

RIGHT-OF-WAY PERMIT FOR THE CITY OF ASHEVILLE TO ACCESS BLUE RIDGE PARKWAY BRIDGE

6.0 MITIGATION MEASURES

There would be some visibility of the beneficial fill site from the Parkway under the Preferred Alternative. In order to minimize the fill site's visibility to those traveling along the Parkway, screening trees would be planted in the open area between the fill site and the Parkway. Eastern white pine (*Pinus strobus*) and Virginia pine (*Pinus virginiana*) are possible trees that would be suitable for this purpose. The city would coordinate with the NPS on tree selection and planting locations.

An on-site 250-gallon fuel tank is included in the plans to develop the beneficial fill site. This fuel tank would be maintained on a curbed, concrete pad to contain any spills. Spill kits would be kept on site to contain any fuel spills associated with truck operations or with vehicular accidents.

The City of Asheville would need to comply with the state-approved Erosion and Sedimentation Control Plan in accordance with North Carolina General Statute 113A-57(4) and 113A-54(d)(4); North Carolina Administrative Code (NCAC), Title 15A, Chapter 4B.0007(c); and NCAC, Title 15A, Chapter 4B.0027(b)[see approval letter in Appendix C]. The approved plan is conditional upon continual compliance with applicable federal and state water quality laws, regulations, and rules. Furthermore, the 10-year right-of-way permit to the City of Asheville must stipulate that runoff from the beneficial fill site would be controlled as much as possible.

The City of Asheville would comply with the North Carolina Beneficial Fill Rule (15A NCAC 13B.0562).

The City of Asheville would comply with all requirements of the ROW permit issued by the NPS under the authority of 16 USC Section 460a-3 and Section 460a-8 and also 36 CFR 5.6(c).

Potential traffic hazards along Azalea Road from parked trucks waiting to access Bridge 43 (via the locked gate) would be reduced by either creating a paved pull-off zone along Azalea Road northeast of the bridge, or by moving the existing gate to the south end of the bridge. Moving the gate would provide room on the bridge to temporarily park trucks while the gate is unlocked. Any bridge closure for deck work would be coordinated with the Cove.

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7.0 CONSULTATION AND COORDINATION

7.1 Coordination History

See Appendix C for agency coordination.

7.2 Agencies Receiving a Copy of this EA

Mr. John Ramey
Forest Supervisor
US Forest Service
160-A Zillicoa Street
Asheville, North Carolina 28801.1082

Mr. David Baker
US Army Corp of Engineers
Asheville Regulatory Field Office
151 Patton Avenue—Room 208
Asheville, North Carolina 28801.5006

Mr. Bob Gale
Western North Carolina Alliance
70 Woodfin Place—Suite 326
Asheville, North Carolina 28801

Mr. Brian Cole
Field Supervisor
US Fish and Wildlife Service
Asheville Field Office
160 Zillicoa Street
Asheville, North Carolina 28801

Ms. Chrys Baggett
Environmental Policy Act Coordinator
State Clearinghouse
146 West Jones Street
Raleigh, North Carolina 27603.8003

Note—The following agencies are included in the internal coordination process conducted through the State Clearinghouse:

- Department of Historic Resources:
 - NC State Historic Preservation Office
 - NC Department of Cultural Resources
 - NC Division of Archives and History
- Department of Agriculture:
 - NC Plant Conservation Program

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- Department of Environment, Health, and Natural Resources
- Department of Environment and Natural Resources
- Department of Natural Resources:
 - NC Division of Environmental Management
 - NC Natural Heritage Program
 - NC Wildlife Resources Commission

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8.0 COMPLIANCE WITH FEDERAL AND STATE REGULATIONS

Relevant Laws and Regulations	Summary	Affected Resource(s)
The National Environmental Policy Act (NEPA) (42 USC 4321-4370)	Requires Federal agencies to evaluate the environmental impacts of their actions and to integrate such evaluations into their decision-making processes.	All
Council on Environmental Quality (CEQ) Regulations (40 CFR 1500-1508)	These regulations implement NEPA and establish two different levels of environmental analysis: The environmental assessment (EA) and the environmental impact statement (EIS). An EA determines whether significant impacts may result from a proposed action. If significant impacts are identified, an EIS is required to provide the public with a detailed analysis of alternative actions, their impacts, and mitigation measures, if necessary.	All
The Clean Water Act (CWA) (33 USC 1251 et seq.)	Section 401, the state water quality certification process, gives states the authority to grant, deny, or condition the issuance of Federal permits that may result in a discharge to the waters of the United States based on compliance with water quality standards. Section 404 of the CWA regulates the discharge of pollutants, including dredged or fill material, into navigable waters of the U.S. through a permit system jointly administered by the U.S. Environmental Protection Agency (USEPA) and the U.S. Army Corps of Engineers (USACE). In an early coordination letter dated November 18, 2003, the USACE states that Section 404 authorization will be required for any temporary or permanent discharges of dredged and/or fill material below the plane of ordinary high water within the Swannanoa River (see letter in Appendix C).	Water Resources, Biological Resources

