



Tennessee Valley Authority, Post Office Box 1010, Muscle Shoals, Alabama 35662-1010

June 30, 2017

Mr. Kevin E. Neal, County Judge/Executive  
Marshall County Fiscal Court  
1101 Main Street  
Benton, Kentucky 42025

Dear Judge Neal:

KENTUCKY RESERVOIR – TVA TRACT NO. XTGIR-160RE – RLR NO. 260149

This letter is in reference to the draft easement that was sent to Marshall County for review in November of 2016. The County has asked about possible removal of the clause in Section 4, paragraph (d), and shown below:

*(d)GRANTEE shall control all emissions of pollutants that might be discharged or released directly or indirectly into the atmosphere, into any stream, lake, reservoir, watercourse, or surface or subterranean waters, or into or on the ground from any part of the easement area, in full compliance with all applicable standards and requirements relating to pollution control of any kind now in effect or hereafter established by or pursuant to federal, state, or local statutes, ordinances, codes, or regulations. **To the extent permitted by law**, GRANTEE shall indemnify, defend, and hold harmless GRANTOR and TVA from any and all claims, costs, or losses that may arise as a result of GRANTEE's breach of this provision.*

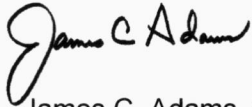
*If there is a discharge or release of a hazardous substance, material, or waste, or of any pollutant or other substance, in or from the easement area by any person or entity other than GRANTOR or TVA for which a cleanup, remediation, restoration, removal, or other action (hereinafter, individually and collectively, referred to as "environmental response") is ordered or required pursuant to any federal, state, or local statute, regulation, or ordinance (including, without limitation, discharges or releases which spread or move in whole or in part beyond the easement area to other areas owned by GRANTOR), GRANTEE shall bear full responsibility for the cost (including, without limitation, natural resources damages and costs) of said environmental response, and shall not seek any contribution or indemnification from GRANTOR or TVA for all or any portion of said costs; provided, however, that nothing in this covenant is intended to or shall preclude GRANTEE from seeking indemnification or contribution from any other person or entity, and provided further that nothing herein shall create any rights in or be enforceable by any person or entity other than GRANTOR, TVA, or their respective successors and assigns.*

Mr. Kevin E. Neal  
Page 2  
June 30, 2017

This clause is used in all TVA easements for commercial and public recreation and TVA has not removed this clause for other agencies. However, TVA has included the language "to the extent permitted by law" (bolded above) to limit the County's liability.

We regret that we cannot remove this clause from the easement agreement. Our goal is to be consistent with all our easement agreements. Please let us know by August 31, 2017 if you want to proceed with the easement. If you do, please sign below and return to Lesley White at [lmwhite@tva.gov](mailto:lmwhite@tva.gov) or 2835A East Wood Street, Paris, Tennessee 38242. If you have further questions concerning the easement, please call Lesley White at 731-641-2008.

Sincerely,



James C. Adams, Senior Manager  
Recreation and Shoreline Management  
Natural Resources

Marshall County, Kentucky accepts the terms of the agreement of draft easement XTGIR-160RE as sent on November 11, 2016 with no changes and requests TVA to move forward with the execution of the instrument.

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Judge Kevin Neal

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Date



Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402

December 1, 2016

Mr. Kevin E. Neal  
Marshall County, Kentucky, Fiscal Court  
1101 Main Street  
Benton, Kentucky 42025

Dear Mr. Neal:

TVA TRACT NO. XTGIR-160RE - RLR NO. 260149

Enclosed for your review is a copy of the proposed Grant of Term Easement for the above-referenced tract. Please review the enclosed draft instrument and contact me with your approval or any suggested revisions to be incorporated in the instrument. Upon your approval I will have the original instrument executed and forwarded to you.

You may contact me at 423-751-7576 or by email [nfsteuer@tva.gov](mailto:nfsteuer@tva.gov).

Sincerely,

A handwritten signature in cursive script that reads "Norman F. Steuer".

Norman F. Steuer, Manager  
Real Property Transactions  
Realty Services, GIS and Land Records

Enclosure

RECEIVED  
DEC 05 2016  
MARSHALL CO. JUDGE'S OFFICE

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Ellen M. McCloy, Attorney  
Tennessee Valley Authority  
1101 Market Street, BR 4B  
Chattanooga, Tennessee 37402-2801  
Telephone: (888) 817-5201

GRANT OF TERM EASEMENT  
FOR A PUBLIC PARK (RECREATION AREA)

THIS GRANT OF TERM EASEMENT, effective as of April 1, 2015, made and entered into by and between the UNITED STATES OF AMERICA (sometimes hereinafter referred to as "GRANTOR"), acting by and through its legal agent, the TENNESSEE VALLEY AUTHORITY (sometimes hereinafter referred to as "TVA"), a corporation created by an act of Congress known as the Tennessee Valley Authority Act of 1933, as amended, and MARSHALL COUNTY, KENTUCKY, FISCAL COURT (sometimes hereinafter referred to as "GRANTEE");

WITNESSETH:

WHEREAS TVA is authorized by 40 U.S.C. § 1314 to grant to an applicant, on behalf of the United States of America, such easements affecting federal property in its custody and control as TVA's Board of Directors determines will not be adverse to the interests of the GRANTOR; and

WHEREAS in considering GRANTEE's application, TVA's Board of Directors, through its designee the Chief Executive Officer of TVA, has determined that the granting of the following described easement, subject to the conditions provided herein, will not be adverse to the interests of GRANTOR;

NOW, THEREFORE, in consideration of the foregoing premises and the other provisions of this grant of easement:

1. GRANTOR, pursuant to the provisions of 40 U.S.C. § 1314, and subject to all of the terms, conditions, covenants, reservations, restrictions, exceptions, and/or limitations contained in this grant of easement and exhibits hereto, hereby gives and grants, transfers, and conveys to GRANTEE, its successors and assigns, a nonexclusive term easement for a term of thirty (30) years from the effective date hereof for public recreation purposes for the construction, maintenance, development, and operation thereon and therein of a public recreation area and associated improvements and recreational facilities as may be authorized in advance and in writing by GRANTOR, including but not limited to improvements such as camping sites, picnic facilities, tennis courts, horseshoe areas, play courts, recreation center, athletic fields, natural areas, amphitheaters, food concessions, access to water for fishing and boating, ball fields, concession stands, restrooms, pavilions, trails, swim beaches, parking areas, playgrounds, equipment sheds, roads, signage, and utilities, as well as the use of any roads, water service lines and facilities, improvements, sewage collection and disposal facilities, and equipment of GRANTOR which may be attached to or located in or on said land, all for the benefit and enjoyment of the general public pursuant to the terms, conditions, covenants, reservations, restrictions, exceptions, and/or limitations contained herein without distinction or discrimination, including discrimination on account of race, color, sex, national origin, disability, or age, as may be necessary or incidental to public recreation purposes, all in, on, over, across, upon, through, or under certain land located in Marshall County, Kentucky, designated as TVA Tract No. XTGIR-160RE and more particularly described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and made a part hereof.

