



Tennessee Valley Authority, 2835-A East Wood Street, Paris, Tennessee 38242

November 5, 2020

The Honorable Kevin Neal
Marshall County Judge Executive
1101 Main Street
Benton, Kentucky 42025

Dear Judge Executive Neal:

KENTUCKY RESERVOIR - EASEMENT EXPIRATION NOTIFICATION – XTGIR-140RE - RLR
183356 – WESLEY VILLAGE RECREATION AREA - TENNESSEE RIVER MILE 38.5L -
MARSHALL COUNTY, KENTUCKY

This letter is a courtesy reminder that your easement XTGIR-140RE for the Wesley Village Recreation Area will expire on October 1, 2021. If you are interested in continuing use of the Tennessee Valley Authority (TVA) property for the operation of Wesley Village Recreation Area, please contact TVA prior to the expiration date. The renewal process for an easement takes approximately 10-14 months and your agreement will expire within 11 months. Based on the minimal infrastructure, TVA would consider conversion of the agreement from an easement to a revocable license which will take considerably less time to establish. Enclosed is a copy of the operating agreement for Wesley Village Recreation Area for reference.

If you have questions or would like to discuss the process, you may contact me by email at vwalters@tva.gov or by phone at 731-641-2006.

Sincerely,

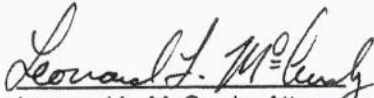
A handwritten signature in black ink that reads "Veronica Walters".

Veronica Walters
Recreation Agreement Specialist
Recreation & Shoreline Management

Enclosures

Prepared by:

TVA TRACT NO. XTGIR-140RE


Leonard L. McCurdy, Attorney

Tennessee Valley Authority
1101 Market Street, SP 3L
Chattanooga, Tennessee 37402-2801
Telephone: (423) 751-2006

GRANT OF TERM EASEMENT
FOR A DAY USE PUBLIC RECREATION AREA
FROM
THE UNITED STATES OF AMERICA
TO
MARSHALL COUNTY, KENTUCKY, FISCAL COURT

THIS GRANT OF TERM EASEMENT, effective as of October 1, 1996, by and between the UNITED STATES OF AMERICA (sometimes hereinafter referred to as "GRANTOR"), acting by and through 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 the MARSHALL COUNTY, KENTUCKY, FISCAL COURT (sometimes hereinafter referred to as the "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 has determined that the granting of the following described easement, subject to the conditions provided herein, will not be adverse to the interests of the 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, reservations, restrictions, exceptions and/or limitations contained in this grant of easement and exhibits hereto, hereby gives and grants to GRANTEE, its successors and assigns, the right to enter for a term of twenty-five (25) years from the date hereof, upon subject land to construct, operate, and maintain a day use public recreation area with all necessary appurtenances, as approved by TVA, in, on, over, across, upon, through and under certain land located in Marshall County, Kentucky, designated as TVA Tract No. XTGIR-140RE (hereinafter referred to as the "easement area") and more particularly described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and made a part hereof.
2. This grant of easement shall be effective as of the date first written above and shall be for a term of twenty-five (25) years therefrom.
3. This entire grant is expressly made upon and subject to the following conditions:

- (a) The easement area shall be used solely for the purpose of constructing, operating, and maintaining a day use public recreation area and for no other purpose or purposes.
- (b) The easement area and any public facilities constructed in 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, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be subjected 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 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.

- (c) In the event that GRANTEE shall cease to use such easement area for the purpose for which this easement is granted for a period of two (2) consecutive years or more or shall, regardless of the time period, initiate use of the area subject to such easement for some other purpose or shall abandon such easement or commit any breach of any of the foregoing conditions, in whole or in part, then GRANTOR, TVA, or their successors or assigns, may terminate the easement by written notice to GRANTEE, its successors and assigns, and take possession of the easement area as if this grant of easement had never been made. Such termination shall be effective as of the date of such notice; provided, however, that GRANTEE, its successors and assigns, shall have the right during a period of ninety (90) days immediately following the date of such notice of termination or expiration 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 or reseeding TVA may deem appropriate. Title to any such improvements not removed within such 90-day period shall become the property of TVA at TVA's option and may be removed at GRANTEE's expense or left in place and rendered harmless, in the sole discretion of TVA. Any failure of GRANTOR, TVA, or their successors or 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.
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, or succession.
- (a) GRANTEE will control all emissions of pollutants that might be discharged 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 it is legally empowered to do so, 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 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 which spread or move in whole or in part beyond the easement area to other areas owned by GRANTOR), to the extent it is legally empowered to do so, 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.

