

ENVIRONMENTAL ASSESSMENT

ROBMER PARTNERSHIP PROPOSED DEED MODIFICATION AFFECTING 93 ACRES CHICKAMAUGA RESERVOIR HAMILTON COUNTY, TENNESSEE

TENNESSEE VALLEY AUTHORITY

JUNE 2005

Need for Proposal

Robmer Partnership, represented by Mervin Pregulman, has requested that TVA modify the deed for Tract XCR-53,S.1X to remove the current restriction limiting development on the 93-acre tract to private club recreation. If TVA granted the deed modification, the tract would be subdivided into 9 lots, and a two-acre building site would be designated on each of the 9 lots. The property would then be sold for residential use. Robmer Partnership also requested that TVA limit access rights for water use facilities such that only one community dock would serve the entire subdivision. In addition, a 50-foot shoreline management zone would be maintained along the shoreline to protect vegetation.

The property is located on Chickamauga Reservoir near Gold Point Circle Road in the Hixson community. TVA scoping efforts generated several public and agency opposition letters to the proposed deed modification. In addition, TVA identified the presence of a rare plant, large-flowered skullcap (*Scutellaria montana*), which is listed as threatened under the Endangered Species Act. Because of the public concerns, the size of the project, and the presence of federally listed plants, TVA decided to develop an environmental assessment in order to better understand the impacts related to the proposed deed modification.

Scoping Efforts

On December 21, 2004, TVA published a notice in the Chattanooga Times announcing the receipt of a proposal from Robmer Partnership to modify the deed. In addition, TVA coordinated the proposal with state and federal environmental agencies for comment. Comments were received from the following individuals and agencies.

- Robert Curtis concurred with the proposal provided that TVA ensure that shoreline protection benefits would be enforced before allowing the deed modification.
- An e-mail from flyingfort@comcast.net asked if TVA was aware of the bog turtles and flying squirrels on the deed modification tract. In addition, an access was requested from Mr. Pregulman to use the property.
- Vicki and Steve Hill requested that development be discouraged in the area of Big Ridge, due to concerns about impacts to the Big Ridge area ecosystem.

- Linda K. Hixon expressed concerns that although each lot was proposed to have only a two-acre building site, the entire lot could be cleared for lake views. Because the tract is located between two TVA-owned tracts, this was of concern because the tract was of obvious conservation and recreation value to the area. In addition, other tracts with similar deed restrictions have recently been released for residential development. She expressed concern about the loss of these and other lands for future generations.
- Dwight Kilbourne was not opposed to the development as proposed, but described the 93 acres as an important wildlife habitat area and that care needs to be taken for erosion control. If development occurs, care should be taken not to disturb habitat and a walking path should be considered to provide access to the lake for the Lake Ridge community.
- Kenneth Kite expressed concerns about the steepness of the tract and potential for soil erosion and opposed removing the deed restriction.
- Carolyn Mills would be in favor of allowing residential development, as long as the restrictions on acreage and number of houses per plot are upheld. She also requested that Lake Ridge Subdivision residents be allowed to use the dock.
- Charlie Mills indicated support for a low density development, but requested that the Lake Ridge subdivision be allowed to use the dock.
- William G. Minser opposed the deed modification, especially since much of the lakefront property was originally taken by eminent domain for a public purpose, and now it is being converted to private uses.
- Catherine Sills liked the proposal but requested that the dock be open to owners within the Lake Ridge Subdivision.
- Tennessee Department of Environment and Conservation, Division of Natural Heritage, pointed out that the large-flowered skullcap (*Scutellaria montana*) was present on the deed modification tract.
- Tennessee Historical Commission initially requested consultation, but by letter of February 18, 2005, upon receipt of detailed information, stated that it is their opinion that no National Register of Historic Places listed or eligible properties would be affected by the deed modification.
- Tennessee Wildlife Resources Agency opposed the proposed deed modification because the change in status would reduce the acreage allotted for recreational purposes on Chickamauga Reservoir. A complete Environmental Assessment was requested.
- The U.S. Army Corps of Engineers believes that the work would be authorized by the Nationwide Permit Program.
- U.S. Fish and Wildlife Service pointed out that large-flowered skullcap was present, along with bald eagles, and requested that TVA determine whether these species could be affected. Concern was also expressed about the loss of public recreational opportunities around TVA lakes, along with visual and wildlife habitat impacts to the deed modification tract and adjacent public lands on either side of the tract. Opposition to the deed modification was expressed.

Comments on the Draft Environmental Assessment

TVA posted the EA on the TVA web site on April 29, 2005, and notified interested parties of the availability of its EA for viewing. Copies were mailed to state and federal agencies. As a result of these involvement efforts, 6 additional comments were received.

- Steven Brooks expressed a desire to hold TVA lands for public use and welfare, not for sales to developers. *TVA Response:* The sale property is currently privately held with a deed restriction from TVA. No TVA lands are proposed for sale in this action.
- Steve Kite indicated that he was opposed to the land sale and expressed concern about impacts to plants and animals. If retained, the property could be part of a wildlife refuge and viewing area combined with nearby Pinkeys Point property. *TVA Response:* Because the proposed sale property is now privately owned and no agency has expressed an interest in this option, re-purchase of the property by another agency for wildlife refuge purposes has not been considered. The wildlife values are not unusual for this region. For a discussion of rare species, see below.
- Mark Tummons of the Tennessee Department of Environment and Conservation, Recreation Educational Services Department, indicated that they would have no involvement with Chickamauga Reservoir area projects and that no grants had been provided for recreational development for the project. *TVA Response:* Comments noted.
- Robert M. Todd of the Tennessee Wildlife Resources Agency stated that the agency continued to oppose the deed modification, in part because the current owner has not developed the tract and it now serves as a wildlife corridor between two adjacent TVA tracts. TWRA continues to be concerned about the decline of public recreational opportunities on TVA's managed lands. *TVA Response:* The tract is not currently available for public recreation. On privately owned deed modification properties such as the Robmer Partnership tract, TVA continues to try to strike a balance between reasonable use of the private land and the need to meet the original recreational objectives. The proposed very limited development on 9 building lots would maintain some of the wildlife habitat values of the property.
- Maryellen J. Farmer of the U.S. Army Corps of Engineers, Nashville District, indicated that the proposed community dock would need a Section 10 and Section 404 permit. *TVA Response:* If the deed modification is approved, it is expected that the property owner would proceed to develop detailed site plans, including size and layout of the community dock. A permit application would be submitted at that time.
- Lee Barclay of the U.S. Fish and Wildlife Service continued to oppose the deed modification. Because of the presence of the large-flowered skullcap, the agency recommends that TVA permanently mark the large-flowered skullcap habitat area, and strictly protect the area from any alteration. If relocation is proposed, formal consultation is recommended. *TVA Response:*

TVA will permanently mark the large-flowered skullcap habitat area and include a restriction in the deed to protect the area from disturbance.

Other Environmental Reviews and Documentation

No actions by other agencies are needed to approve the deed modification. A permit under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, as well as under Section 26a of the TVA Act, would be needed for the community dock.

Alternatives

Under the No Action Alternative, TVA would not approve the deed modification. The current owner could clear, develop, and subdivide the land, but the uses would have to be consistent with development of a private recreational club. In addition, lake access dock permits could be granted and shoreline clearing could occur. Under the Action Alternative, the TVA Board would grant the deed modification, and would implement restrictions on shoreline clearing and dock access such that only one community dock would be allowed.

Affected Environment and Environmental Consequences

The proposed Robmer deed modification is located within metropolitan Chattanooga. Ecologically, the area is in the Ridge and Valley physiographic region, which is composed of parallel low rolling hills and valleys in a northeast-southwest trending direction. Limestone and dolomite substrates result in karst topography, including caves and springs, in many areas. Valleys tend to be in pasture or housing developments, while ridges are forested. Land use consists of scattered suburban residences, with occasional pasture and forested tracts. The deed modification tract is located on Big Ridge, which is covered with a mixed upland forest dominated by oaks and pines interspersed with rural residential uses.