In addition, GRANTOR conveys to GRANTEE: (1) the appurtenant right to cross and recross and the right to permit the general public to cross and recross those lands of the United States of America in the custody of TVA fronting TVA Tract No. XTGIR-160RE which may at any time and from time to time lie exposed and unsubmerged between the boundary of TVA Tract No. XTGIR-160RE and the waters of Kentucky Reservoir (hereinafter referred to as the "abutting shoreline area") for purposes of ingress and egress to and from the waters of Kentucky Reservoir for public recreational purposes; and (2) the appurtenant right to construct and maintain on the abutting shoreline area and in the waters of Kentucky Reservoir immediately adjacent to said abutting shoreline area (hereinafter referred to as the "adjacent waters"), solely at locations and in accordance with plans approved in advance and in writing by TVA, boat launching ramps and boat docking facilities and other public recreational facilities that support the public recreational facilities on TVA Tract No. XTGIR-160RE and are not subject to damage if flooded, which shall be made available for use by the general public. It is expressly stipulated as a condition of this grant of easement that said abutting shoreline area and adjacent waters may be used and improved only as specifically provided in this paragraph, and subject always to TVA's advance approval and the applicable terms, conditions, covenants, reservations, restrictions, exceptions, and/or limitations of this easement grant.

TVA Tract No. XTGIR-160RE, the abutting shoreline area, and the adjacent waters are hereinafter collectively referred to as the "easement area."

2. This entire grant is expressly made upon and subject to the following conditions which shall be binding upon GRANTEE, its successors and assigns:
  - (a) The easement area shall be used solely for public recreation purposes to construct, maintain, develop, and operate a public recreation area and related facilities, and for no other purpose or purposes. All improvements placed upon the easement area shall be approved in advance and in writing by TVA and shall be owned and operated by a public agency and open to the general public.
  - (b) In the event that GRANTEE shall cease to use the easement for the purpose of a public recreation area for public recreation purposes for a period of two consecutive years or more or shall, regardless of time period, initiate use of the easement area for purposes other than a public recreation area for public recreation purposes or shall commit any breach or default of any of the conditions, covenants, or other terms and provisions herein, in whole or in part, and shall continue in such breach or default for a period of thirty (30) days after written notice from TVA requesting GRANTEE to correct or remedy such default, then GRANTOR, TVA, or their successors or assigns, may declare this easement terminated, such declaration to be made in writing to GRANTEE, its successors and assigns, not less than five (5) days prior to the termination date specified, and take possession of the easement area as if this grant of easement had never been made; provided, however, that GRANTEE, its successors and assigns, shall have the right during a period of ninety (90) days immediately following the date of termination to remove any improvements placed by it on the easement area; and provided further that GRANTEE, its successors and assigns, shall restore the easement area to TVA's satisfaction, including any regrading and reseeding TVA may deem appropriate. Title to any such improvements not removed within such 90-day period shall become the property of TVA or, at TVA's option, may be removed at GRANTEE's expense. Any failure of GRANTOR, TVA, or their successors and assigns, to exercise such power of termination shall not be construed as a waiver of any of the conditions or rights of the GRANTOR, TVA, or their successors and assigns..
  - (c) The easement area and any public facilities constructed in or upon the easement area shall at all times be made available for use by all members of the general public without

distinction or discrimination, and no person shall, on the grounds of race, color, sex, national origin, handicap, or age be excluded from participation in, be denied the benefits of, or be subject to discrimination in the use of the easement area, which shall be administered in full compliance with the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all regulations issued by TVA thereunder at 18 C.F.R. pts. 1302, 1307, 1309, and 1317, the provisions of which, and all future amendments of such statutes and regulations, are incorporated herein by reference and made a part hereof.

In carrying out its obligations under this section, GRANTEE shall comply with the provisions of Exhibit C which is an integral part of this easement grant. Grantee shall make the information set out in said Exhibit C available in a form accessible to persons who do not understand written English, including the visually impaired, in a manner to be determined by the GRANTEE and TVA. A similar provision shall be expressly included in any sublease, license, permit, or other agreement to a third party, but this sentence shall not be construed as authorizing any such sublease, license, permit, or other agreement without GRANTOR's permission, in accordance herewith.

3. GRANTEE will have multiple options to extend the easement, with each extended term running no longer than thirty (30) years from the effective date of each such extension, subject to the condition that TVA determines, in its sole opinion and in its sole and absolute discretion, that: (1) GRANTOR has no need or desire to retake the easement area; (2) GRANTEE has been providing the necessary facilities and services to serve the public adequately; (3) GRANTEE has otherwise performed in accordance with the provisions of the easement; and (4) GRANTEE is willing and able to furnish such additional facilities and services as may be needed during the extended term; provided, however, that the easement term shall not be extended beyond March 31, 2075. GRANTEE's options for extensions may be exercised by providing timely written notice to TVA. GRANTOR will consider items (1) through (4) and, if approved, provide a letter extending the easement expiration date up to 30 years.
4. GRANTEE, by accepting this grant, covenants and agrees on behalf of itself, its successors, and assigns, that the following shall constitute real covenants which shall attach to and run with the easement hereby granted, and which shall also be binding upon anyone who may hereafter come into ownership thereof, whether by purchase, devise, descent, succession, or otherwise:
  - (a) GRANTEE shall construct, maintain, develop, and operate the easement area for public recreation purposes in accordance with the provisions of this easement under a program designed to provide public recreation facilities and associated improvements and facilities and services of a scope and quality reasonably adequate to meet the needs of the general public desiring such facilities and services at this location, and it will continue to do so throughout the term of this easement. Further, GRANTEE shall not, without the consent of TVA, at any time operate or use the easement area or permit it or any part of it to be operated or used for any other purpose.
  - (b) GRANTEE shall not construct, maintain, operate, or use buildings, facilities, structures, or improvements of any nature, place equipment, conduct any dredging activities, or place fill material on any portion of the easement area, nor shall GRANTEE make any modifications to, or alter in any way, any wetlands, shoreline vegetation, or floodplains within the easement area, now or in the future, except such as are constructed, maintained, operated, used, placed, conducted, or modified in accordance with plans and specifications which shall first have been approved in writing by TVA. All buildings, facilities, structures, improvements, and equipment placed in or upon the easement area by GRANTEE shall be at its sole risk.