- (b) GRANTEE will not permit or suffer any offensive use of the easement area or the commission of waste thereon and will keep the easement area and all improvements thereon in a safe condition and in good order and appearance; and it will 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 and with sufficient frequency to keep the easement area orderly and sanitary.
- (c) GRANTEE will not construct, operate, or maintain any future buildings, facilities, structures, or improvements of any nature, or place fill material on any portion of the easement area, except such as are constructed, operated, and maintained in accordance with plans and specifications which shall first have been approved in writing by TVA.
- (d) GRANTEE will not construct any future facilities or equipment subject to flood damage, unless located above or flood proofed to the flood risk profile elevation of 375.0 feet mean sea level.
- (e) 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.
- (f) GRANTEE will (a) conduct all land-disturbing activities on the easement area in accordance with the best management practices as defined by Section 208 of the Clean water Act and implementing regulations to control erosion and sedimentation so as to prevent adverse impact on water quality and related aquatic interests; and (b) if more than five (5) contiguous acres of the easement area are to be disturbed, GRANTEE will

obtain from TVA written approval of such activity prior to commencing it; provided, however, that if TVA has neither approved or disapproved such plans within 45 days following their submission, they shall be conclusively presumed to be approved.

- (g) GRANTEE will in connection with approved activities involving filling and grading, establish and maintain positive drainage of the filled and graded area to prevent erosion.
 - (h) Natural vegetation, selected wildlife plantings, riprap and/or filter fabric will be used to stabilize disturbed areas, and to prevent runoff into any wetland fringe areas. All areas of the site will be maintained indefinitely to prevent erosion.
 - (i) To the maximum degree practicable, Marshall County will use law enforcement personnel to prevent damage to natural resources on subject TVA tract.
 - (j) All future development must meet the requirements of the TVA Flood Control Storage Loss Guidelines.
 - (k) GRANTEE shall, within five years of the date of execution of this easement; site, develop and maintain a permanent "Type D" or equivalent toilet building and provide a paved access road and parking lots as approved by TVA. If GRANTEE fails to comply with this condition, this term easement will be revoked by written notification to GRANTEE and a 60-day revocable license will be initiated.
 - (l) GRANTEE will 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 on the easement area.
 - (m) GRANTEE will not disturb or alter in anyway the existing state of any archeological sites, human remains, funerary objects, objects of cultural patrimony, or any other archeological 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 Resources staff by telephone at (865) 632-1578. GRANTEE shall also provide written notification of such discovery to TVA, Cultural Resources, 400 West Summit Hill Drive, Knoxville, Tennessee 37902. GRANTEE will not resume work in the area of the discovery until approved by TVA.
 - (n) GRANTEE shall locate a sign at the entrance of the easement area identifying the area as a day use public recreation area which sign shall be located in accordance with plans and specifications which first shall have been approved in advance and in writing by TVA.
5. Neither this easement nor any interest herein may be assigned, transferred, or conveyed by GRANTEE, in whole or in part, nor may the easement area or any portion of it be leased, nor may use or control of the easement area or any portion of it be leased, nor may use or control of the easement area or any portion of it be granted by license, permit, or other agreement, unless GRANTEE has secured written permission from TVA prior to such assignment, transfer, conveyance, lease, license, permit, or agreement. Any such assignment, transfer, conveyance, lease, permit, or agreement granted or issued by GRANTEE without first obtaining the written consent of TVA shall be void and of no effect.

