/2022 12/15/2022	Phone call regarding respective project progress TVA correspondence EA with the draft FONSI
U.S. Army Corps of Engineers (USACE)	6/23/2022 12/15/2022 Jan/Feb 2023	Requested and received USACE EA EA with the draft FONSI Correspondence and phone calls about cultural surveys
U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS)	9/14/2022 9/22/2022 10/11/2022 12/15/2022	NRCS Farmland Conversion Impact Rating NRCS Response Returning NRSC finalized form EA with the draft FONSI
U.S. Fish and Wildlife Service (USFWS)	8/10/2022 8/12/2022 12/15/2022	Notice of Intent to Prepare an EA USFWS Concurrence EA with the draft FONSI
Tennessee Department of Environment and Conservation (TDEC) – State contact	8/17/2022 8/17/2022 12/15/2022 1/30/2023	Notice of Intent to Prepare an EA TDEC acknowledged receipt of letter EA with the draft FONSI TDEC submitted letter with comment on Air section <i>DOE response:</i> updates to Section 3.2.4 Air Resources on page 25 in response to comment
Brownsville Chamber	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Brownsville Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
CAESER, University of Memphis	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Ducks Unlimited	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Fayette County Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Hagerty District Director	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Haywood County Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
HTL Advantage	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Jackson Chamber	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI

Jackson Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Lauderdale County Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Mason Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Memphis Chamber	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Memphis Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Protect Our Aquifer	8/17/2022 12/15/2022 1/27/2023	Notice of Intent to Prepare an EA EA with the draft FONSI POA submitted letter with comments on water resources <i>DOE response:</i> updates to Section 3.2.3 Water Resources on page 22 in response to comment
Representative David Kustoff	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Representative Johnny Shaw	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Representative Karen Camper	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Senator Blackburn State Director	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Senator Page Walley	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Shelby County Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Southwest Tennessee Development District	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Stanton Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Tennessee Farm Bureau	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Tennessee Nature Conservancy	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Tennessee Wildlife Foundation	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Tennessee Department of Economic & Community Development	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Tipton County Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
University of Tennessee Foundation	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
West Tennessee River Basin Authority	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI



Department of Energy

Washington, DC 20585

August 25, 2022

Ms. Casey Lee
Historic Preservation Specialist, Section 106
Tennessee Historical Commission
State Historic Preservation Office
2941 Lebanon Pike, Nashville, TN 37214

SUBJECT: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky

Dear Ms. Lee:

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Stanton, Tennessee facility would involve the construction of an approximately 3.01 million-square-foot facility and auxiliary structures (Attachments 1-2). The Stanton facility would include a battery plant and build-up area, storage facilities, waste storage areas and associated employee parking lots, material receiving areas, stormwater detention areas and utilities. The Stanton battery plant is a subcomponent of the larger layout of BlueOval City, an electric vehicle production and assembly facility that would include vehicle parts manufacturing, vehicle assembly, painting, and shipping by rail and truck. Based on preliminary estimates, approximately 2,500 new jobs would be created at the Stanton facility.

The undertaking in Stanton, Tennessee was previously reviewed and permitted by the United States Army Corps of Engineers (USACE) in a Statement of Findings and EA for a Standard Individual Permit. USACE determined the undertaking was subject to Section 106 of the National Historic Preservation Act (NHPA). As part of the EA process, USACE conducted a historic resource review in compliance with Section 106 of the NHPA.

As part of DOE's intent to prepare an Environmental Assessment for the consideration of this loan, **DOE is concurring with the previous Section 106 findings of "no adverse**

effect” for this project under the USACE review. The area of potential effect and the undertaking are the same, but DOE is focused on the financing of the battery manufacturing facility at the site.

We ask that you evaluate the information that DOE has provided and determine whether the concurrence of “no adverse effect” is sufficient to satisfy DOE’s Section 106 responsibilities. We also ask that you respond within thirty (30) days of receipt of this letter. Should you have an interest in the project site, I will provide you with additional information, pursuant to NEPA, as it becomes available. Please provide your notification of interest and any comments or concerns by phone at (202) 586-8716 or email at kara.harris@hq.doe.gov.

Respectfully,

Kara J. Harris

Digitally signed by Kara J. Harris
Date: 2022.08.25 16:54:35
-04'00'

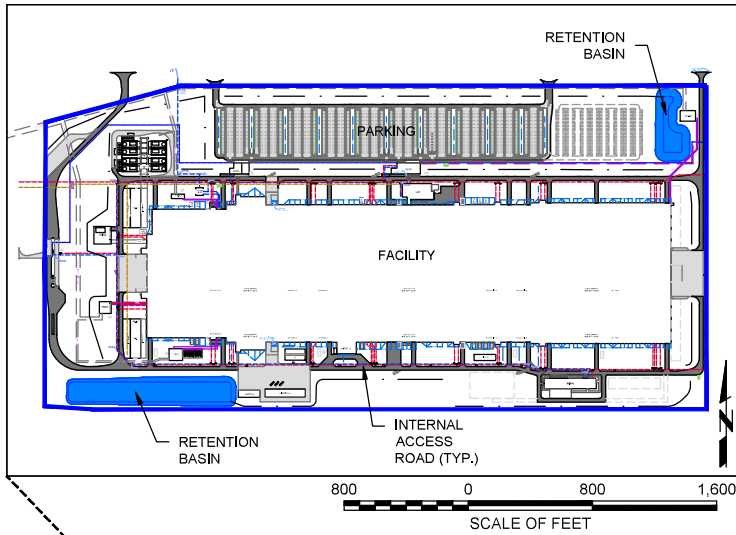
Kara Harris
NEPA Document Manager
Loan Programs Office

Attachments:

Attachment 1: Stanton, Tennessee Facility Location
Attachment 2: Stanton, Tennessee Facility Site Plan

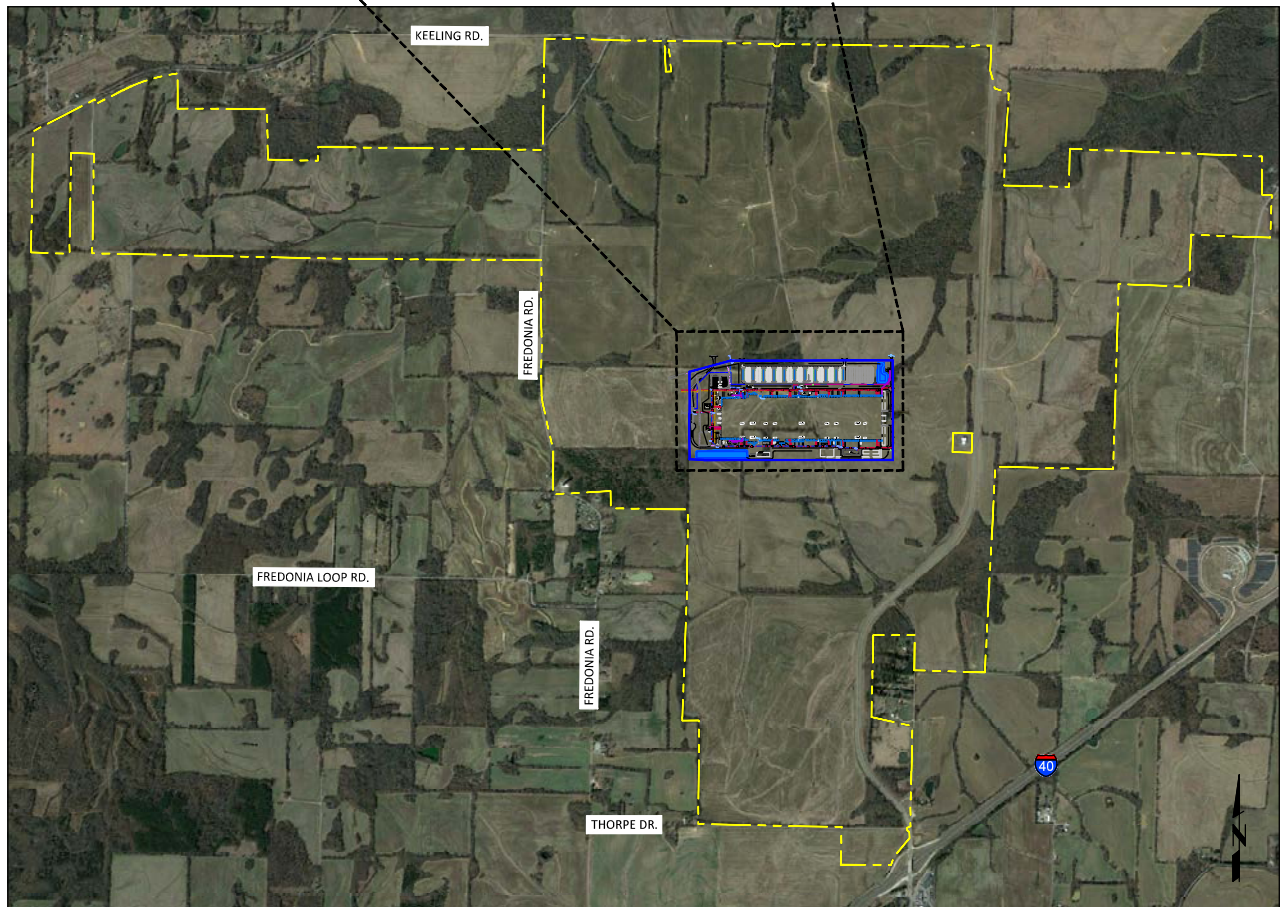
Attachment 1: Stanton, Tennessee Facility Location

Attachment 2: Stanton, Tennessee Facility Site Plan



LEGEND

- - - BLUEOVAL CITY PROPERTY BOUNDARY
- BLUEOVAL SK PLANT BOUNDARY



IMAGERY: GOOGLE EARTH, 09/05/2021

2,600 0 2,600 5,200
SCALE OF FEET

APPLICANT: BLUEOVAL SK
PROJECT: BLUEOVAL SK BATTERY PLANT
LOCATION: BLUEOVAL CITY - STANTON, TENNESSEE

**BLUEOVAL SK BATTERY PLANT
SITE MAP**

Eskridge, Anna (CONTR)

From: TN Help <tnhelp@service-now.com>
Sent: Tuesday, August 30, 2022 10:46 AM
To: Harris, Kara; Eskridge, Anna (CONTR)
Cc: casey.lee@tn.gov
Subject: [EXTERNAL] BlueOval SK Battery Manufacturing Facilities - Project # SHPO0001611



TENNESSEE HISTORICAL COMMISSION
STATE HISTORIC PRESERVATION OFFICE
2941 LEBANON PIKE
NASHVILLE, TENNESSEE 37243-0442
OFFICE: (615) 532-1550
www.tnhistoricalcommission.org

2022-08-30 09:37:30 CDT

Ms. Kara Harris
Department of Energy - Loan Programs Office
kara.harris@hq.doe.gov

RE: Department of Energy (DOE), Blue Oval SK Battery Manufacturing Facilities, Project#: SHPO0001611, Haywood County, TN

Dear Ms. Harris:

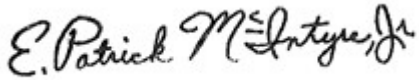
Pursuant to your request, this office has reviewed documentation concerning the above-referenced undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicants for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

Based on the information provided, we concur that it is appropriate for you to adopt the United States Army Corps of Engineer's (COE) findings as your undertaking involves financing a portion of the larger Blue Oval Project. Therefore, we concur that the portion of the undertaking (Blue Oval Project footprint) evaluated in the COE's reports will result in no adverse effects to any historic resources within the APE. However, we also are aware of at least two connected undertakings to the Blue Oval Project; the Tennessee Valley Authority's (TVA) transmission line and substation and the Federal Highways Administration (FHWA) interstate interchange and road improvements. You should consider these two connected undertakings in order to fully address cumulative effects of your undertaking.

If project plans are changed or previously unevaluated archaeological resources are discovered during project construction, please contact this office to determine what further action, if any, will be

necessary to comply with Section 106 of the National Historic Preservation Act. Include the Project # if you need to submit any additional information regarding this undertaking. Questions and comments may be directed to Casey Lee, who drafted this response, at Casey.Lee@tn.gov, +16152533163. We appreciate your cooperation.

Sincerely,



E. Patrick McIntyre, Jr.
Executive Director and
State Historic Preservation Officer

Ref:MSG6878550_4nKQhcBd3Q6vAaoDKh5S

This message does not originate from a known Department of Energy email system. Use caution if this message contains attachments, links or requests for information.

Eskridge, Anna (CONTR)

From: Eskridge, Anna (CONTR)
Sent: Tuesday, October 11, 2022 10:58 AM
To: SM.NRCS.TNNas.TNHAWC; tnhawc@usda.gov
Cc: Harris, Kara
Subject: RE: DOE LPO - BlueOval SK project in Stanton, TN
Attachments: DOE_Ford_TN_AD-1006AD-1006.pdf

Ms. Lucas,

Please find the completed form attached and let me know if you have any questions.

Best,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy
803.791.6113
anna.eskridge@hq.doe.gov

From: SM.NRCS.TNNas.TNHAWC <SN.RC.TNNas.TNHAWC@usda.gov>
Sent: Thursday, September 22, 2022 11:27 AM
To: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>; SM.NRCS.TNNas.TNHAWC <SN.RC.TNNas.TNHAWC@usda.gov>
Cc: Harris, Kara <kara.harris@hq.doe.gov>
Subject: [EXTERNAL] RE: DOE LPO - BlueOval SK project in Stanton, TN

Good Morning Ms. Eskridge,

Please find attached the completed AD-1006 form and response letter regarding the Blue Oval SK project in Stanton, TN. In the future, please send all FPPA requests directly to the shared inbox, TNHAWC@usda.gov to ensure a timely response.

Thank you,

Brooke Lucas

Soil Scientist
Natural Resources Conservation Service
United States Department of Agriculture
675 US Courthouse, 801 Broadway
Nashville, TN 37203

From: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>
Sent: Wednesday, September 14, 2022 9:28 AM
To: Friend, Aaron - NRCS, Nashville, TN <aaron.friend@usda.gov>
Cc: Harris, Kara <kara.harris@hq.doe.gov>
Subject: DOE LPO - BlueOval SK project in Stanton, TN

Dear Mr. Friend,

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky (2 battery facilities) and Stanton, Tennessee (1 battery facility). The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Stanton, Tennessee facility would involve the construction of an approximately 3.01 million-square-foot facility and auxiliary structures (see attachments). The Stanton facility would include a battery plant and build-up area, storage facilities, waste storage areas and associated employee parking lots, material receiving areas, stormwater detention areas and utilities. The Stanton battery plant is a subcomponent of the larger layout of BlueOval City, an electric vehicle production and assembly facility that would include vehicle parts manufacturing, vehicle assembly, painting, and shipping by rail and truck.

As part of DOE's intent to prepare an Environmental Assessment for the consideration of this loan, DOE is submitting the completed NRCS form and supplemental documents for the Tennessee location.

I would greatly appreciate a response, as well as any comments or concerns you may have, within ten (10) days of receipt of this email.

Respectfully,

Anna Eskridge, Ph.D.
Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy
803.791.6113
anna.eskridge@hq.doe.gov

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FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request 3/13/2022			
Name of Project BlueOval City Battery Plant		Federal Agency Involved Department of Energy			
Proposed Land Use EV Battery Production Plant		County and State Haywood County, Tennessee			
PART II (To be completed by NRCS)		Date Request Received By NRCS 9/14/2022		Person Completing Form: Brooke Lucas	
Does the site contain Prime, Unique, Statewide or Local Important Farmland? <i>(If no, the FPPA does not apply - do not complete additional parts of this form)</i>		YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	Acres Irrigated 21590	Average Farm Size 556
Major Crop(s) Corn	Farmable Land In Govt. Jurisdiction Acres: 273110 % 79.9	Amount of Farmland As Defined in FPPA Acres: 123940 % 36.3			
Name of Land Evaluation System Used Haywood County TN	Name of State or Local Site Assessment System n/a	Date Land Evaluation Returned by NRCS 9/22/2022			
PART III (To be completed by Federal Agency)		Alternative Site Rating			
		Site A	Site B	Site C	Site D
A. Total Acres To Be Converted Directly		214			
B. Total Acres To Be Converted Indirectly					
C. Total Acres In Site		214			
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland		59.2			
B. Total Acres Statewide Important or Local Important Farmland		0			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted		.048			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value		65			
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)		56			
PART VI (To be completed by Federal Agency) Site Assessment Criteria <i>(Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)</i>		Maximum Points	Site A	Site B	Site C
1. Area In Non-urban Use		(15)	15		
2. Perimeter In Non-urban Use		(10)	10		
3. Percent Of Site Being Farmed		(20)	20		
4. Protection Provided By State and Local Government		(20)	0		
5. Distance From Urban Built-up Area		(15)	15		
6. Distance To Urban Support Services		(15)	0		
7. Size Of Present Farm Unit Compared To Average		(10)	0		
8. Creation Of Non-farmable Farmland		(10)	0		
9. Availability Of Farm Support Services		(5)	0		
10. On-Farm Investments		(20)	0		
11. Effects Of Conversion On Farm Support Services		(10)	0		
12. Compatibility With Existing Agricultural Use		(10)	5		
TOTAL SITE ASSESSMENT POINTS		160	65		
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100	56		
Total Site Assessment (From Part VI above or local site assessment)		160	65		
TOTAL POINTS (Total of above 2 lines)		260	121		
Site Selected: Stanton, TN	Date Of Selection 9/27/2021	Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			
Reason For Selection: Limitations to selectable locations based on constraints by project proponent.					
Name of Federal agency representative completing this form: Kara Harris, DOE LPO					Date: 9/13/2022

STEPS IN THE PROCESSING THE FARMLAND AND CONVERSION IMPACT RATING FORM

- Step 1 - Federal agencies (or Federally funded projects) involved in proposed projects that may convert farmland, as defined in the Farmland Protection Policy Act (FPPA) to nonagricultural uses, will initially complete Parts I and III of the form. For Corridor type projects, the Federal agency shall use form NRCS-CPA-106 in place of form AD-1006. The Land Evaluation and Site Assessment (LESA) process may also be accessed by visiting the FPPA website, <http://fppa.nrcs.usda.gov/lesa/>.
- Step 2 - Originator (Federal Agency) will send one original copy of the form together with appropriate scaled maps indicating location(s) of project site(s), to the Natural Resources Conservation Service (NRCS) local Field Office or USDA Service Center and retain a copy for their files. (NRCS has offices in most counties in the U.S. The USDA Office Information Locator may be found at http://offices.usda.gov/scripts/ndISAPI.dll/oip_public/USA_map, or the offices can usually be found in the Phone Book under U.S. Government, Department of Agriculture. A list of field offices is available from the NRCS State Conservationist and State Office in each State.)
- Step 3 - NRCS will, within 10 working days after receipt of the completed form, make a determination as to whether the site(s) of the proposed project contains prime, unique, statewide or local important farmland. (When a site visit or land evaluation system design is needed, NRCS will respond within 30 working days.
- Step 4 - For sites where farmland covered by the FPPA will be converted by the proposed project, NRCS will complete Parts II, IV and V of the form.
- Step 5 - NRCS will return the original copy of the form to the Federal agency involved in the project, and retain a file copy for NRCS records.
- Step 6 - The Federal agency involved in the proposed project will complete Parts VI and VII of the form and return the form with the final selected site to the servicing NRCS office.
- Step 7 - The Federal agency providing financial or technical assistance to the proposed project will make a determination as to whether the proposed conversion is consistent with the FPPA.

INSTRUCTIONS FOR COMPLETING THE FARMLAND CONVERSION IMPACT RATING FORM

(For Federal Agency)

Part I: When completing the "County and State" questions, list all the local governments that are responsible for local land use controls where site(s) are to be evaluated.

Part III: When completing item B (Total Acres To Be Converted Indirectly), include the following:

1. Acres not being directly converted but that would no longer be capable of being farmed after the conversion, because the conversion would restrict access to them or other major change in the ability to use the land for agriculture.
2. Acres planned to receive services from an infrastructure project as indicated in the project justification (e.g. highways, utilities planned build out capacity) that will cause a direct conversion.

Part VI: Do not complete Part VI using the standard format if a State or Local site assessment is used. With local and NRCS assistance, use the local Land Evaluation and Site Assessment (LESA).

1. Assign the maximum points for each site assessment criterion as shown in § 658.5(b) of CFR. In cases of corridor-type project such as transportation, power line and flood control, criteria #5 and #6 will not apply and will, be weighted zero, however, criterion #8 will be weighed a maximum of 25 points and criterion #11 a maximum of 25 points.
2. Federal agencies may assign relative weights among the 12 site assessment criteria other than those shown on the FPPA rule after submitting individual agency FPPA policy for review and comment to NRCS. In all cases where other weights are assigned, relative adjustments must be made to maintain the maximum total points at 160. For project sites where the total points equal or exceed 160, consider alternative actions, as appropriate, that could reduce adverse impacts (e.g. Alternative Sites, Modifications or Mitigation).

Part VII: In computing the "Total Site Assessment Points" where a State or local site assessment is used and the total maximum number of points is other than 160, convert the site assessment points to a base of 160.

Example: if the Site Assessment maximum is 200 points, and the alternative Site "A" is rated 180 points:

$$\frac{\text{Total points assigned Site A}}{\text{Maximum points possible}} = \frac{180}{200} \times 160 = 144 \text{ points for Site A}$$

For assistance in completing this form or FPPA process, contact the local NRCS Field Office or USDA Service Center.

NRCS employees, consult the FPPA Manual and/or policy for additional instructions to complete the AD-1006 form.

Eskridge, Anna (CONTR)

From: Sykes, Robbie <robbie_sykes@fws.gov>
Sent: Friday, August 12, 2022 12:52 PM
To: Eskridge, Anna (CONTR)
Cc: Harris, Kara
Subject: RE: [EXTERNAL] DOE LPO - BlueOval SK (Stanton, TN)

Ms. Eskridge,

We have reviewed the provided information related to the BlueOval SK facility in Stanton, Tennessee, and we understand that the U.S. Department of Energy is concurring with the USACE “No Effect” determination for federally listed species. We believe this approach is sufficient, and we acknowledge your “No Effect” determination.

Sincerely,

Robbie Sykes
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
446 Neal Street
Cookeville, TN 38501
(tele. 931/525-4979)

From: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>
Sent: Wednesday, August 10, 2022 2:03 PM
To: Sykes, Robbie <robbie_sykes@fws.gov>
Cc: Harris, Kara <kara.harris@hq.doe.gov>
Subject: [EXTERNAL] DOE LPO - BlueOval SK (Stanton, TN)

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Dear Mr. Sykes,

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide (NMC) batteries.

This action was previously reviewed by the United States Army Corps of Engineers (USACE) for the Stanton, Tennessee facility as an Environmental Assessment (EA) for a Standard Individual Permit Application. USACE used programmatic SLOPES agreements with U.S. Fish and Wildlife Service to document compliance with the Endangered Species Act (ESA). As part of the intent to prepare an Environmental Assessment for the issuance of this loan, DOE is concurring with the

previous Section 7 findings of “No Effect” to threatened and endangered species for this project under the USACE review. There was no critical habitat or proposed critical habitat that may be present or in the vicinity of the action area. DOE’s action is strictly to guarantee a loan for the same project - the area of potential effects and the undertaking are the same as reviewed by USACE.

In conclusion, we ask that you evaluate the information that DOE has provided and determine whether the proposed approach is sufficient to satisfy DOE’s Section 7 responsibilities.

Thank you,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov



Department of Energy

Washington, DC 20585

August 17, 2022

Mr. Matthew Taylor
Senior Policy Analyst
Office of Policy and Sustainable Practices
Tennessee Department of Environment and Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, TN 37243

SUBJECT: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky.