The proposed development would be consistent with the general rural residential character of the area. There are no wetlands or unique natural features on the deed modification tract, other than large-flowered skullcap. Commenters expressed concerns about endangered species and recreation, which are discussed in more detail below. No development other than a community dock is proposed below elevation 686.4, the limits of the 100-year floodplain. The construction of the community dock is considered a repetitive action generically assessed by TVA on August 13, 1981 (Memorandum from Mohamed T. El-Ashry, Class Review of Certain Repetitive Actions in the 100-Year Floodplain). Therefore, the project is consistent with Executive Order 11988. No wetlands, prime farmland, or cultural resources potentially eligible for the National Register of Historic Places are found on the deed modification tract. Because of the "preserve" nature of the development and the limited development proposed, minimal visual and aesthetic impacts to the adjoining TVA tracts, adjoining property owners or to lake users are expected. Under no action, the same or greater visual impacts are possible.

Threatened and Endangered Species

Concerns were expressed by commenters about bog turtles, flying squirrels, and

eagles. Suitable habitat for the bog turtle (southern population) and Carolina northern flying squirrel are not found on the deed modification tract and the action would have no effect on these species. As verified by field visits, no nesting eagles are known from the project area. Due to the forested nature of the tract, wintering eagles may roost or feed from trees along the shoreline on the tract. However abundant roosting and nesting habitat is found elsewhere along the shoreline. Individual bald eagle numbers and nesting pairs continue to increase throughout the region. The proposed project is not expected to affect current bald eagle population trends. TVA concludes that the project would not likely adversely affect the bald eagle.

TVA staff visits indicated the presence of about 60 individuals of large-flowered skullcap (*Scutellaria montana*) in one population on the deed modification tract. The population was verified while flowering in May 2005 and is located along an old roadbed and an adjacent hillside. It has been flagged and marked. Large-flowered skullcap grows on well-drained rocky slopes in hardwood and oak-pine forests of Hamilton and Marion Counties in Tennessee and adjacent counties of Georgia. Plants found on the tract would likely be susceptible to impacts from forest clearing and thinning associated with residential development. In addition, suitable habitat for the plant could also be degraded. Because this project may affect the large-flowered skullcap, TVA would require that plants and their habitat be delineated and permanently marked for protection by a qualified professional botanist. With avoidance of the population, the proposed action is not likely to adversely affect the continued existence of the large-flowered skullcap. Under the no action alternative, impacts from the private actions of property owners on the large-flowered skullcap would not be reviewable under Section 7 of the Endangered Species Act.

Recreation

Commenters expressed concern about loss of recreational lands on Chickamauga Reservoir and the need for water access for a nearby residential subdivision using the community dock. TVA sold the property for development as a private club, and this continues to be a possible result if no action is chosen. However, since 1948, no significant recreational development has occurred. Only a primitive road was constructed, and at one time a dock existed at the end of the road. Under existing landrights, public recreation on the property is at the discretion of the landowner. Because there are no recreational opportunities being lost, TVA does not feel that it is appropriate to require the applicant to provide additional recreational opportunities for property owners in the nearby Lake Ridge Subdivision. However, if the property owners wished to allow access by others, the dock proposal would be reviewed in accordance with TVA Section 26a regulations for community docks. The proposed deed modification could be seen as creating some recreation opportunities because a community dock would be provided for access to the water for property owners.

Mitigation

The applicant would comply with all appropriate local, state, and federal environmental laws relating to site development and erosion control. TVA would establish a 50-foot shoreline management zone to protect vegetation. For navigation purposes, TVA would retain rights to install, service, and clear the property within 100-feet of the 685.44 contour for navigation safety aids. TVA would require that any facilities on the community dock located below the flood risk profile elevation of 689 be floodproofed.

Special Commitment

For protection of large-flowered skullcap, a qualified professional botanist will delineate and permanently mark the boundaries of the population, along with buffers, prior to any vegetation disturbance on the tract. Contractors and equipment operators will attend a preconstruction meeting, involving the botanist and TVA, where they will be notified of the area to be protected. A restriction will be included in the deed to protect the area from disturbance.

Agencies Consulted

Tennessee Department of Environment and Conservation
 Division of Natural Heritage
 Tennessee Historical Commission
 Division of Water Pollution Control
 Recreation Educational Services Division
Tennessee Wildlife Resources Agency
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service

Attachments

Vicinity Map
Subdivision Plan, River Preserve
Comment Letters

Preparer

Harold M. Draper, NEPA Team Leader, TVA

Fisher, Daniel C.

From: Curtis, Robert
Sent: Friday, January 14, 2005 11:09 AM
To: Fisher, Daniel C.
Subject: Robmer

Dan,

Hello. I would concur with the proposal only if the required shoreline protection benefits can be insured. You know how it goes. We get their promise, then all of the shoreline is eventually cleared.

I think it is probably hopeless in the long run to continue to try an enforce these old deed restrictions. The pragmatic and probably best approach is what you are proposing, IF the proper shoreline protection elements can be ensured.

Hope all is well. Miss you guys.

Bob Curtis

Fisher, Daniel C.

From: flyingfort@comcast.net
Sent: Tuesday, January 25, 2005 9:07 PM
To: Fisher, Daniel C.
Subject: RE: address

Dan, We would like to request an access from Mr. Pregulman to the property in question. Also are you aware of the bog turtles and flying squirrels back there? Please advise. Jim

----- Original message -----

Jim: I enjoyed talking with you today. Could you send me the names and addresses of property owners adjoining the Siskin Steel Club site? That way, I could send everyone the same information on the request (proposed subdivision development map, etc)

Thanks!

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

From: Fisher, Daniel C.
Sent: Wednesday, January 05, 2005 4:21 PM
To: 'flyingfort@comcast.net'
Subject: address

Dan Fisher, Land Use Specialist
Chickamauga / Hiwassee Watershed Team
1101 Market Street, PSC 1E-C
Chattanooga, TN 37402-2801
423/876-4177 (Phone); 423/876-4016 (Fax)

Fisher, Daniel C.

From: BouvierH@aol.com
Sent: Friday, January 07, 2005 11:59 AM
To: Fisher, Daniel C.
Subject: Robner Partnership Development

Mr. Fisher,

TVA has been a great steward for the land in Chattanooga. I hope that it will continue to be one by discouraging the development of the 93-acre tract by Robner Partnership. The Big Ridge area's ecosystem is becoming increasingly fragile as developers continue to build on every available piece of property. Lake Resort Road is now almost bumper to bumper in the afternoon from Big Ridge residents as well as northern Hixson residents who cut through to avoid Hixson Pike. Our city is beautiful and our lake is beautiful and one of the primary reasons is TVA's stewardship of the land.

Let's keep Big Ridge area as natural as possible and discourage any more development for the land's sake, the animals' sakes and for the people's sake.

Thanks,

Vicki and Steve Hill
2005 Wisteria Drive
Hixson, TN 37343
423/847-1164

02/25/2005

January 27, 2005

Mr. Dan Fisher
Land Use Specialist
TVA Chickamauga / Hiwassee Watershed Team
1101 Market St. (PSC 1E-C)
Chattanooga, TN 37402

Transmitted by e-mail to <dcfisher@TVA.gov>

Re: Request of Robmer Partnership that TVA release deed restriction on
93-acre tract located on Chickamauga Reservoir

Dear Mr. Fisher:

I am writing in response to TVA's recent announcement, published in the Chattanooga Times Free Press, that it is interested in receiving comments on a request submitted to TVA by Robmer Partnership regarding a 93-acre tract of land located on Chickamauga Reservoir between TVA's Tract No. 20 (Pinky's Point) and Tract No. 19. (The tract numbers referenced in this letter are those used in the Chickamauga Reservoir Land Management Plan which was approved by the TVA Board on November 22, 1989.) Robmer Partnership has requested that TVA release a deed restriction requiring that the land be used solely for recreational purposes by a private club. The deed restriction was imposed on the tract at the time of its conveyance by TVA in 1948 to R. H. Siskin and Sons, Inc., a predecessor in title to Robmer Partnership. The consideration stated in the 1948 deed for the conveyance is a sum of \$5,000, that being the highest and best bid at the public auction.