- (c) GRANTEE will not construct any structure or facility for which approval is required under Section 26a of the Tennessee Valley Authority Act of 1933, as amended, until plans for such structure or facility have been submitted to TVA and have been approved in writing in accordance with established procedures. Nothing in this instrument shall be construed as constituting or evidencing such approval by TVA. Without limitation of the foregoing, all structures and facilities proposed to be constructed below the 375.0-foot msl contour elevation, including on the abutting shoreline area or in the adjacent waters, will require advance written approval from TVA pursuant to said Section 26a and shall be subject to the terms and conditions of any approvals issued thereunder.
- (d) GRANTEE shall control all emissions of pollutants that might be discharged or released directly or indirectly into the atmosphere, into any stream, lake, reservoir, watercourse, or surface or subterranean waters, or into or on the ground from any part of the easement area, in full compliance with all applicable standards and requirements relating to pollution control of any kind now in effect or hereafter established by or pursuant to federal, state, or local statutes, ordinances, codes, or regulations. To the extent permitted by law, GRANTEE shall indemnify, defend, and hold harmless GRANTOR and TVA from any and all claims, costs, or losses that may arise as a result of GRANTEE's breach of this provision.

If there is a discharge or release of a hazardous substance, material, or waste, or of any pollutant or other substance, in or from the easement area by any person or entity other than GRANTOR or TVA for which a cleanup, remediation, restoration, removal, or other action (hereinafter, individually and collectively, referred to as "environmental response") is ordered or required pursuant to any federal, state, or local statute, regulation, or ordinance (including, without limitation, discharges or releases which spread or move in whole or in part beyond the easement area to other areas owned by GRANTOR), GRANTEE shall bear full responsibility for the cost (including, without limitation, natural resources damages and costs) of said environmental response, and shall not seek any contribution or indemnification from GRANTOR or TVA for all or any portion of said costs; provided, however, that nothing in this covenant is intended to or shall preclude GRANTEE from seeking indemnification or contribution from any other person or entity, and provided further that nothing herein shall create any rights in or be enforceable by any person or entity other than GRANTOR, TVA, or their respective successors and assigns.

- (e) To the extent permitted by law, GRANTEE agrees to indemnify the GRANTOR and TVA against and save them harmless from all claims, damages, demands, actions, costs, and charges to which they or either of them may be subject or which they or either of them may have to pay by reason of any injury to any person or property, or loss of life or property suffered or sustained by any person whomsoever, resulting from or in any way connected with the condition or use of the easement area, including any means of ingress thereto or egress therefrom, except liability for personal injuries, property damage, or loss of life or property caused by the sole negligence of the GRANTOR or TVA.
- (f) Unless specifically authorized by TVA, no substances listed as hazardous under the Resource Conservation Recovery Act of 1976, as amended, The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, The National Oil and Hazardous Substance Pollution Contingency Plan, or any other federal, state, or local law or regulation except as are usual and customary in the normal course of conducting the activities allowed or authorized to be conducted under the terms of this easement shall be brought onto or used on the easement area by the GRANTEE or its

agents, employees, or contractors. TVA shall not provide such authorization unless and until TVA receives from GRANTEE a written statement setting forth (1) the exact name and quantity of the hazardous substances to be brought onto the easement area; (2) the reason for bringing the hazardous substances onto the easement area; (3) the protective practices to be instituted; and (4) the counter-measures and cleanup practices to be used in the event of a discharge or release. Nothing herein shall be construed to require TVA to provide such authorization. If a discharge or release occurs, GRANTEE shall notify TVA at 1-800-237-2322 within twenty-four (24) hours and shall notify federal, state, and local authorities in accordance with applicable laws and regulations. GRANTEE shall provide TVA copies of all correspondence and reports submitted to regulatory authorities in connection with placement or discharge or release of hazardous substances on the easement area. Except as provided hereinabove, GRANTEE shall provide TVA a complete accounting of the hazardous substances brought onto the easement area by the GRANTEE, including the beginning and ending dates that the substances were present on the easement area and the ultimate disposition of the substances.

- (g) GRANTEE will not permit or suffer any offensive or illegal activity on or use of the easement area. Furthermore, GRANTEE shall not permit or suffer the commission of waste thereon, shall keep the easement area and all improvements thereon in a safe condition and in good order and appearance satisfactory to TVA, and shall collect and dispose of all trash, garbage, and other solid wastes accumulated or left on said easement area in accordance with applicable laws and regulations, including applicable sanitation regulations, and with sufficient frequency to keep the easement area in an orderly and sanitary condition satisfactory to TVA.
- (h) GRANTEE shall conduct all land-disturbing activities on the easement area in accordance with best management practices to control erosion and sedimentation so as to prevent adverse impacts on water quality and related aquatic interests in order to meet the requirements of Section 208 of the Clean Water Act and implementing regulations. Furthermore, GRANTEE shall actively maintain the easement area to prevent erosion, protect water quality, and preserve aquatic habitat.
- (i) GRANTEE agrees that all clearing shall be held to a minimum and natural vegetation, selected wildlife plantings, riprap, and/or filter fabric will be used to stabilize disturbed areas and prevent runoff and said disturbed areas shall be back-filled as required by approved construction plans, and resodded, reseeded or otherwise restored to TVA's satisfaction and in such a manner as to be aesthetically pleasing and compatible with the surrounding environment.
- (j) GRANTEE shall avoid the use of chemicals, including herbicides and pesticides, if practicable; shall use only such chemicals, including herbicides and pesticides, as have been registered in accordance with guidelines set forth by the Environmental Protection Agency in accordance with label directions; and shall prevent any entry of chemicals, including herbicides and pesticides, into the reservoir.
- (k) No gasoline or petroleum storage tanks shall be allowed on the easement area unless approved in advance and in writing by TVA.
- (l) GRANTEE shall take all reasonable precautions to prevent and suppress forest, grass, and other fires upon the easement area.