Dear Mr. Davidson,

Under Section 136 of the Energy Independence and Security Act of 2007, which established the Advanced Technology Vehicles Manufacturing Loan (ATVM) program, the U.S. Department of Energy (DOE) is evaluating whether to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford. The decision to prepare an EA was made in accordance with the requirements of the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE's implementing procedures for compliance with NEPA (10 CFR Part 1021).

The purpose and need for DOE's action is to comply with our mandate under Section 136 of the Energy Independence and Security Act to select projects for financial assistance that are consistent with the goals of the Act. Pursuant to the Act, the ATVM program was established to provide loans to automobile and automobile parts manufacturers for the cost of re-equipping, expanding, or establishing manufacturing facilities in the United States to produce advanced technology vehicles or qualified components. DOE has determined that the construction of manufacturing facilities for the production of battery cells and arrays to be used as components for the propulsion of light duty, zero emission, all electric vehicles produced by Ford to is consistent with the goals of the Act and is using the NEPA process to assist in determining whether to issue a loan to BlueOval SK to support the proposed project.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky (see Attachments 1-4). The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within approximately 214 acres. It is anticipated to generate 2,500 new jobs by 2026 and scheduled to open in 2025. The BlueOval SK Battery Park in Kentucky will establish two battery parks occupying approximately 250 acres for each facility. It is anticipated to create 5,000 new jobs and scheduled to be operational by 2025. These three battery manufacturing plants are anticipated to deliver a total capacity of 129 GWh (43 GWh per plant). High performance Lithium Nickel Manganese Cobalt Oxide (NCM) batteries will be produced within these manufacturing sites.

The DOE NEPA regulations provide for the notification of host states of NEPA determinations and for the opportunity for host states to review an EA prior to DOE approval. This process is intended to improve coordination and to facilitate early and open communication. DOE will provide the draft EA to you for your review and comment.

If you or your staff would like to receive further information concerning this project or DOE's NEPA process for ATVM loans, please contact me in the DOE Loan Programs Office at (202) 586-8716, or email at lpo_environmental@hq.doe.gov.

Sincerely,

Kara J. Harris Digitally signed by Kara J. Harris
Date: 2022.08.17 13:22:31 -04'00'

Kara Harris
NEPA Document Manager
Loan Programs Office

Attachments:

Attachments 1-2: Glendale, Kentucky Facility Site Plan and Location

Attachments 3-4: Stanton, Tennessee Facility Site Plan and Location



cc: Mr. Colby Morgan, TDEC

Attachment 1: Glendale, Kentucky Facility Location



Attachment 2: Glendale, Kentucky Facility Site Plan

LEGEND

-  FACILITY BOUNDARY
-  FENCE

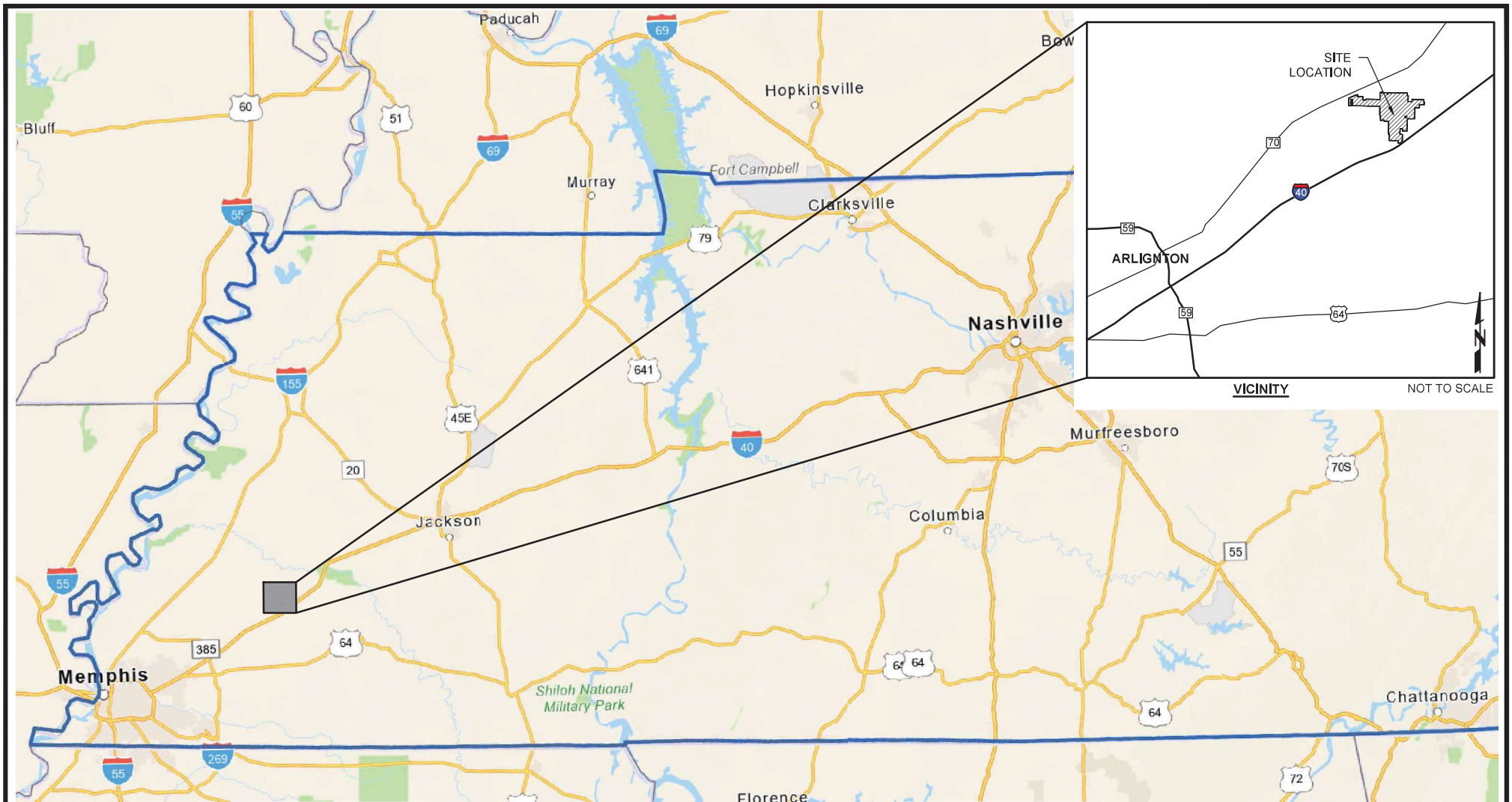


APPLICANT: BLUEOVAL SK
PROJECT: BLUEOVAL SK BATTERY PARK
LOCATION: GLENDALE, KENTUCKY

1200 0 1200 2400
SCALE OF FEET

**BLUEOVAL SK BATTERY PARK
SITE MAP**

Attachment 3: Stanton, Tennessee Facility Location

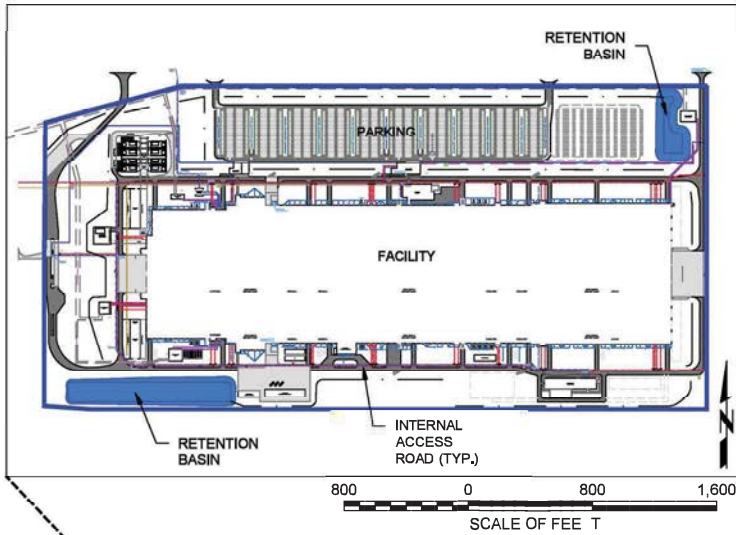


APPLICANT: BLUEVOAL SK
 PROJECT: BLUEVOAL SK BATTERY PLANT
 LOCATION: BLUEVOAL CITY - STANTON, TENNESSEE


 NOT TO SCALE

BLUEVOAL SK BATTERY PLANT
LOCATION MAP

Attachment 4: Stanton, Tennessee Facility Site Plan



LEGEND

- BLUEOVAL CITY PROPERTY BOUNDARY
- BLUEOVAL SK PLANT BOUNDARY



IMAGERY: GOOGLE EARTH, 09/05/2021

2,600 0 2,600 5,200
SCALE OF FEET

APPLICANT: BLUEOVAL SK
PROJECT: BLUEOVAL SK BATTERY PLANT
LOCATION: BLUEOVAL CITY - STANTON, TENNESSEE

**BLUEOVAL SK BATTERY PLANT
SITE MAP**



Department of Energy

Washington, DC 20585

December 15, 2022

Bryan Davidson
Policy Analyst
Office of Policy and Planning
Tennessee Department of Environment and Conservation
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, TN 37243

SUBJECT: U.S. Department of Energy, Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky

Dear Mr. Davidson,

The U.S. Department of Energy (DOE), Loan Programs Office (LPO) prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to consider the environmental impacts of its decision whether or not to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford Motor Company. The decision to prepare an EA was made in accordance with the requirements of NEPA, the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE's implementing procedures for compliance with NEPA (10 CFR Part 1021).

LPO provides loans and loan guarantees under three programs – the Innovative Energy Loan Guarantee Program (Title 17), the Advanced Technology Vehicles Manufacturing (ATVM) loan program, and the Tribal Energy Loan Guarantee Program. The primary goal of the ATVM program is to finance projects and facilities located in the United States that manufacture eligible light-duty vehicles and qualifying components.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky. The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within a 263-acre Project site. The BlueOval SK Battery Park in Kentucky will establish two battery plants that are within a 952-acre Project site. These three battery manufacturing plants are anticipated to deliver a total capacity of 127 GWh. High performance Lithium nickel, manganese, and cobalt (NMC) batteries will be produced within these manufacturing sites.

As an interested party and in accordance with DOE NEPA regulations, the EA with the draft Finding of No Significant Impact (FONSI) is included in the following link:

<https://www.energy.gov/lpo/environmental-assessment-and-draft-fonsi-blueoval-sk-battery-plant-stanton-tn-blueoval-sk>.

Please review and provide any comment you may have via email or mail **by Monday, January 30, 2023 (comments must be received by this date):**

Email:

Please include “BlueOval SK EA” in the subject line

LPO_Environmental@hq.doe.gov

Mail:

BlueOval SK Environmental Assessment
Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Sincerely,

Kara J. Harris

Digitally signed by Kara J.
Harris
Date: 2022.12.15 14:38:19
-05'00'

Kara Harris
NEPA Document Manager
Loan Programs Office

cc: Mr. Colby Morgan, TDEC



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
NASHVILLE, TENNESSEE 37243-0435

DAVID W. SALYERS, P.E.
COMMISSIONER

BILL LEE
GOVERNOR

January 30, 2023

Via Electronic Mail to LPO_Environmental@hq.doe.gov

Department of Energy – Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Dear Ms. Harris:

The Tennessee Department of Environment and Conservation (TDEC) appreciates the opportunity to provide comments on the U.S. Department of Energy (DOE) Loan Programs Office's (LPO) *Environmental Assessment for the BlueOval SK Battery Plant (Stanton, TN) and the BlueOval SK Battery Park (Glendale, KY)* (Draft EA). The Draft EA considers the environmental impacts of DOE's decision whether to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. LPO provides loans and loan guarantees under three programs –the Innovative Energy Loan Guarantee Program (Title 17), the Advanced Technology Vehicles Manufacturing (ATVM) loan program, and the Tribal Energy Loan Guarantee Program. The primary goal of the ATVM program is to finance projects and facilities located in the United States that manufacture eligible light-duty vehicles and qualifying components.

The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford Motor Company. The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee as a part of the larger BlueOval City, located within a 263-acre Project site. The battery manufacturing plant will produce high performance lithium nickel, manganese, and cobalt (NMC) batteries.

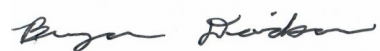
TDEC is the environmental and natural resource regulatory agency in Tennessee with delegated responsibility from the U.S. Environmental Protection Agency (EPA) to regulate sources of air pollution; solid and hazardous waste; radiological health issues; underground storage tanks; and water resources. TDEC's comments are made in the context of the proposed manufacturing plant in Stanton, Tennessee. TDEC has reviewed the Draft EA and has the following comments:

Air Pollution Control

TDEC notes the Blue Oval City project in Stanton, TN is located near the Memphis Metropolitan Statistical Area (MSA) which actively monitors ambient ozone and particulate matter (PM2.5) concentrations. Maintaining ozone and PM2.5 levels below the EPA's National Ambient Air Quality Standard (NAAQS) levels is important. While limits within the project's PSD permit should be sufficient to prevent any NAAQS exceedances, TDEC encourages adherence to local pollution mitigation strategies on poor air quality days. Such strategies could include, but are not limited to, reducing excessive vehicle idling and/or ensuring control devices are operating properly.

TDEC appreciates the opportunity to comment on this Draft EA. Please note that these comments are not indicative of approval or disapproval of the proposed action, nor should they be interpreted as an indication regarding future permitting decisions by TDEC. Please contact me should you have any questions regarding these comments.

Sincerely,

A handwritten signature in black ink that reads "Bryan Davidson". The signature is written in a cursive style with a horizontal line underneath.

Bryan Davidson | Policy Analyst
Office of Policy and Planning, TDEC
William R. Snodgrass Tennessee Tower
312 Rosa L Parks Ave, 2nd Floor
Nashville, TN 37243
Email: Bryan.Davidson@tn.gov
Phone: 615-393-0359



January 27, 2023

BlueOval SK Environmental Assessment
Department of Energy – Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190
Via email to LPO_Environmental@hq.doe.gov

Re: Department of Energy Draft Environmental Assessment for BlueOval SK

Dear Ms. Harris and Team:

Protect Our Aquifer offers the following comments on the environmental impacts associated with BlueOval SK's proposed battery plants outlined in the draft Environmental Assessment (EA). The mission of Protect Our Aquifer (POA) is to preserve the superior water quality of the Memphis Sand Aquifer (MSA) for the benefit of our community and future generations, including the areas listed in the draft EA that overlie the water supply.

Our comments are focused on the Stanton, TN plant as the Glendale, KY plant is outside the boundary of the Aquifer and Mississippi Embayment. The Stanton plant straddles the sensitive Recharge Zone that contributes to the source water for over 1.5 million people in West Tennessee.

The Draft EA lacks particular risks to freshwater aquifers and lists impacts as "low" without additional specificity. In a report from the U.S. Geological Survey, the confining clay layer barely exists between the site. Only four feet of clay¹ appear to be present as a naturally occurring, protective barrier to the region's drinking water supply. Further, geologists continue to identify breaches and windows in the clay

1

https://www2.usgs.gov/water/lowermississippigulf/lmgweb/meras/cell_log.html?longitude=-89.43206906318666&latitude=35.41016631776174&x_coordinate=590867.5798054845&y_coordinate=1393127.7355014198

PROTECT OUR AQUIFER

layer throughout the Mississippi Embayment. Therefore, the site's geology, groundwater flow, and potential for contaminant transport pathways should be investigated before proposing and selecting an alternative in the final EA.

While impacts to the Aquifer are included under the scope of the Megasite's EA, there will be particular environmental risks and impacts to the production of batteries. There is a potential for the lithium nickel manganese cobalt oxide, and other heavy metals used in the production of batteries, to leach from the site and impact the groundwater supply. The EA could be improved by conducting analysis related to the interaction of these constituents with native soils and sands. Impacts on the groundwater and drinking water from these heavy metals contained within the batteries should be investigated. Additionally, BlueOval SK must outline a plan for mitigating risks associated with these industrial processes and included in the EA.

This project will have lasting impacts for decades to come and is part of a larger project that will utilize massive amounts of our community's drinking water source for their production. We remain hopeful that precautions and cutting-edge technology will be employed to reduce the likelihood that BlueOval SK will overuse or leave a legacy of polluted groundwater in West Tennessee.

Inclusion of the analysis of cumulative groundwater impacts from the Megasite project, as well as additional projects that impact our drinking water source, would make this environmental assessment stronger and more accurate.

Thank you for your consideration of these comments.

Sincerely,



Sarah Houston
Executive Director
Protect Our Aquifer

Glendale, Kentucky – BlueOval SK Battery Park

Organization	Contact Date	Summary of Contact
KYTC Department of Highways - District 4	9/21/2022 12/15/2022	Phone call regarding respective project progress Environmental Assessment (EA) with the draft Finding of No Significant Impact (FONSI)
Kentucky Heritage Council	8/22/2022 8/22/2022 12/15/2022	Phone call and email to explain cooperating agency status with USACE EA KHC Acknowledgement EA with the draft FONSI
U.S. Army Corps of Engineers	March – October 2022 12/15/2022 Jan/Feb 2023	DOE was cooperating agency during the USACE EA and met and corresponded with USACE from March – October 2022; final USACE EA received 5/20/2022 EA with the draft FONSI Description of proposed water line across Megasite; correspondence and phone calls about cultural surveys
U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS)	9/14/2022 9/19/2022 9/28/2022 12/15/2022	NRCS Farmland Conversion Impact Rating NRCS Response Returning NRSC finalized form EA with the draft FONSI
U.S. Fish and Wildlife Service	8/8/2022 8/8/2022 12/15/2022	Email to explain cooperating agency status with USACE EA USFWS Acknowledgement EA with the draft FONSI
KY Department for Environmental Protection (KY DEP) – State contact	8/17/2022 9/22/2022 12/15/2022 1/3/2023 1/31/2023	Notice of Intent to Prepare an EA KY DEP response about project (letter) EA with the draft FONSI and a letter providing DOE response to 9/22/22 KY DEP letter KY Division of Water question about water; DOE answered question on 1/4/2023 and Water Resources section updated on page 36 KY DEP informed DOE there are no further comments
Elizabethtown-Hardin County Industrial Foundation (EHCIF)	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Hardin County Government	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Elizabethtown KY Mayor	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI
Glendale Christian Church	8/17/2022 12/15/2022	Notice of Intent to Prepare an EA EA with the draft FONSI

Eskridge, Anna (CONTR)

From: Konkol, Nicole N (Heritage Council) <nicole.konkol@ky.gov>
Sent: Monday, August 22, 2022 10:24 AM
To: Eskridge, Anna (CONTR)
Cc: Harris, Kara; Hutchins, Patricia (Heritage Council)
Subject: [EXTERNAL] Re: BlueOval SK project in Glendale, KY

Hi Anna.

Thank you for your time this morning.

We do not need anything else from you on this and we look forward to getting a copy of your FONSI and EA when available.

Have a great week.

Sincerely,

N. Nicole Konkol
Site Protection Program Manager
Kentucky Heritage Council
410 High Street
Frankfort, Kentucky 40601



NOTE: We are **no longer requiring or accepting paper** documents for Section 106 review. **Please submit all electronic documents for Section 106 Review to khc.section106@ky.gov.** DO NOT SUBMIT ANY INITIAL SECTION 106 REVIEW MATERIALS TO AN INDEPENDENT REVIEWER. Failure to submit documents to the dedicated Section 106 email address **will** result in our staff not receiving these documents for review.

Please see www.heritage.ky.gov for information about office hours and services.

From: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>
Sent: Monday, August 22, 2022 10:15 AM
To: KHC Section106 <KHC.Section106@ky.gov>
Cc: Konkol, Nicole N (Heritage Council) <nicole.konkol@ky.gov>; Harris, Kara <kara.harris@hq.doe.gov>
Subject: BlueOval SK project in Glendale, KY

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Good morning!

I am following up after my discussion with Nicole Konkol this morning. My colleague Kara Harris (copied) and I are working on a draft environmental assessment for the Department of Energy’s Loan Programs Office for the BlueOval SK project in Glendale, KY.

We are initiating a draft environmental assessment for the site. We were a cooperating agency with the recent USACE review of the same project, so we’re not looking to start the Section 106 consultation process again. I’ve attached the USACE letter to your office (which we were a part of) as well as the response letter from your office. The KY SHPO response letter inadvertently left us off. The USACE and DOE area of potential effect and the undertaking are the same.

So, we wanted to confirm the following from your office:

- Since we participated in USACE’s Section 106 process, is there anything else you need from us? The area of potential effects and the undertaking are the same – we’re just focusing on the financing of the project. If there is nothing else you need, please confirm that we are included in the determination and your agency’s concurrence with the USACE undertaking.

We will send the draft DOE FONSI and EA when it is available. Please reach out to me with any questions.

Best,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy
803.791.6113
anna.eskridge@hq.doe.gov

This message does not originate from a known Department of Energy email system. Use caution if this message contains attachments, links or requests for information.

Eskridge, Anna (CONTR)

From: Eskridge, Anna (CONTR)
Sent: Wednesday, September 28, 2022 9:53 AM
To: Brown, Perri - NRCS, Owensboro, KY
Cc: Harris, Kara
Subject: RE: DOE LPO-BlueOval SK project in Glendale, KY
Attachments: DOE_Ford_KY_AD-1006AD-1006.pdf

Perri,

Thanks again for the discussion last week and all your help with this form. The completed form is attached. Please let us know if you have any other questions.

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy
803.791.6113
anna.eskridge@hq.doe.gov

From: Brown, Perri - NRCS, Owensboro, KY <Perri.Brown@usda.gov>
Sent: Wednesday, September 21, 2022 8:59 AM
To: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>
Subject: [EXTERNAL] RE: DOE LPO-BlueOval SK project in Glendale, KY

Hi Anna,

I'm sorry I missed your message before I left Monday, and I was out of the office yesterday.

Yes, Part VI and VII are to be completed by either you or the federal agency you are working with to receive funding from. I have attached some instructions to help you out on those parts. I usually never get the AD-1006 form back after completion, but that is the way the process is supposed to go. I would appreciate it if you did return it to me, but you don't have to. I won't need any additional information.

& I am free for a phone call Thursday from 7:30-2:00 if you still have questions, I'll do my best to answer them.

Thanks,
Perri

From: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>
Sent: Tuesday, September 20, 2022 2:53 PM
To: Brown, Perri - NRCS, Owensboro, KY <Perri.Brown@usda.gov>
Subject: RE: DOE LPO-BlueOval SK project in Glendale, KY

Perri,

Good afternoon! Would you have a few minutes on Thursday afternoon for a quick phone call? I have a couple of questions I'd like to discuss.

Thanks so much,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov

From: Eskridge, Anna (CONTR)

Sent: Monday, September 19, 2022 4:43 PM

To: Brown, Perri - NRCS, Owensboro, KY <Perri.Brown@usda.gov>

Subject: RE: DOE LPO-BlueOval SK project in Glendale, KY

Perri,

Thank you so much for the prompt response and information. In terms of next steps, do I need to complete Step 6 (which I completing Parts VI and VII of the form) and then return to you? Do you need any information beyond Step 6?

This is the first time I've gone through this process, so I just want to make sure I do it correctly.

Again, I appreciate all your help.

Best,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov

From: Brown, Perri - NRCS, Owensboro, KY <Perri.Brown@usda.gov>

Sent: Monday, September 19, 2022 3:50 PM

To: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>

Cc: Blanford, Steve - NRCS, Lexington, KY <steve.blanford@usda.gov>

Subject: [EXTERNAL] DOE LPO-BlueOval SK project in Glendale, KY

Ms. Eskridge,

The attached documents are in response to your request for the referenced project in Hardin County, Kentucky.