From the deed description, it appears that the Robmer Partnership tract extends approximately 3,200 feet along the 685.44 foot contour line of the Chickamauga Lake shoreline. The Reservoir Plan map shows TVA holding a "marginal strip" at the edge of the lake. The deed gives the grantee (now Robmer Partnership) the right of ingress and egress over the TVA-owned land lying between the 685.44 foot contour line and the waters of the lake and the right to construct and maintain water use facilities at locations and upon plans approved in advance by TVA.

According to TVA's announcement, the reason for Robmer Partnership's request for release of the deed restriction is to allow the tract to be subdivided into 9 lots for the purpose of residential development. The announcement indicates that Robmer Partnership's plans call for a 2-acre building site on each of the 9 lots. Although the announcement does not address this, conversations with TVA staff indicate that the owner has no plans to place restrictions on the 9 lots that would maintain the currently forested condition of the tract, it being expected that the purchasers of the lots will want to clear trees in order to have a view of the lake from the homes that they will construct.

The announcement indicates that as part of the proposal, Robmer Partnership proposes eliminating rights for constructing individual water use facilities, except for one community dock and adding a restriction requiring a 50-foot vegetation buffer to be maintained along the shoreline.

Because of its strategic location between two TVA-owned tracts, its undeveloped, forested condition and its extensive frontage on Chickamauga Reservoir, the Robmer Partnership tract has obvious conservation and recreation value.

Chickamauga Lake receives heavy recreational use and the Robmer Partnership tract is a highly visible portion of the lake's viewshed. If the tract could be acquired by TVA for conservation purposes, it appears that about 4 contiguous miles of the right bank of the Tennessee River/Chickamauga Reservoir just downstream of Hamilton County's Chester Frost Park, excepting one or two marinas (which likely have TVA-imposed deed restrictions), would be in TVA ownership. The riverfront tracts included in computing the 4 contiguous miles are TVA Tract 20 (Pinky's Point – 219.87 acres - the Reservoir Plan lists its planned uses as public recreation, forest management, wildlife management, and visual management and describes its capability rating for a local park as "excellent"), the Robmer Partnership tract (93 acres), TVA Tract 19 (55.93 acres – the Reservoir Plan lists its planned uses as forest management, informal recreation, visual management), TVA Tract 18 (47.31 acres – the Reservoir Plan lists its planned uses as habitat protection area, visual management, and cultural resource protection, and notes that the tract is "used regularly as roosting habitat by wintering bald eagles" and that "significant archaeological resources" have been reported on this tract), and TVA Tract 17 (88.47 acres – the Reservoir Plan lists its planned uses as fleeing area, habitat protection area, and visual management, and notes that *Scutellaria montana* (Large-flowered skullcap), a federally listed endangered (now a federally listed threatened) plant species, is located there. It is likely that *Scutellaria montana* is also present on the Robmer Partnership tract.

The Chickamauga Reservoir Land Management Plan notes that (as of 1989) 10,000 acres, a small portion of the 61,000 acres initially acquired by TVA for the Chickamauga Reservoir project remained available to meet future resource management and development needs. The Plan also noted that by the late 1950's, TVA had become concerned that, "Valleywide," TVA had disposed of too much waterfront land and would not be able to meet the needs of future generations and as a result of this concern, TVA conducted a study of its remaining land holdings and on the basis of that study, decided in the early 1960's to stop selling land for residential development.

In the years since 1989, residential development has proceeded apace on available lands on and near Chickamauga Lake while the value to the public of the lands and interests in land still held by TVA has increased commensurately. In recent years, numerous riverfront tracts (acquired by TVA for the Chickamauga Reservoir project and subsequently sold) that were managed as recreational areas for employees by local companies and made available by the companies for community use have been converted to residential development.

Private lands subject to TVA-imposed deed restrictions, such as the Robmer Partnership tract, continue to constitute an important part of the mix of lands available for recreational use along Chickamauga Reservoir. These properties can help reduce the burden being placed upon the limited public lands of accommodating the recreational needs of an ever-increasing population by helping disperse recreational use over a broader area and by allowing for greater sharing of the costs and responsibilities of management. Considering the current public-private initiative underway to promote the Chattanooga area's outdoor recreational opportunities as a means of fostering economic development of the area by increasing tourism and by creating a "signature lifestyle" which will attract new residents, recreational demands on Chickamauga Reservoir and its associated lands can only be expected to increase.

TVA staff members have indicated that TVA receives appraised fair market value for its release of deed restrictions and in response to my question about the use that TVA makes of such funds, they have advised that the revenues that TVA receives from the sale of non-power land and land rights are not earmarked for any specific purpose and "(i)n accordance with Section 26 of the TVA Act (16 USC Sec 831y) and 16 USC Sec 831ee, such proceeds are placed in TVA's general accounts and used to defray costs of TVA's operation of dams and reservoirs and other essential stewardship activities."

The course that the current TVA board is taking regarding its stewardship of the lands and interests in lands that TVA holds in public trust seems to be having the effect of opening the floodgate and creating a stream of proposals that TVA convey these lands and release its deed restrictions for the purpose of facilitating residential development along the reservoirs. There is mounting public concern – heading toward outright alarm - about this course. The public regards these lands and interests in land as a legacy for this and future generations. I would like to encourage the TVA board to adjust its course with regard to how it handles its stewardship responsibilities to more completely and consistently reflect that.

Sincerely,

Linda K. Hixon
P.O. Box 628
Hixson, TN 37343
Tel. (423) 870-8575
E-Mail: lkhixon@bellsouth.net

Fisher, Daniel C.

From: Dwight Kilbourne [drdskilbourne@comcast.net]
Sent: Monday, January 17, 2005 8:26 PM
To: Fisher, Daniel C.
Subject: Residential Develop along Foster Hixson Cem Rd

Re: Development of 93 acres along Foster Hixson Cemetery Road

Our home is located at 7533 Foster Hixson Cemetery Road which is last house on the street and is located across the street from the property in question.

I am not opposed to the developoing this 93 acres as described in the document that was mailed to our home. Limiting each lot to 2 acres of building site will be favorable for maintaining a pristene environment.

In regards to the development there are three important issues I want to be addressed:

1) The 93 acres is an important habitat and range for wildlife in this area. I have seen deer, wild turkey, racoons, squirrels, rabbits, hawks, owls and eagles on and around this property. The development needs to be done in such a way as not to destroy this habitat.

2) The present road on the property is used by most of my Lake Ridge neighbors and me as a means of assess to the lake. It is an important walking path for us. On the Development description, it spoke of the develop of a community dock. Would that dock be limited to the residents of the new development? My request is that the Lake Ridge community have a walking path to the lake through the property.

3) Great care needs to be taken when the building process begins. Cutting in driveways on the steep grades and through the wooded areas can cause significant destruction of the forest and produce significant erosion problems.

I appreciate the opportunity to state my thoughts concerning the development of this property.

Sincerely,

Dr. Dwight S. Kilbourne

Fisher, Daniel C.

From: KENNETH KITE [kkite23@bellsouth.net]

Sent: Wednesday, February 23, 2005 2:42 AM

To: Fisher, Daniel C.

Subject: land use

i think tva should maintain land use regulations for the people of the tn. valley. this tract of land is very steep any development will promote soil and water erosion. which in turn will impact the lake. what does the envior. impact study(required) say,please lets not see tva policy that has helped and protected this valley for years be abolished by private investors trying to get rich. how did this ever happen, land deemed rec. use in the hands of investors. is this what happen to the land on nelson spur also.

02/25/2005

Fisher, Daniel C.