- (m) GRANTEE shall conduct all activities associated with the exercise of rights granted hereunder in such a manner as to: 1) comply with all applicable local, state, and federal laws and regulations, and such general rules and regulations as GRANTOR may prescribe with respect to its property or properties under its control from time to time; and 2) protect the environment. Furthermore, GRANTEE shall be responsible for obtaining all necessary licenses, permits, and/or approvals required by local, state, or federal statutes and regulations prior to the commencement of any activities associated with the exercise of rights granted hereunder.
- (n) GRANTEE shall not disturb or alter in any way the existing state of any archaeological sites, human remains, funerary objects, sacred objects, objects of cultural patrimony, or any other archaeological resources which may be discovered or identified on or under the easement area. Upon the discovery of any such items, GRANTEE shall immediately stop all activity in the area of the discovery, make a reasonable effort to protect such items, and notify TVA's Cultural Compliance Staff by telephone at (865) 632-3660. GRANTEE shall also provide written notification of such discovery to TVA, Cultural Compliance, 400 West Summit Hill Drive, WT 11-D, Knoxville, Tennessee 37902. GRANTEE will not resume work in the area of the discovery until approved by TVA.
- (o) GRANTEE will monitor the easement area for vector-related problems (i.e., disease carrying mosquitoes, vermin, etc.) and immediately report such problems to TVA, and assume full responsibility for the control of any vector related problems that are associated with GRANTEE's operations on the easement area as determined by GRANTEE, subject to the rights of TVA to continue in the conduct of its vector control operations as necessary.
- (p) GRANTEE shall not locate or construct any buildings, facilities, structures, improvements, or equipment subject to flood damage, unless located or constructed above or flood-proofed to elevation 375.0-feet msl. GRANTEE may locate or construct buildings, facilities, structures, improvements, or equipment not subject to significant flood damage, such as open pavilions and fire pits, below this elevation with advance written approval from TVA in accordance with Section 4(c) hereof.
- (q) Any future development proposed within the limits of the 100-year floodplain, elevation 375.0-feet msl, must be consistent with the requirements of Executive Order 11988.
- (r) All future development must be consistent with the requirements of TVA's Flood Control Storage Loss Guideline.
- (s) GRANTEE shall promptly pay, or shall promptly reimburse GRANTOR as appropriate, for all ad valorem taxes, or other increases in taxes, charges, or governmental assessments, which may be imposed by the Commonwealth of Kentucky or its political subdivisions related to GRANTEE's use of the easement area, including without limitation any taxes or increases upon GRANTEE's buildings, structures, facilities, improvements, equipment, or other property related to this easement or upon GRANTEE's operations under this easement.
- (t) GRANTEE shall procure and maintain in effect during the full term of this easement a policy or policies of commercial general liability insurance in such form as TVA may approve in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per occurrence for bodily injury and property damage combined single limits, under which the United States of America, TVA, and their respective agents,

servants, and employees shall be named as additional insureds, as their interests may appear, and insuring against any and all claims, demands, damages, actions, causes of action, costs, and charges to which they or any of them may be subject resulting from or in any way connected with the condition or use of the easement area. The policy or policies shall be written by an insurance company or companies which shall be rated A or better by A.M. Best Company and are licensed to do business in Kentucky, or are an accepted surplus lines carrier. The insurance carrier or carriers and form of policies shall be subject to TVA's acceptance. A certificate of insurance evidencing such policy or policies shall be delivered to TVA by GRANTEE in advance of the commencement of operations by GRANTEE hereunder and as requested by TVA from time to time. If GRANTEE shall be in default in procuring or maintaining such insurance, TVA may procure such insurance, in which event the premium or premiums therefor shall be paid by GRANTEE within thirty (30) days after receipt of TVA's invoice therefor.

- (u) GRANTEE shall be responsible for maintaining supervision over the easement area sufficient to control and secure the easement area. As between GRANTOR and GRANTEE, GRANTEE shall be solely responsible for contacting appropriate local, state, or federal officials to handle law and enforcement matters; provided, however, nothing herein shall be construed to diminish the police powers of appropriate TVA officials.
- (v) GRANTEE shall be responsible for all utilities and damage deposits for security lights, water, electricity, and telephone services to the easement area. All power installations must have a disconnect located at or above the TVA Flood Risk Profile elevation of 375-foot msl and be accessible during flood events. Electric service shall comply with the National Electric Code standards and with applicable laws and regulations. By May 1 of the calendar year following the 5-year anniversary of the effective date of this easement, and each five years thereafter, GRANTEE shall provide written confirmation from a licensed electrician confirming such compliance with the then-current National Electric Code standards.
- (w) In the event of an emergency situation related to the provision of any utility, as determined by a certified or licensed professional, GRANTOR may provide notice of such emergency to GRANTEE. GRANTEE shall effect the cessation of service of the affected utility within twenty-four (24) hours of receipt of such notice. If GRANTEE fails to effect the cessation of service of the affected utility within 24 hours of receipt of GRANTOR notice, GRANTOR may enter the easement area to effect the cessation of service and, if necessary, secure the relevant utility cutoff. GRANTEE shall promptly resolve the emergency situation to the satisfaction of the certified or licensed professional and shall not pursue resumption of service of the affected utility until such emergency situation is resolved.
- (x) GRANTEE shall prohibit the use of mobile homes, recreational vehicles, campers, boats, or other structures as residences; provided, however, that GRANTEE, upon receipt of TVA's advance written approval, may build and maintain living accommodations for a resident manager of the easement area. Such residence shall be constructed and maintained in accordance with plans approved by TVA in advance and in writing, and furthermore, said manager and any other individuals (typically, immediate family) residing in said residence must also be approved by TVA in advance and in writing. Residential use of any portion of the easement area, except as provided herein, as determined by TVA in its sole and absolute discretion, shall be grounds for termination of this easement in accordance with Section 2(b) hereof.