If I may be of additional assistance or if you have any further questions, please don't hesitate to contact me.

Thank you,

Perri P. Brown

Resource Soil Scientist

USDA-NRCS

Owensboro, KY

(270) 684-9286 Ext. 115

From: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>

Sent: Wednesday, September 14, 2022 10:29 AM

To: Blanford, Steve - NRCS, Lexington, KY <steve.blanford@usda.gov>

Cc: Harris, Kara <kara.harris@hq.doe.gov>

Subject: DOE LPO - BlueOval SK project in Glendale, KY

Dear Mr. Blanford,

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky (2 battery facilities) and Stanton, Tennessee (1 battery facility). The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Glendale, Kentucky facility would involve the construction of an approximately 6.06 million-square-foot facility and auxiliary structures, including two battery plants and build-up areas, multiple storage and waste storage areas, assembly areas, reliability test building, an administration building, lift station, parking lots, and utility lines (see attachments).

As part of DOE's intent to prepare an Environmental Assessment for the consideration of this loan, DOE is submitting the completed NRCS form and supplemental documents for the Kentucky location.

I would greatly appreciate a response, as well as any comments or concerns you may have, within ten (10) days of receipt of this email.

Respectfully,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov

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FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request 9/13/2022			
Name of Project Ford BlueOval SK Battery Park		Federal Agency Involved Department of Energy			
Proposed Land Use EV Battery Production Plant		County and State Hardin County, Kentucky			
PART II (To be completed by NRCS)		Date Request Received By NRCS 9/14/2022		Person Completing Form: Perri Brown	
Does the site contain Prime, Unique, Statewide or Local Important Farmland? <i>(If no, the FPPA does not apply - do not complete additional parts of this form)</i>		YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	Acres Irrigated	Average Farm Size
Major Crop(s) Corn	Farmable Land In Govt. Jurisdiction Acres: 76.13 % 305,475 ac.	Amount of Farmland As Defined in FPPA Acres: 64.30 % 258,015 ac.			
Name of Land Evaluation System Used	Name of State or Local Site Assessment System	Date Land Evaluation Returned by NRCS 9/19/2022			
PART III (To be completed by Federal Agency)		Alternative Site Rating			
		Site A	Site B	Site C	Site D
A. Total Acres To Be Converted Directly		320			
B. Total Acres To Be Converted Indirectly					
C. Total Acres In Site		320			
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland		260.22			
B. Total Acres Statewide Important or Local Important Farmland		50.91			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted		0.12			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value		51.20			
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)		86			
PART VI (To be completed by Federal Agency) Site Assessment Criteria <i>(Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)</i>		Maximum Points	Site A	Site B	Site C
1. Area In Non-urban Use		(15)	11		
2. Perimeter In Non-urban Use		(10)	7		
3. Percent Of Site Being Farmed		(20)	20		
4. Protection Provided By State and Local Government		(20)	0		
5. Distance From Urban Built-up Area		(15)	15		
6. Distance To Urban Support Services		(15)	10		
7. Size Of Present Farm Unit Compared To Average		(10)	0		
8. Creation Of Non-farmable Farmland		(10)	0		
9. Availability Of Farm Support Services		(5)	0		
10. On-Farm Investments		(20)	0		
11. Effects Of Conversion On Farm Support Services		(10)	0		
12. Compatibility With Existing Agricultural Use		(10)	5		
TOTAL SITE ASSESSMENT POINTS		160	68		
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100	86		
Total Site Assessment (From Part VI above or local site assessment)		160	68		
TOTAL POINTS (Total of above 2 lines)		260	154		
Site Selected: Hardin, KY		Date Of Selection 9/27/2021		Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
Reason For Selection: Limitations to selectable locations based on constraints by project proponent.					
Name of Federal agency representative completing this form: Kara Harris, DOE LPO					Date: 9/13/2022

STEPS IN THE PROCESSING THE FARMLAND AND CONVERSION IMPACT RATING FORM

- Step 1 - Federal agencies (or Federally funded projects) involved in proposed projects that may convert farmland, as defined in the Farmland Protection Policy Act (FPPA) to nonagricultural uses, will initially complete Parts I and III of the form. For Corridor type projects, the Federal agency shall use form NRCS-CPA-106 in place of form AD-1006. The Land Evaluation and Site Assessment (LESA) process may also be accessed by visiting the FPPA website, <http://fppa.nrcs.usda.gov/lesa/>.
- Step 2 - Originator (Federal Agency) will send one original copy of the form together with appropriate scaled maps indicating location(s) of project site(s), to the Natural Resources Conservation Service (NRCS) local Field Office or USDA Service Center and retain a copy for their files. (NRCS has offices in most counties in the U.S. The USDA Office Information Locator may be found at http://offices.usda.gov/scripts/ndISAPI.dll/oip_public/USA_map, or the offices can usually be found in the Phone Book under U.S. Government, Department of Agriculture. A list of field offices is available from the NRCS State Conservationist and State Office in each State.)
- Step 3 - NRCS will, within 10 working days after receipt of the completed form, make a determination as to whether the site(s) of the proposed project contains prime, unique, statewide or local important farmland. (When a site visit or land evaluation system design is needed, NRCS will respond within 30 working days.
- Step 4 - For sites where farmland covered by the FPPA will be converted by the proposed project, NRCS will complete Parts II, IV and V of the form.
- Step 5 - NRCS will return the original copy of the form to the Federal agency involved in the project, and retain a file copy for NRCS records.
- Step 6 - The Federal agency involved in the proposed project will complete Parts VI and VII of the form and return the form with the final selected site to the servicing NRCS office.
- Step 7 - The Federal agency providing financial or technical assistance to the proposed project will make a determination as to whether the proposed conversion is consistent with the FPPA.

INSTRUCTIONS FOR COMPLETING THE FARMLAND CONVERSION IMPACT RATING FORM

(For Federal Agency)

Part I: When completing the "County and State" questions, list all the local governments that are responsible for local land use controls where site(s) are to be evaluated.

Part III: When completing item B (Total Acres To Be Converted Indirectly), include the following:

1. Acres not being directly converted but that would no longer be capable of being farmed after the conversion, because the conversion would restrict access to them or other major change in the ability to use the land for agriculture.
2. Acres planned to receive services from an infrastructure project as indicated in the project justification (e.g. highways, utilities planned build out capacity) that will cause a direct conversion.

Part VI: Do not complete Part VI using the standard format if a State or Local site assessment is used. With local and NRCS assistance, use the local Land Evaluation and Site Assessment (LESA).

1. Assign the maximum points for each site assessment criterion as shown in § 658.5(b) of CFR. In cases of corridor-type project such as transportation, power line and flood control, criteria #5 and #6 will not apply and will, be weighted zero, however, criterion #8 will be weighed a maximum of 25 points and criterion #11 a maximum of 25 points.
2. Federal agencies may assign relative weights among the 12 site assessment criteria other than those shown on the FPPA rule after submitting individual agency FPPA policy for review and comment to NRCS. In all cases where other weights are assigned, relative adjustments must be made to maintain the maximum total points at 160. For project sites where the total points equal or exceed 160, consider alternative actions, as appropriate, that could reduce adverse impacts (e.g. Alternative Sites, Modifications or Mitigation).

Part VII: In computing the "Total Site Assessment Points" where a State or local site assessment is used and the total maximum number of points is other than 160, convert the site assessment points to a base of 160.

Example: if the Site Assessment maximum is 200 points, and the alternative Site "A" is rated 180 points:

$$\frac{\text{Total points assigned Site A}}{\text{Maximum points possible}} = \frac{180}{200} \times 160 = 144 \text{ points for Site A}$$

For assistance in completing this form or FPPA process, contact the local NRCS Field Office or USDA Service Center.

NRCS employees, consult the FPPA Manual and/or policy for additional instructions to complete the AD-1006 form.

Eskridge, Anna (CONTR)

From: Garland, Jennifer <jennifer_garland@fws.gov>
Sent: Monday, August 8, 2022 2:09 PM
To: Eskridge, Anna (CONTR)
Cc: Harris, Kara
Subject: Re: [EXTERNAL] FWS 2022-0016152; LRL-2021-443; Blue Oval SK Battery Park; Hardin County, Kentucky

Hi Anna

Provided there have been no changes to the project, consultation is considered complete. If you want to send us a link to the DOE NEPA documents that would be fine.

Thanks! Jennifer

From: Eskridge, Anna (CONTR) <anna.eskridge@hq.doe.gov>
Sent: Monday, August 8, 2022 12:48 PM
To: Garland, Jennifer <jennifer_garland@fws.gov>
Cc: Harris, Kara <kara.harris@hq.doe.gov>
Subject: [EXTERNAL] FWS 2022-0016152; LRL-2021-443; Blue Oval SK Battery Park; Hardin County, Kentucky

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hello Jennifer,

I wanted to touch base on this project (see attached as reference). We were a part of this consultation (the Corps was the lead). Sarah Atherton (Corps) was good about keeping us in the loop. Because there was considerable back-and-forth, I'm just confirming there's nothing else you need from us. It's my understanding this consultation is complete.

Would you like to receive the Department of Energy's draft FONSI/environmental assessment when it's ready? We're tentatively aiming for the end of September.

Thank you,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov



Department of Energy

Washington, DC 20585

August 17, 2022

Mrs. Louanna Aldridge
Staff Assistant
Office of the Commissioner
Department for Environmental Protection
Energy and Environment Cabinet
Commonwealth of Kentucky
300 Sower Blvd.
Frankfort, KY 40601

SUBJECT: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky.

Dear Mrs. Aldridge,

Under Section 136 of the Energy Independence and Security Act of 2007, which established the Advanced Technology Vehicles Manufacturing Loan (ATVM) program, the U.S. Department of Energy (DOE) is evaluating whether to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford. The decision to prepare an EA was made in accordance with the requirements of the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE's implementing procedures for compliance with NEPA (10 CFR Part 1021).

The purpose and need for DOE's action is to comply with our mandate under Section 136 of the Energy Independence and Security Act to select projects for financial assistance that are consistent with the goals of the Act. Pursuant to the Act, the ATVM program was established to provide loans to automobile and automobile parts manufacturers for the cost of re-equipping, expanding, or establishing manufacturing facilities in the United States to produce advanced technology vehicles or qualified components. DOE has determined that the construction of manufacturing facilities for the production of battery cells and arrays to be used as components for the propulsion of light duty, zero emission, all electric vehicles produced by Ford to is consistent with the goals of the Act and is using the NEPA process to assist in determining whether to issue a loan to BlueOval SK to support the proposed project.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky (see Attachments 1-4). The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within approximately 214 acres. It is anticipated to generate 2,500 new jobs by 2026 and scheduled to open in 2025. The BlueOval SK Battery Park in Kentucky will establish two battery parks occupying approximately 250 acres for each facility. It is anticipated to create 5,000 new jobs and scheduled to be operational by 2025. These three battery manufacturing plants are anticipated to deliver a total capacity of 129 GWh (43 GWh per plant). High performance Lithium Nickle Manganese Cobalt Oxide (NCM) batteries will be produced within these manufacturing sites.

The DOE NEPA regulations provide for the notification of host states of NEPA determinations and for the opportunity for host states to review an EA prior to DOE approval. This process is intended to improve coordination and to facilitate early and open communication. DOE will provide the draft EA to you for your review and comment.

If you or your staff would like to receive further information concerning this project or DOE's NEPA process for ATVM loans, please contact me in the DOE Loan Programs Office at (202) 586-8716, or email at lpo_environmental@hq.doe.gov.

Sincerely,

Kara J.
Harris

Digitally signed
by Kara J. Harris
Date: 2022.08.17
13:17:54 -04'00'

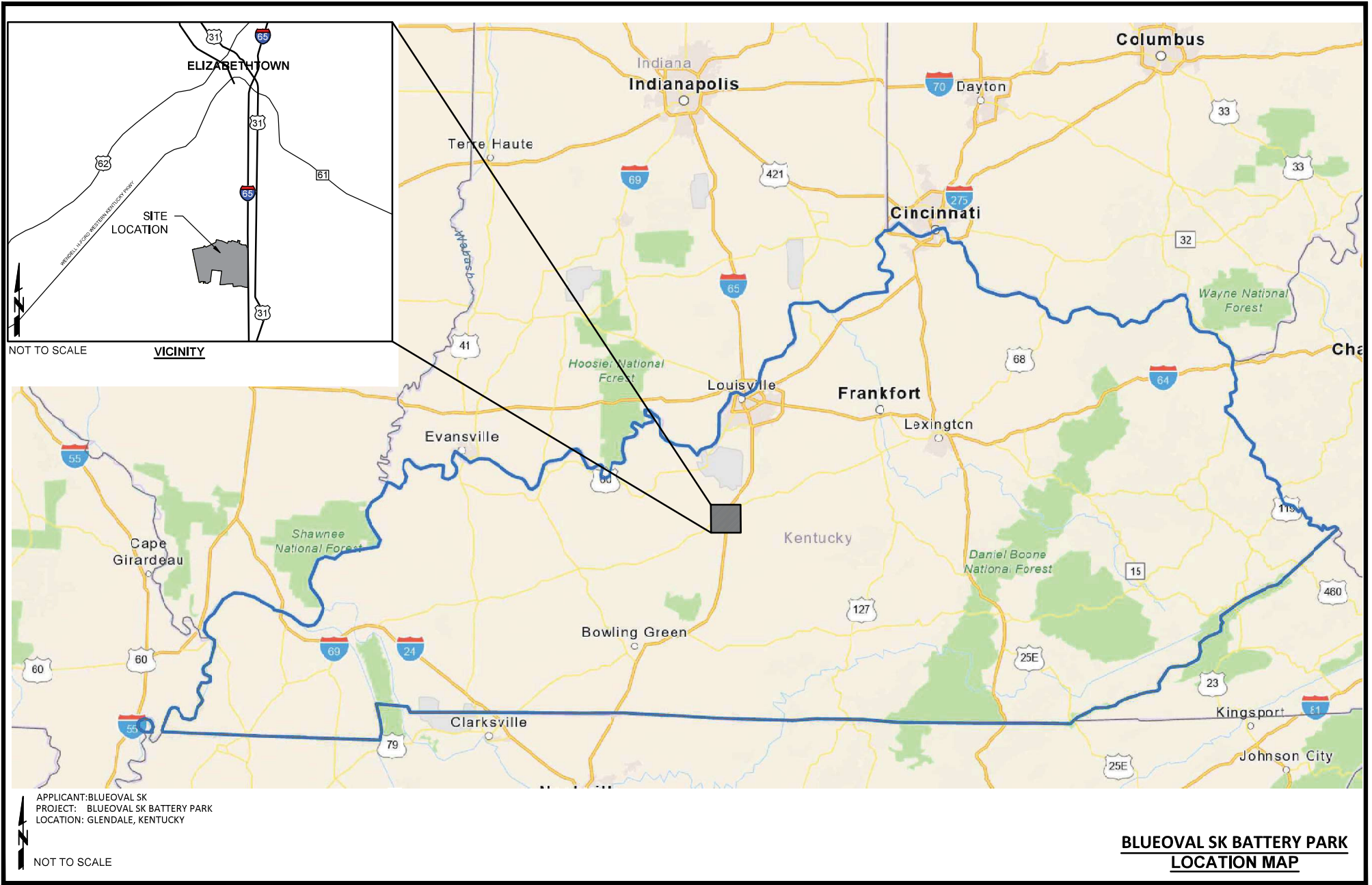
Kara Harris
NEPA Document Manager
Loan Programs Office

Attachments:

Attachments 1-2: Glendale, Kentucky Facility Site Plan and Location

Attachments 3-4: Stanton, Tennessee Facility Site Plan and Location

Attachment 1: Glendale, Kentucky Facility Location



ELIZABETHTOWN

SITE LOCATION

Indiana
Indianapolis

Columbus

Cincinnati

Louisville

Frankfort

Evansville

Lexington

Cape Girardeau

Shawnee National Forest

Kentucky

Daniel Boone National Forest

Bowling Green

Clarksville

Kingsport

Johnson City

APPLICANT: BLUEOVAL SK
PROJECT: BLUEOVAL SK BATTERY PARK
LOCATION: GLENDALE, KENTUCKY



**BLUEOVAL SK BATTERY PARK
LOCATION MAP**

NOT TO SCALE VICINITY

NOT TO SCALE

Attachment 2: Glendale, Kentucky Facility Site Plan

LEGEND

-  FACILITY BOUNDARY
-  FENCE

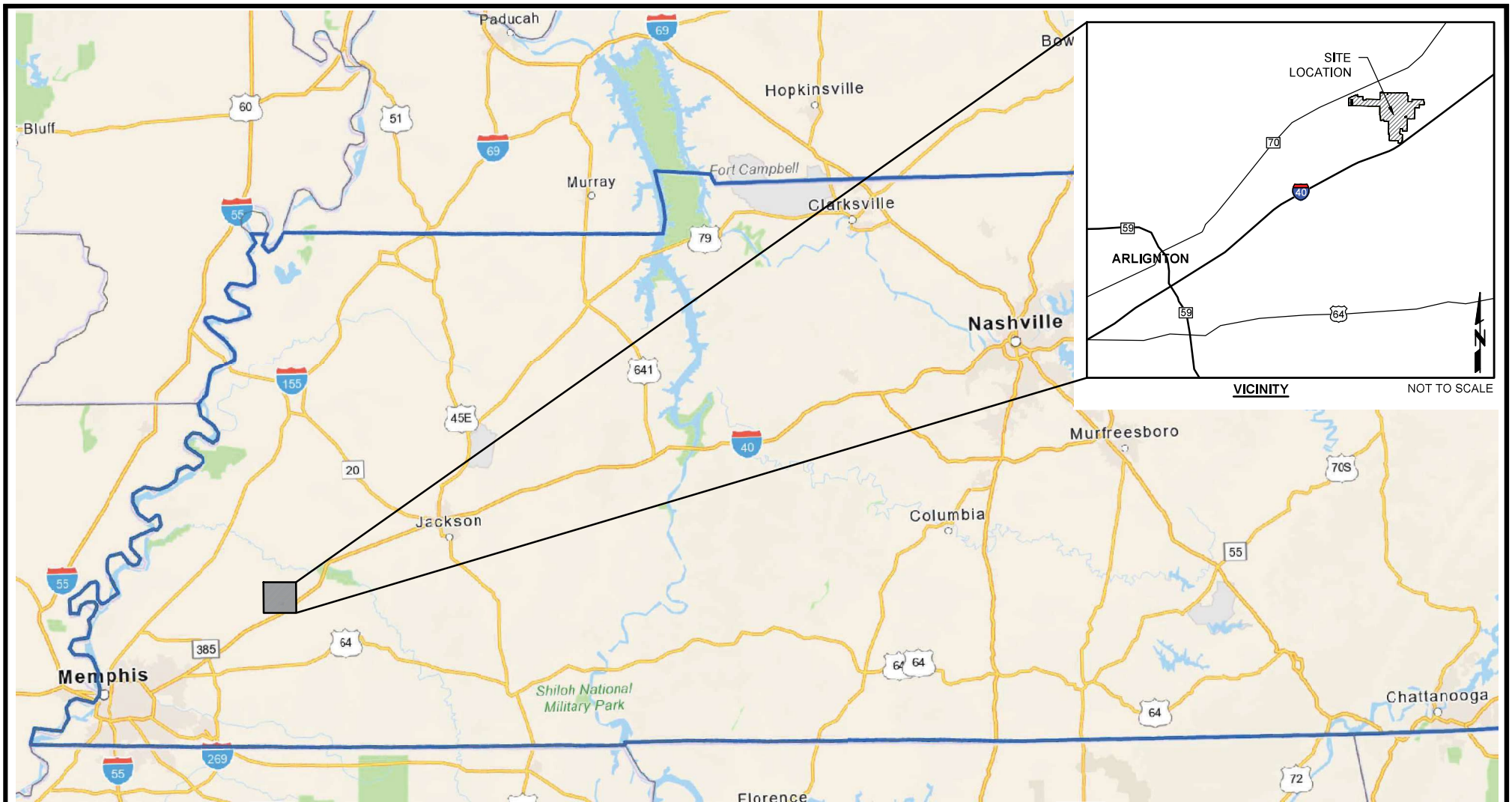


APPLICANT: BLUEOVAL SK
PROJECT: BLUEOVAL SK BATTERY PARK
LOCATION: GLENDALE, KENTUCKY



**BLUEOVAL SK BATTERY PARK
SITE MAP**

Attachment 3: Stanton, Tennessee Facility Location

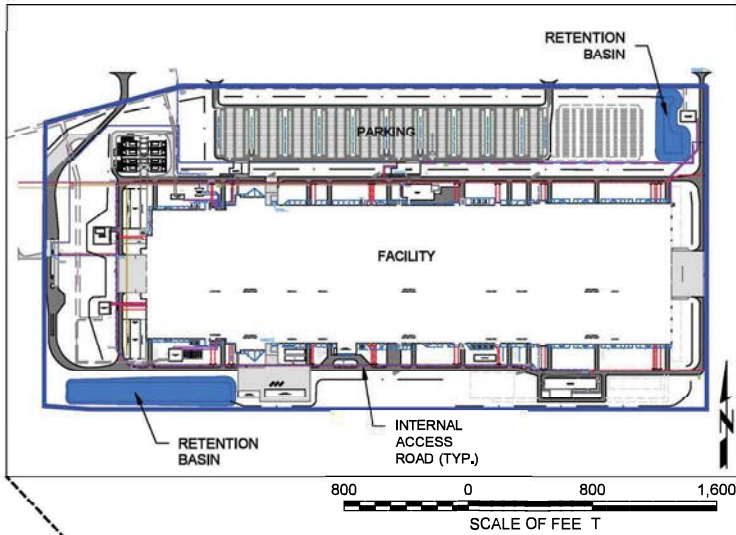


APPLICANT: BLUEVOAL SK
 PROJECT: BLUEVOAL SK BATTERY PLANT
 LOCATION: BLUEVOAL CITY - STANTON, TENNESSEE


 NOT TO SCALE

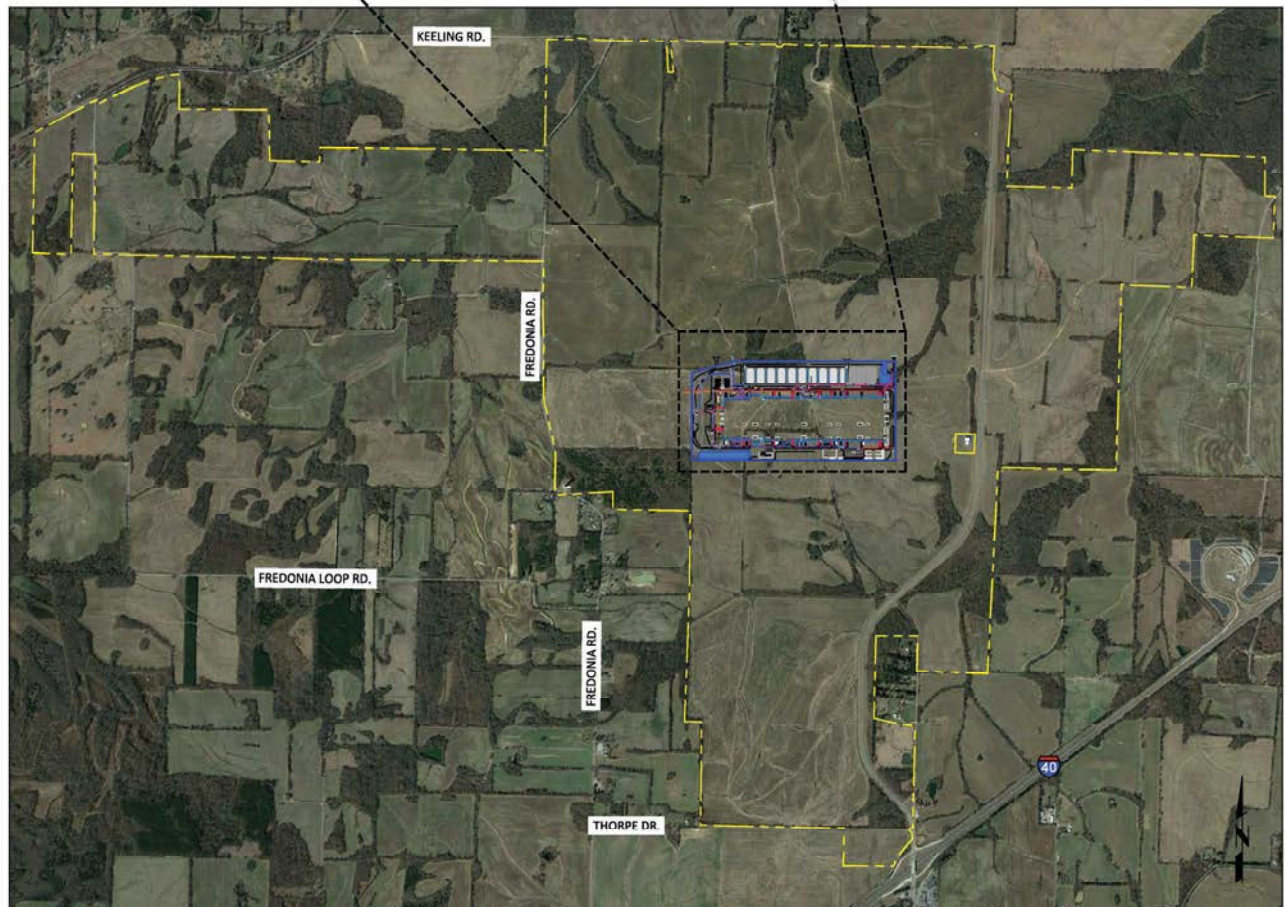
BLUEVOAL SK BATTERY PLANT
LOCATION MAP

Attachment 4: Stanton, Tennessee Facility Site Plan



LEGEND

- BLUEOVAL CITY PROPERTY BOUNDARY
- BLUEOVAL SK PLANT BOUNDARY



IMAGERY: GOOGLE EARTH, 09/05/2021

2,600 0 2,600 5,200
SCALE OF FEET

APPLICANT: BLUEOVAL SK
PROJECT: BLUEOVAL SK BATTERY PLANT
LOCATION: BLUEOVAL CITY - STANTON, TENNESSEE

**BLUEOVAL SK BATTERY PLANT
SITE MAP**



ANDY BESHEAR
GOVERNOR

REBECCA W. GOODMAN
SECRETARY

**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

ANTHONY R. HATTON
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601
TELEPHONE: 502-564-2150
TELEFAX: 502-564-4245