From: Charcar65@aol.com
Sent: Wednesday, January 26, 2005 10:03 PM
To: Fisher, Daniel C.
Subject: 93 ACRE ROBMER PARTERSHIP COMMENTS

As a property owner in the Lake Ridge Subdivision--7818 and 7820 Lake Ridge Drive-- I would like to make a suggestion regarding the changes on the above property.

I would be in favor of making the property residential, providing the acreage and number of houses per plot guidelines are upheld.

I would like to be allowed to use the community dock and have waterfront privileges as a neighborly gesture on the part of the landowners.

Thanks for your consideration.

Carolyn Mills

Fisher, Daniel C.

From: charcar65@comcast.net
Sent: Thursday, January 27, 2005 9:25 AM
To: Fisher, Daniel C.
Subject: COMMENTS ON THE 93 ACRE TRACT OF LAND HELD BY ROBMER PARTNERSHIP

7810 Lake Ridge Dr.
Hixson, TN 37343
January 26, 2005

Land Use Specialist
TVA Chickamauga/Hiwassee Watershed Team
1101 Market St. (PSSC 1E-C)
Chattanooga, TN 37402

Dear Mr. Fisher

Thanks for the opportunity to make comments on the 93 acre tract of land held by Robmer Partnership and represented by Mervin Pregulman. I live at 7810 Lake Ridge Dr. in the Lake Ridge Dr. subdivision which adjoins the subject property.

My only commit is that the neighbor hood (adults and children) occasionally uses the area close to the Foster Hixson Cemetery to observe wildlife e.g. birds, squirrels, deer, etc. If the development only allows one residence within a two acre building site on the 9 acre tract, I am for the residential development.

As part of the proposal, please consider allowing the Lake Ridge Dr. subdivision residents to use the community dock. There are approximately 18 families currently living in the Lake Ridge subdivision. Since the subdivision consists of only one street and not many vacant lots for building additional houses, the community dock would see very little increase in usage from the existing subdivision.

Charlie Mills
423-847-3696

02/25/2005

Fisher, Daniel C.

From: William G Minser/FWF/EXP/UTIA [wminser@utk.edu]
Sent: Monday, February 07, 2005 7:04 PM
To: Fisher, Daniel C.
Subject: Robmer Partnership- TVA

Dear Mr Fisher,

This is to oppose the deed restriction modification to allow residential development for the Robmer Partnership for the 93 acre Gold Circle Rd. property on Chickamauga Lake. The following reasons for oppositions are presented.

TVA, over the past 70 years, took over one million acres from private landowners in the Tennessee Valley for the TVA reservoir system. They took the land by force, when necessary, by the power of eminent domain - - which means for the public good. Homes, schools and churches were bulldozed and lives of thousands were uprooted. Here are the major public concerns about TVA which is now following a course to sell or allow development of some of those same lands.

· The basis for most public concern about TVA making deals to sell or amend deed restrictions on public land for development is that the landowners were told their land was being taken for the public good - -reservoirs, flood control navigation, conservation. To now sell the land for residential and commercial development for well-to-do newcomers when the previous landowners were thrown off the same property is seen as a double-cross and a betrayal of public trust. And this time the public would be evicted from further use of the property once sales are made.

· TVA lakes and lakefront property belong to the people of the United States, not to TVA or a particular county or state. Property values along the lakes escalated because of the lakes that were financed by taxpayers. It is not right for private individuals or corporations to profit from improved land values financed by the taxpayer.

· Tennessee is losing 80,000 acres of private land per year to development putting more and more pressure on the remaining public land for wildlife habitat and outdoor recreation. At that rate there will be little wild land left in 100 years. This development rate is expected to continue as the human population is expected to double by 2050. We need more public land, not less.

· TVA has asked the public how they want TVA reservoir land managed (results attached). Reservoir management plans were made for Boone, Cherokee, Guntersville, Pickwick, Melton Hill, Norris, Tims Ford, Watts Bar, and Tellico reservoirs and for the Valley-wide Shoreline Management Initiative. These exhaustive reports were prepared by TVA staff using intensive public partnering and opinion surveys. The reports all say the same thing; the public, by 69-97% margins, wants the TVA lake lands left in public ownership and in natural conditions for public use.

· The public has made its feelings for more open spaces/wildlife lands made clear in other ways.

* Tennesseans contribute about \$8 million/yr in taxes (\$126 million since 1987) for wild land acquisition through the real estate transfer tax; 283,000 acres have been acquired by the people of Tennessee for wildlife areas and parks since 1987.

*Private citizens have protected 6.2 million acres nationally,

without government involvement, through conservation easements.

*Voters at the November 2004 national elections voted to approve \$11 billion in new funding for protection of wild lands, parks, and open spaces.

The point here is that it seems counterproductive for one branch of government, TVA, to be selling land already in public ownership and designated for wildlife and wild land recreation while other branches of state and federal government and private citizen's organizations are trying to protect and increase wild land habitats.

* There is also a property rights issue at stake. A national private property rights lobby is currently screaming about eminent domain condemnation for "economic development" reasons, focusing right now on the New Bedford CT v. Kelo case in the Supreme Court. Mrs. Kelo's house is being taken for transfer to another private individual who will redevelop the land. The same question could be raised for the Gold Point Circle Rd. property, property taken by eminent domain, and now being considered for transfer to other private individuals. Legal challenges are within the realm of possibility if TVA chooses to ignore the the spirit of the law of eminent domain and allows private development on the public Gold Point Circle property.

Thanks for the opportunity to comment.

William G. Minser
4702 Gribble Rd.
Maryville Tn. 37803

Fisher, Daniel C.

From: Catherine Sills [csills@serc1.org]
Sent: Thursday, January 27, 2005 11:08 AM
To: Fisher, Daniel C.
Subject: Comments to Subdivide Land-Tract for Residential Development

I currently own undeveloped property within the Lake Ridge Subdivision - 7802 Lake Ridge Drive. I heard you were soliciting comments concerning opening the waterfront to residents near Foster Hixson Cemetery. I like the proposal for 10 acre lots with the houses to be built on two of those acres. But I would like to see the dock open to owners within the Lake Ridge subdivision.

Thanks for allowing us to comment.

Catherine Sills
Compliance Engineer
Southeastern Electric Reliability Council
Phone: (423) 843-1562
www.serc1.org

02/25/2005



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Division of Natural Heritage
14th Floor L&C Tower
401 Church Street
Nashville, Tennessee 37243-0447
Phone 615/532-0431 Fax 615/532-0231

January 31, 2005

Jon M. Loney, Manager, NEPA Administration
Environmental Policy and Planning
Tennessee Valley Authority
400 Wet Summit Hill Drive
Knoxville, TN 37902-1499

Subject: Deed Modification to Remove Private Club Development Restrictions
Over a 93-Acre Tract on Chickamauga Reservoir, Hamilton County

Dear Mr. Loney:

Thank you for your letter and enclosures of January 18, 2004 regarding the above proposed project on Chickamauga Reservoir. This plan would remove deed restrictions allowing the property to be marketed for residential development. We have reviewed the information submitted and offer the following comments for consideration.

According to records in our conservation database, the Federal and State Threatened large-flowered skullcap (*Scutellaria montana*) is known to occur on this parcel. Because of the plant's federal status, the Division of Natural Heritage recommends that TVA consult with the U.S. Fish and Wildlife Service regarding this proposed action.

We thank you for considering Tennessee's rare species throughout the planning and implementation of this project. Should you have any questions, please do not hesitate to contact me at (615)532-0440.

Sincerely,

Kirstin Condict
Data Manager

From: David Lincicome [David.Lincicome@state.tn.us]
Sent: Tuesday, January 04, 2005 3:30 PM
To: Fisher, Daniel C.
Cc: Timothy_Merritt@fws.gov; Reggie Reeves; Cox, Patricia B.
Subject: Hamilton County Tax Map 092, Parcel 197 Proposed Deed Changesfor Robmer Partnership
January 4, 2005

Dear Mr. Fisher:

In reply to the notice printed in the Monday, December 27, 2004 edition of the Chattanooga Times Free Press for the Proposed Deed Changes requested by Robmer Partnership affecting Hamilton County Tax Map 092, Parcel 197, I submit the following comments.