- (y) In accordance with TVA regulations, no watercraft or floating structure equipped with a marine toilet shall be moored at the easement area unless such toilet is in compliance with all applicable statutes and regulations. No vessels shall be used for human habitation. Occasional recreational overnight use shall not be considered human habitation.
- (z) Non-navigable houseboats or boathouses shall not be permitted to be moored at the easement area, except such non-navigable houseboats as have been approved by TVA and are maintained in accordance with Section 26a of the TVA Act and its implementing regulations.
- (aa) No cabins or other overnight accommodations (other than a campground) shall be permitted, except if the easement area is operated by a state or state agency as a component of a state park system in which case cabins and other overnight accommodations will be permitted with appropriate approval.
- (bb) Docks, piers, boat slips, and other water-use facilities are for the temporary use only by users of the easement area. The rental or use of such water-use facilities by persons or entities other than current users of the easement area is prohibited unless approved in advance and in writing by TVA. Any approved water-use facilities are not intended to serve as a marina, but are instead available only for incidental use by users of the easement area. GRANTEE must apply for and receive additional approvals from TVA in order to construct and operate commercial marina facilities.
- (cc) GRANTEE shall maintain and repair water distribution (beyond meter centers) and sewer collection and disposal systems on the easement area.
- (dd) GRANTEE will be responsible for right-of-way maintenance (limbs & trees) from the primary electric meter throughout the easement area for the overhead electrical service.
- (ee) GRANTEE shall post and maintain signage, in a form and design as approved in advance and in writing by TVA, which acknowledges the subject term easement is located on TVA land.
- (ff) GRANTEE shall not construct, operate, or erect any signs, gates, or barriers of any nature restricting access to any existing roads or any other means of ingress and egress to, from, and across said easement area without first receiving written approval by TVA.
- (gg) GRANTEE is solely responsible for all maintenance and repairs to all roads located on the easement area. The roads shall be maintained in accordance with specifications as approved in advance in and writing by TVA.
- (hh) Revenue generated by the GRANTEE from sales of timber from the easement area is due and payable to TVA. GRANTEE shall maintain records and books of accounts of these revenues based on generally accepted accounting principles.
- (ii) As of the effective date of this easement, TVA has not approved a campground or related facilities to be constructed on the easement area. However, the future construction, operation, and maintenance of a campground and related facilities is within the overall scope of this easement, subject to advance TVA approval as specified elsewhere in this easement, including without limitation Sections 1, 2(a), 4(b), and 4(c) hereof. If later approved by TVA, GRANTEE shall operate the public campground facilities on the

easement area in accordance with the following campground operation guidelines or as subsequently approved in advance and in writing by TVA:

- (1) The campground shall be closed, and all campsites completely vacated, for fourteen (14) consecutive days per calendar year. No portion of said 14-day closure period may occur between the dates of December 20 and January 4. TVA shall be given the opportunity to inspect the campground for compliance during the 14-day closure period. Camping units may be moved to other locations on the easement area as approved by TVA.
- (2) Seasonal rentals of eleven and one-half (11.5) months maximum duration shall not be permitted on more than seventy-five percent (75%) of the campsites on the easement area. Seasonal sites shall be rented based upon a well-defined and written procedure as approved in advance and in writing by TVA, which shall include a waiting list, lottery system, combination of both, or other TVA-approved method of allocating such seasonal campsites. Copies of said approved written procedure for renting seasonal sites shall be provided to all renters of campsites or upon demand and shall be publicized in a manner as approved by TVA.
- (3) At least twenty-five percent (25%) of the campsites on the easement area shall be rented on a short-term basis for not more than twenty-one (21) consecutive days. Individuals camping at short-term sites may not make reservations or be on a waiting list for another short-term site.
- (4) Year round, all camping units will remain truly mobile without any permanent connections, foundations, porches, roofs over camping units, or similar-type structures; provided, however, that concrete or wooden landings or wooden decks, constructed and maintained by GRANTEE, are allowed only as approved in advance and in writing by TVA. Package canopies and/or covers are allowed only as approved in advance and in writing by TVA. All camping units must be mobile and ready for highway use, on their own wheels or jacking system, and attached to the site only by quick disconnect type utilities and security devices. GRANTEE shall not install or permit the installation of any mobile homes, equipment storage sheds, or similar structures on the easement area. GRANTEE may provide, as permitted in advance by TVA, storage units or spaces at common locations on the easement area. Satellite dishes may be used as permitted in advance and in writing by TVA. No fences are allowed under any circumstances.
- (5) All power installations must have a cutoff located above elevation 375.0-feet msl and be accessible during flood events.
- (6) GRANTEE shall develop and submit an evacuation plan to the local Emergency Management Agency (EMA) and provide a copy of such plan to TVA, Nicholas B. Morris, 2835-A East Wood Street, Paris, Tennessee 38242. The evacuation plan shall cover flooding, fires, inclement weather, and other types of emergencies. The plan shall cover all campsites on TVA land, with particular focus on those below elevation 375.0-feet msl which would have to be evacuated in the event of flooding. GRANTEE is responsible for monitoring weather reports, the TVA website, local EMA information, and other sources of information during potential emergency situations, including flooding events. GRANTEE is responsible for having access to equipment

and the capability to remove to high ground all camping units below elevation 375.0-feet msl within a 24-hour period.

- (7) Residential use of the easement area is strictly prohibited, and GRANTEE shall prohibit the use of mobile homes, recreational vehicles, campers, boats, or other structures as residences. No long-term accommodations or individually-owned units (other than recreational vehicles and camping units that otherwise meet the requirements of this subsection (ii)) shall be permitted on the easement area.

GRANTEE shall monitor use of the campsites, keep adequate records, and ensure that campground use is recreational in nature and not residential. Any one of the following examples, without limitation, shall be considered residential use of the campground:

- a) delivery of mail to individual campers or campsites;
- b) private mail boxes;
- c) boarding of city/county school buses;
- d) ownership of foundations, porches, roofs, or similar-type structures by campers;
- e) use of propane tanks greater than fifty (50) gallons in size and not an integral manufactured component of the camping unit;
- f) use of campground address for such things as drivers license or voter registration;
- g) occupying the same campsite for more than 11.5 months in any 12-month consecutive period, unless approved by TVA; or
- h) any similar type uses.

Provided, however, that GRANTEE, upon receipt of TVA's advance written approval, may build and maintain living accommodations for a resident manager of the easement area. Such residence shall be constructed and maintained in accordance with plans approved by TVA in advance and in writing, as further provided by and in accordance with Section 4(x) hereof.

Residential use of any portion of the easement area, as determined by TVA in its sole and absolute discretion, shall be grounds for termination of this easement.