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Relevant Laws and Regulations	Summary	Affected Resource(s)
The Clean Water Act (CWA) (33 USC 1251 et seq.)	Non-point sources requirements control pesticide runoff, forestry operations, and parking lots/motor pools. Point sources require individual or group permits and must be monitored at the point at which they enter public waters, storm sewers, or natural waterways. Section 311(j) requires facilities to prepare a Spill Prevention Control and Countermeasure Plan, containing minimum prevention facilities, restraints against drainage, an oil spill contingency plan, etc.	Water Resources, Biological Resources
The Clean Air Act (CAA) (42 USC 7401 et seq.)	Among its varied provisions, the CAA establishes standards for air quality in regard to the pollutants generated by internal combustion engines. These standards, known as the National Ambient Air Quality Standards (NAAQS), define the concentrations of these pollutants that are allowable in air to which the general public is exposed (“ambient air”).	Air Quality
The Endangered Species Act (ESA) (16 USC 1531-1544)	Prohibits the harming of any species listed by the U. S. Fish and Wildlife Service (USFWS) as being either Threatened or Endangered. Harming such species includes not only directly injuring or killing them, but also disrupting the habitat on which they depend.	Biological Resources
Migratory Bird Treaty Act (16 USC 703 et seq.)	Restricts the taking, possession, transportation, sale, purchase, importation, and exportation of migratory birds through permits issued by the USFWS.	Biological Resources
National Emissions Standards for Hazardous Air Pollutants (NESHAP)	Places standards on all hazardous air pollutants and governs such areas as organic liquids, asbestos, polyurethane foam, and wastewater. NESHAP is implemented under USEPA jurisdiction.	Air Quality, Waste Management

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Relevant Laws and Regulations	Summary	Affected Resource(s)
The Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978 (42 USC 4901 et seq.)	Requires compliance with State and local noise laws and ordinances.	Noise, Human Health and Safety
Archaeological Resources Protection Act (ARPA) (16 USC 470a et seq.)	Ensures the protection and preservation of archeological resources on Federal lands.	Cultural Resources
National Historic Preservation Act (NHPA) (16 USC 470 et seq.)	Provides the framework for Federal review and protection of cultural resources, and ensures that they are considered during Federal project planning and execution. The implementing regulations for the Section 106 process (36 CFR Part 800) have been developed by the Advisory Council on Historic Preservation (ACHP). The Secretary of the Interior maintains a National Register of Historic Places (NRHP) and sets forth significance criteria for inclusion in the register. Cultural resources included in the NRHP, or determined eligible for inclusion, are considered “historic properties” for the purposes of consideration by Federal undertakings.	Cultural Resources
Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC 3001 et seq.)	Protects Native American human remains, burials, and associated burial goods.	Cultural Resources

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Relevant Laws and Regulations	Summary	Affected Resource(s)
Safe Drinking Water Act (SDWA) (42 USC 300 et seq.)	Provides for the safety of drinking water throughout the U.S. by establishing and enforcing national drinking water quality standards. Protects public health by establishing safe limits (maximum contaminant limits) for contaminants based upon the quality of water at the tap, and prevents contamination of surface and ground sources of drinking water. The USEPA is responsible for establishing the national standards; the States are responsible for enforcement of the standards	Water Resources, Human Health and Safety
Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.)	Regulates all aspects of the handling of hazardous waste through RCRA permits issued by the USEPA.	Hazardous Materials
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 USC 9601 et seq.)	Provided broad Federal authority to respond directly to releases of hazardous materials that may endanger public health or the environment. Established prohibitions and requirements pertaining to closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites, and established a trust fund to provide for cleanup when a responsible party cannot be identified.	Hazardous Materials
National Park Service Organic Act of 1916 (16 USC et seq.)	Established the National Park Service to manage national parks for the purposes of conserving the scenery, natural resources, historic objects, and wildlife within the parks, and providing for the enjoyment of these resources in such manner that will leave them unimpaired for the enjoyment of future generations.	All

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Relevant Laws and Regulations	Summary	Affected Resource(s)
Federal Land Policy and Management Act (43 USC et seq.)	Declares that all public lands will be retained in federal ownership unless it is determined that a use other than public will better serve the interests of the nation. Requires that all public land be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, and environmental aspects of the land. Requires that all public lands and their resources be inventoried periodically and systematically.	All
Executive Order (E.O.) 11514: Protection and Enhancement of Environmental Quality	Provides leadership for protecting and enhancing the quality of the Nation's environment to sustain and enrich human life.	All
E.O. 11593: Protection and Enhancement of the Cultural Environment	Provides leadership for protecting, enhancing, and maintaining the quality of the Nation's historic and cultural environment.	Cultural Resources
E.O. 12372: Intergovernmental Review of Federal Programs	Directs Federal agencies to consult with and solicit comments from state and local government officials whose jurisdictions would be affected by Federal actions.	All
E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	Requires Federal actions to achieve Environmental Justice by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.	All
E.O. 13007: Protection and Accommodation of Access To "Indian Sacred Sites"	Directs Federal agencies to consider Indian sacred sites in planning agency activities.	Cultural Resources

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Relevant Laws and Regulations	Summary	Affected Resource(s)
E.O. 13045: Protection of Children from Environmental Health Risks and Safety Risks	Requires Federal actions and policies to identify and address disproportionately adverse risks to the health and safety of children.	All
E.O. 11990: Protection of Wetlands	An overall wetlands policy for all agencies managing Federal lands, sponsoring Federal projects, or providing Federal funds to State or local projects. It requires Federal agencies to follow avoidance/mitigation/preservation procedures with public input before proposing new construction projects.	Water Resources, Biological Resources
E.O. 11988: Floodplain Management	Requires all Federal agencies to take action to reduce the risk of flood loss, to restore and preserve the natural and beneficial values served by floodplains, and to minimize the impact of floods on human safety, health, and welfare. Because many wetlands are located in floodplains, E.O. 11988 has the secondary effect of protecting wetlands.	Water Resources, Biological Resources
E.O. 12856: Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements	Requires that the head of each federal agency be responsible for ensuring that all necessary actions are taken for the prevention of pollution with respect to the agency's activities and facilities, and for ensuring that the agency complies with pollution prevention, emergency planning, and community right-to-know provisions.	Hazardous Materials

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9.0 REFERENCES

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10.0 LIST OF PREPARERS

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