



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON, DC 20310-0103



19 DEC 1991

REPLY TO  
ATTENTION OF

Honorable LaJuana S. Wilcher  
Assistant Administrator for Water  
Environmental Protection Agency  
401 M Street, S.W.  
Washington, D. C. 20460

Dear Ms. Wilcher:

Thank you for your letter of December 13, 1991, in which you requested higher level review of issues related to a permit application being considered by the Army Corps of Engineers Memphis District. The project, which is proposed by the Tennessee Department of Transportation (TDOT), involves the filling of 34.7 acres of wetlands to construct an extension to the Paul Barrett Parkway. Your request was made pursuant to the Section 404(q) Memorandum of Agreement (MOA) between the Department of the Army and the Environmental Protection Agency (EPA) regarding issues of national importance requiring policy level review. Your request raised three issues for our consideration:

1. The process by which costs were factored into the Memphis District's conclusions on the practicability of various alternatives.
2. The Memphis District's consideration of differences in resource values associated with different alternatives.
3. The effects of the proposed highway alignment on the success of an adjacent wetlands mitigation bank.

We have carefully reviewed your letter and the Memphis District's decision documents for this case and agree that the issues raised in your letter merit further headquarters and district review. First, of national significance, we believe that TDOT's submission of a 100 percent designed project without prior consultation with the Corps was inappropriate. As noted in your letter, the commitment of resources associated with such actions by an applicant "should not foreclose a full and fair exploration of practicable alternatives." It is difficult to understand why TDOT failed to discuss the proposed alignment change with the Corps in 1987 when it was first being considered. This is more troubling in light of TDOT's past history of noncompliance with Corps permit requirements and of performing work without

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Your interest and efforts in raising the issues associated with this case to our attention are appreciated. I believe the proposed resolution of this matter underscores my commitment to address specific permit issues within the framework of existing regulatory authority (33 CFR 325.8) and reserve elevation under the 404(q) MOA to national issues that require policy level review. I look forward to working with you in the future to improve the efficiency of the regulatory process and where necessary increase the level of protection to our Nation's valuable aquatic resources. Should you have any questions or comments please contact me or Mr. Michael Davis, my Assistant for Regulatory Affairs.

Sincerely,



Nancy P. Dorn  
Assistant Secretary of the Army  
(Civil Works)