- (8) By March 16 of each year, GRANTEE shall submit to TVA an Annual Operating Plan. Such Plan shall include:
- a) an accurate map of the campground identifying the campsites and associated facilities (boat ramps, playground, dump stations, and any other similar facilities);
  - b) a chart listing which sites are short-term and which are seasonal;
  - c) a price list (to include all services);
  - d) how reservoir elevation information will be monitored during flood events;
  - e) a description of how camping units below elevation 375.0-feet msl would be removed within 24 hours during a flood event;
  - f) the name and address of the local EMA Director and the local distributor of TVA power, a copy of the campground evacuation plan including any revisions, and a signed statement acknowledging the date and time the GRANTEE communicated evacuation plan to the EMA;
  - g) names, addresses, and telephone numbers of principal employees and/or contractors and their responsibilities;

- h) dates of camping season and hours of operation, including any period the easement area will be closed and dates power and water would be shut off and returned to service;
- i) available information regarding respective campsites and occupancy rates for the previous calendar year;
- j) a signed statement indicating compliance with restrictions against residential use;
- k) a written report of the GRANTEE's personal compliance inspection of the easement area for the previous calendar year; and
- l) any other items GRANTEE desires to provide or as requested by TVA.

Additionally, if requested by TVA, GRANTEE must provide copies of waiting lists, current occupants, lottery results, registration information, current and former reservation lists, and other camper occupancy and application information within 7 days.

5. Neither this easement nor any interest herein may be otherwise assigned, transferred, or conveyed by GRANTEE, whether by sale, assignment, bequest, inheritance, operation of law, or otherwise; the easement area may not be leased or subleased in whole or in part; and the use or control of the easement area may not be granted by license, permit, concession agreement, or other agreement; unless GRANTEE has secured written permission from TVA prior to such transfer, assignment, conveyance, lease, sublease, license, permit, concession agreement, or other agreement, which permission need not be given and shall be at TVA's sole and absolute discretion. Provided, however, that this provision shall not be construed as requiring approval for the renting of campsites or of boat slips to current campers. Any transfer, assignment, conveyance, lease, sublease, license, permit, or concession agreement granted by GRANTEE without first obtaining the written consent of TVA shall be void and of no effect.
6. GRANTOR shall have and hereby expressly reserves to and for itself, TVA, and their respective successors, assigns, and agents the right to enter in, upon, over, and across any and all portions of the easement area for the purpose of inspecting and monitoring said easement area and GRANTEE's operations therein and thereon.
7. GRANTOR shall have and hereby expressly reserves to and for itself, TVA, and their respective successors, assigns, and agents the right, without limitation by reason of specification, to enter in, upon, over, and across any and all portions of the easement area for the purpose of doing and performing or causing the performance thereon of any and all things that GRANTOR or TVA may consider or determine to be necessary or desirable in connection with any present or future statutory function, activity, or program authorized or provided for by the Tennessee Valley Authority Act of 1933, as heretofore or hereafter amended, whether related to river control and development or otherwise, including without limitation by reason of enumeration navigation, flood control, power, dam safety, national defense, vector control, sanitation, and erosion control; and TVA shall not be liable for any loss or damage to the easement area, or to improvements located thereon or therein, resulting therefrom, or as a result of wave action, fluctuation of water levels, or other causes; provided, however, that GRANTOR and TVA will as to the easement area, but subject to the provisions of Section 8. below, endeavor to exercise said rights only to the extent determined by it or its agents to be reasonably necessary, and in the exercise thereof as to said easement area will make reasonable efforts to minimize adverse effects upon GRANTEE's use, operation, and development of said easement area for the purposes of this easement.

8. Without limitation of any rights reserved under Sections 6. and 7. above, GRANTOR shall have and hereby expressly reserves to and for itself, TVA, and their respective successors, assigns, and agents the unqualified, unrestricted, permanent, and paramount rights, at any and all times and from time to time, to draw down Kentucky Reservoir and to fluctuate the level of said reservoir in any manner it may consider necessary or desirable in its sole discretion, and to flood and submerge permanently with water from any source or sources any and all portions of the easement area and any access thereto which lie below the 375.0-foot msl contour elevation, and the further right to flood and submerge temporary and/or intermittently with water from any source or sources any and all portions of the easement area and any access thereto, all without regard to the effect of such drawdown, fluctuation, or flooding upon the property, facilities, operation, or activities of GRANTEE.
9. GRANTOR shall have and hereby expressly reserves to and for itself, TVA, and their respective successors, assigns, and agents the right to maintain any existing boundary and traverse monuments and silt range stations upon the easement area.
10. GRANTOR shall have and hereby expressly reserves to and for itself, TVA, and their respective successors, assigns, and agents the right to enter said easement area at any time and from time to time and to erect, maintain, repair, rebuild, operate and patrol as many lines of poles or transmission line structures as GRANTOR deems necessary or useful for electric power transmission purposes with sufficient wires and cables for electric power circuit and communication circuits, and all necessary appurtenances in, on, over, and across said easement area, together with the right to clear said easement area and keep same clear of brush, trees, buildings, and fire hazards; to destroy or otherwise dispose of such trees and brush; and to remove, destroy, or otherwise dispose of any trees which in falling could come within ten (10) feet of any transmission line structure, conductor, or appurtenances thereto.
11. GRANTOR shall have and hereby expressly reserves to and for itself, TVA, and their respective successors, assigns, and agents the right to enter on and over the easement area to clear of vegetation, ditch, dredge, and drain said easement area and to apply larvicides, herbicides, and chemicals thereon and do any and all other things GRANTOR deems necessary or desirable for the promotion and furtherance of public health, without liability on the part of the GRANTOR, TVA, or their respective successors or assigns, for any personal injury or property damage which may result therefrom.
12. GRANTOR shall have and hereby expressly reserves to and for itself, TVA, and their respective successors, assigns, and agents the right to deposit upon the easement area such larvicides, herbicides, and chemicals as may drift or blow onto said easement area from application of dusts, sprays, aerosols, or the like, over and upon other land in the same general vicinity in the conduct of GRANTOR's public health operations, without liability on the part of GRANTOR, TVA, or their respective successors or assigns, for any personal injury or property damage which may result therefrom.
13. It is expressly understood and agreed that neither GRANTEE nor TVA will be considered the agent of the other for any purpose under this grant. GRANTEE shall be held to be an independent contractor and all of GRANTEE's activities and operations shall be conducted and carried on in that status and capacity, and all persons employed or whose services are utilized by GRANTEE on the easement area, or in the exercise of the rights granted under this easement, shall be GRANTEE's employees, servants, and agents only. The United States, TVA, and their agents and employees undertake no obligation or duty (in tort, contract, strict liability, or otherwise) to GRANTEE or any other party for any damages to property (real or

personal) or personal injuries (including death) arising out of or in any way connected with the acts or omissions of GRANTEE or any other persons.