6. Nothing in this instrument shall be construed as nullifying or affecting in any way GRANTOR's right as fee owner or TVA's right as GRANTOR's agent, 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 carrying out any part of TVA's statutory programs for river control and development, including TVA's right to do anything it deems necessary or desirable in the promotion of vector control, flood control, navigation, or other programs; and TVA shall not be liable for any loss or damage to the easement area or improvements located thereon, resulting therefrom, or as a result of wave action, fluctuation of water levels, or other causes.
7. GRANTOR, as fee owner, expressly reserves for itself, TVA, their successors and assigns, the unqualified and unrestricted right, 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 with water from any source or sources (1) permanently, temporarily, and/or intermittently any and all portions of the easement area which lie at or below the 375.0-foot msl contour elevation; and (2) temporarily and intermittently any and all portions of said easement area which lie above the 375-foot msl contour elevation; all without regard to the effect of such drawdown, flooding, or fluctuation upon the properties, operations or activities of the Grantee.
8. GRANTOR reserves the right to maintain any existing boundary and traverse monuments and silt range stations upon the easement area.
9. GRANTOR, as fee owner, expressly reserves for itself, TVA, their successors and assigns, 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 and chemicals thereon and do any and all other things GRANTOR deems necessary or desirable for the promotion and furtherance of public health.
10. GRANTOR, as fee owner, expressly retains for itself, TVA, their successors and assigns, 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, their successors or assigns, for any personal injury or property damage which may result therefrom.
11. 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, or any means of access to or egress from the property provided or made available by this easement grant.
12. 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. 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 connected with the acts or omissions of GRANTEE or any other persons.
13. GRANTEE further 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 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.

14. This grant is made subject to such rights as may be vested in the public to a right-of-way for a county road, such rights as may be vested in J. C. Morgan, his heirs, successors or assigns to a road right-of-way along the northern boundary of TVA Tract No. GIR-1719, and such rights as may be vested in third parties to a telephone line right-of-way.

TO HAVE AND HOLD said easement unto GRANTEE, its successors and assigns, for a term of twenty-five (25) years from the effective date herein, subject, however, to the conditions set forth herein.

And TVA does hereby covenant that the UNITED STATES OF AMERICA is seized and possessed of the easement area; that TVA as legal agent of the UNITED STATES OF AMERICA is duly authorized to convey the easement and right-of-way 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 duly authorized officers and its corporate seal to be hereunto affixed this the 2nd day of December, 2004.

ATTEST:

Janice K. Pulver
JANICE K. PULVER
Assistant Secretary

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

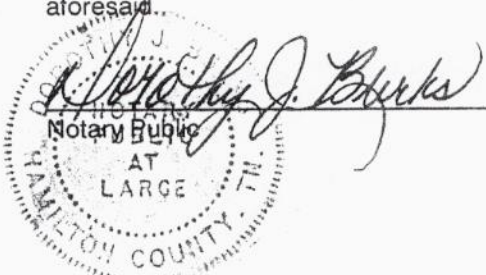
By: Joel E. Williams
JOEL E. WILLIAMS
Manager, Realty Services



STATE OF TENNESSEE)
) SS
 COUNTY OF HAMILTON)

On the 2nd day of December, 2004, before me appeared JOEL E. WILLIAMS and JANICE K. PULVER, to me personally known, who, being by me duly sworn, did say that they are the Manager, Realty Services, and Assistant Secretary, respectively, of the TENNESSEE VALLEY AUTHORITY, a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed, sealed, 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 the said JOEL E. WILLIAMS and JANICE K. PULVER 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.



My commission expires: 2-25-06

COMMONWEALTH OF KENTUCKY)
) SS
 COUNTY OF MARSHALL)

I, _____ Clerk of the county and state aforesaid, hereby certify that the foregoing Grant of Term Easement from the United States of America to Marshall County, Kentucky, Fiscal Court, was this day produced to me in my county and state aforesaid, and was lodged for record in my office, and that it has been duly recorded in my office in Deed Book _____, page _____.

GIVEN under my hand this _____ day of _____, 2004.