According to the Tennessee Division of Natural Heritage rare species database, a record for the Federal and State Threatened Large-flowered skulicap (*Scutellaria montana*) is known to occur on this parcel. This record was discovered in 2002 by TVA staff. At that time there were 48 flowering and 3 vegetative plants observed. This is Tennessee element occurrence record 113 and TVA element occurrence record 124. I would recommend TVA consult with the Cookeville Field Office of the U.S. Fish and Wildlife Service regarding this proposed action.

Thank you for providing the opportunity to comment on this proposed action.

Sincerely,

David Lincicome, Rare Species Protection Program Administrator
Tennessee Dept. of Environment & Conservation
Division of Natural Heritage
401 Church St., 14th Floor L&C Tower
Nashville, TN 37243-0447

Phone: (615) 532-0439
Fax: (615) 532-0231
E-mail: david.lincicome@state.tn.us
Website: <http://www.state.tn.us/environment/nh>

CC: Patricia Cox, TVA Natural Heritage Program
Tim Merritt, U.S. Fish and Wildlife Service Cookeville Field Office
Reggie Reeves, Tennessee Division of Natural Heritage



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

February 18, 2005

Mr. Jon Loney
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

RE: TVA, DEED MOD./93 AC/THE RIVER PRESERVE, UNINCORPORATED,
HAMILTON COUNTY

Dear Mr. Loney:

The Tennessee State Historic Preservation Office has reviewed the additional information submitted by your office regarding the above-referenced undertaking received on Wednesday, February 16, 2005 for compliance by the participating federal agency or applicant for federal assistance with Section 106 of the National Historic Preservation Act. The Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

After considering the additional documentation submitted, it is our opinion that there are no National Register of Historic Places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to your proceeding with the project.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of compliance with Section 106 to the appropriate federal agency, which, in turn, should contact this office as required by 36 CFR 800. You may direct questions or comments to Jennifer M. Barnett (615) 741-1588, ext. 17. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jmb



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

RECEIVED
Environmental Policy and Planning

February 18, 2005

FEB 25 2005

Mr. Jon Loney
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Doc. Type: CECs and Supporting Doc.
Index Field: Agency Comment
Project Name: River Preserve Deed Mod.
Project No.: 2005-38

RE: TVA, DEED MOD./93 AC/THE RIVER PRESERVE, UNINCORPORATED,
HAMILTON COUNTY

Dear Mr. Loney:

The Tennessee State Historic Preservation Office has reviewed the additional information submitted by your office regarding the above-referenced undertaking received on Wednesday, February 16, 2005 for compliance by the participating federal agency or applicant for federal assistance with Section 106 of the National Historic Preservation Act. The Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

After considering the additional documentation submitted, it is our opinion that there are no National Register of Historic Places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to your proceeding with the project.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of compliance with Section 106 to the appropriate federal agency, which, in turn, should contact this office as required by 36 CFR 800. You may direct questions or comments to Jennifer M. Barnett (615) 741-1588, ext. 17. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jmb



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

January 26, 2005

Mr. Jon Loney
Tennessee Valley Authority
400 W. Summit Hill Drive
Knoxville, Tennessee 37902

RE: TVA, DEED MOD./93 AC/THE RIVER PRESERVE, UNINCORPORATED,
HAMILTON COUNTY

Dear Mr. Loney:

The above-referenced undertaking received on Wednesday, January 19, 2005 has been reviewed with regard to National Historic Preservation Act compliance by the participating federal agency or its designated representative. Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

In order to complete our review of this undertaking, this office will need to receive from you a detailed and clearly marked **USGS topographic 7.5 minute series map** indicating the exact location of each specific project activity and a clear project narrative.

Upon receipt of the additional information, we will complete our review of this undertaking as expeditiously as possible. **Until such time as this office has rendered a final comment on this project, your Section 106 obligation under federal law has not been met.** Please inform this office if this project is not funded or canceled by the federal agency. Questions and comments may be directed to Jennifer M. Barnett (615) 741-1588, ext. 17.

Your cooperation is appreciated.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jmb

cc: J. Bennett Graham, TVA Cultural Resources



TENNESSEE WILDLIFE RESOURCES AGENCY

ELLINGTON AGRICULTURAL CENTER
P. O. BOX 40747
NASHVILLE, TENNESSEE 37204

RECEIVED

February 7, 2005

Environmental Policy and Planning

Tennessee Valley Authority
Attention: Jon M. Loney, Manager
NEPA Administration
Environmental Policy and Planning
400 West Summit Hill Drive
Knoxville, TN 37902-1499

FEB 16 2005

Doc. Type: _____
Index Field: _____
Project Name: _____
Project No.: _____

Re: Proposed Deed Modification for Robmer Partnership, Chickamauga Reservoir, Hamilton County, Tennessee

Dear Mr. Loney:

The Tennessee Wildlife Resource Agency opposes the proposed modification of the Tennessee Valley Authority's Special Warranty Deed that currently prohibits uses other than recreation by a private club. The request by Robmer Partnership would remove private club development rights on a 93 acre tract of land and allow residential development on this property. This change in status would reduce the acreage allocated for recreational purposes on Chickamauga Reservoir. Robmer Partnership is also proposing to rights for the construction of a community dock which, if constructed, would reduce the linear feet of shoreline currently under TVA protection. It is the opinion of TWRA that the proposed deed modification request violates the Tennessee Valley Authority's maintain and gain commitment.

TWRA also requests a complete Environmental Assessment of this project.

Sincerely,

Robert M. Todd
Fish and Wildlife Environmentalist

cc: Bobby Brown
John Mayer
USFWS, EPA

The State of Tennessee

AN EQUAL OPPORTUNITY EMPLOYER

H-40

✓

RECEIVED

DEPARTMENT OF THE ARMY Environmental Policy and Planning
NASHVILLE DISTRICT, CORPS OF ENGINEERS
3701 Bell Road
NASHVILLE, TENNESSEE 37214

FEB 7 2005



REPLY TO
ATTENTION OF:

February 2, 2005

Doc. Type: CECs and Supporting Doc.
Index Field: Agency Comment
Project Name: River Preserve Deed Mod.
Project No.: 2005-38

Regulatory Branch

SUBJECT: File No. 200500080; Proposed Deed Modification,
Hamilton County, Tennessee

Tennessee Valley Authority
NEPA Administration
Attn: Mr. Jon M. Loney
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Dear Mr. Loney:

This is in response to the January 14, 2005 memorandum from your office requesting our comments on the proposed subject project.

We have no objects concerning the modification to the deed. However; based upon the information provided, the work **will** impact waters of the United States, particularly the planned dock structure. Any activities involving the discharge of dredged and/or fill material into waters of the United States would require a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act. Temporary fills in streams or wetlands, bedding and backfill for utility lines constructed across wetlands or streams, etc., are examples of activities that would require approval. It appears the proposed work would be authorized under our Nationwide Permit Program. Please submit a permit application and plans for our review. An application form can be found on our website at: www.lrn.usace.army.mil/cof.

If you have any question regarding this matter, please contact me at the above address, telephone (615)369-7517.

Sincerely,

Maryellen J. Farmer
Regulatory Specialist
Operations Division



DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEER
3701 Bell Road
NASHVILLE, TENNESSEE 37214

REPLY TO
ATTENTION OF:

February 2, 2005

Regulatory Branch

SUBJECT: File No. 200500080; Proposed Deed Modification,
Hamilton County, Tennessee

Tennessee Valley Authority
NEPA Administration
Attn: -Mr. Jon M. Loney
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Dear Mr. Loney:

This is in response to the January 14, 2005 memorandum from your office requesting our comments on the proposed subject project.