14. Should any of the buildings, facilities, structures, improvements, personalty, or equipment on the easement area or any essential part thereof be totally destroyed by fire or other casualty, or in the case of partial destruction rendering impracticable the continuation of any part of GRANTEE's business operations authorized hereunder, GRANTEE shall continue such other operations as may otherwise be reasonably possible until completion of repairs makes possible the reasonable resumption of such operations if GRANTEE elects to repair; provided, however, that in the event it is mutually agreed by the parties hereto that the degree of destruction or damage renders impracticable the continuation of a major portion of operations conducted hereunder, then this easement may be terminated by either party on sixty (60) days' written notice. Provided further, that TVA may not elect to terminate this easement under this provision for so long as GRANTEE continues to pay rent thereon and to take reasonable steps to assure the continuing operation of commercial marina facilities upon the easement area to a substantial and reasonable degree and for so long as GRANTEE, or its successor, continues to comply with the other provisions of this easement.
15. Notwithstanding any other provision of this easement or of any documents and instruments of any sort whatsoever made in connection with or pursuant to this easement, any obligations arising under this easement, which obligations arise from matters or events occurring on or before expiration or earlier termination of this easement, shall survive such expiration or earlier termination and shall remain in full force and effect following expiration or earlier termination of this easement.
16. No waiver of any breach or default under this easement shall be held to be a waiver of any other breach or default. All remedies under this easement, including TVA's right to terminate under Section 2(b) shall be in addition to every other remedy provided herein or by law.
17. Each of the parties shall, at the request of the other, execute and deliver all such other further assurances, contracts, instruments, and documents as may be reasonably necessary, desirable, or proper to effectuate the provisions and the intents and purposes of this easement.
18. All rights and privileges of GRANTOR under or arising under this easement shall inure to the benefit of TVA and its successors; TVA may act for itself and for GRANTOR in respect to all matters arising out of or in connection with this easement; and all such action may be taken in the name of TVA and shall be sufficient and valid when so taken. All payments and notices by GRANTEE hereunder shall be paid or delivered to TVA in its own name.

In all matters relating to this easement, the Senior Manager, Public Outreach and Recreation, shall act for GRANTOR and TVA, unless and until TVA shall notify GRANTEE in writing that another official of TVA has been empowered to perform said function; and the individual designated in writing by GRANTEE shall act for GRANTEE, unless and until GRANTEE shall notify TVA in writing that another agent of GRANTEE has been empowered to perform said function. All notices under the terms of this easement shall be sent by certified mail addressed to the respective parties' current address. Notices to the United States of America or TVA shall be sent to TVA, Senior Manager, Public Outreach & Recreation, P.O. Box 1010, Muscle Shoals, Alabama 35662, and notices to Marshall County, Kentucky, Fiscal Court shall be sent to 1101 Main Street, Benton, Kentucky 42025. The respective parties shall notify the other of any changes to these addresses.



19. GRANTOR makes no warranties or representations to GRANTEE or any other party, either express or implied, as to the adequacy, condition, safety, reliability, merchantability, suitability, or adaptability of the property for the purposes herein granted, or any means of access to or egress from the property provided or made available by this easement grant.

This grant is made subject to such rights as may be vested in the county or state to public roads. Also, this grant is made subject to such rights as would be revealed by a current and accurate title examination and/or by a physical inspection of the easement area. Furthermore, this grant of easement will be subject to any existing or future license agreements for utilities being furnished for any campground that may be approved by TVA.

Any reference in this grant of easement to the terms "GRANTEE" will be deemed to include their respective successors and assigns.

TO HAVE AND TO HOLD said easement and appurtenant rights unto GRANTEE, its successors and assigns, for a term of thirty (30) years from the effective date hereof, subject, however to the conditions set forth herein, including GRANTEE's option to extend the easement term.

And TVA does hereby covenant that the UNITED STATES OF AMERICA is seized and possessed of the TVA Tract No. XTGIR-160RE and abutting shoreline area; that TVA as legal agent of the UNITED STATES OF AMERICA is duly authorized to convey the easement in, on, over, across, upon, through, or under the same; that said land is free and clear of liens and encumbrances; and that, subject to the conditions, reservations, restrictions, exceptions and/or limitations contained herein, it will warrant and defend the title thereto against the lawful demands of all persons claiming by, through, or under the UNITED STATES OF AMERICA, but not further or otherwise.

IN WITNESS WHEREOF, the TENNESSEE VALLEY AUTHORITY, acting herein as legal agent of the UNITED STATES OF AMERICA, and being duly authorized to do so, has caused this instrument to be executed, in the name of the UNITED STATES OF AMERICA, by its authorized officer this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

UNITED STATES OF AMERICA  
By TENNESSEE VALLEY AUTHORITY,  
its legal agent

By: \_\_\_\_\_  
AARON B. NIX, Senior Manager  
Realty and GIS Services

STATE OF TENNESSEE    )  
                                  ) SS  
COUNTY OF HAMILTON    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me appeared AARON B. NIX, to me personally known, who, being by me duly sworn, did say that he is the Senior Manager, Realty and GIS Services of the TENNESSEE VALLEY AUTHORITY, a corporation, and that said instrument was signed, and delivered on behalf of said corporation, by authority of its Board of Directors, and as legal agent for the UNITED STATES OF AMERICA; and said AARON B. NIX acknowledged said instrument to be the free act and deed of the UNITED STATES OF AMERICA, as principal, and the TENNESSEE VALLEY AUTHORITY, as its agent.