 MARSHALL COUNTY COURT CLERK

By: _____

TVA TRACT NO. XTGIR-140RE

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

EASEMENT OWNER: Marshall County, Kentucky
1101 Main Street
Benton, Kentucky 42025
Telephone Number: (270) 527-4750

The name and address of the legal owner is:

OWNER: United States of America
Tennessee Valley Authority
c/o Realty Services
1101 Market Street, SP 3L
Chattanooga, Tennessee 37402-2801
Telephone: 1-888-817-5201

(See D.B. 67, page 196,
D.B. 67, page 246, and D.B. 67,
page 352.) (Tax Exempt)

llm:djb
TVA 9567 [LA-1-89]

EXHIBIT A

A parcel of land located in Section 15, Township 4, Range 5 East, and the First Magisterial District of Marshall County, Commonwealth of Kentucky, and being on Jonathan Creek embayment at its intersection with North Branch Ruff Creek opposite Jonathan Creek mile 3.2L, also being opposite Tennessee River mile 38.5L as shown on US-TVA Drawing No. 8 MS 422 B 386 D R.0 and being more particularly described as follows:

Beginning at a concrete monument (found) on the US-TVA Kentucky Reservoir boundary line (Coordinates: N. 186,629.7, E. 1,280,159.2), being corner No. 28-59; thence leaving the point of beginning and with said reservoir boundary line S 84°21' E, 270.5 feet to a concrete monument (found), being corner No. 28-60; thence continuing with said reservoir boundary line S 31°47' E, 254.8 feet to an aluminum monument (set), being corner No. 28-60A WC; thence continuing with said reservoir boundary line S 31°47' E, 49.8 feet to an aluminum monument (set) on the 359.0-foot mean sea level contour line, hereinafter referred to as (msl) contour line, being corner No. 28-60A; thence leaving said reservoir boundary line and with the meanders of said 359.0-foot (msl) contour line in a southerly direction forming a chord of S 07°14' W, 1,373.0 feet to an aluminum monument (set) on the 359.0-foot (msl) contour line, being corner No. 28-55A thence leaving said 359.0-foot (msl) contour line and with the aforementioned US-TVA Kentucky Reservoir boundary line N 85°48' W, 23.6 feet to an aluminum monument (set) being corner No. 28-55A WC; thence continuing with said US-TVA Kentucky Reservoir boundary line N 85°48' W, 367.9 feet to a concrete monument (found), being corner No. 28-55; thence continuing with said US-TVA Kentucky Reservoir boundary line N 04°33' E, 374.7 feet to an iron pipe (found), being corner No. 28-56; thence continuing with said US-TVA Kentucky Reservoir boundary line N 86°22' W, 253 feet to an angle iron, being corner No. 28-57; thence continuing with said US-TVA Kentucky Reservoir boundary line N 04°47' E, 756 feet to an angle iron, being corner No. 28-58; thence continuing with said US-TVA Kentucky Reservoir boundary line N 31°34' E, 560 feet to the point of beginning and containing 18.97 acres, more or less.

Positions of corners and direction of lines are referred to the Kentucky South Coordinate System and NAD 27 Horizontal Datum. The elevations for establishing the contours are based on NGVD 1929.

This description was prepared from Kentucky Reservation Map 08 MS 421 P 526-D, R.3 and a TVA survey dated January 16, 1997.

The above-described property was acquired by the United States of America by virtue of the deed dated September 30, 1940, from Effie Dotson Wicker, et al., of record in Deed Book 67, page 196 (TVA Tract No. GIR-1724); by virtue of the deed dated December 20, 1940, from John C. Morgan and wife, Nora N. Morgan, of record in Deed Book 67, page 352 (TVA Tract No. GIR-1799); by virtue of the deed dated October 26, 1940, from Plumie H. Rudolph and wife, Rethie Nimmo Rudolph, of record in Deed Book 67, page 246 (TVA Tract No. GIR-1719); all in the office of the County Court Clerk of Marshall County, Kentucky.