We have no objects concerning the modification to the deed. However; based upon the information provided, the work **will** impact waters of the United States, particularly the planned dock structure. Any activities involving the discharge of dredged and/or fill material into waters of the United States would require a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act. Temporary fills in streams or wetlands, bedding and backfill for utility lines constructed across wetlands or streams, etc., are examples of activities that would require approval. It appears the proposed work would be authorized under our Nationwide Permit Program. Please submit a permit application and plans for our review. An application form can be found on our website at: www.lrn.usace.army.mil/cof.

If you have any question regarding this matter, please contact me at the above address, telephone (615)369-7517.

Sincerely,

A handwritten signature in cursive script that reads "Maryellen J. Farmer".

Maryellen J. Farmer
Regulatory Specialist
Operations Division



United States Department of the Interior

FISH AND WILDLIFE SERVICE

446 Neal Street
Cookeville, TN 38501

RECEIVED

Environmental Policy and Planning

FEB 14 2005

February 11, 2005

Doc. Type: _____
Index Field: _____
Project Name: _____
Project No.: _____

Mr. Jon Loney
Tennessee Valley Authority
NEPA Administration
Environmental Policy and Planning
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Subject: Tennessee Valley Authority, Proposed Deed Modification of a 93-Acre Tract for Robmer Partnership, Chickamauga Reservoir, Hamilton County Tennessee.

Dear Mr. Loney:

Thank you for your letter and enclosures of January 14, 2005, concerning a proposed deed modification from the Tennessee Valley Authority (TVA) to remove private club development restrictions over a 93-acre tract on Chickamauga Reservoir, Hamilton County, Tennessee. Currently, the tract is privately owned and restricted by TVA's Special Warranty Deed to prohibit uses other than recreation by the private club. The applicant (Robmer Partnership) has requested that TVA modify the existing deed to allow the tract to be subdivided and developed for residential use. As part of the proposal, the applicant requests eliminating rights for constructing individual water use facilities, except for one community dock, and addition of a restriction requiring a 50-foot vegetation buffer to be maintained along the shoreline. However, limited clearing and tree trimming would be allowed in this 50-foot "conservation area" to allow the residences a view of the lake. Fish and Wildlife Service personnel have reviewed the information submitted and we offer the following comments.

Endangered species collection records available to the Service indicate that the federally listed large-flowered skullcap (*Scutellaria montana*) occurs on the proposed 93-acre tract, and federally listed bald eagles (*Haliaeetus leucocephalus*) have been observed roosting on nearby tracts during the winter months. The public notice indicates that the applicant would not be allowed to clear vegetation or disturb the ground in a small area on Lots 7 and 8, where a population of the large-flowered skullcap exists. However, other populations of this species may also be established on other parts of the property. Therefore, we recommend that a qualified biologist assess potential impacts and determine if the proposed action may affect this species as

well as the bald eagle. A finding of "may affect" could require initiation of formal consultation by TVA. We recommend that TVA submit a copy of the assessment and findings to this office for review and concurrence.

We are also concerned with the decline of public consumptive and nonconsumptive recreational opportunities around TVA managed lakes. TVA currently owns the two tracts both upstream and downstream of the subject property, and according to the Chickamauga Reservoir Land Management Plan, the planned uses of these two tracts are listed as public recreation, forest management, wildlife management, and visual management. Modifying the deed restrictions and allowing the subject tract to be subdivided, cleared, and developed would greatly diminish the planned uses of this rather large stretch of unaltered shoreline and forest habitat, especially wildlife and visual management.

We **strongly oppose** modification of the existing deed to the 93-acre tract that prohibits uses other than recreation by the private club. We recommend that the deed restrictions stay in place based on the fact that a survey for the above-mentioned federally listed species has not been conducted, the proposed action could devalue the planned use of the surrounding tracts, and it does not meet TVA's maintain and gain commitment. If TVA should proceed with the proposed action, a qualified biologist should assess potential impacts and determine if the proposed action may affect the above federally listed species. A finding of "may affect" could require initiation of formal consultation. We recommend that TVA submit a copy of the assessment and findings to this office for review and concurrence if TVA proposes to modify the deed

Thank you for this opportunity to review the subject notice. Please contact Robbie Sykes of my staff at 931/528-6481 (ext. 209) if you have questions about these comments.

Sincerely,



Lee A. Barclay, Ph.D.
Field Supervisor

C 051670917

ID# 051672181

EA-Administrative Record ✓
Agency Comment
River Preserve Deed Mod. #
2005-38

Draper, Harold M.

From: Steven Brooks [Steven.Brooks@state.tn.us]
Sent: Wednesday, June 08, 2005 1:33 PM
To: Draper, Harold M.
Subject: robmer partnership comments

As a citizen, outdoorsman/hunter/hiker, and parent, I prefer that all TVA lands be held in perpetuity for the public use and welfare. No "for profit" development, or sales to developers who will make a profit off the use of public lands. Eventually in the next several generations, there will be little land that isn't disturbed or paved if we don't set some aside now.
thank you for your help,

Steve Brooks
TN Dept. of Environment & Conservation
Division of Water Pollution Control
(865) 594-5583
steven.brooks@state.tn.us

Draper, Harold M.

From: KENNETH KITE [kkite23@bellsouth.net]

Sent: Monday, June 06, 2005 11:54 PM

To: Draper, Harold M.

Subject: land sell

I am apposed to this land sell, the area is nesting grounds for endangered birds as well as plants and very well may contain the last of the skull caps in this region. massive development has pushed the last remaining wildlife to this area which include bobcats , deer, wild.turkey , owls , flying squirrels, and to many more to mention. this area desperately needs a wildlife refuge combined with the area known as pinkeys point, this would make a great viewing area such as tva built at wheeler lake. please consider the fact that tva can do a great environmental justice for the public and gain much public support in the development of a wildlife viewing area for this region. if the land is ever sold, the families from which it was taken should be given first consideration to buy it back. please consider this comments , thank you Steve kite

06/09/2005



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

May 26, 2005

RECEIVED
Environmental Policy and Planning

MAY 31 2005

Mr. Jon M. Loney, Manager
NEPA Administration
Environmental Policy and Planning
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1409

Doc. Type: _____
Index Field: _____
Project Name: _____
Project No.: _____

**RE: Draft Copy of Environmental Assessment (EA) – Robmer Partnership Deed
Modification, Chickamauga Reservoir Hamilton County, Tennessee**

Dear Mr. Loney:

Thank you for the opportunity to comment on the above referenced document.

After a research of our office's files, we can locate no occasion where a grant administrated by this division has been awarded to the Chickamauga Reservoir Area in Hamilton County. Therefore, we have no involvement in the Chickamauga Reservoir Area from a state or federal level.

Thank you for including this office during the 30-day review period.

Sincerely,

A handwritten signature in cursive script that reads "Mark Tummons".

Mark Tummons, CPRP
Director

MT/lh

Copy: Anne Marshall, East TN PARTAS Consultant



TENNESSEE WILDLIFE RESOURCES AGENCY

ELLINGTON AGRICULTURAL CENTER
P. O. BOX 40747
NASHVILLE, TENNESSEE 37204

May 31, 2005

RECEIVED
Environmental Policy and Planning

Tennessee Valley Authority
Attention: Jon M. Loney, Manager
NEPA Administration
Environmental Policy and Planning
400 West Summit Hill Drive
Knoxville, TN 37902-1499

JUN 08 2005

Doc. Type: _____
Index Field: _____
Project Name: _____
Project No.: _____

Re: Comments Regarding the Draft Environmental Assessment for the Proposed Deed Modification for Robmer Partnership, Chickamauga Reservoir, Hamilton County, Tennessee

Dear Mr. Loney:

The Tennessee Wildlife Resource Agency continues to oppose the proposed modification of the Tennessee Valley Authority's Special Warranty Deed that currently prohibits uses other than recreation by a private club. The request by Robmer Partnership would remove private club development rights on a 93 acre tract of land and allow residential development on this property. According to the information provided, the current owner of this land has not developed the land for a private club which has allowed this tract to function as a wildlife corridor between two adjacent tracts that are owned by TVA and are listed for management for public recreation, forest management, wildlife management, and visual management.