WITNESS my hand and official seal of office in Chattanooga, Tennessee, the day and year aforesaid.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

The name and address of the owner of the aforescribed easement is:

EASEMENT OWNER: Marshall County, Kentucky, Fiscal Court  
1101 Main Street  
Benton, Kentucky 42025

The name and address of the legal owner is:

OWNER: United States of America  
Tennessee Valley Authority  
c/o Realty and GIS Services  
1101 Market Street, BR 4B  
Chattanooga, Tennessee 37402-2801

Tax Map: \_\_\_\_\_

Parcel: \_\_\_\_\_

mcre1draft



EASEMENT AREA

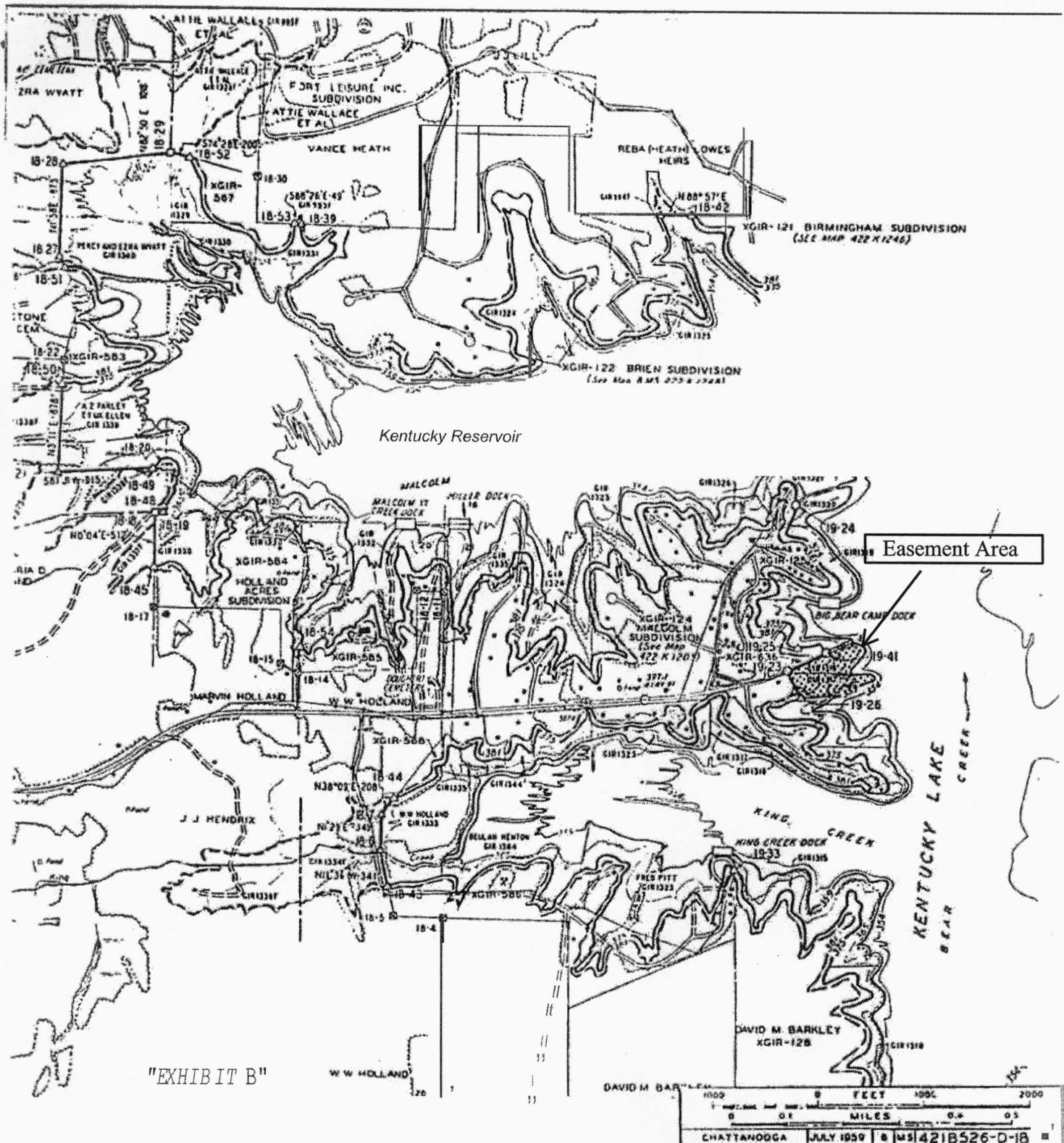
TRACT NO. XTGIR-160RE

Beginning at a point in the United States of America's property line at approximately Tennessee River mile 31.5L (Coordinate: N. 231,972; E. 1,276,374), being identified as corner 19-23, thence in an easterly direction with the center line of State Route 58 a distance of approximately 680 feet to a point in the 359-foot contour elevation, thence in a southerly direction with the 359-foot contour a total distance of approximately 1,120 feet, thence in a straight line generally in a westerly direction a distance of approximately 340 feet to a point in the 375-foot contour elevation identified as corner 19-26, thence N 27° 07' W. a distance of 262 feet to the point of beginning, containing 6.2 acres, more or less.

The land affected by the above-described easement area was acquired by the Grantor by virtue of the following:

GIR-1317 - Warranty Deed dated March 28, 1940, executed by Hugh C. Edwards, et ux., recorded in Deed Book 63, page 432, in the office of the County Clerk, Marshall County, Kentucky. This tract was acquired subject to such rights as may be vested in the county for roads.

GIR-1318 - Warranty Deed dated April 17, 1940, executed by Gertrude E. Cates Pitts, a widow, recorded in Deed Book 63, page 510, in the office of County Court Clerk, Marshall County, Kentucky. This tract was acquired subject to such rights as may be vested in the county for roads.



"EXHIBIT B"

30-Year Public Recreation Easement Area

TENNESSEE VALLEY AUTHORITY NATURAL RESOURCES AND REAL PROPERTY SERVICES	
<i>30-Year Public Recreation Easement</i>	
<i>Marshall County, Kentucky</i>	
Date: <i>February 2, 2015</i>	
County: <i>Marshall</i> Map: <i>18D</i> Tract: <i>XTGIR-160RE</i>	

EXHIBIT C

This program is supported by assistance from the Tennessee Valley Authority (TVA), a Federal agency. Under the Title VI of the civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and applicable TVA regulations at 18 C.F.R. pts. 1302, 1307, 1309, and 1317, no person shall, on the grounds of race, color, national origin, age, sex, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under this program. In addition, no qualified person with a disability shall, on the basis of a disability, be subjected to discrimination in employment (including hiring) under the program. If you feel you have been subjected to discrimination as described above, you, personally or by a representative, have the right to file a written complaint with TVA not later than 180 days (for race, color, national origin, or sex) or 90 days (for age or disability) from the date of the alleged discrimination. The complaint should be sent to Tennessee Valley Authority, Federal Assistance Programs, 400 West Summit Drive, WT3A, Knoxville, Tennessee 37902. A copy of the applicable TVA regulations may be obtained on request by writing TVA at the address given above.

lhm:  
mcountylexhibic