September 22, 2022

Department of Energy
NEPA Documents Manager
Loan Programs Office
Washington, DC 20585

RE: Blue Oval SK Project- (NEPA 2022-43)

Dear Sir or Madam,

The Energy and Environment Cabinet serves as the state clearinghouse for review of environmental documents generated pursuant to the National Environmental Policy Act (NEPA). Within the Cabinet, the Commissioner's Office in the Department for Environmental Protection (DEP) coordinates the review for Kentucky state agencies. We received your letter requesting an environmental review for this project. We have reviewed the document and provided comments below.

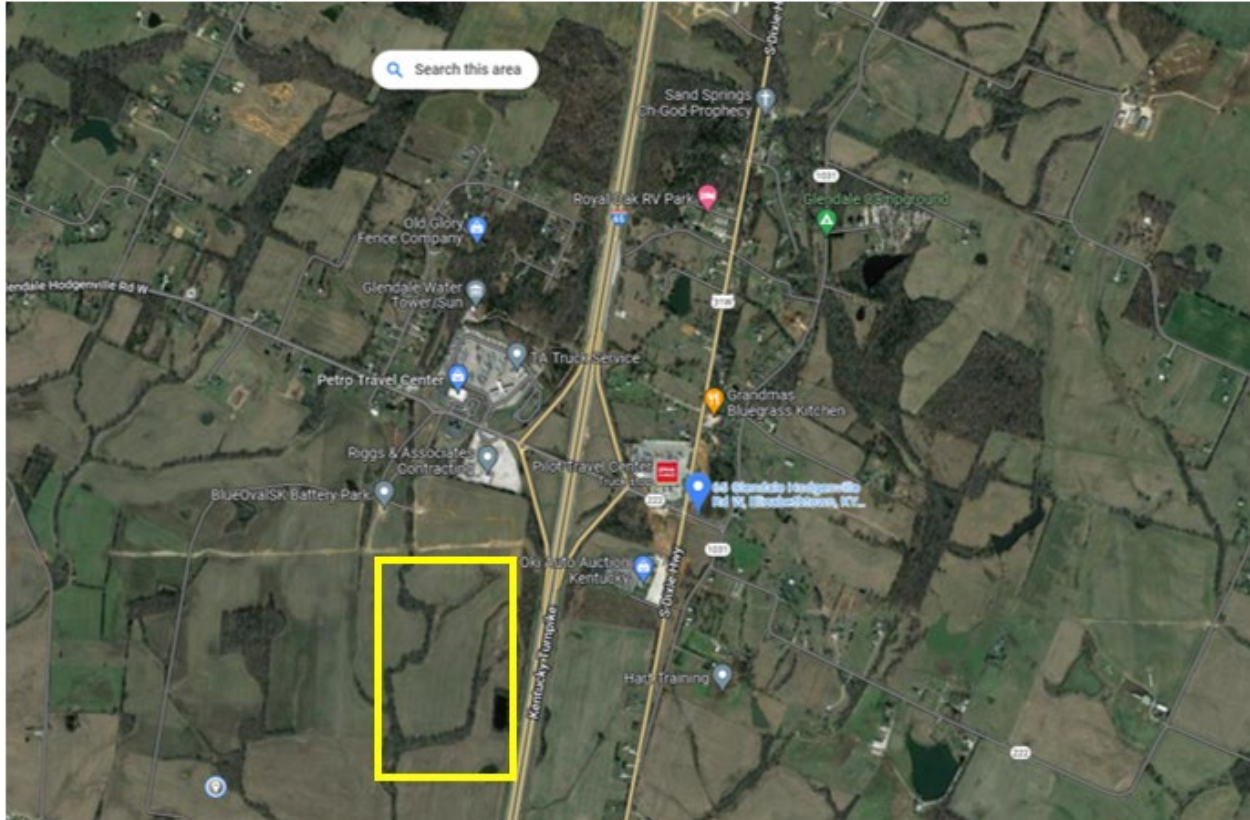
Division of Enforcement

The Division of Enforcement does not have an objection to the Department of Energy performing an environmental assessment for the construction of a battery manufacturing facility by BlueOval SK Manufacturing in Glendale, KY.

BACKGROUND

U.S. DOE proposes to conduct an environmental assessment for BlueOval SK Manufacturing to construct a battery manufacturing in Glendale, KY.

The proposed facility is to be located approximately 4.1 miles south of Elizabethtown southwest of the exit to Glendale-Hodgenville Road.



These are the approximate distances from the site to the nearby water bodies:

- 1.18 miles to the source of an unnamed tributary to the Nolin River (SW)
- 1.39 miles to the source of an unnamed tributary to the Nolin River (S/SW)
- 1.01 miles to the source of an unnamed tributary to the Nolin River (SE)
- 1.32 miles to the source of Rose Run (NW)
- 2.34 miles to East Rhudes Creek (N)
- 2.16 miles to the Nolin River (S/SW)
- 3.07 miles to Valley Creek (W/SW)

These are the approximate distances from nearby communities and schools:

- 1.55 miles from the town of Glendale (W/NW)
- 4.15 miles from the town of Sonora (S/SW)
- 7.14 miles from Hodgenville (E/SE)
- 5.57 miles from East Harding Middle School (N/NE)
- 5.91 miles from Cecilia Valley Elementary School (N/NW)

The site appears to be undeveloped farmland. The nearest activity appears to be the businesses around the exit: fuel stations, restaurants, and a few other business operations.

DEP's main concerns are the environmental impacts surrounding construction of the factories and the discharges and emissions associated with a battery manufacturing operation, especially discharging or emitting metals in areas where people live and where there are human populations

of concern (i.e. schools, nursing homes, etc.). These concerns need to be addressed in the environmental assessment and in the design and permitting of the facilities.

The Division of Enforcement does not have any known compliance and enforcement history with Blue Oval Manufacturing. DEP issued a stormwater construction permit to Blue Oval (KYR10Q116) and ECHO shows the site in compliance with the permit. The permit is associated in TEMPO with AI #170550 (Ford Motor Company – Glendale Plant). There are not any compliance or enforcement activities in TEMPO.

Division of Water

Water Quality Branch

Comment: No comment.s

Questions should be directed to Andrea Fredenburg, (502) 782-6950, Andrea.Fredenburg@ky.gov.

Field Operations Branch

Comment: 1) The site is >1acre disturbance, therefore, developers would need to submit a Notice of Intent (NOI) for a KPDES General Stormwater Construction Activities and receive approval from DOW before implementing construction.

2) Construction plans would need to include development of a SWPPP (Stormwater Pollution Prevention Plan) applicable to the site and install/maintain proper Best Management Practices (BMPs) within the project area and throughout the duration of project to ensure protection of surface waters.

3) For the stream crossing sections: Floodplain construction approval will need to be determined through DOW's Water Resources Branch.

4) For the stream crossing locations: Developers to obtain a 404 Water Quality Certification approval through the USACE.

Questions should be directed to Constance Coy, (502) 782-6587, Constance.Coy@ky.gov.

Watershed Management Branch

Water Supply Section:

Comment: This proposed project is within the Hardin County Water District #2 designated Source Water Protection Areas, Zone # Zone 3 (Zone of Potential Impact/2.5 hour to 12.5 hour Time of Travel).

Source Water Protection should include best management practices or BMP's that prevent, reduce, or eliminate storm water runoff, soil erosion, and movement of nutrients, bacteria, and contaminants into unprotected waterways that may pose threats to public drinking water supplies. It should also include contingency planning strategies if protective measures fail or accidents and/or disasters occur and emergency response planning for water supply contamination or service interruption. Examples can be referenced here:

<https://www.epa.gov/sourcewaterprotection/source-water-protection-practices> or

<https://eec.ky.gov/Environmental-Protection/Water/Protection/Pages/SWP.aspx>

Questions should be directed to Chip Zimmer at (502) 782-7141, Edward.Zimmer@ky.gov.

Groundwater Section:

Comment: The proposed work is endorsed by the Groundwater Section of the Watershed Management Branch. However, the proposed work is located in an area with a high potential for karst development where groundwater is susceptible to direct contamination from surface activities. It is our recommendation that proposed work be made aware of the requirements of 401 KAR 5:037 and the need to develop a Groundwater Protection Plan (GPP) for the protection of groundwater resources within that area.

Questions should be directed to Kurtis Spears at (502) 782-7119, Kurtis.Spears@ky.gov or Adam Nolte at (502) 782-1312, Adam.Nolte@ky.gov.

Water Resources Branch

Floodplain Management Section:

Comment: The Glendale site has applied for and received approval for a 401 Water Quality certification of the USACE 404 permit. Stream construction / floodplain permitting was not required for this site.

Questions should be directed to Shawn Hokanson at (502) 782-6977, Shawn.Hokanson@ky.gov.

Water Quality Certification Section:

Comment: If the activity requires a federal permit due to activities in or near Waters of the U.S., a Clean Water Act Section 401 Water Quality Certification from the DOW may be required for this project.

Questions should be directed to the Water Quality Certification Section, (502) 564-3410, 401WQC@ky.gov.

Surface Water Permits Branch

Permit Support Section:

Comment: If the construction area disturbed is equal to or greater than 1 acre, the applicant will need to apply for a Kentucky Pollutant Discharge Elimination System (KPDES) stormwater discharge permit.

Questions should be directed to the Permit Support Section, (502) 564-3410, SWPBsupport@ky.gov.

If Drinking Water Systems:

Drinking Water Branch

Comment: No comments.

Questions should be directed to Kevin Stewart, (502) 782-7081, Kevin.Stewart@ky.gov

Water Infrastructure Branch

Engineering Section:

Comment: If waterlines are to be constructed to serve the proposed facility, plans and specifications that have been signed, stamped and dated by a licensed professional engineer in Kentucky shall be submitted to the Division of Water for review and approval.

Questions should be directed to Terry Humphries, Engineering Section, at (502) 782-6983, Terry.Humphries@ky.gov.

Municipal Planning Section:

Comment: Their GPD and GPM last survey was under 70%. No issues.

Questions should be directed to Jason Lambert, (502) 782-7001, Jason.Lambert@ky.gov.

The Kentucky Division of Water supports the goals of EPA's Sustainable Infrastructure Initiative. This Initiative seeks to promote sustainable practices that will help to reduce the potential gap between funding needs and spending at the local and national level. The Sustainable Infrastructure Initiative will guide our efforts in changing how Kentucky views, values, manages, and invests in its water infrastructure. This website, www.epa.gov/waterinfrastructure/, contains information that will help you ensure your facility and operations are consistent with and can benefit from the aims of the Sustainable Infrastructure Initiative.

If Wastewater Systems:

Water Infrastructure Branch

Engineering Section:

Comment: No comments.

Questions should be directed to Michael Snyder at (502) 782-1235, Michael.Snyder@ky.gov.

Municipal Planning Section:

Comment: According to 401 KAR 5:006, "Wastewater Planning Requirements for Regional Planning Agencies", if the additional flow resulting from this project requires either: construction of a new wastewater treatment facility, or an increase in wastewater treatment facility capacity by more than 30%, or an increase in population served by more than 30%, then a new wastewater regional facility plan will need to be submitted to the Cabinet for approval. If none of these criteria are being met, then an updated asset inventory report of the current wastewater facility will need to be submitted to the Cabinet for approval, if one has not already been submitted within 10 years of the last Cabinet-approved wastewater regional facility plan. Questions should be directed to Russell Neal at (502) 782-7026, Russell.Neal@ky.gov

Division of Waste Management

UST Branch records indicate the following underground storage tank site issues identified within the project impact area:

Active Site:

Glendale Stopping Center
MASTER AI ID: 1684
LONGITUDE: -85.873056
LATITUDE: 37.598056

Glendale Shell Station
MASTER AI ID: 61433
LONGITUDE: -85.87182
LATITUDE: 37.597444

Closed Sites:

Glendale Economy Inn
MASTER AI ID: 1667
LONGITUDE: -85.873521
LATITUDE: 37.597496

Quality Diesel Service Inc
MASTER AI ID: 163525
LONGITUDE: -85.872249
LATITUDE: 37.595707

If any UST's are encountered during the project construction they should be reported to KDWM. Any UST issues or questions should be directed to the UST Branch.

Superfund Branch records indicate the following superfund site issues identified within the project impact area:

Glendale Shell Station

MASTER AI ID: 61433
SUBJECT ITEM DESIGNATION: 42015
CLOSURE OPTION DESC: Unfounded
CLOSURE DATE: 10/01/1996
LAT LONG SOURCE: SI
LONGITUDE: -85.871827
LATITUDE: 37.597445

I-65 - Hardin Co

MASTER AI ID: 52552
SUBJECT ITEM DESIGNATION: Transportation Accident
CLOSURE OPTION DESC: Option C Restored
CLOSURE DATE: 11/20/1995
LAT LONG SOURCE: SI
LONGITUDE: -85.868421
LATITUDE: 37.593632

Glendale Economy Inn

MASTER AI ID: 1667
SUBJECT ITEM DESIGNATION: Closure
CLOSURE OPTION DESC: Option C Restored
CLOSURE DATE: 04/04/2011
LAT LONG SOURCE: SI
LONGITUDE: -85.87235
LATITUDE: 37.596732

Any superfund issues or questions should be directed to the Superfund Branch.

Solid Waste Branch records indicate no active or historic landfill sites within the project impact area. Any solid waste issues or questions should be directed to the Solid Waste Branch.

Hazardous Waste Branch records indicate no hazardous waste issues identified within the project impact area. Any hazardous waste issues or questions should be directed to the Hazardous Waste Branch.

RLA Branch records indicate no RLA tracked open dumps within the project impact area. Any questions or issues should be directed to the RLA Branch.

All solid waste generated by this project must be disposed of at a permitted facility.

If asbestos, lead paint and/or other contaminants are encountered during this project contact the Division of Waste Management for proper disposal and closure.

The information provided is based on those facilities or sites that KDWM currently has in its database. If you would like additional information on any of these facilities or sites, you may contact the file room custodian at (502) 782-6357. Please keep in mind additional locations of releases, potential contamination or waste facilities may be present but unknown to the agency. Therefore, it is recommended that appropriate precautions be taken during construction activities. Please report any evidence of illegal waste disposal facilities and releases of hazardous substances, pollutants, contaminants or petroleum to the 24-hour Environmental Response Team at 1-800-928-2380.

Division for Air Quality

As this project is presented, the owner or operator of this company should comply with any applicable Division for Air Quality permitting requirements contained in 401 KAR Chapter 52 Permits, Registrations, and Prohibitory Rules located at <https://legislature.ky.gov/Pages/index.aspx> and <https://eec.ky.gov/Environmental-Protection/Air/Pages/Air-Permitting.aspx>. For permitting information, please contact the Division for Air Quality Permit Review Branch Manager, at (502) 782-6997.

401 KAR 63:010, Fugitive Emissions, states that no person shall cause, suffer, or allow any material to be handled, processed, transported, or stored without taking reasonable precaution to prevent particulate matter from becoming airborne. Additional requirements include the covering of open bodied trucks, operating outside the work area transporting materials likely to become airborne, and that no one shall allow earth or other material being transported by truck or earth-moving equipment to be deposited onto a paved street or roadway. Please note the Fugitive Emissions Fact Sheet located at <https://eec.ky.gov/Environmental-Protection/Air/Documents/Fugitive%20Dust%20Fact%20Sheet.pdf>

401 KAR 63:005 states that open burning shall be prohibited except as specifically provided. Open Burning is defined as the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney. However, open burning may be utilized for the expressed purposes listed on the Open Burning Brochure located at <https://eec.ky.gov/Environmental-Protection/Air/Pages/Open-Burning.aspx>

The Division would like to offer the following suggestions on how this project can help us stay in compliance with the National Ambient Air Quality Standards (NAAQS). These air quality control strategies are beneficial to the health of citizens of Kentucky.

- Utilize alternatively fueled equipment.
- Utilize other emission controls that are applicable to your equipment.
- Reduce idling time on equipment.

The Division also suggests an investigation into compliance with applicable local government regulations.

Kentucky Nature Preserves

Your project might have the potential of impacting federally or state listed species and natural communities. Go to the Kentucky Biological Assessment Tool (kynaturepreserves.org) to obtain a Standard Occurrence Report for information regarding listed species known within your project area. The report will also provide information on public and private conservation lands, areas of biodiversity significance, and other natural resources in your project area for which the Office of Kentucky Nature Preserves maintains data.

This review is based upon the information that was provided by the applicant. An endorsement of this project does not satisfy, or imply, the acceptance or issuance of any permits, certifications or approvals that may be required from this agency under Kentucky Revised Statutes or Kentucky Administrative Regulations. Such endorsement means this agency has found no major concerns from the review of the proposed project as presented other than those stated as conditions or comments. If you should have any questions, please contact me at (502) 782-0863 or e-mail Louanna.Aldridge@ky.gov.

Sincerely,



Louanna Aldridge
Staff Assistant
Office of the Commissioner
Department for Environmental Protection
Energy and Environment Cabinet



Department of Energy

Washington, DC 20585

December 15, 2022

Mrs. Louanna Aldridge
Staff Assistant
Office of the Commissioner
Department for Environmental Protection
Energy and Environment Cabinet
Commonwealth of Kentucky 3
00 Sower Blvd.
Frankfort, KY 40601

SUBJECT: U.S. Department of Energy, Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky

Dear Mrs. Aldridge,

The U.S. Department of Energy (DOE), Loan Programs Office (LPO) prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to consider the environmental impacts of its decision whether or not to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford Motor Company. The decision to prepare an EA was made in accordance with the requirements of NEPA, the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE's implementing procedures for compliance with NEPA (10 CFR Part 1021).

LPO provides loans and loan guarantees under three programs – the Innovative Energy Loan Guarantee Program (Title 17), the Advanced Technology Vehicles Manufacturing (ATVM) loan program, and the Tribal Energy Loan Guarantee Program. The primary goal of the ATVM program is to finance projects and facilities located in the United States that manufacture eligible light-duty vehicles and qualifying components.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky. The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within a 263-acre Project site. The BlueOval SK Battery Park in Kentucky will establish two battery plants that are within a 952-acre Project site. These three battery manufacturing plants are anticipated to deliver a total capacity of 127 GWh. High performance Lithium nickel,

manganese, and cobalt (NMC) batteries will be produced within these manufacturing sites.

As an interested party and in accordance with DOE NEPA regulations, the EA with the draft Finding of No Significant Impact (FONSI) is included in the following link:

<https://www.energy.gov/lpo/environmental-assessment-and-draft-fonsi-blueoval-sk-battery-plant-stanton-tn-blueoval-sk>.

The EA covers the topics discussed in your September 22, 2022 letter. The Kentucky site's water resources are covered in Section 3.3.1 on page 35 and in Appendix B, air quality in Section 3.3.2 on page 36, waste management in Section 3.3.8 on page 42, biological resources in Appendix B, and environmental permits and authorizations in Appendix D.

Please review and provide any comment you may have via email or mail **by Monday, January 30, 2023 (comments must be received by this date):**

Email:

Please include "BlueOval SK EA" in the subject line

LPO_Environmental@hq.doe.gov

Mail:

BlueOval SK Environmental Assessment
Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Sincerely,

Kara J. Harris

Digitally signed by Kara J.
Harris
Date: 2022.12.15 14:36:37
-05'00'

Kara Harris
NEPA Document Manager
Loan Programs Office

Eskridge, Anna (CONTR)

From: Aldridge, Louanna C (EEC) <Louanna.Aldridge@ky.gov>
Sent: Tuesday, January 31, 2023 3:22 PM
To: LPO_Environmental
Subject: [EXTERNAL] RE: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky
Attachments: DEP Response 2022-43.pdf

Ms. Eskridge,

Upon further review of the information received December 2022 related to this project, DEP has no additional comments. The original comments for the project are attached. Sorry for any confusion.

Louanna C. Aldridge



From: Aldridge, Louanna C (EEC)
Sent: Tuesday, January 31, 2023 10:06 AM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: RE: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky

Ms. Eskridge, I apologize, but we have had such an increase in the number of environmental reviews lately that we are running a little behind. I will send Kentucky comments as soon as they are complete.

Louanna C. Aldridge



From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Monday, January 30, 2023 9:04 AM
To: Aldridge, Louanna C (EEC) <Louanna.Aldridge@ky.gov>
Subject: RE: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky

Good morning! I just wanted to touch base with a reminder that comments on this environmental assessment are due by today - Monday, January 30, 2023.

Thanks so much,

Anna Eskridge, Ph.D.