If this deed modification occurs which will allow residential development instead of private club recreation, the acreage allocated for recreational purposes on Chickamauga Reservoir through deed restrictions would be reduced and a wildlife corridor between two adjacent tracts of public land would be impacted. Keeping the deed restriction on this land will prohibit residential development of this tract and allow it to function as a wildlife corridor between two adjacent tracts that are owned by TVA until the current owner or a subsequent owner develops the tract for recreation by a private club. The Tennessee Wildlife Resource Agency continues to be concerned with the decline of public recreational opportunities on TVA's managed lands adjacent to their lakes due to land sales, changes in deed restrictions, and management objectives on TVA public lands.

Sincerely,

Robert M. Todd
Fish and Wildlife Environmentalist

The State of Tennessee

AN EQUAL OPPORTUNITY EMPLOYER

cc: Bobby Brown
John Mayer
USFWS, EPA



DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
3701 Bell Road
NASHVILLE, TENNESSEE 37214

RECEIVED
Environmental Policy and Planning

MAY 25 2005

REPLY TO
ATTENTION OF:

May 17, 2005

Regulatory Branch

Doc. Type: _____
Index Field: _____
Project Name: _____
Project No.: _____

SUBJECT: File No. 200500080; Proposed Deed Modification,
Hamilton County, Tennessee

Tennessee Valley Authority
NEPA Administration
Attn: Mr. Jon M. Loney
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Dear Mr. Loney:

This is in response to the April 29, 2005 memorandum from your office requesting our comments on the proposed subject project.

We have no objections concerning the modification to the deed. However; based upon the information provided, the work **will** impact waters of the United States, particularly the planned community dock structure. It appears the proposed work could be authorized under an Individual Permit, depending on the size and layout of the overall structure. Please have the applicant submit a permit application and plans for our review. An application form can be found on our website at:
www.lrn.usace.army.mil/cof.

Any activities involving the discharge of dredged and/or fill material into waters of the United States would require a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act. Temporary fills in streams or wetlands, bedding and backfill for utility lines constructed across wetlands or streams, etc., are examples of activities that would require approval.

If you have any question regarding this matter, please contact me at the above address, telephone (615)369-7517.

Sincerely,


Maryellen J. Farmer
Regulatory Specialist
Operations Division



United States Department of the Interior

FISH AND WILDLIFE SERVICE

446 Neal Street
Cookeville, TN 38501

RECEIVED
Environmental Policy and Planning

June 3, 2005

JUN 08 2005

Doc. Type: _____
Index Field: _____
Project Name: _____
Project No.: _____

Mr. Jon Loney
NEPA Administration
Tennessee Valley Authority
Environmental Policy and Planning
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Subject: Tennessee Valley Authority, Proposed Deed Modification of a 93-Acre Tract for Robmer Partnership, Chickamauga Reservoir, Hamilton County Tennessee.

Dear Mr. Loney:

Thank you for your letter and enclosures of April 29, 2005, concerning preparation of an environmental assessment (EA) to evaluate the impacts of a proposed deed modification from the Tennessee Valley Authority (TVA) to remove private club development restrictions over a 93-acre tract on Chickamauga Reservoir, Hamilton County, Tennessee. Currently, the tract is privately owned and is presently restricted by TVA's Special Warranty Deed to prohibit uses other than recreation by the private club. The applicant (Robmer Partnership) has requested that TVA modify the existing deed to allow the tract to be subdivided and developed for residential use. As part of the proposal, the applicant requests eliminating the rights for constructing individual water use facilities, except for one community dock, and addition of a restriction requiring a 50-foot vegetation buffer to be maintained along the shoreline. However, limited clearing and tree trimming would be allowed in this 50-foot "conservation area" to allow the residences a view of the lake. Fish and Wildlife Service personnel have reviewed the information submitted and we offer the following comments.

We continue to **oppose** modification of the existing deed to the 93-acre tract that prohibits uses other than recreation by the private club. We recommend that the deed restrictions stay in place based on the fact that the proposed action could devalue the planned use of the surrounding tracts, and does not meet TVA's commitment of maintain and gain. As stated in our recent comments to the public notice concerning this project (letter dated February 11, 2005), we are concerned with the decline of public consumptive and nonconsumptive recreational opportunities around TVA managed lakes. TVA currently owns the two tracts both upstream and downstream of the subject property, and according to the Chickamauga Reservoir Land Management Plan,

the planned use of these two tracts are listed as public recreation, forest management, wildlife management, and visual management. Modifying the deed restrictions and allowing the subject tract to be subdivided, cleared, and developed would greatly diminish the planned uses of this rather large stretch of unaltered shoreline and forest habitat, especially wildlife and visual management.

Endangered species collection records available to the Service indicate that the federally listed large-flowered skullcap (*Scutellaria montana*) occurs on the proposed 93-acre tract. If TVA should proceed with the proposed action and allow the deed modification, we recommend that a qualified biologist delineate the population of large-flowered skullcap and its surrounding habitat. TVA should permanently mark the large-flowered skullcap habitat area, and strictly protect the area from any alteration.

Information in the EA indicates that the applicant proposes to relocate the large-flowered skullcap to TVA owned tracts located on the right-descending bank, just downstream of the proposed deed modification tract. The Service does not feel that relocation is a means of avoiding adverse impacts to the federally listed plant. **Therefore, if relocation is the proposed method of protecting the plant, we recommend that TVA initiate formal consultation with this office before any action on the deed modification occurs.** Additionally, we recommend that a **minimum** 100-foot vegetation buffer be maintained along the shoreline with no clearing or tree trimming allowed in this buffer area.

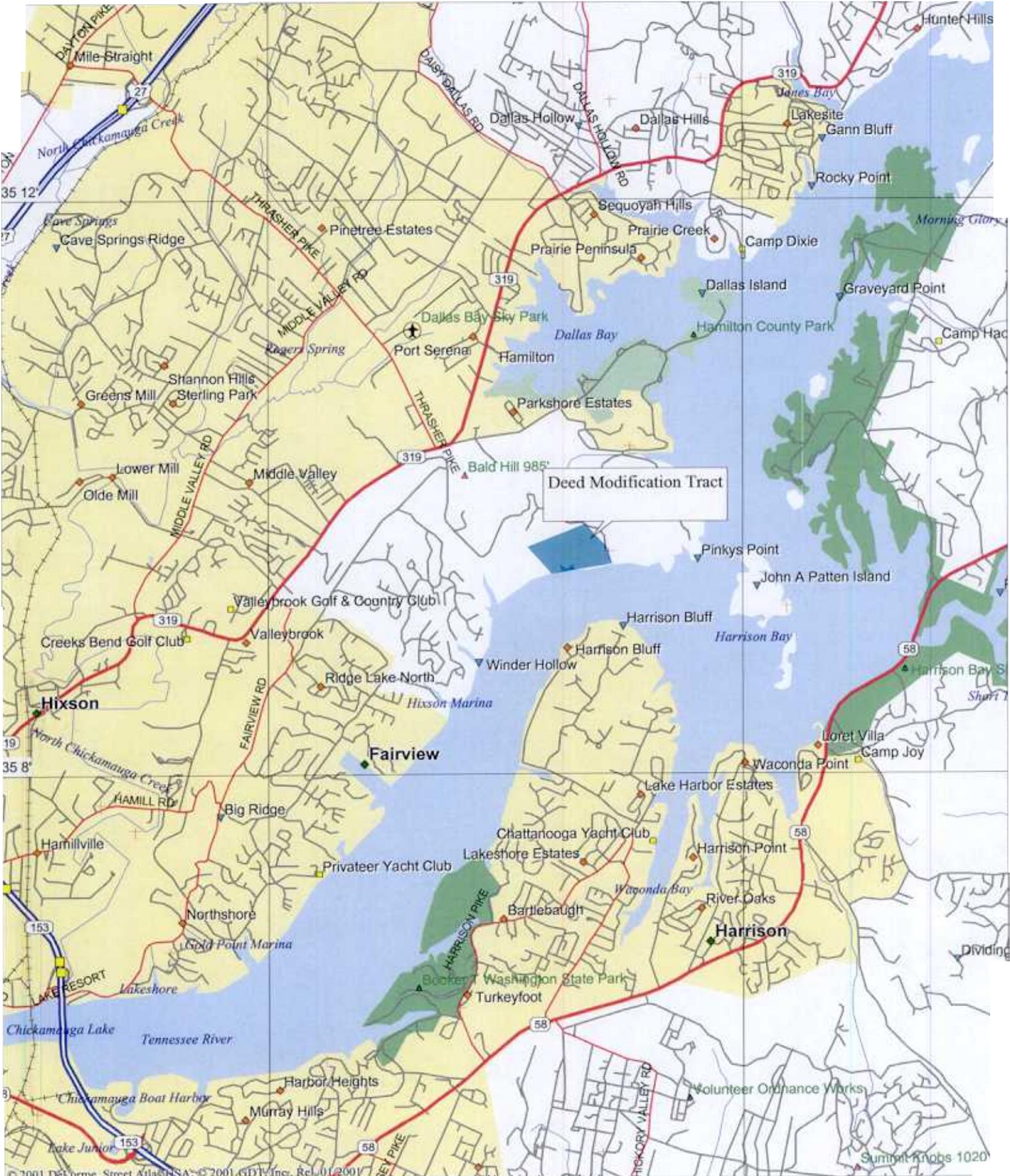
These constitute the comments of the U.S. Department of the Interior in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). Please contact Robbie Sykes (telephone 931/528-6481, ext. 209) of my staff if you have questions regarding the information provided in this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lee A. Barclay".

