

in 1997,³ the limited partnership rules have not been updated to reflect this change. As such, Nasdaq is proposing to amend its Marketplace Rules in order to clarify that the limited partnership qualitative listing standards apply to all limited partnerships listed on Nasdaq.

Nasdaq is also proposing to make a conforming change to Marketplace Rule 4350.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act⁴ in that the proposal is designed to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest. As previously mentioned, Nasdaq is proposing to amend its limited partnership qualitative listing standards in order to provide greater clarity and transparency for issuers, their counsel and investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Nasdaq has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submission should refer to file number SR-NASD-2001-48 and should be submitted by January 3, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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TENNESSEE VALLEY AUTHORITY

Patton Island Bridge and Approaches Crossing the Tennessee River and Connecting the Cities of Florence and Muscle Shoals, Colbert and Lauderdale Counties, AL

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Issuance of Supplemental Record of Decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR part 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. TVA has decided to issue an approval to the Alabama Department of Transportation under section 26a of the TVA Act for the relocation and modification of 2,270 feet of Sweetwater Creek. The purpose of the relocation is to allow construction of the northern approaches to the Patton Island Bridge across the Tennessee River. TVA previously adopted the Final Environmental Impact Statement, Project DE-0026(801), Patton Island Bridge and Approaches Crossing the Tennessee River and Connecting the Cities of Florence and Muscle Shoals, Colbert and Lauderdale Counties, (FEIS) prepared by the State of Alabama

Highway Department in Cooperation with the Department of Transportation, Federal Highway Administration. A Notice of TVA's adoption of this FEIS and of TVA's issuance of the Record of Decision to adopt the "Build" alternative in the FEIS was given in the **Federal Register** of September 29, 1994.

FOR FURTHER INFORMATION CONTACT:

Harold M. Draper, NEPA Specialist, Environmental Policy and Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902-1499; telephone (865) 632-6889 or e-mail hmdraper@tva.gov.

SUPPLEMENTARY INFORMATION: Under the "build" alternative identified in the FEIS, a multi-lane highway would be built across the Tennessee River. On September 20, 1994, TVA issued a Record of Decision (ROD) for its adoption of the "build" alternative. The build alternative required approval for the Patton Island Bridge crossing under section 26a of the TVA Act, and approval for a permanent easement over 63.7 acres of TVA land for construction, operation, and maintenance of a new highway across the Muscle Shoals Reservation and Pickwick Reservoir lands. This previous ROD appeared at 59 FR 49738 (September 29, 1994). The Alabama Department of Transportation has now requested approval for construction of an additional segment of the Patton Island project. The additional segment would require approval under section 26a of the TVA Act for a channel relocation and two culverts affecting 2270 feet of Sweetwater Creek. The impacts of this segment were evaluated in the 1991 FEIS and have been verified by TVA in issuing this supplemental ROD.

Alternatives Considered

The previously adopted EIS evaluated five alternative corridors for a new multi-lane road between Muscle Shoals and Florence. In the Patton Island Corridor, two alternatives were considered. North of the Patton Island Bridge, two alternatives were considered. Because construction of the Patton Island bridge has been underway for several years, TVA re-evaluated the no action alternative and the two action alternatives considered in the 1991 FEIS for completion of the remainder of the project. Under No Action, the Patton Island Expressway would end at the northern side of the River and not continue to Florence Boulevard (US 43-72), which is a logical terminus. The two action alternatives are:

1A. Build along a corridor designated "Alternative A." North of the Tennessee River and in the vicinity of Sweetwater

³ Securities Exchange Act Release No. 38961 (August 22, 1997), 62 FR 45895 (August 29, 1997).

⁴ 15 U.S.C. 78o-3(b)(6).

⁵ 17 CFR 200.30-3(a)(12).

Creek, this route would be slightly to the east of Alternative B and cross under Florence Boulevard (U.S. 43-72). In order to construct an underpass at the Florence Boulevard intersection, retaining walls would be required, adding to the costs of the project, and a compact diamond-shaped interchange would be constructed. This would restrict the length and functioning of turning lanes on Florence Boulevard.

1B. Build along a corridor designated "Alternative B." North of the Tennessee River and in the vicinity of Sweetwater Creek, this route would be slightly to the west of Alternative A. It would cross over Florence Boulevard, and therefore would not restrict the potential length and functioning of turning lanes as in Alternative A. Both Alternative 1A and Alternative 1B would require that a playground in a public housing development be moved. Avoidance of the playground was judged to be not practicable because additional residential property losses (Alternative A), or a relocation of a railroad switching yard (Alternative B), would be required. The playground will be replaced in a new location convenient to the housing project.