Environmental Compliance (Contractor)

Loan Programs Office (LPO)

U.S. Department of Energy

From: Aldridge, Louanna C (EEC) <Louanna.Aldridge@ky.gov>

Sent: Thursday, December 22, 2022 12:49 PM

To: LPO_Environmental <lpo_environmental@hq.doe.gov>

Subject: [EXTERNAL] RE: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky

Received, thank you.

Louanna C. Aldridge



From: LPO_Environmental <lpo_environmental@hq.doe.gov>

Sent: Tuesday, December 20, 2022 11:11 AM

To: Aldridge, Louanna C (EEC) <Louanna.Aldridge@ky.gov>

Subject: RE: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky

****CAUTION** PDF attachments may contain links to malicious sites. Please contact the COT Service Desk ServiceCorrespondence@ky.gov for any assistance.**

Mrs. Aldridge,

We wanted to make sure you received the attached letter and email below. Please confirm receipt when you get a chance.

Thanks,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov

From: LPO_Environmental <lpo_environmental@hq.doe.gov>

Sent: Thursday, December 15, 2022 2:55 PM

To: louanna.aldrige@ky.gov

Cc: rgames@eifky.org; hberry@hcky.org; Jeff.Gregory@elizabethtownky.gov; mbell@glendalecc.org; Sarah.E.Atherton@usace.army.mil; jennifer_garland@fws.gov; nicole.konkol@ky.gov; khc.section106@ky.gov; bradley.bottoms@ky.gov; joseph.ferguson@ky.gov; steve.blanford@usda.gov; Perri.Brown@usda.gov

Subject: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky

Dear Mrs. Aldridge,

The U.S. Department of Energy (DOE), Loan Programs Office (LPO) prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to consider the environmental impacts of its decision whether or not to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford Motor Company. The decision to prepare an EA was made in accordance with the requirements of NEPA, the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE's implementing procedures for compliance with NEPA (10 CFR Part 1021).

LPO provides loans and loan guarantees under three programs – the Innovative Energy Loan Guarantee Program (Title 17), the Advanced Technology Vehicles Manufacturing (ATVM) loan program, and the Tribal Energy Loan Guarantee Program. The primary goal of the ATVM program is to finance projects and facilities located in the United States that manufacture eligible light-duty vehicles and qualifying components.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky. The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within a 263-acre Project site. The BlueOval SK Battery Park in Kentucky will establish two battery plants that are within a 952-acre Project site. These three battery manufacturing plants are anticipated to deliver a total capacity of 127 GWh. High performance Lithium nickel, manganese, and cobalt (NMC) batteries will be produced within these manufacturing sites.

As an interested party and in accordance with DOE NEPA regulations, the EA with the draft Finding of No Significant Impact (FONSI) is included in the following link: <https://www.energy.gov/lpo/environmental-assessment-and-draft-fonsi-blueoval-sk-battery-plant-stanton-tn-blueoval-sk>

The EA covers the topics discussed in your September 22, 2022 letter. The Kentucky site's water resources are covered in Section 3.3.1 on page 35 and in Appendix B, air quality in Section 3.3.2 on page 36, waste management in Section 3.3.8 on page 42, biological resources in Appendix B, and environmental permits and authorizations in Appendix D.

Please review and provide any comment you may have via email or mail **by Monday, January 30, 2023 (comments must be received by this date):**

Email:

Please include "BlueOval SK EA" in the subject line

LPO_Environmental@hq.doe.gov

Mail:

BlueOval SK Environmental Assessment
Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Best,

Kara Harris
NEPA Document Manager
Loan Programs Office

This message does not originate from a known Department of Energy email system.
Use caution if this message contains attachments, links or requests for information.

This message does not originate from a known Department of Energy email system.
Use caution if this message contains attachments, links or requests for information.

Eskridge, Anna (CONTR)

From: Lambert, Jason (EEC) <Jason.Lambert2@ky.gov>
Sent: Wednesday, January 4, 2023 9:32 AM
To: LPO_Environmental
Subject: [EXTERNAL] RE: BlueOval SK EA

Dr. Eskridge,

That's exactly what I needed.

Thanks,

Jason

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Wednesday, January 4, 2023 9:00 AM
To: Lambert, Jason (EEC) <Jason.Lambert2@ky.gov>
Subject: RE: BlueOval SK EA

Mr. Lambert,

Water will be provided by Hardin County Water District #2.

Please let me know if you have any further questions.

Best,

Anna Eskridge, Ph.D.
Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy

From: Lambert, Jason (EEC) <Jason.Lambert2@ky.gov>
Sent: Tuesday, January 3, 2023 1:28 PM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: [EXTERNAL] BlueOval SK EA

Ms. Harris,

What water system(s) will be providing water for the two Glendale, KY plants?

Thanks,

Jason Lambert

KY Division of Water
Water Infrastructure Branch

Appendix C – Tribal Coordination

Stanton, Tennessee – BlueOval City Battery Plant

(also see Section 3.2.2)

Organization	Initiation Letter Response Summary* (August – October 2022)	EA and draft FONSI Response Summary** (December 15, 2022 - January 30, 2023 comment period)
Absentee Shawnee Tribe of Oklahoma		
Alabama-Quassarte Tribal Town		
Cherokee Nation	September 15, 2022: Haywood County, TN, is outside the Cherokee Nation’s Area of Interest.	
Chickasaw Nation	September 12, 2022: Stated they were in support of the proposed undertaking and presently unaware of any specific historic properties, including those of traditional religious and cultural significance, in the Project area. In the event the agency becomes aware of the need to enforce other statutes, they request to be notified.	No further comments received. <i>DOE response:</i> Contact information has been added to the Cultural Resources Unanticipated Discovery Plan in the event items of cultural significance are discovered during the course of this project
Coushatta Tribe of Louisiana		
Eastern Band of Cherokee Indians	Sent questions about the project, which were answered on August 18, 2022 via email.	
Eastern Shawnee Tribe of Oklahoma	October 4, 2022 letter: They found their people occupied these areas historically and/or prehistorically. They acknowledged the “no adverse effect” for this Project and instructed to continue the Project as planned. However, should this Project inadvertently discover an archeological site or object(s), they requested to be contacted and that all ground disturbing activity stop until the Tribe and State agencies are consulted.	January 11, 2023: Similar letter as the October 4, 2022 letter <i>DOE response:</i> Contact information has been added to the Cultural Resources Unanticipated Discovery Plan in the event items of cultural significance are discovered during the course of this project

Jena Band of Choctaw Indians		
Kialegee Tribal Town		
Kickapoo Tribe of Oklahoma		
Muscogee (Creek) Nation		
Poarch Band of Creek Indians		
Ponca Tribe of Indians of Oklahoma		
Quapaw Tribe of Indians		December 30, 2022: Requested to be taken off correspondence regarding this project
Sac and Fox Nation, Oklahoma		
Shawnee Tribe		
The Seminole Nation of Oklahoma		
Thlopthlocco Tribal Town		
Tunica-Biloxi Tribe of Louisiana		
United Keetoowah Band of Cherokee Indians in Oklahoma		

*An individual letter was submitted to each Tribe via email. To reduce the file size and the overall number of pages, one letter is included as an example, and all responses are included. If a Tribe did not reply to initiation letter email, a follow-up call was made September 2nd, 6th, or 7th as follow up.

**The EA and draft FONSI was submitted to each Tribe via email on December 15, 2022 and a follow-up email was sent on January 30, 2023.

NOTE: The Osage Nation was not identified as having a possible interest in the TN site based on the U.S. Department of Housing and Urban Development (HUD) Tribal Directory Assessment Tool (TDAT) database (<https://egis.hud.gov/TDAT/>) and the USACE mailing list (provided by USACE on August 12, 2022). However, in their January 31, 2023 email and letter, they requested cultural surveys for both the TN and KY sites, which were provided in February 2023 by the Memphis District of the U.S. Army Corps of Engineers for the TN site and by DOE LPO for the KY site. See DOE response letter from February 14, 2023 attached. Also see more information in the KY Tribal Coordination.



Department of Energy

Washington, DC 20585

December 15, 2022

SUBJECT: U.S. Department of Energy, Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky

Dear Interested Party,

The U.S. Department of Energy (DOE), Loan Programs Office (LPO) prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to consider the environmental impacts of its decision whether or not to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford Motor Company. The decision to prepare an EA was made in accordance with the requirements of NEPA, the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE's implementing procedures for compliance with NEPA (10 CFR Part 1021).

LPO provides loans and loan guarantees under three programs – the Innovative Energy Loan Guarantee Program (Title 17), the Advanced Technology Vehicles Manufacturing (ATVM) loan program, and the Tribal Energy Loan Guarantee Program. The primary goal of the ATVM program is to finance projects and facilities located in the United States that manufacture eligible light-duty vehicles and qualifying components.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky. The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within a 263-acre Project site. The BlueOval SK Battery Park in Kentucky will establish two battery plants that are within a 952-acre Project site. These three battery manufacturing plants are anticipated to deliver a total capacity of 127 GWh. High performance Lithium nickel, manganese, and cobalt (NMC) batteries will be produced within these manufacturing sites.

As an interested party and in accordance with DOE NEPA regulations, the EA with the draft Finding of No Significant Impact (FONSI) is included in the following link:

<https://www.energy.gov/lpo/environmental-assessment-and-draft-fonsi-blueoval-sk-battery-plant-stanton-tn-blueoval-sk>.

Please review and provide any comment you may have via email or mail **by Monday, January 30, 2023 (comments must be received by this date):**

Email:

Please include “BlueOval SK EA” in the subject line
LPO_Environmental@hq.doe.gov

Mail:

BlueOval SK Environmental Assessment
Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Sincerely,

Kara J. Harris

Digitally signed by Kara
J. Harris
Date: 2022.12.15
14:34:48 -05'00'

Kara Harris
NEPA Document Manager
Loan Programs Office



Department of Energy

Washington, DC 20585

August 18, 2022

Chief Yargee
Alabama-Quassarte Tribal Town
101 E. Broadway
Wetumka, OK 74883

SUBJECT: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky.

Dear Chief Yargee:

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Stanton, Tennessee facility would involve the construction of an approximately 3.01 million-square-foot facility and auxiliary structures (Attachments 1-2). The Stanton facility would include a battery plant and build-up area, storage facilities, waste storage areas and associated employee parking lots, material receiving areas, stormwater detention areas and utilities. The Stanton battery plant is a subcomponent of the larger layout of BlueOval City, an electric vehicle production and assembly facility that would include vehicle parts manufacturing, vehicle assembly, painting, and shipping by rail and truck. Based on preliminary estimates, approximately 2,500 new jobs would be created at the Stanton facility.

The undertaking in Stanton, Tennessee was previously reviewed and permitted by the United States Army Corps of Engineers (USACE) in a Statement of Findings and EA for a Standard Individual Permit. USACE determined the undertaking was subject to Section 106 of the National Historic Preservation Act (NHPA). As part of the EA process, USACE conducted a historic resource review in compliance with Section 106 of the NHPA.

As part of DOE's intent to prepare an Environmental Assessment for the consideration of this loan, **DOE is concurring with the previous Section 106 findings of "no adverse effect" for this project under the USACE review.** The area of potential effect and the

undertaking are the same, but DOE is focused on the financing of the battery manufacturing at the site.

Although the Section 106 consultation was completed by USACE, we want to give you the opportunity to comment and engage DOE in government-to-government consultation as well as to raise any issues or concerns you may have regarding the project site. Any comments or concerns you provide will help ensure that DOE considers Tribal interests and complies with its NEPA responsibilities.

I would greatly appreciate notification if you do or do not have an interest in the project site, as well as any comments or concerns you may have, within thirty (30) days of receipt of this letter. Should you have an interest in the project site, I will provide you with additional information, pursuant to NEPA, as it becomes available. Please provide your notification of interest and any comments or concerns by phone at (202) 586-8716 or email at lpo_environmental@hq.doe.gov.

Respectfully,

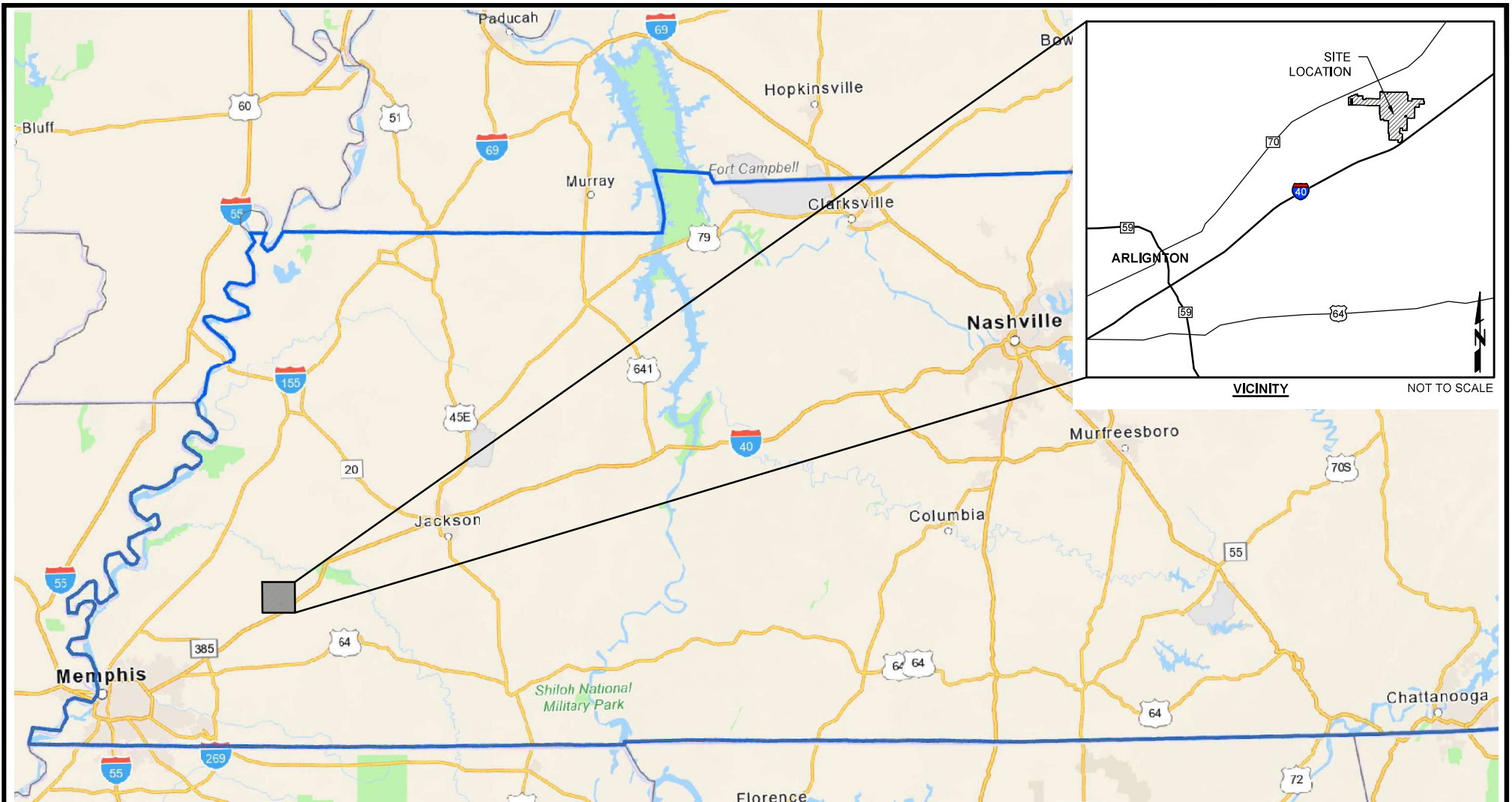
Kara J. Harris Digitally signed by Kara J. Harris
Date: 2022.08.18 09:56:21 -04'00'

Kara Harris
NEPA Document Manager
Loan Programs Office

Attachments:

Attachment 1: Stanton, Tennessee Facility Location
Attachment 2: Stanton, Tennessee Facility Site Plan

Attachment 1: Stanton, Tennessee Facility Location

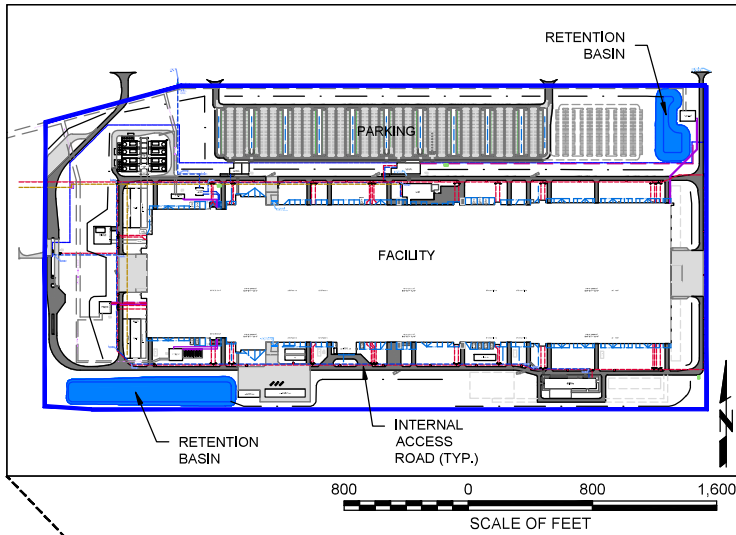


APPLICANT: BLUEVOAL SK
 PROJECT: BLUEVOAL SK BATTERY PLANT
 LOCATION: BLUEVOAL CITY - STANTON, TENNESSEE


 NOT TO SCALE

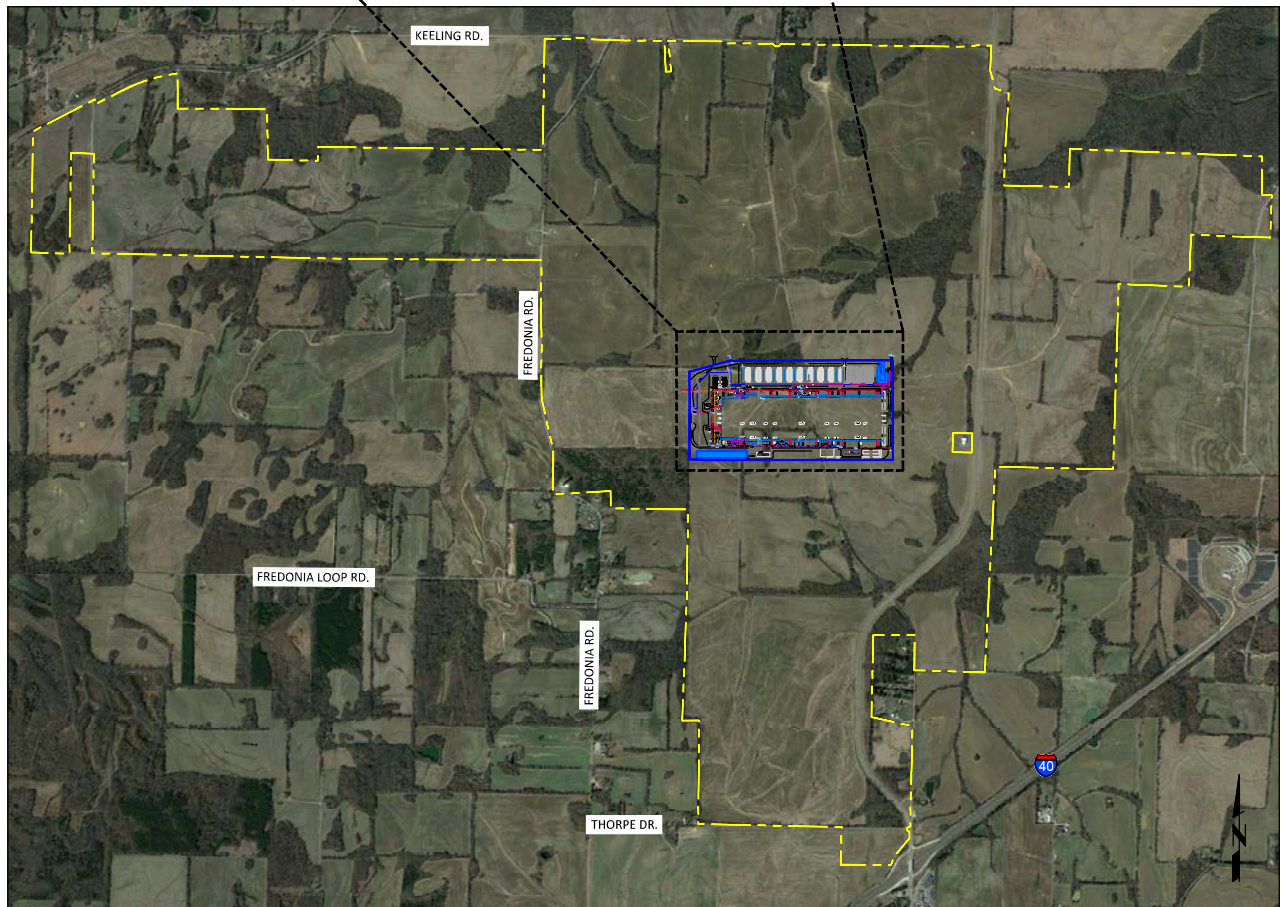
BLUEVOAL SK BATTERY PLANT
LOCATION MAP

Attachment 2: Stanton, Tennessee Facility Site Plan



LEGEND

- BLUEOVAL CITY PROPERTY BOUNDARY
- BLUEOVAL SK PLANT BOUNDARY



IMAGERY: GOOGLE EARTH, 09/05/2021

SCALE OF FEET

APPLICANT: BLUEOVAL SK
 PROJECT: BLUEOVAL SK BATTERY PLANT
 LOCATION: BLUEOVAL CITY - STANTON, TENNESSEE

**BLUEOVAL SK BATTERY PLANT
 SITE MAP**

Eskridge, Anna (CONTR)

From: Elizabeth Toombs <elizabeth-toombs@cherokee.org>
Sent: Thursday, September 15, 2022 11:34 AM
To: LPO_Environmental
Subject: [EXTERNAL] RE: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK
Attachments: 091522 DOE COR BlueOval.pdf

Dear Kara Harris:

Attached is Cherokee Nation’s response to the proposed undertaking. Additionally, Haywood County, Tennessee is outside the Cherokee Nation’s Area of Interest. Thus, this Office respectfully defers to federally recognized Tribes that have an interest in this landbase for Stanton, Tennessee at this time.

Also, while we appreciate your notification to our Principal Chief Chuck Hoskin, Jr., this Office respectfully requests that standard Section 106 review requests are sent directly to my attention by email.

Thank you for your understanding and the opportunity to comment upon this proposed undertaking. Please contact me if there are any questions or concerns.

Wado,

Elizabeth Toombs, Tribal Historic Preservation Officer
Cherokee Nation
Tribal Historic Preservation Office
PO Box 948
Tahlequah, OK 74465-0948
918.453.5389

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Tuesday, August 16, 2022 3:10 PM
To: Chuck Hoskin Jr <chuck-hoskin@cherokee.org>; Elizabeth Toombs <elizabeth-toombs@cherokee.org>; Elizabeth Toombs <elizabeth-toombs@cherokee.org>
Subject: <EXTERNAL> Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK

NOTICE: THIS EMAIL CONTAINS AN ATTACHMENT SENT FROM AN EXTERNAL SENDER.
IF YOU DO NOT KNOW THE SENDER OR WERE NOT EXPECTING THIS EMAIL,
DO NOT OPEN ANY EMAIL ATTACHMENTS AND DELETE THIS MESSAGE.
Thank you: The Cherokee Nation - Information Technology Department

Dear Principal Chief Hoskin, Jr.:

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Glendale, Kentucky facility would involve the construction of an approximately 6.06 million-square-foot facility and auxiliary structures, including two battery plants and build-up areas, multiple storage and waste storage areas, assembly areas, reliability test building, an administration building, lift station, parking lots, and utility lines (Attachments 1-2). Based on preliminary estimates, approximately 5,000 new jobs would be created at the Glendale facilities.