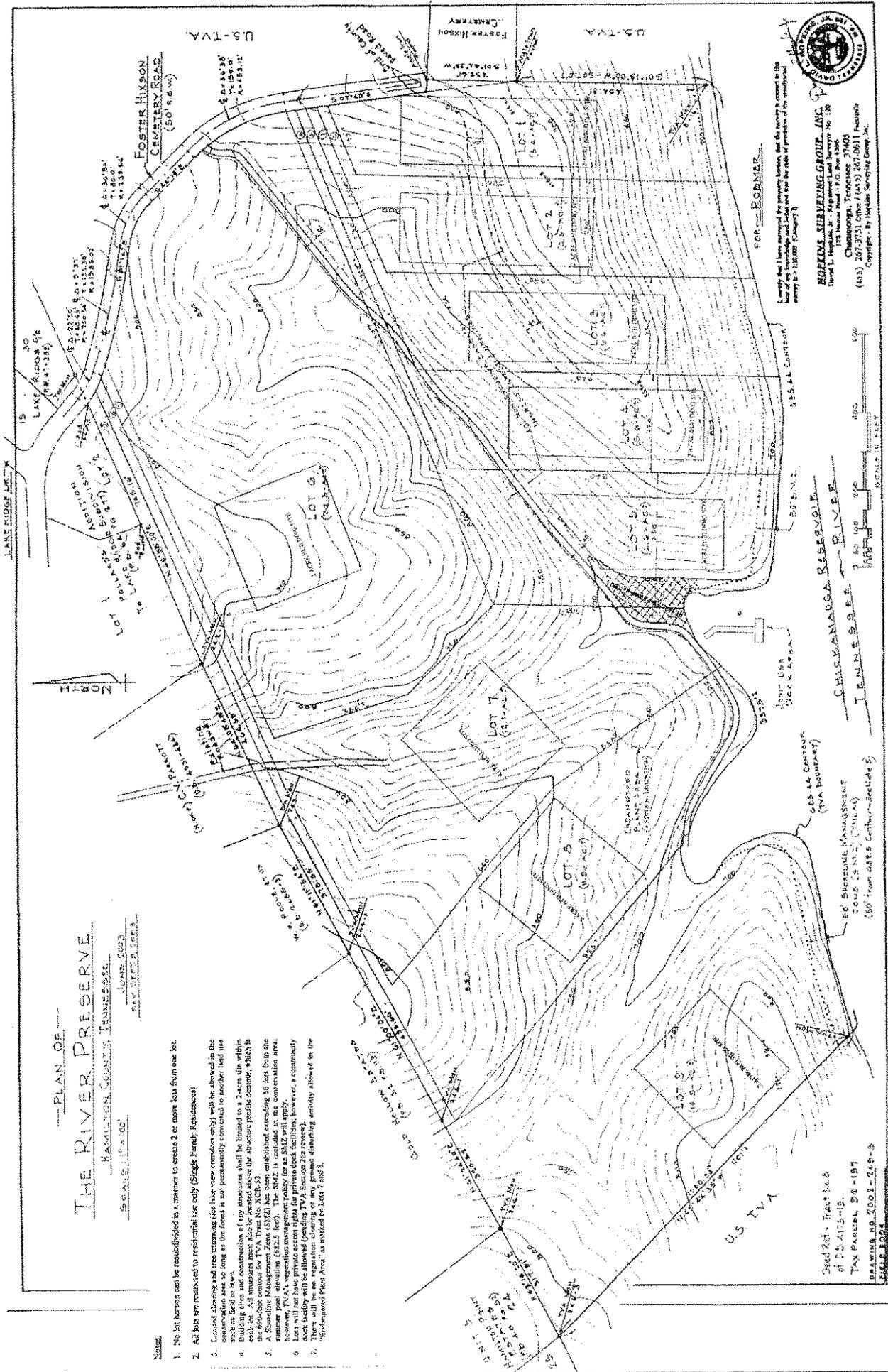
Lee A. Barclay, Ph.D.
Field Supervisor

Robmer Partnership Vicinity



PLAN OF
THE RIVER PRESERVE
 HAMILTON COUNTY, TENNESSEE
 SCALE: 1" = 50'

- NOTES:**
- No lot herein can be redivided in a manner to create 2 or more lots from one lot.
 - All lots are restricted to residential use only (Single Family Residence)
 - Unmowed adjacent and tree mowings (for lake view corridor only) will be allowed in the scenic view area as long as the trees are not permanently removed to impede land use.
 - Building sites and construction of any structures shall be limited to a 2-acre site within each lot. All structures must also be located above the spotter profile shown, which is the 60-foot contour for TVA Tract No. 6 (XCH-5).
 - A shoreline management plan (SMP) shall be established extending 16 feet from the shoreline. The SMP shall be established in accordance with the SMP for the entire preserve. TVA's vegetation management policy for an SMZ will apply.
 - Lots will not have private access rights for private dock facilities; however, a community dock facility will be allowed (pending TVA Section 20 review).
 - There will be no commercial or industrial activity allowed in the "Historical Preservation Area" as indicated on Lot 7, 8 & 9.



FOR BIDDING

Plans have been prepared by private license and are subject to amendment by the Board of Directors of the project and are not to be construed as a contract.

ROBINS SURVEYING GROUP, INC.
 178 Hixson Road - P.O. Box 100
 Chattanooga, Tennessee 37403
 (415) 207-3751 Office / (415) 267-0811 Home
 Copyright © by Robins Surveying Group, Inc.

CHICKAMAUGA RESERVOIR
PRIVATE
 TENNESSEE
 60' FROM DATE CENTER-BEETLE 5

ED BURGESS MANAGEMENT
 2015 S.W. 10th (TVA-4)
 (50' FROM DATE CENTER-BEETLE 5)

Deed 261, Tract No. 6
 of T.S. 4175-19.
 TAX PARCEL 94-0197
 DRAWING NO. 2002-248-S
 DATE 1/2004