

# Attachment 2

(4 pages)



TENNESSEE VALLEY AUTHORITY

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## Public Notice

August 14, 2008

### Proposed Action

Placement of fill

### Location

Tennessee River mile 464.5R on Nickajack Reservoir,  
Chattanooga, Tennessee

### Description

Notice is hereby given that TVA, in accordance with Section 26a of the TVA Act, proposes to permit the placement of approximately 3,800 cubic yards of fill in order to enable construction of luxury condominiums at 600 River Street, in downtown Chattanooga, Tennessee. The location of the proposed fill and development is adjacent to Tennessee River mile 464.5R on Nickajack Reservoir.

The fill is necessary in order to bring the elevation of the proposed condominiums to a minimum of two feet above the 100-year flood elevation so that the proposed development will be in compliance with the City of Chattanooga's floodplain ordinance. The areas around the building and parking areas will also be brought above the 100-year floodplain.

The fill would be located within the limits of the Tennessee River 100-year floodplain and is therefore subject to the requirements of Presidential Executive Order 11988 on Floodplain Management. In order to construct the luxury condominiums, there is no practicable alternative to placing the fill within the 100-year floodplain.

All practicable design measures to minimize harm to the floodplain have been identified and would be required by TVA. These measures include requirements that:

- No additional fill beyond that needed for

construction of the condominiums, areas around the building, and parking areas would be placed in the 100-year floodplain.

- The finished floor of the condominiums would be elevated a minimum of two feet above the 100-year flood elevation.
- Best management practices would be used during placement of fill (and construction of the condominiums).

TVA has concluded that the proposed project is consistent with Executive Order 11988 because:

1. There is no practicable alternative to locating in the floodplain.
2. The proposed project would be designed to minimize to the extent practicable harm to or within the floodplain.
3. The proposed project would conform with applicable state and local floodplain regulations.
4. Identifiable impacts to the floodplain are negligible.

All written comments on this proposed action must be received on or before August 28, 2008, and should be directed to:

Dan Fisher  
TVA Chickamauga - Hiwassee Watershed Team  
1101 Market Street, PSC 1E  
Chattanooga, TN 37402-2801  
423-876-4177  
Fax: 423-876-4016

E-mail: [dfisher@tva.gov](mailto:dfisher@tva.gov)

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-----Original Message-----

From: tom kunesh [mailto:tpkunesh@chattanooga.net]

Sent: Monday, August 18, 2008 4:23 PM

To: Maher, Thomas O.; Pritchard, Erin E; Ellis, Bridgette K; Michael C. Moore; Suzanne Hoyal

Cc: Nick Honerkamp; Corky Allen; Pat Cummins; Michael Lynch; Val Ohle

Subject: MOA request

Bridgette K. Ellis <bkellis@tva.gov>  
TVA Federal Preservation Officer

Thomas O. Maher <tomaher@tva.gov>  
TVA Cultural Resources Manager, Tennessee Historical Commission

Erin Pritchard <eepritchard@tva.gov>  
TVA Archaeologist

Michael C. Moore <mike.c.moore@state.tn.us>  
Tennessee State Archaeologist

Suzanne Hoyal <suzanne.hoyal@state.tn.us>  
TN Div of Archaeology

ref. Chattanooga Times Free Press, Saturday, August 16, 2008, Front Page  
<http://www.timesfreepress.com/news/2008/aug/16/chattanooga-developer-doing-north-shore-artifact-d/>  
>Developer authorizes North Shore artifact dig

TVA Cultural Resources Staff -

I understand that there is an archaeological dig on a known Native American site on private property in Chattanooga that required permission from TVA.

Section 106 of the National Historic Preservation Act mandates that federally-recognized tribes be contacted and a plan of action be agreed upon in this situation. I have not seen or heard of any notice to the tribes or to the state representatives of the Native American Indian community, and would like to check up on why we haven't received notice.

I would appreciate receiving the following documents:

1. Notice to TVA's list of potentially culturally-related tribes,
2. All responses from the contacted tribes and any other Native American groups,
3. The Memorandum of Agreement under which the archaeologist is digging the site.

Thank you in advance for your time and consideration.

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tom kunesh <tpkunesh@chattanooga.net>  
member, TN Commission of Indian Affairs  
[www.tdec.net/tcia/](http://www.tdec.net/tcia/) 423. 624.3380  
box 1063 Chattanooga TN 37401

## Parr, Kenneth P

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**From:** Parr, Kenneth P  
**Sent:** Wednesday, October 01, 2008 1:45 PM  
**To:** Parr, Kenneth P  
**Subject:** FW: MOA request

-----Original Message-----

**From:** Maher, Thomas O.  
**Sent:** Tuesday, September 02, 2008 3:55 PM  
**To:** 'tom kunesh'  
**Subject:** RE: MOA request

Hi Tom,

Thank you for your e-mail of August 18, 2008. I agree that the sudden appearance of an article in the Chattanooga Times Free Press about full-scale archaeological excavations in Chattanooga is surprising. This is one of those projects that started very small and very slowly built in complexity over time. Mr. Defoor submitted an application for a 26a permit in 2005. The only reason he needed a permit was because he wanted to put fill material on his private lot for landscaping and to get the land surface above the 100 year flood plain. TVA doesn't own any land there and we don't even have the right to store water on his land (a.k.a. flood/flowage easement). I'm sure you will agree that given the location of this development it was best to ask for a phase I survey. The results of that survey indicated that there was a prehistoric archaeological site present in the footprint of the proposed building. We sent the report to the Tennessee State Historic Preservation Officer (SHPO) and the duly designated representatives of the federally recognized American Indian Tribes with whom TVA regularly consults. As a result of the content of the report we requested a phase II survey to see if the site was eligible for the National Register of Historic Places (NRHP). Since it was located on a floodplain we asked for core samples to be taken as part of the phase II to determine if there were deep archaeological deposits present. An interesting layer cake of prehistoric occupations was discovered. The deepest occupation was a rare Archaic layer that was determined eligible for the NRHP under Criterion D. The phase II report was also sent to the TN-SHPO and the duly designated representatives of the federally recognized tribes.

If you have been to the site, you know it is narrow with a bridge on one side and condos on the other. After lengthy discussions a scope of work (SOW) was developed that would focus on the deep, rare, archaic occupation in this project area. This SOW entails the use of heavy equipment to safely access these deposits. Although avoidance is a preferred alternative in historic preservation, it is not always the only alternative, particularly when dealing with archaeological sites on private land. The MOA and SOW have been sent to both the THPOs and SHPOs and, based on the newspaper article, the work has begun. Since this site is on private property and the only federal action is a permit to place fill materials in the flood plain, I believe that quite a lot has been accomplished to preserve the past and to better understand occupations before us.

Yours truly,

Tom