The undertaking in Glendale, Kentucky was previously reviewed and permitted by the United States Army Corps of Engineers (USACE) in a Statement of Findings and EA for a Standard Individual Permit. USACE determined the undertaking was subject to Section 106 of the National Historic Preservation Act (NHPA). As part of the EA process, USACE conducted a historic resource review in compliance with Section 106 of the NHPA. DOE was a cooperating agency with USACE because the area of potential effect and the undertaking were the same for both agencies.

Although the Section 106 consultation was completed by USACE and DOE, we want to give you the opportunity to comment and engage DOE in government-to-government consultation as well as to raise any issues or concerns you may have regarding the project site. Any comments or concerns you provide will help ensure that DOE considers Tribal interests and complies with its NEPA responsibilities.

I would greatly appreciate notification if you do or do not have an interest in the project site, as well as any comments or concerns you may have, within thirty (30) days of receipt of this email. Should you have an interest in the project site, I will provide you with additional information, pursuant to NEPA, as it becomes available. Please provide your notification of interest and any comments or concerns by phone at (202) 586-8716 or email at lpo_environmental@hq.doe.gov.

Respectfully,

Kara Harris
NEPA Document Manager
Loan Programs Office

This message does not originate from a known Department of Energy email system.
Use caution if this message contains attachments, links or requests for information.

September 12, 2022

Ms. Kara Harris, NEPA Document Manager
United States Department of Energy
Loan Programs Office
1000 Independence Avenue, SW
Washington, DC 20585

Dear Ms. Harris:

Thank you for the letter of notification regarding the proposed issuance of a Federal loan to BlueOval SK for the construction of a battery manufacturing facility in Stanton, Haywood County, Tennessee. We accept the invitation to consult under Section 106 of the National Historic Preservation Act.

The Chickasaw Nation is in support of the proposed undertaking and is presently unaware of any specific historic properties, including those of traditional religious and cultural significance, in the project areas. In the event the agency becomes aware of the need to enforce other statutes we request to be notified under ARPA, AIRFA, NEPA, NAGPRA, NHPA and Professional Standards.

We appreciate your efforts to preserve and protect significant historic properties. If you have any questions, please contact Ms. Karen Brunso, tribal historic preservation officer, at (580) 272-1106, or by email at hpo@chickasaw.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa John", with a long horizontal flourish extending to the right.

Lisa John, Secretary
Department of Culture and Humanities

Cc: lpo_environmental@hq.doe.gov



**EASTERN SHAWNEE
CULTURAL PRESERVATION DEPARTMENT**

70500 East 128 Road, Wyandotte, OK 74370

October 4, 2022
Department of Energy
DOE
Washington, DC 20585

RE: *BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, TN and Glendale, Kentucky, Multiple County, Tennessee and Kentucky*

Dear Ms. Harris,

The Eastern Shawnee Tribe has received your letter regarding the above referenced project(s) within Multiple County, Tennessee and Kentucky. The Eastern Shawnee Tribe is committed to protecting sites important to Tribal Heritage, Culture and Religion. Furthermore, the Tribe is particularly concerned with historical sites that may contain but not limited to the burial(s) of human remains and associated funerary objects.

As described in your correspondence, and upon research of our database(s) and files, we find our people occupied these areas historically and/or prehistorically. However, the project proposes **NO Adverse Effect** or endangerment to known sites of interest to the Eastern Shawnee Tribe. Please continue project as planned. However, should this project inadvertently discover an archeological site or object(s) we request that you immediately contact the Eastern Shawnee Tribe, as well as the appropriate state agencies (within 24 hours). We also ask that all ground disturbing activity stop until the Tribe and State agencies are consulted. Please note that any future changes to this project will require additional consultation.

In accordance with the NHPA of 1966 (16 U.S.C. § 470-470w-6), federally funded, licensed, or permitted undertakings that are subject to the Section 106 review process must determine effects to significant historic properties. As clarified in Section 101(d)(6)(A-B), historic properties may have religious and/or cultural significance to Indian Tribes. Section 106 of NHPA requires Federal agencies to consider the effects of their actions on all significant historic properties (36 CFR Part 800) as does the National Environmental Policy Act of 1969 (43 U.S.C. § 4321-4347 and 40 CFR § 1501.7(a)). This letter evidences NHPA and NEPA historic properties compliance pertaining to consultation with this Tribe regarding the referenced proposed projects.

Thank you, for contacting the Eastern Shawnee Tribe, we appreciate your cooperation. Should you have any further questions or comments please contact our Office.

Sincerely,

Paul Barton, Tribal Historic Preservation Officer (THPO)

Eastern Shawnee Tribe of Oklahoma
(918) 666-5151 Ext:1833
THPO@estoo.net



**EASTERN SHAWNEE
CULTURAL PRESERVATION DEPARTMENT**

70500 East 128 Road, Wyandotte, OK 74370

January 11, 2023
Department of Energy
DOE
Washington, DC 20585

RE: *BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton Tennessee and Glendale Kentucky, Multiple County, Tennessee and Kentucky*

Dear Ms. Harris,

The Eastern Shawnee Tribe has received your letter regarding the above referenced project(s) within Multiple County, Tennessee and Kentucky. The Eastern Shawnee Tribe is committed to protecting sites important to Tribal Heritage, Culture and Religion. Furthermore, the Tribe is particularly concerned with historical sites that may contain but not limited to the burial(s) of human remains and associated funerary objects.

As described in your correspondence, and upon research of our database(s) and files, we find our people occupied these areas historically and/or prehistorically. However, the project proposes **NO Adverse Effect** or endangerment to known sites of interest to the Eastern Shawnee Tribe. Please continue project as planned. However, should this project inadvertently discover an archeological site or object(s) we request that you immediately contact the Eastern Shawnee Tribe, as well as the appropriate state agencies (within 24 hours). We also ask that all ground disturbing activity stop until the Tribe and State agencies are consulted. Please note that any future changes to this project will require additional consultation.

In accordance with the NHPA of 1966 (16 U.S.C. § 470-470w-6), federally funded, licensed, or permitted undertakings that are subject to the Section 106 review process must determine effects to significant historic properties. As clarified in Section 101(d)(6)(A-B), historic properties may have religious and/or cultural significance to Indian Tribes. Section 106 of NHPA requires Federal agencies to consider the effects of their actions on all significant historic properties (36 CFR Part 800) as does the National Environmental Policy Act of 1969 (43 U.S.C. § 4321-4347 and 40 CFR § 1501.7(a)). This letter evidences NHPA and NEPA historic properties compliance pertaining to consultation with this Tribe regarding the referenced proposed projects.

Thank you, for contacting the Eastern Shawnee Tribe, we appreciate your cooperation. Should you have any further questions or comments please contact our Office.

Sincerely,

Paul Barton, Tribal Historic Preservation Officer (THPO)

Eastern Shawnee Tribe of Oklahoma
(918) 666-5151 Ext:1833
THPO@estoo.net

QUAPAW NATION

P.O. Box 765
Quapaw, OK 74363-0765

(918) 542-1853
FAX (918) 542-4694

December 30, 2022

BlueOval SK Environmental Assessment
Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Re: BlueOval SK in Hardin County KY and Haywood County TN

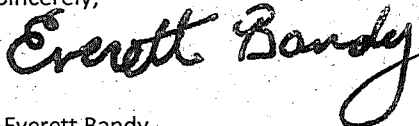
Dear Sir or Madam,

The Quapaw Nation Historic Preservation Program (QNHPP) has received and reviewed the information provided for the proposed BlueOval SK in Hardin County KY and Haywood County TN.

After reviewing this project, we have determined that it is not located within our tribal area of interest; therefore, we decline comment on this project. We also request that we be removed from your agencies' list of tribes that wish to consult on undertakings for this particular county.

Thank you for updating your records and for contacting the Quapaw Nation. Should you have any questions or need any additional information, please feel free to contact me at the number listed below.

Sincerely,



-Everett Bandy
Preservation Officer/ QNHPP Director
Quapaw Nation
P.O. Box 765
Quapaw, OK 74363
(w) 918-238-3100
(f) 918-674-2456

Glendale, Kentucky – BlueOval SK Battery Park

Organization	Initiation Letter Response Summary* (August – October 2022)	EA and draft FONSI Response Summary** (December 15, 2022 - January 30, 2023 comment period)
Absentee Shawnee Tribe of Oklahoma		
Cherokee Nation	<p>September 15, 2022 letter: Found no instances where this project intersects or adjoins such cultural, historic, and pre-historic resources. Thus, the Nation does not foresee this project imparting impacts to Cherokee cultural resources at this time. The Nation also requested that the United States Department of Energy (DOE) halt all project activities immediately and re-contact their Offices for further consultation if items of cultural significance are discovered during the course of this project. In addition, they requested DOE conduct appropriate inquiries with other pertinent Tribal and Historic Preservation Office regarding historic and prehistoric resources.</p>	<p>No comments beyond their September 15, 2022 letter.</p> <p><i>DOE response:</i> Contact information has been added to the Cultural Resources Unanticipated Discovery Plan in the event items of cultural significance are discovered during the course of this project</p>
Delaware Nation	<p>Requested information regarding Section 106 in a letter dated September 22, 2022. Follow-up phone call occurred on September 26, 2022 to discuss previous completion of Section 106 process under USACE EA (which included Delaware Nation). DOE sent follow-up emails to Delaware Nation on September 26, 2022 and October 7, 2022 with information they requested.</p>	
Delaware Tribe		
Eastern Band of Cherokee Indians	<p>Sent questions about the project, which were answered on August 18, 2022 via email.</p>	
Eastern Shawnee Tribe of Oklahoma	<p>October 4, 2022 letter: They found their people occupied these areas historically and/or prehistorically. They acknowledged the “no adverse effect” for this Project and instructed to continue the Project as planned. However, should this Project inadvertently discover an archeological site or object(s), they requested to be contacted and that all ground</p>	<p>January 11, 2023: Similar letter as the October 4, 2022 letter</p> <p><i>DOE response:</i> Contact information has been added to the Cultural Resources Unanticipated Discovery Plan in the event items of cultural significance are discovered during the course of this project</p>

	disturbing activity stop until the Tribe and State agencies are consulted.	
Miami Tribe of Oklahoma	August 18, 2022 letter: Offered no objection to the above-referenced project at this time, as they are not currently aware of existing documentation directly linking a specific Miami cultural or historic site to the project site. However, if any human remains or Native American cultural items falling under the Native American Graves Protection and Repatriation Act (NAGPRA) or archaeological evidence is discovered during any phase of this project, the Miami Tribe requests immediate consultation with the entity of jurisdiction for the location of discovery.	February 6, 2023 letter: Similar letter as the August 18, 2022 letter <i>DOE response:</i> Contact information has been added to the Cultural Resources Unanticipated Discovery Plan in the event items of cultural significance are discovered during the course of this project
Osage Nation	Requested a paper copy of the letter, which was mailed on August 19, 2022.	January 31, 2023 email and letter: requested cultural surveys for both sites, which were provided in February 2023 by the Memphis District of the U.S. Army Corps of Engineers for the TN site and by DOE LPO for the KY site. See DOE response letter from February 14, 2023 attached. DOE followed up on February 14 and 15 (emails) and 17, 2023 (phone call) to ensure files were delivered but no response from the Osage Nation was received. In addition, contact information has been added to the Cultural Resources Unanticipated Discovery Plan in the event items of cultural significance are discovered during the course of this project
Peoria Tribe of Indians of Oklahoma		
Shawnee Tribe of Oklahoma		
United Keetoowah Band of Cherokee Indians in Oklahoma		

*An individual initiation letter was submitted to each Tribe via email on August 16, 2022 (however, the Osage Nation requested a paper copy, which was mailed on August 19, 2022). The initiation letter explained how DOE was a cooperating agency for Section 106 of the NHPA with the USACE review because the area of potential effect and the undertaking were the same for both agencies. To reduce the file size and the overall number of pages, one letter is included as an example, and all responses are included. If a Tribe did not reply to initiation letter email, a follow-up call was made September 2nd, 6th, or 7th as follow up.

**The EA and draft FONSI was submitted to each Tribe via email on December 15, 2022 and a follow-up email was sent on January 30, 2023 (however, the Osage Nation also received a paper copy, which was delivered December 19, 2022)



Department of Energy

Washington, DC 20585

December 15, 2022

SUBJECT: U.S. Department of Energy, Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky

Dear Interested Party,

The U.S. Department of Energy (DOE), Loan Programs Office (LPO) prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to consider the environmental impacts of its decision whether or not to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford Motor Company. The decision to prepare an EA was made in accordance with the requirements of NEPA, the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE's implementing procedures for compliance with NEPA (10 CFR Part 1021).

LPO provides loans and loan guarantees under three programs – the Innovative Energy Loan Guarantee Program (Title 17), the Advanced Technology Vehicles Manufacturing (ATVM) loan program, and the Tribal Energy Loan Guarantee Program. The primary goal of the ATVM program is to finance projects and facilities located in the United States that manufacture eligible light-duty vehicles and qualifying components.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky. The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within a 263-acre Project site. The BlueOval SK Battery Park in Kentucky will establish two battery plants that are within a 952-acre Project site. These three battery manufacturing plants are anticipated to deliver a total capacity of 127 GWh. High performance Lithium nickel, manganese, and cobalt (NMC) batteries will be produced within these manufacturing sites.

As an interested party and in accordance with DOE NEPA regulations, the EA with the draft Finding of No Significant Impact (FONSI) is included in the following link:

<https://www.energy.gov/lpo/environmental-assessment-and-draft-fonsi-blueoval-sk-battery-plant-stanton-tn-blueoval-sk>.

Please review and provide any comment you may have via email or mail **by Monday, January 30, 2023 (comments must be received by this date):**

Email:

Please include “BlueOval SK EA” in the subject line
LPO_Environmental@hq.doe.gov

Mail:

BlueOval SK Environmental Assessment
Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Sincerely,

Kara J. Harris

Digitally signed by Kara
J. Harris
Date: 2022.12.15
14:34:48 -05'00'

Kara Harris
NEPA Document Manager
Loan Programs Office



Department of Energy

Washington, DC 20585

August 16, 2022

Ms. Devon Frazier, Tribal Historic Preservation Officer
Absentee-Shawnee Tribe of Oklahoma
2025 S Gordon Cooper Dr
Shawnee, OK 74801

SUBJECT: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky.

Dear Ms. Frazier:

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Glendale, Kentucky facility would involve the construction of an approximately 6.06 million-square-foot facility and auxiliary structures, including two battery plants and build-up areas, multiple storage and waste storage areas, assembly areas, reliability test building, an administration building, lift station, parking lots, and utility lines (Attachments 1-2). Based on preliminary estimates, approximately 5,000 new jobs would be created at the Glendale facilities.

The undertaking in Glendale, Kentucky was previously reviewed and permitted by the United States Army Corps of Engineers (USACE) in a Statement of Findings and EA for a Standard Individual Permit. USACE determined the undertaking was subject to Section 106 of the National Historic Preservation Act (NHPA). As part of the EA process, USACE conducted a historic resource review in compliance with Section 106 of the NHPA. DOE was a cooperating agency with USACE because the area of potential effect and the undertaking were the same for both agencies.

Although the Section 106 consultation was completed by USACE and DOE, we want to give you the opportunity to comment and engage DOE in government-to-government consultation as well as to raise any issues or concerns you may have regarding the project site. Any comments or concerns you provide will help ensure that DOE considers Tribal interests and complies with its NEPA responsibilities.

I would greatly appreciate notification if you do or do not have an interest in the project site, as well as any comments or concerns you may have, within thirty (30) days of receipt of this letter. Should you have an interest in the project site, I will provide you with additional information, pursuant to NEPA, as it becomes available. Please provide your notification of interest and any comments or concerns by phone at (202) 586-8716 or email at lpo_environmental@hq.doe.gov.

Respectfully,

Kara J. Harris

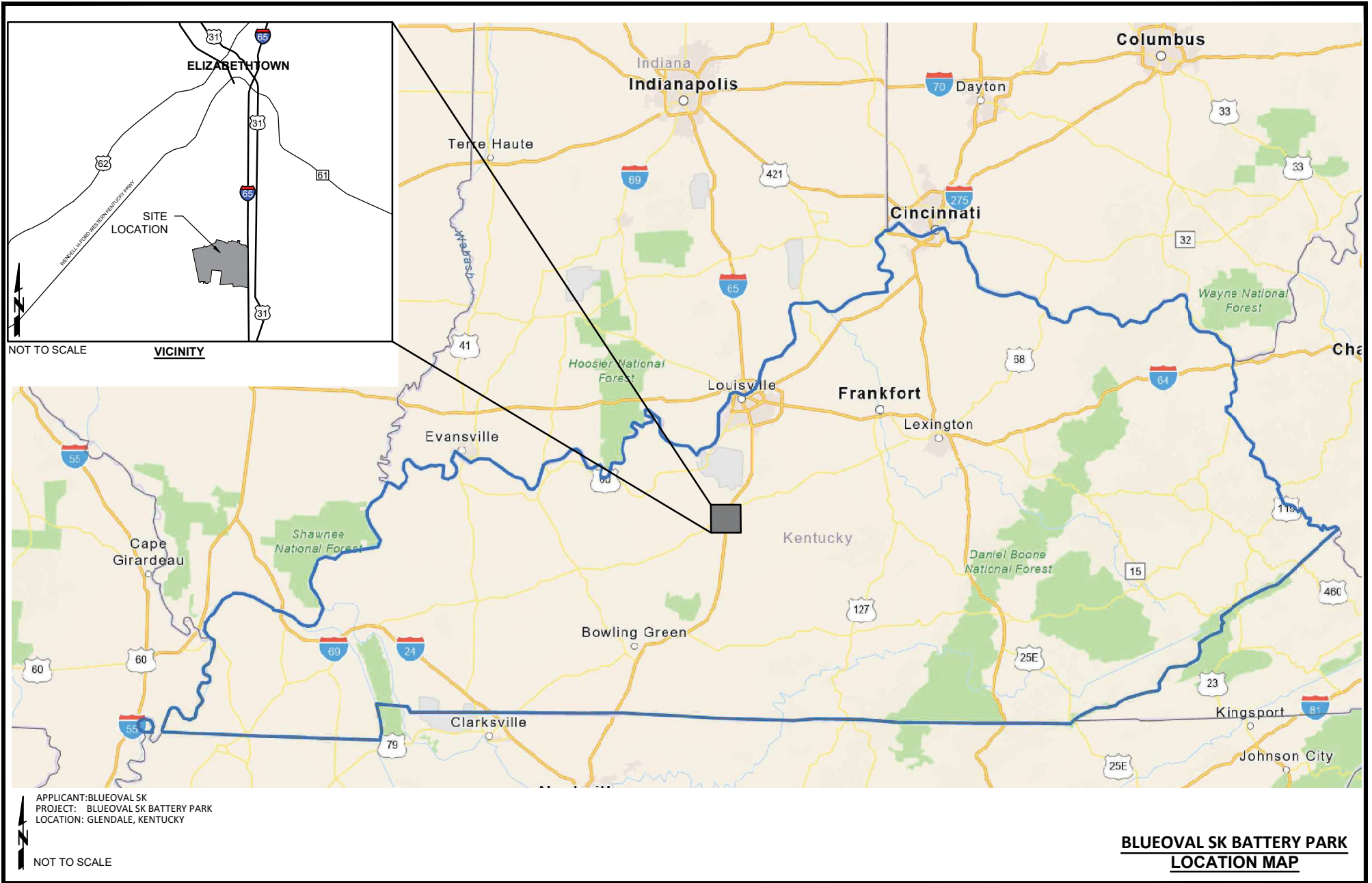
Digitally signed by Kara
J. Harris
Date: 2022.08.16
13:22:01 -04'00'

Kara Harris
NEPA Document Manager
Loan Programs Office

Attachments:

Attachment 1: Glendale, Kentucky Facility Location
Attachment 2: Glendale, Kentucky Facility Site Plan

Attachment 1: Glendale, Kentucky Facility Location





APPLICANT: BLUEOVAL SK
 PROJECT: BLUEOVAL SK BATTERY PARK
 LOCATION: GLENDALE, KENTUCKY

BLUEOVAL SK BATTERY PARK
LOCATION MAP

Attachment 2: Glendale, Kentucky Facility Site Plan

LEGEND

-  FACILITY BOUNDARY
-  FENCE



APPLICANT: BLUEOVAL SK
PROJECT: BLUEOVAL SK BATTERY PARK
LOCATION: GLENDALE, KENTUCKY



**BLUEOVAL SK BATTERY PARK
SITE MAP**

Eskridge, Anna (CONTR)

From: Elizabeth Toombs <elizabeth-toombs@cherokee.org>
Sent: Monday, January 30, 2023 10:28 AM
To: LPO_Environmental
Subject: [EXTERNAL] RE: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky
Attachments: 091522 DOE COR BlueOval.pdf

Thank you for the reminder, Dr. Eskridge. Our Office has no additional comments beyond those dated September 15, 2022. Please let me know if there are any questions or concerns.

Wado,

Elizabeth Toombs, Tribal Historic Preservation Officer
Cherokee Nation
Tribal Historic Preservation Office
PO Box 948
Tahlequah, OK 74465-0948
918.453.5389

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Monday, January 30, 2023 8:19 AM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: <EXTERNAL> RE: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky

Good morning! I just wanted to touch base with a reminder that comments on this environmental assessment are due by today - Monday, January 30, 2023. Please see details in the email below.

Thanks so much,

Anna Eskridge, Ph.D.
Environmental Compliance (Contractor)
Loan Programs Office (LPO)
U.S. Department of Energy

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Thursday, December 15, 2022 2:56 PM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: U.S. Department of Energy, Environmental Assessment and draft FONSI for BlueOval SK - Glendale, Kentucky

Dear Interested Party,

The U.S. Department of Energy (DOE), Loan Programs Office (LPO) prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to consider the environmental impacts of its decision whether or not to provide a Federal loan to BlueOval SK to support the construction of manufacturing facilities in Stanton, Tennessee and Glendale, Kentucky. The facilities will be used to produce battery cells and arrays to be primarily used as components for the propulsion of light duty, zero emission, all-electric vehicles produced by Ford Motor Company. The decision to

prepare an EA was made in accordance with the requirements of NEPA, the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508), and DOE’s implementing procedures for compliance with NEPA (10 CFR Part 1021).

LPO provides loans and loan guarantees under three programs – the Innovative Energy Loan Guarantee Program (Title 17), the Advanced Technology Vehicles Manufacturing (ATVM) loan program, and the Tribal Energy Loan Guarantee Program. The primary goal of the ATVM program is to finance projects and facilities located in the United States that manufacture eligible light-duty vehicles and qualifying components.

The proposed project would involve the construction of one manufacturing facility in Stanton, Tennessee and two manufacturing facilities in Glendale, Kentucky. The battery plant in Tennessee, as a part of the larger BlueOval City, will be located within a 263-acre Project site. The BlueOval SK Battery Park in Kentucky will establish two battery plants that are within a 952-acre Project site. These three battery manufacturing plants are anticipated to deliver a total capacity of 127 GWh. High performance Lithium nickel, manganese, and cobalt (NMC) batteries will be produced within these manufacturing sites.