Because the original EIS was issued in 1991, TVA conducted a supplemental environmental review of the impacts of the Sweetwater Creek relocation to confirm that the findings of the 1991 EIS were still valid. The proposed stream relocation and modification of Sweetwater Creek was announced to the public and environmental agencies through issuance of a Joint Public Notice by the U.S. Army Corps of Engineers, TVA, and the State of Alabama on June 20, 2000. Responses were received from the Alabama Historical Commission (AHC), the U.S. Fish and Wildlife Service (FWS), The Foundry of the Shoals, and two members of the public. AHC requested that a cultural resources assessment be provided for review. Information on previous section 106 coordination was subsequently provided, and by letter of August 10, 2000, AHC concurred that the project would not adversely affect resources eligible for the National Register of Historic Places. FWS expressed concerns about the loss of a riparian buffer along the stream and recommended that the proposed riprapped channel be meandered and planted with mast-producing hardwood trees. They also requested mitigation of any unavoidable loss of aquatic habitat through the Alabama Stream Habitat Restoration Program. The stream habitat program was never created, and therefore is not a viable mitigation option. However, the applicant has

agreed to replant the proposed new channel with hardwood trees in a 30-foot wide riparian buffer on both sides of the stream. Additionally, the applicant has agreed to deduct 0.5 credits from the Alabama Department of Transportation wetland mitigation bank. The banking agreement includes sites throughout Alabama, and suitable compensatory mitigation banks currently exist for use by ADOT in Jackson County, Alabama and Lawrence County, Alabama within the Tennessee River watershed. The Foundry of the Shoals was concerned that the proposed project would increase flooding in the area. Members of the public expressed concerns about the length of the culverting and the loss of natural stream values. TVA has reviewed the plans and confirmed that there would be no reduction in the size of the channel; as a result, flooding problems would not be affected by the highway construction. Because this is an urban area, the stream exhibits few natural stream values. In addition, it is not practical to reduce the length of the culvert because this is the only place to squeeze a multi-lane facility through an urban area without extensive residential or industrial property impacts. Both Alternatives 1A and 1B would have impacts to the floodplain. Only no action would not impact the floodplain. However, this alternative is not practicable because the traffic congestion needs are not addressed. Florence is a participant in the National Flood Insurance Program. In accordance with this program, the project will not significantly increase 100-year flood elevations and will not involve placement of fill or other flow obstructions in the floodway portion of the floodplain unless compensatory adjustments are also included. By letter of July 24, 2000, the Alabama Department of Environmental Management issued Water Quality Certification under section 401 of the Clean Water Act.

Based on the supplemental evaluation, TVA concurs that the Alternative 1B route north of the river in the city of Florence is still the appropriate build alternative.

Decision

TVA has decided to issue section 26a approval for the relocation and modification of 2,270 feet of Sweetwater Creek in Florence, Alabama. Specific actions requiring section 26a approval are a culvert extending 1400 feet from north of Huntsville Avenue to south of the proposed new highway, a channel relocation and riprap extending 760 feet south of the Huntsville Avenue-Patton Island Expressway culvert, and a culvert

extending 110 feet under Union Avenue. The relocation, culverts, and riprap would allow completion of the Patton Island project originally proposed in the FEIS. Based on its supplemental evaluation, TVA reaffirms that the analyses contained in the FEIS are adequate. The EIS concluded that Alternative 1B north of the river in Florence is the appropriate build alternative. Alternative 1B is the more practical alternative given the topography of the Florence area, and would result in less traffic congestion on Florence Boulevard. Because of these reasons, TVA believes that this is the more environmentally preferable alternative for completion of the Patton Island project. The other action alternative in the Sweetwater Creek area, Alternative 1A, would require a retaining wall at the Cherry Hills Housing Project playground, which representatives of the project have said is not desirable. The No Action alternative is not desirable because it would result in increasing traffic congestion as the area grows.

Environmental Commitments

TVA will require the use of Best Management Practices for erosion control and will also require that the relocated channel be planted with a 30-foot width of mast-producing hardwood trees on each side of the channel. In addition, 0.5 credits will be withdrawn from the Alabama Department of Transportation wetland mitigation bank complex. With the implementation of the above environmental protection measures, TVA has determined that adverse environmental impacts of the Patton Island Expressway project across Sweetwater Creek would be substantially reduced. These protective measures represent all of the practicable measures to avoid or minimize environmental harm that are associated with this alternative.

Dated: December 5, 2001.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2001-10235]

Notice of Public Hearing; the Union Pacific Railroad

The Union Pacific Railroad (UP) has petitioned the Federal Railroad