As an interested party and in accordance with DOE NEPA regulations, the EA with the draft Finding of No Significant Impact (FONSI) is included in the following link: <https://www.energy.gov/lpo/environmental-assessment-and-draft-fonsi-blueoval-sk-battery-plant-stanton-tn-blueoval-sk>

Please review and provide any comment you may have via email or mail **by Monday, January 30, 2023 (comments must be received by this date):**

Email:

Please include “BlueOval SK EA” in the subject line

LPO_Environmental@hq.doe.gov

Mail:

BlueOval SK Environmental Assessment
Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Best,

Kara Harris
NEPA Document Manager
Loan Programs Office

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G W Y A D B F
CHEROKEE NATION®

P.O. Box 948 • Tahlequah, OK 74465-0948
918-453-5000 • www.cherokee.org

Chuck Hoskin Jr.

Principal Chief
G F F O P S A S
O E O G A

Bryan Warner

Deputy Principal Chief
S Z A P V A
W F A D L A O E O G A

September 15, 2022

Kara Harris
United States Department of Energy
1000 Independence Avenue SW
Washington, DC 20585

Re: BlueOval SK for BlueOval SK Manufacturing Facilities in Glendale, KY

Dear Kara Harris:

The Cherokee Nation (Nation) is in receipt of your correspondence about **BlueOval SK for BlueOval SK Manufacturing Facilities in Glendale, KY**, and appreciates the opportunity to provide comment upon this project. Please allow this letter to serve as the Nation's interest in acting as a consulting party to this proposed project.

The Nation maintains databases and records of cultural, historic, and pre-historic resources in this area. Our Historic Preservation Office (Office) reviewed this project, cross referenced the project's legal description against our information, and found no instances where this project intersects or adjoins such resources. Thus, the Nation does not foresee this project imparting impacts to Cherokee cultural resources at this time.

However, the Nation requests that the United States Department of Energy (DOE) halt all project activities immediately and re-contact our Offices for further consultation if items of cultural significance are discovered during the course of this project. Additionally, the Nation requests that the DOE conduct appropriate inquiries with other pertinent Tribal and Historic Preservation Office regarding historic and prehistoric resources not included in the Nation's databases or records.

If you require additional information or have any questions, please contact me at your convenience. Thank you for your time and attention to this matter.

Wado,

Elizabeth Toombs, Tribal Historic Preservation Officer
Cherokee Nation Tribal Historic Preservation Office
elizabeth-toombs@cherokee.org
918.453.5389



Delaware Nation
Historic Preservation Department

31064 State Highway 281
Anadarko, OK 73005
(405) 247-2448

September 22, 2022

To Whom It May Concern:

The Delaware Nation Historic Preservation Department received correspondence regarding the following referenced project(s):

Project: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f), and implementing regulation 36 CFR 800, "Protection of Historic Properties," **Delaware Nation accepts your invitation for consultation on this project.**

Our office is committed to protecting tribal heritage, culture and religion with particular concern for archaeological sites potentially containing burials and associated funerary objects. To thoroughly review and respond to your project, we request the following:

- Name of project with brief description of ground disturbing work
- Geographic coordinates of project
- Listing of any Historic Properties and/or known archaeological sites within half a mile of the project
- Any supporting Google Earth files or maps of the project APE (especially any noting proximity to existing archaeological sites)
- Responses from SHPO and/or other consulting federally recognized tribes (when received)
- All existing Cultural Resource Survey Reports within APE and half mile of APE, and/or indicate plans for forthcoming surveys
- Principal Investigator name

Please note that Delaware Nation, the Delaware Tribe of Indians, and the Stockbridge Munsee Community are the only Federally Recognized Delaware/Lenape entities in the United States and consultation for Lenape homelands must be made with only the designated staff of these three Nations (and/or other federally recognized tribal nations who may have overlapping areas of interest). We appreciate your cooperation in contacting the Delaware Nation Historic Preservation Office to conduct proper Section 106 consultation. Should you have any questions, feel free to contact our offices at 405-247-2448 ext. 1403.

Carissa Speck

Carissa Speck
Historic Preservation Director
Delaware Nation
Ph. 405-247-2448 ext. 1403
cspeck@delawarenation-nsn.gov

Eskridge, Anna (CONTR)

From: LPO_Environmental
Sent: Monday, September 26, 2022 3:18 PM
To: Carissa Speck
Subject: RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY
Attachments: 64465 64955 USACE L 2021 443 Ford Hardin Co SHPO letter.pdf

Ms. Speck,

Thanks for your time today talking about this project. I am attaching the SHPO letter that we discussed. Please let me know if you have any further questions.

Best,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy
803.791.6113
anna.eskridge@hq.doe.gov

From: Carissa Speck <cspeck@delawarenation-nsn.gov>
Sent: Friday, September 23, 2022 10:17 AM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: [EXTERNAL] RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

Thank you. I am available on Monday.

Wanishi,

Carissa Speck

Delaware Nation
Historic Preservation Director
405-247-2448 Ext. 1403
cspeck@delawarenation-nsn.gov

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Friday, September 23, 2022 8:55 AM
To: Carissa Speck <cspeck@delawarenation-nsn.gov>
Subject: RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

Ms. Speck,

Thank you for your email and letter. Would you have time this afternoon (Friday) or Monday for a quick phone call?

Thanks so much,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov

From: Carissa Speck <cspeck@delawarenation-nsn.gov>

Sent: Thursday, September 22, 2022 4:55 PM

To: LPO_Environmental <lpo_environmental@hq.doe.gov>

Subject: [EXTERNAL] DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

Please see attached response for Delaware Nation.

Wanishi,

Carissa Speck

Delaware Nation

Historic Preservation Director

405-247-2448 Ext. 1403

cspeck@delawarenation-nsn.gov

CONFIDENTIALITY NOTE:

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Eskridge, Anna (CONTR)

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Friday, October 7, 2022 8:49 AM
To: Carissa Speck
Subject: RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY
Attachments: 2022-01-24 CRA Glendale Avoidance Plan 22-025.pdf; 2022-04-04 CRA Cemetery Delineation Letter Report 22-111_rev.pdf

Ms. Speck,

Please find the requested documents attached.

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy
803.791.6113
anna.eskridge@hq.doe.gov

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Thursday, October 6, 2022 3:35 PM
To: Carissa Speck <cspeck@delawarenation-nsn.gov>
Subject: RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

Ms. Speck,

Per your request, I will work with the U.S. Army Corps of Engineers to get you copies of these reports.

Also, we will include you on distribution of DOE LPO's draft environmental assessment once it becomes available.

Thanks,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy
803.791.6113
anna.eskridge@hq.doe.gov

From: Carissa Speck <cspeck@delawarenation-nsn.gov>
Sent: Thursday, October 6, 2022 10:29 AM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: [EXTERNAL] RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

Thank you. I was hoping to look at the following reports:

Kerr, Jonathan

2022 Archaeological Site Avoidance Plan for the Blue Oval Sk Battery Park, Glendale Megasite, Hardin County, Kentucky. Plan prepared for Third Rock Consultants at the request of the US Army Corps of Engineers, Louisville District

by Cultural Resource Analysts, Inc., Lexington.

McAlpine, Jr, Thomas H.

2022 Delineation of the Cemetery Associated With Site 15Hd717 for the Proposed Blue Oval SK Battery Park, Hardin County, Kentucky. Letter report prepared for Third Rock Consultants, LLC., by Cultural Resource Analysts, Inc., Lexington.

Wanishi,

Carissa Speck

Delaware Nation

Historic Preservation Director

405-247-2448 Ext. 1403

cspeck@delawarenation-nsn.gov

From: LPO_Environmental <lpo_environmental@hq.doe.gov>

Sent: Thursday, October 6, 2022 8:59 AM

To: Carissa Speck <cspeck@delawarenation-nsn.gov>

Subject: RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

Ms. Speck,

I just wanted to follow-up on the information we provided. Do you have any further questions or does that SHPO letter suffice?

Thanks so much,

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance

Loan Programs Office

U.S. Department of Energy

803.791.6113

anna.eskridge@hq.doe.gov

From: LPO_Environmental <lpo_environmental@hq.doe.gov>

Sent: Monday, September 26, 2022 3:18 PM

To: Carissa Speck <cspeck@delawarenation-nsn.gov>

Subject: RE: DOE Federal Loan, BlueOval SK Manufacturing Facilities, Glendale, Hardin County, KY

Ms. Speck,

Thanks for your time today talking about this project. I am attaching the SHPO letter that we discussed. Please let me know if you have any further questions.

Best,

Eskridge, Anna (CONTR)

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Thursday, August 18, 2022 2:12 PM
To: Stephen Yerka
Subject: RE: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK
Attachments: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK

Mr. Yerka,

Thank you so much for your email.

1. There is 1 battery plant proposed in Stanton, TN and 2 battery plants (in the same area) in Glendale, KY. DOE is preparing an Environmental Assessment (EA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of all three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. Although it will be one environmental assessment, it will cover all 3 plants.
2. Please see the correspondence on Kentucky attached (email and letter dated 8/16/22).
3. Stanton, TN is in Haywood County and Glendale, KY is in Hardin County.

Thank you again and please let me know if you have any other questions!

Anna Eskridge, Ph.D.

Contractor, Environmental Compliance
Loan Programs Office
U.S. Department of Energy

From: Stephen Yerka <syerka@ebci-nsn.gov>
Sent: Thursday, August 18, 2022 1:43 PM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: [EXTERNAL] RE: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK

Dear Kera Harris,

Thank you for inviting the EBCI to be a consulting party for the project: Proposed Federal Loan to BlueOval SK. I am the Historic Preservation Specialist with the EBCI THPO and the point of contact for compliance and review for federal regulations involving cultural resources and historic properties (NHPA, ARPA, NEPA, etc.).

The EBCI THPO accepts your invitation to partake in government-to-government consultation and I have a couple initial questions:

1. Your letter indicates three battery manufacturing facilities in two locations, but then only includes information on the Stanton, Tennessee location; Are they considered all one project or three separate actions?
2. The Stanton, TN location is outside what EBCI THPO considers Traditional EBCI territory, but the KY is within traditional territory for the EBCI, and we request consultation on the latter if they are separate projects.
3. May I ask that in initial communications with our office that you please provide the county name(s) in addition to State and Town/City etc. for the projects or actions that trigger the 106 processes please?
 - a. Having only the town listed requires additional steps to make the first call for whether a site is inside or outside EBCI traditional territory since my quick reference is based on county boundaries.

Thank you,

Stephen

Stephen J. Yerka
Historic Preservation Specialist, THPO
Eastern Band of Cherokee Indians (<https://ebci.com/>)
syerka@ebci-nsn.gov
(828) 359-6852



From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Thursday, August 18, 2022 11:04 AM
To: Stephen Yerka <syerka@ebci-nsn.gov>; paxtmyer@nc-cherokee.com; Stephen Yerka <syerka@nc-cherokee.com>;
Russell Townsend <russtown@nc-cherokee.com>; Richard Sneed <richsnee@ebci-nsn.gov>
Subject: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK

Dear Principal Chief Sneed:

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Stanton, Tennessee facility would involve the construction of an approximately 3.01 million-square-foot facility and auxiliary structures (Attachments 1-2). The Stanton facility would include a battery plant and build-up area, storage facilities, waste storage areas and associated employee parking lots, material receiving areas, stormwater detention areas and utilities. The Stanton battery plant is a subcomponent of the larger layout of BlueOval City, an electric vehicle production and assembly facility that would include vehicle parts manufacturing, vehicle assembly, painting, and shipping by rail and truck. Based on preliminary estimates, approximately 2,500 new jobs would be created at the Stanton facility.

The undertaking in Stanton, Tennessee was previously reviewed and permitted by the United States Army Corps of Engineers (USACE) in a Statement of Findings and EA for a Standard Individual Permit. USACE determined the undertaking was subject to Section 106 of the National Historic Preservation Act (NHPA). As part of the EA process, USACE conducted a historic resource review in compliance with Section 106 of the NHPA.

As part of DOE's intent to prepare an Environmental Assessment for the consideration of this loan, **DOE is concurring with the previous Section 106 findings of "no adverse effect" for this project under the USACE review.** The area of potential effect and the undertaking are the same, but DOE is focused on the financing of the battery manufacturing at the site.

Although the Section 106 consultation was completed by USACE, we want to give you the opportunity to comment and engage DOE in government-to-government consultation as well as to raise any issues or concerns you may have regarding the project site. Any comments or concerns you provide will help ensure that DOE considers Tribal interests and complies with its NEPA responsibilities.

I would greatly appreciate notification if you do or do not have an interest in the project site, as well as any comments or concerns you may have, within thirty (30) days of receipt of this email. Should you have an

interest in the project site, I will provide you with additional information, pursuant to NEPA, as it becomes available. Please provide your notification of interest and any comments or concerns by phone at (202) 586-8716 or email at lpo_environmental@hq.doe.gov.

Respectfully,

Kara Harris
NEPA Document Manager
Loan Programs Office

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**EASTERN SHAWNEE
CULTURAL PRESERVATION DEPARTMENT**

70500 East 128 Road, Wyandotte, OK 74370

January 11, 2023
Department of Energy
DOE
Washington, DC 20585

RE: *BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton Tennessee and Glendale Kentucky, Multiple County, Tennessee and Kentucky*

Dear Ms. Harris,

The Eastern Shawnee Tribe has received your letter regarding the above referenced project(s) within Multiple County, Tennessee and Kentucky. The Eastern Shawnee Tribe is committed to protecting sites important to Tribal Heritage, Culture and Religion. Furthermore, the Tribe is particularly concerned with historical sites that may contain but not limited to the burial(s) of human remains and associated funerary objects.

As described in your correspondence, and upon research of our database(s) and files, we find our people occupied these areas historically and/or prehistorically. However, the project proposes **NO Adverse Effect** or endangerment to known sites of interest to the Eastern Shawnee Tribe. Please continue project as planned. However, should this project inadvertently discover an archeological site or object(s) we request that you immediately contact the Eastern Shawnee Tribe, as well as the appropriate state agencies (within 24 hours). We also ask that all ground disturbing activity stop until the Tribe and State agencies are consulted. Please note that any future changes to this project will require additional consultation.

In accordance with the NHPA of 1966 (16 U.S.C. § 470-470w-6), federally funded, licensed, or permitted undertakings that are subject to the Section 106 review process must determine effects to significant historic properties. As clarified in Section 101(d)(6)(A-B), historic properties may have religious and/or cultural significance to Indian Tribes. Section 106 of NHPA requires Federal agencies to consider the effects of their actions on all significant historic properties (36 CFR Part 800) as does the National Environmental Policy Act of 1969 (43 U.S.C. § 4321-4347 and 40 CFR § 1501.7(a)). This letter evidences NHPA and NEPA historic properties compliance pertaining to consultation with this Tribe regarding the referenced proposed projects.

Thank you, for contacting the Eastern Shawnee Tribe, we appreciate your cooperation. Should you have any further questions or comments please contact our Office.

Sincerely,

A handwritten signature in blue ink that reads "Paul Barton".

Paul Barton, Tribal Historic Preservation Officer (THPO)

Eastern Shawnee Tribe of Oklahoma
(918) 666-5151 Ext:1833
THPO@estoo.net



**EASTERN SHAWNEE
CULTURAL PRESERVATION DEPARTMENT**

70500 East 128 Road, Wyandotte, OK 74370

October 4, 2022
Department of Energy
DOE
Washington, DC 20585

RE: *BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, TN and Glendale, Kentucky, Multiple County, Tennessee and Kentucky*

Dear Ms. Harris,

The Eastern Shawnee Tribe has received your letter regarding the above referenced project(s) within Multiple County, Tennessee and Kentucky. The Eastern Shawnee Tribe is committed to protecting sites important to Tribal Heritage, Culture and Religion. Furthermore, the Tribe is particularly concerned with historical sites that may contain but not limited to the burial(s) of human remains and associated funerary objects.

As described in your correspondence, and upon research of our database(s) and files, we find our people occupied these areas historically and/or prehistorically. However, the project proposes **NO Adverse Effect** or endangerment to known sites of interest to the Eastern Shawnee Tribe. Please continue project as planned. However, should this project inadvertently discover an archeological site or object(s) we request that you immediately contact the Eastern Shawnee Tribe, as well as the appropriate state agencies (within 24 hours). We also ask that all ground disturbing activity stop until the Tribe and State agencies are consulted. Please note that any future changes to this project will require additional consultation.

In accordance with the NHPA of 1966 (16 U.S.C. § 470-470w-6), federally funded, licensed, or permitted undertakings that are subject to the Section 106 review process must determine effects to significant historic properties. As clarified in Section 101(d)(6)(A-B), historic properties may have religious and/or cultural significance to Indian Tribes. Section 106 of NHPA requires Federal agencies to consider the effects of their actions on all significant historic properties (36 CFR Part 800) as does the National Environmental Policy Act of 1969 (43 U.S.C. § 4321-4347 and 40 CFR § 1501.7(a)). This letter evidences NHPA and NEPA historic properties compliance pertaining to consultation with this Tribe regarding the referenced proposed projects.

Thank you, for contacting the Eastern Shawnee Tribe, we appreciate your cooperation. Should you have any further questions or comments please contact our Office.

Sincerely,

Paul Barton, Tribal Historic Preservation Officer (THPO)

Eastern Shawnee Tribe of Oklahoma
(918) 666-5151 Ext:1833
THPO@estoo.net



Miami Tribe of Oklahoma

3410 P St. NW, Miami, OK 74354 • P.O. Box 1326, Miami, OK 74355
Ph: (918) 541-1300 • Fax: (918) 542-7260
www.miamination.com



Via email: LPO_Environmental@hq.doe.gov

February 6, 2023

BlueOval SK Environmental Assessment Department of Energy –
Loan Programs Office
c/o ICF Consulting
1902 Reston Metro Plaza
Reston, VA 20190

Re: BlueOval SK Manufacturing Construction, Hardin County, Kentucky – Comments of the Miami Tribe of Oklahoma

Dear Mr. Goodall:

Aya, kweehsitoolaani– I show you respect. The Miami Tribe of Oklahoma, a federally recognized Indian tribe with a Constitution ratified in 1939 under the Oklahoma Indian Welfare Act of 1936, respectfully submits the following comments regarding BlueOval SK Manufacturing Construction, Hardin County, Kentucky.

The Miami Tribe offers no objection to the above-referenced project at this time, as we are not currently aware of existing documentation directly linking a specific Miami cultural or historic site to the project site. However, given the Miami Tribe's deep and enduring relationship to its historic lands and cultural property within present-day Kentucky, if any human remains or Native American cultural items falling under the Native American Graves Protection and Repatriation Act (NAGPRA) or archaeological evidence is discovered during any phase of this project, the Miami Tribe requests immediate consultation with the entity of jurisdiction for the location of discovery. In such a case, please contact me at 918-541-8966 or by email at THPO@miamination.com to initiate consultation.

The Miami Tribe accepts the invitation to serve as a consulting party to the proposed project. In my capacity as Tribal Historic Preservation Officer I am the point of contact for consultation.

Respectfully,

Diane Hunter
Tribal Historic Preservation Officer



Miami Tribe of Oklahoma

3410 P St. NW, Miami, OK 74354 • P.O. Box 1326, Miami, OK 74355
Ph: (918) 541-1300 • Fax: (918) 542-7260
www.miamination.com



Via email: lpo_environmental@hq.doe.gov

August 18, 2022

Kara J. Harris, NEPA Document Manager
Loans Programs Office
U.S. Department of Energy
Washington, DC 20585

Re: BlueOval SK Manufacturing Facility in Glendale, Hardin County, Kentucky– Comments of the Miami Tribe of Oklahoma

Dear Ms. Harris:

Aya, kikwehsitoole – I show you respect. The Miami Tribe of Oklahoma, a federally recognized Indian tribe with a Constitution ratified in 1939 under the Oklahoma Indian Welfare Act of 1936, respectfully submits the following comments regarding BlueOval SK Manufacturing Facility in Glendale in Hardin County, Kentucky.

The Miami Tribe offers no objection to the above-referenced project at this time, as we are not currently aware of existing documentation directly linking a specific Miami cultural or historic site to the project site. However, given the Miami Tribe's deep and enduring relationship to its historic lands and cultural property within present-day Kentucky, if any human remains or Native American cultural items falling under the Native American Graves Protection and Repatriation Act (NAGPRA) or archaeological evidence is discovered during any phase of this project, the Miami Tribe requests immediate consultation with the entity of jurisdiction for the location of discovery. In such a case, please contact me at 918-541-8966 or by email at THPO@miamination.com to initiate consultation.

The Miami Tribe accepts the invitation to serve as a consulting party to the proposed project. In my capacity as Tribal Historic Preservation Officer I am the point of contact for consultation.

Respectfully,

Diane Hunter
Tribal Historic Preservation Officer

Eskridge, Anna (CONTR)

From: Courtney Neff <cneff@osagenation-nsn.gov>
Sent: Thursday, August 18, 2022 4:33 PM
To: LPO_Environmental
Cc: Colleen A. Bell; Caitlin E. Nichols
Subject: [EXTERNAL] RE: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK

Good Afternoon Ms. Harris,

As of June 16, 2021 the Osage Nation Historic Preservation Office reverted back to our pre-Covid Section 106 procedures where we only accept hardcopy notifications and archaeological survey reports via mail only. Please address all notifications to Dr. Andrea A. Hunter, THPO and mail it to the address listed below. In the future for inquiries, updates, and notifications regarding Section 106 consultation please contact Dr. Hunter as she has been designated by Chief Standing Bear as the contact for all Section 106 consultation for the Osage Nation. The Chief does not need to receive emails.

Thank you!



Courtney Neff

Osage Nation Historic Preservation Office
Administrative/Section 106 Assistant
627 Grandview Avenue, Pawhuska, OK 74056
Office: 918-287-9741 | Fax: 918-287-5376

[Email](#) | [Website](#)



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From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Tuesday, August 16, 2022 3:16 PM
To: Andrea Hunter <ahunter@osagenation-nsn.gov>; Geoffrey Standing Bear <gstandingbear@osagenation-nsn.gov>; Courtney Neff <cneff@osagenation-nsn.gov>; Colleen A. Bell <colleen.bell@osagenation-nsn.gov>
Subject: Intent to Prepare an Environmental Assessment for a Proposed Federal Loan to BlueOval SK

Dear Principal Chief Standing Bear:

The U.S. Department of Energy (DOE) is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide batteries.

The proposed Glendale, Kentucky facility would involve the construction of an approximately 6.06 million-square-foot facility and auxiliary structures, including two battery plants and build-up areas, multiple storage and waste storage areas, assembly areas, reliability test building, an administration building, lift station, parking lots, and utility lines (Attachments 1-2). Based on preliminary estimates, approximately 5,000 new jobs would be created at the Glendale facilities.

The undertaking in Glendale, Kentucky was previously reviewed and permitted by the United States Army Corps of Engineers (USACE) in a Statement of Findings and EA for a Standard Individual Permit. USACE determined the undertaking was subject to Section 106 of the National Historic Preservation Act (NHPA). As part of the EA process, USACE conducted a historic resource review in compliance with Section 106 of the NHPA. DOE was a cooperating agency with USACE because the area of potential effect and the undertaking were the same for both agencies.

Although the Section 106 consultation was completed by USACE and DOE, we want to give you the opportunity to comment and engage DOE in government-to-government consultation as well as to raise any issues or concerns you may have regarding the project site. Any comments or concerns you provide will help ensure that DOE considers Tribal interests and complies with its NEPA responsibilities.

I would greatly appreciate notification if you do or do not have an interest in the project site, as well as any comments or concerns you may have, within thirty (30) days of receipt of this email. Should you have an interest in the project site, I will provide you with additional information, pursuant to NEPA, as it becomes available. Please provide your notification of interest and any comments or concerns by phone at (202) 586-8716 or email at lpo_environmental@hq.doe.gov.

Respectfully,

Kara Harris
NEPA Document Manager
Loan Programs Office

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Osage Nation Historic Preservation Office

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Date: January 30, 2023

Department of Energy
Kara Harris
Washington, D.C. 20585

RE: DOE, BlueOval SK, Construction of Three BlueOval SK Battery Manufacturing Facilities, Stanton, Haywood County, Tennessee and Glendale, Hardin County, Kentucky (ONHPO File #2223-3031TN-10)

SENT VIA EMAIL

Dear Ms. Harris,

The Osage Nation Historic Preservation Office has received notification and accompanying information for the proposed project listed as DOE, BlueOval SK, Construction of Three BlueOval SK Battery Manufacturing Facilities, Stanton, Haywood County, Tennessee and Glendale, Hardin County, Kentucky. **The Osage Nation requests that a cultural resources survey be conducted for this project, including any areas of proposed ground disturbance, including staging areas, wells, potential borrow pits, access roads, and utility corridors.**

Additionally, the Osage Nation is not listed in the Draft Environmental Assessment as one of the federally recognized tribes consulted by the United States Army Corps of Engineers (USACE) despite the proposed project locations being within the Osage Nation ancestral territory. The Osage Nation was -not notified of the Draft Environmental Assessments (EA) compiled by USACE in May 2022 resulting in very little time for a thorough review of the Draft EA. The United States Army Corps of Engineers did not properly comply with Section 106 of the National Historic Preservation Act which states that tribal consultation “should commence early in the planning process, in order to identify and discuss relevant preservation issues”.

In accordance with the National Historic Preservation Act, (NHPA) [54 U.S.C. § 300101 et seq.] 1966, undertakings subject to the review process are referred to in 54 U.S.C. § 302706 (a), which clarifies that historic properties may have religious and cultural significance to Indian tribes. Additionally, Section 106 of NHPA requires Federal agencies to consider the effects of their actions on historic properties (36 CFR Part 800) as does the National Environmental Policy Act (43 U.S.C. 4321 and 4331-35 and 40 CFR 1501.7(a) of 1969).

The Osage Nation has a vital interest in protecting its historic and ancestral cultural resources. **The Osage Nation anticipates reviewing and commenting on the planned Phase I cultural resources survey report for the proposed DOE, BlueOval SK, Construction of Three BlueOval SK Battery Manufacturing Facilities, Stanton, Haywood County, Tennessee and Glendale, Hardin County, Kentucky.**

1

627 Grandview Ave. * Pawhuska, OK 74056

Telephone 918-287-5328 * Fax 918-287-5376

www.osagenation-nsn.gov/who-we-are/historic-preservation * HistoricPreservation@osagenation-nsn.gov

OSAGE NATION HISTORIC PRESERVATION OFFICE

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Should you have any questions or need any additional information please feel free to contact me at the number listed below. Thank you for consulting with the Osage Nation on this matter.

Andrea A. Hunter, Ph.D.
Director, Tribal Historic Preservation Officer

Audra Whitehurse, MA
Archaeologist

Eskridge, Anna (CONTR)

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Wednesday, February 15, 2023 12:30 PM
To: 'Audra E. Whitehurse'
Subject: RE: BlueOval SK EA (2223-3031TN-10) - Attachments 1-3

Ms. Whitehurse,

You should have received a link to access the KY site materials. Please confirm once you have gotten the files.

[All Files | Kiteworks \(doe.gov\)](#)

Thanks,

Anna Eskridge, Ph.D.

Environmental Compliance (Contractor)
Loan Programs Office (LPO)
U.S. Department of Energy

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Tuesday, February 14, 2023 4:48 PM
To: 'Audra E. Whitehurse' <audra.whitehurse@osagenation-nsn.gov>
Subject: RE: BlueOval SK EA (2223-3031TN-10) - Attachments 1-3

Ms. Whitehurse,

Did any of the Attachment 4 emails come through (a total of 5 emails)? I got messages saying they were rejected by your server.

If you didn't receive them, do you have a data room where I can put the files or some other way to get them to you?

Thanks,

Anna Eskridge, Ph.D.

Environmental Compliance (Contractor)
Loan Programs Office (LPO)
U.S. Department of Energy

From: LPO_Environmental
Sent: Tuesday, February 14, 2023 4:15 PM
To: Audra E. Whitehurse <audra.whitehurse@osagenation-nsn.gov>
Subject: BlueOval SK EA (2223-3031TN-10) - Attachments 1-3

Ms. Whitehurse,

Please find a letter and Attachments 1-3 included with this email. Attachment 4 (all the cultural survey materials for the KY site) will be included in 5 additional emails. **Please confirm receipt** of this email and the subsequent emails. The subsequent emails will contain the following:

Attachment 4: KY site cultural survey attachments included with the USACE letter from April 7, 2022 (separate emails to follow with the following files)

Email 1:

- 2009-09-01 MACTEC Phase I Arch Survey
- 2010-07-19 MACTEC Phase I Arch Survey (Addendum)

Email 2:

- 2017-07-24 AMEC Summary

Email 3:

- 2022-01-24 CRA Glendale Avoidance Plan 22-025
- 2022-02-15 KYTC Camp Nevin Proposed NRHP Boundary
- 2022-03-02 CRA Site 792 Report
- 2022-03-30 CRA Sites 742 and 743 Report 22-061
- 2022-04-04 CRA Cemetery Delineation Letter Report 22-111_rev
- Arch Site Spreadsheet

Email 4:

- Attachment F.7 CRAI Sites 744 and 799 Report

Email 5:

- Ford Blue Oval DOE signed
- FORD PUBLIC NOTICE FIGURES
- Metal Detecting Report

Thanks,

Anna Eskridge, Ph.D.

Environmental Compliance (Contractor)
Loan Programs Office (LPO)
U.S. Department of Energy

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Thursday, February 9, 2023 2:12 PM
To: Audra E. Whitehorse <audra.whitehorse@osagenation-nsn.gov>
Subject: RE: BlueOval SK EA (2223-3031TN-10)

Ms. Whitehorse,

As we discussed, please find the TN - U.S. Army Corps of Engineers contact information below:

Mitch Elcan
U.S. Army Engineer District - Memphis
E-mail: james.m.elcan@usace.army.mil
Phone: (901) 544-0737

Thanks,

Anna Eskridge, Ph.D.

Environmental Compliance (Contractor)

Loan Programs Office (LPO)
U.S. Department of Energy
Office: 803-791-6113
Email: anna.eskridge@hq.doe.gov

From: LPO_Environmental <lpo_environmental@hq.doe.gov>
Sent: Wednesday, February 8, 2023 2:56 PM
To: Audra E. Whitehurse <audra.whitehurse@osagenation-nsn.gov>
Subject: RE: BlueOval SK EA (2223-3031TN-10)

Ms. Whitehurse,

Good afternoon! The U.S. Army Corps of Engineers (USACE) Memphis District let us know that your office reached out and asked for the cultural surveys directly from them for the Tennessee site. I just wanted to confirm that plan as we are working to get the information together for you on the Kentucky site. Please let me know.

Thanks so much,

Anna Eskridge, Ph.D.
Environmental Compliance (Contractor)
Loan Programs Office (LPO)
U.S. Department of Energy
Office: 803-791-6113

From: Audra E. Whitehurse <audra.whitehurse@osagenation-nsn.gov>
Sent: Tuesday, January 31, 2023 9:41 AM
To: LPO_Environmental <lpo_environmental@hq.doe.gov>
Subject: [EXTERNAL] BlueOval SK EA (2223-3031TN-10)

Dear Ms. Harris,

Please find the Osage Nation comments on the above referenced project attached. Feel free to contact me if you have any questions.

Kind regards,

Audra Whitehurse



Pronouns: she/her/hers
Archaeologist, MA
Osage Nation Historic Preservation Office
627 Grandview Avenue, Pawhuska, OK 74056
Office: 918-287-0013 | Fax: 918-287-5376
audra.whitehurse@osagenation-nsn.gov
<https://www.osagenation-nsn.gov/who-we-are/historic-preservation>

Starting October 1, 2022 the Osage Nation Historic Preservation Office is changing the project notification process. **All NHPA project notifications and reports must be addressed to Dr. Andrea A. Hunter and emailed to s106@osagenation-nsn.gov** Include the Lead Agency, Project Name and Number on the subject line. **All TCNS (cell**

tower) notifications must be emailed to TCNS@osagenation-nsn.gov Include Project Name and TCNS Number on the subject line.

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Department of Energy

Washington, DC 20585

February 14, 2023

Dr. Andrea A. Hunter
Director, Tribal Historic Preservation Officer
Osage Nation
627 Grandview Avenue
Pawhuska, OK 74056

SUBJECT: ONHPO File #2223-3031TN-10; Environmental Assessment for a Proposed Federal Loan to BlueOval SK for BlueOval SK Manufacturing Facilities in Stanton, Tennessee and Glendale, Kentucky.

Dear Dr. Hunter:

The U.S. Department of Energy (DOE), Loan Programs Office (LPO) prepared an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to assist in determining whether to issue a Federal loan to BlueOval SK to support the construction of three battery manufacturing facilities in Glendale, Kentucky and Stanton, Tennessee. The facilities will be used to build lithium nickel manganese cobalt oxide batteries. In addition to the NEPA process, LPO also completed reviews and consultations pursuant to Section 106 of the National Historic Preservation Act (NHPA).

In response to your January 31, 2023 email about this project, we are providing a summary of the Section 106 process for this project as well as the information you requested for your records (organized by each respective site):

Tennessee site (Stanton, TN – Haywood County):

- **May 16, 2022:** The U.S. Army Corps of Engineers (USACE) Memphis District completed an EA for the Stanton, TN site. The USACE EA included the Section 106 process for the entire BlueOval site.
- **August 2022:** LPO identified twenty (20) possible Tribal interests for the Tennessee site based on the U.S. Department of Housing and Urban Development (HUD) Tribal Directory Assessment Tool (TDAT) database (<https://egis.hud.gov/TDAT/>) and the USACE mailing list (provided by USACE on August 12, 2022). The Osage Nation was not listed in the USACE mailing list or TDAT database for Haywood County or the county just south of the BlueOval site (Fayette County, TN).

- **August 16 and 19, 2022:** Although the Osage Nation was not identified as having a possible interest in the TN site, the KY site initiation letter about the LPO project was emailed to the Osage Nation on August 16, 2022 and mailed to the Osage Nation (per email request) on August 19, 2022. The KY site initiation letter about the LPO project identifies both the KY and TN sites. The letter requested comments and notification of interest in the Project within 30 days. The Osage Nation did not provide any comments or a notification of interest in the project.
- **August 30, 2022:** LPO became party to the cultural resource reviews and consultations conducted during the USACE EA and concurred with the “no adverse effects” determination with avoidance and mitigation measures pursuant to Section 106 of the National Historic Preservation Act. LPO received the TN SHPO concurrence on August 30, 2022.
- **December 15, 2022:** The LPO EA and draft FONSI were emailed and mailed on December 15, 2022 to the Osage Nation (mail delivered on December 19, 2022).
- **December 15, 2022 to January 30, 2023 comment period:** There was a 45-day comment period on the LPO EA and draft FONSI from December 15, 2022 and to January 30, 2023. The Osage Nation emailed a letter to LPO on January 31, 2023, requesting all cultural surveys for the project.
- **February 1, 2023:** Phone call with the Osage Nation Historic Preservation Office Archaeologist to confirm information requested (cultural surveys). Request was made for DOE to submit information electronically (via email).
- **February 3, 2023:** USACE indicated that the Osage Nation reached out and requested cultural surveys related to this project. On February 14, 2023, USACE said they provided the information to the Osage Nation.
- **February 9, 2023:** Phone call with the Osage Nation Historic Preservation Office Archaeologist to confirm that USACE will provide cultural surveys.

Kentucky site (Glendale, KY – Hardin County):

- LPO was a NEPA cooperating agency with the USACE Louisville District for their EA on the Glendale, KY, battery plants.
- LPO was a party to the cultural resource reviews and consultations conducted during the USACE EA, which resulted in implementation of an Archaeological Avoidance Plan and a “No Adverse Effect” determination pursuant to Section 106 of the National Historic Preservation Act.
- **April 7, 2022:** USACE sent an electronic invitation to consult on April 7, 2022 via DODSafe File Share System with a letter and the following attachments:
 - 2009-09-01 MACTEC Phase I Arch Survey
 - 2010-07-19 MACTEC Phase I Arch Survey (Addendum)
 - 2017-07-24 AMEC Summary
 - 2022-01-24 CRA Glendale Avoidance Plan 22-025
 - 2022-02-15 KYTC Camp Nevin Proposed NRHP Boundary
 - 2022-03-02 CRA Site 792 Report
 - 2022-03-30 CRA Sites 742 and 743 Report 22-061
 - 2022-04-04 CRA Cemetery Delineation Letter Report 22-111_rev
 - Arch Site Spreadsheet

- Attachment F.7 CRAI Sites 744 and 799 Report
- Ford Blue Oval DOE signed
- FORD PUBLIC NOTICE FIGURES
- Metal Detecting Report
- **April 8, 2022:** The Osage Nation notified USACE that a hard copy of all correspondence was required.
- **April 12, 2022:** Third Rock Consultants, as directed by USACE, sent the invitation to consult and above-listed attachments via certified mail to the Osage Nation.
- **April 14, 2022:** The invitation to consult was delivered to the Osage Nation.
- **May 20, 2022:** A response to the invitation to consult was never received by USACE and the Department of the Army Permit Number LRL-2021-443-sea was issued on May 20, 2022.
- **August 16 and 19, 2022:** The KY site initiation letter about the LPO project was emailed to the Osage Nation on August 16, 2022 and mailed to the Osage Nation (per email request) on August 19, 2022. The KY site initiation letter about the LPO project identifies both the KY and TN sites. The letter requested comments and notification of interest in the Project within 30 days. The Osage Nation did not provide any comments or a notification of interest in the project.
- **December 15, 2022:** The LPO EA and draft FONSI was emailed and mailed on December 15, 2022 to the Osage Nation (mail delivered on December 19, 2022).
- **December 15, 2022 to January 30, 2023 comment period:** There was a 45-day comment period on the LPO EA and draft FONSI from December 15, 2022 to January 30, 2023. The Osage Nation emailed a letter to LPO on January 31, 2023, requesting all cultural surveys for the project.
- **February 1, 2023:** Phone call with the Osage Nation Historic Preservation Office Archaeologist to confirm information requested (cultural surveys). Request was made for DOE to submit information electronically (via email).

Attachments to this letter include the correspondence from LPO and USACE to the Osage Nation, and the requested Kentucky site cultural survey reports (Note, the USACE provided the Tennessee site cultural survey reports). Should you have any additional questions, please call me at 202-586-8716 or email me at lpo_environmental@hq.doe.gov.

Respectfully,

Kara J. Harris Digitally signed by Kara J. Harris
Date: 2023.02.14 15:02:37
-05'00'

Kara Harris
NEPA Document Manager
Loan Programs Office

Attachments:

Attachment 1: LPO Initiation Letter to the Osage Nation (August 16, 2022) and emails from the Osage Nation requesting letter be mailed

Attachment 2: LPO Letter to the Osage Nation about EA and Draft FONSI (December 15, 2022) with certified mail confirmation

Attachment 3: USACE Letter to the Osage Nation (April 7, 2022) with certified mail confirmation

Attachment 4: KY site cultural survey attachments included with the USACE letter from April 7, 2022 (separate emails to follow with the following files)

- 2009-09-01 MACTEC Phase I Arch Survey
- 2010-07-19 MACTEC Phase I Arch Survey (Addendum)
- 2017-07-24 AMEC Summary
- 2022-01-24 CRA Glendale Avoidance Plan 22-025
- 2022-02-15 KYTC Camp Nevin Proposed NRHP Boundary
- 2022-03-02 CRA Site 792 Report
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- 2022-04-04 CRA Cemetery Delineation Letter Report 22-111_rev
- Arch Site Spreadsheet
- Attachment F.7 CRAI Sites 744 and 799 Report
- Ford Blue Oval DOE signed
- FORD PUBLIC NOTICE FIGURES
- Metal Detecting Report

APPENDIX D PERMITS AND APPROVALS

PROJECT-REQUIRED FEDERAL, STATE, AND LOCAL PERMITS AND AUTHORIZATIONS – BLUEOVAL CITY (STANTON, TN)

Permit/Approval	Agency or Office	Status
Federal		
Section 404 Clean Water Act Consultation – Streams/Wetlands	U.S. Army Corps of Engineers – Memphis District	Complete. Permit issued May 16, 2022.
Section 7 Endangered Species Act Consultation and Construction Authorization	U.S. Fish and Wildlife Service	Complete. Delineation surveys indicate that there are no threatened and endangered species within the Project site. Determination made in 2022
Section 106 National Historic Preservation Act Clearance	DOE/State Historic Preservation Office	Complete. There are no adverse impacts on properties eligible for the National Register of Historic Places. Determination issued in 2022.
State		
Section 401 Permit/Water Quality Certification	Tennessee Division of Water Resources	Complete. Permit Issued March 22, 2022.
NPDES/SWPPP Construction Permit	Tennessee Department of Environment and Conservation (TDEC)	Complete. Permit issued March 21, 2022. Notification is required 30 days in advance of transfer date to BlueOval SK.
Aquatic Resource Alteration Permit (ARAP)	TDEC	Complete. Permit issued March 21, 2022.
Air Permit – Battery Plant	TDEC	Complete. Permit issued May 27, 2022. Written notification is required within 30 days of ownership to JV.
Title V Operating Permit – Battery Plant	TDEC	Permit is pending and will be issued to JV after start of operation at facility.
Air Permit – Assembly Plant (not in DOE LPO scope)	TDEC	Complete. Permit issued May 27, 2022.
Title V Operating Permit – Assembly Plant (not in DOE LPO scope)	TDEC	Permit is pending and will be issued after start of operation at facility.
RCRA Initial Notification and EPA Identification Number	TDEC – Division of Solid Waste Management (DSWM)	Permit is pending and will be issued within 90 days of first hazardous waste generation.
SPCC	TDEC	Permit is pending and will be issued within 6 months after the storage threshold is exceeded.
NPDES/SWPPP Industrial Permit	TDEC	Permitting process ongoing; approval prior to operations. A completed Notice of Intent (NOI) for the Tennessee Stormwater Multi-Sector General Permit (TSMP) to discharge stormwater associated with industrial activity will be submitted at least 5 days prior to beginning industrial activity at the site.
Drinking Water System Permit	TDEC	Permitting process ongoing; approval prior to operations.
Portable Concrete Batch Plants – Construction	TDEC	Permits coordinated by contracted operators.

Permit/Approval	Agency or Office	Status
Wastewater System Permit	TDEC	Permitting process ongoing; approval prior to operations.
Building Permits	State of Tennessee Fire Marshall	Construction authorization completed; review ongoing through construction.
Fire, Safety, and Emergency Response Consultations	State of Tennessee Fire Marshall	Construction authorization completed; review ongoing through construction.

PROJECT-REQUIRED FEDERAL, STATE AND LOCAL PERMITS AND AUTHORIZATIONS – BLUEOVAL SK BATTERY PARK (GLENDALE, KY)

Permit/Approval	Agency or Office	Status
Federal		
Section 404 Clean Water Act Consultation – Streams/Wetlands	U.S. Army Corps of Engineers – Louisville District	Complete. Permit issued May 20, 2022.
Section 7 Endangered Species Act Consultation and Construction Authorization	U.S. Fish and Wildlife Service	Complete. Delineation surveys indicate that there are no threatened and endangered species within the Project site. Determination made 2022.
Section 106 National Historic Preservation Act Clearance	DOE/State Historic Preservation Office	Complete. There are no adverse impacts on properties eligible for the National Register of Historic Places. Determination issued 2022.
State		
Section 401 Permit/Water Quality Certification	Kentucky Division of Water (KDOW)	Complete. Permit Issued March 28, 2022.
NPDES/SWPPP Construction Permit	KDOW	Complete. Permit issued February 2, 2022.
Title V Operating Permit	Kentucky Division of Air Quality (KDAQ)	Complete. Permit issued June 21, 2022. Written agreement letter is required with 10 days of ownership change.
RCRA Initial Notification and EPA Identification Number	Kentucky Energy and Environment Cabinet (KEEC)	Permit is pending and will be issued within 90 days of first hazardous waste generation.
SPCC	KEEC	Permit is pending and will be issued within 6 months after the storage threshold is exceeded.
NPDES/SWPPP Industrial Permit	KDOW	Permitting process ongoing; approval prior to operations.
Groundwater Protection Plan (GPP)	KDOW	Permitting process ongoing; implementation upon commencement of the regulated activity.
Drinking Water System Permit	Kentucky Division of Water (KDOW)	Permitting process ongoing; approval prior to operations.
Portable Concrete Batch Plants – Construction	Kentucky Division of Air Quality (KDAQ)	Permits coordinated by contracted operators.
Wastewater Discharge Permit	KDOW	Permitting process ongoing; approval prior to operations.
Local		

Permit/Approval	Agency or Office	Status
Building Permits	Hardin County	Construction authorization completed; review ongoing through construction.
Fire, Safety, and Emergency Response Consultations	Hardin County	Construction authorization completed; review ongoing through construction.

APPENDIX E

ENVIRONMENTAL COMPLIANCE MEASURES

ENVIRONMENTAL COMPLIANCE MEASURES SUMMARY

The Project has established the following environmental compliance measures for construction and operations. These measures include those items not already required by the Project's environmental permitting documents. All Project employees, contractors, and consultants will be required to complete training on these measures prior to beginning work and will be required to retrain periodically.

Cultural Resources Unanticipated Discovery Plan

The purpose of the Unanticipated Discovery Plan is to provide general guidelines to ensure the applicant maintains full and complete compliance with all federal and state regulations concerning the protection of cultural resources and human skeletal remains in the event that unanticipated cultural resources are encountered during construction. Guidance is provided for:

- Definition of unanticipated discovery
- Categories of unanticipated discoveries
- Treatment of unanticipated discoveries
- Treatment of human remains

Per correspondence received (see Appendix C), contacts were added from the following Tribes if items of cultural significance are discovered during the course of this project: Chickasaw Nation, Eastern Shawnee Tribe of Oklahoma, and the Osage Nation for the TN site as well as Cherokee Nation, Delaware Nation, Eastern Shawnee Tribe of Oklahoma, Miami Tribe of Oklahoma, and the Osage Nation for the KY site.

Fugitive Dust Control Measures

To minimize erosion and dust, the construction contractor will follow best practices such as:

- Park and conduct ground-disturbing activities only within designated areas
- Install, maintain, and inspect erosion control devices in accordance with the SWPPP
- Limit vehicle speeds within construction site to 15 miles per hour
- Apply water to graded surfaces as needed to minimize dust
- Inspect and clean track-in/track-out areas daily

Spill Prevention Control and Countermeasures Plan

The purpose of the SPCC plan is to provide general guidelines that outline procedures for spill prevention and containment of hazardous materials. A site-specific SPCC plan will be developed and provided by the construction contractor. Guidance is provided for:

- Storage and transfer of hazardous materials
- Spill prevention measures and controls
- Storage inspections and personnel training
- Requirements for reporting certain spills

Stormwater Pollution Prevention Plan

The purpose of the SWPPP is to minimize pollution in facility stormwater discharges. A site-specific SWPPP will be developed by the facility covering the following:

- Stormwater runoff estimates
- Identification of potential pollutant sources
- Description of control measures
- Schedules and procedures for compliance