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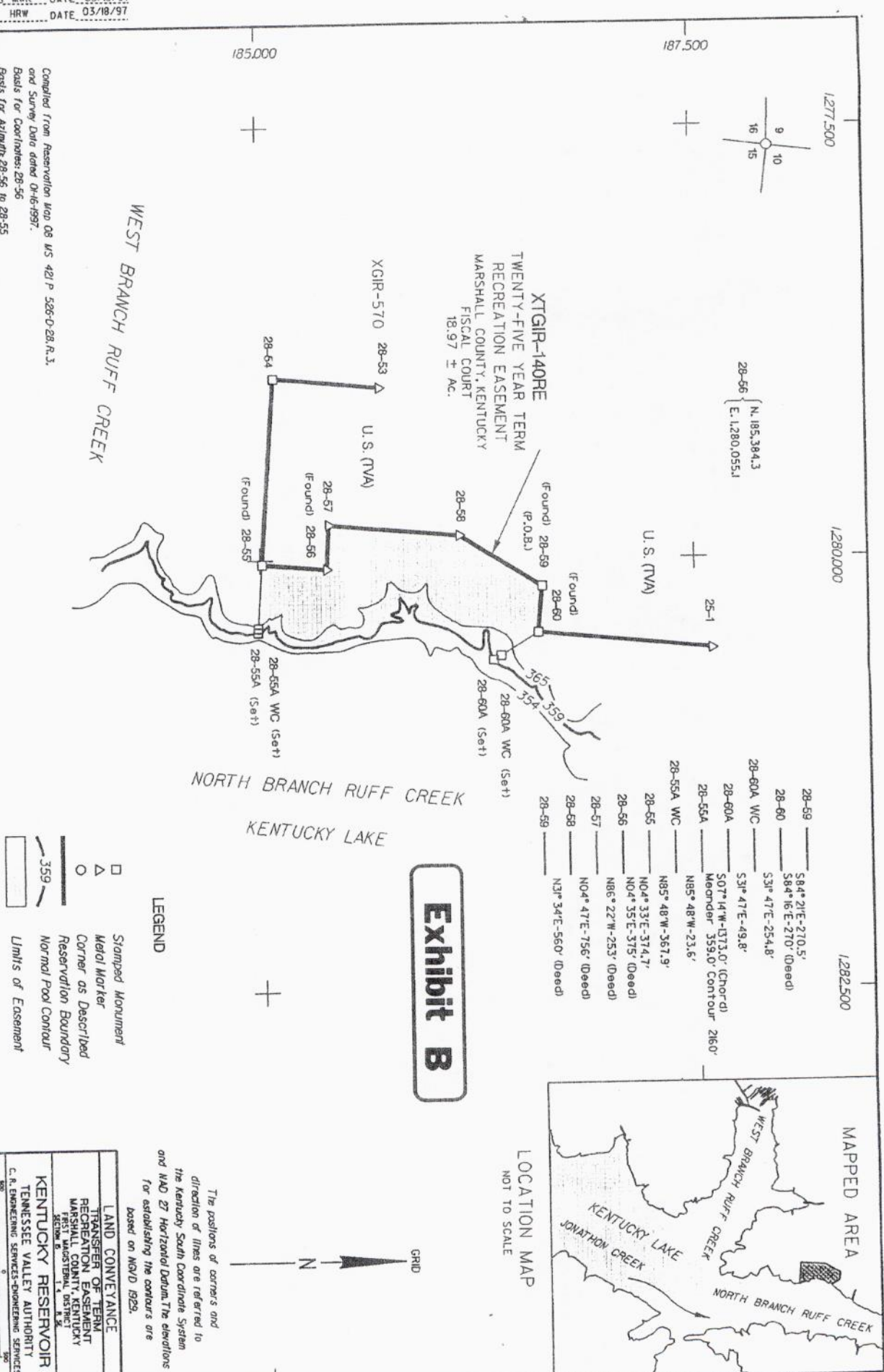


EXHIBIT C

This program is supported by assistance from the Tennessee Valley Authority (TVA), a Federal agency. Under 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, 1101 Market Street, WR 3J-C, Chattanooga, Tennessee 37402-2801. A copy of the applicable TVA regulations may be obtained on request by writing TVA at the address given above.

llm:djb
xtgir\140RE\exhibits



Tennessee Valley Authority, 2835-A East Wood Street, Paris, Tennessee 38242

November 5, 2020

The Honorable Kevin Neal
Marshall County Judge Executive
1101 Main Street
Benton, Kentucky 42025

Dear Judge Executive Neal:

KENTUCKY RESERVOIR - EASEMENT EXPIRATION NOTIFICATION – XTGIR-143RE - RLR
55324 – BUCKHORN BAY RECREATION AREA - TENNESSEE RIVER MILE 30.6L -
MARSHALL COUNTY, KENTUCKY

This letter is a courtesy reminder that your easement, XTGIR-143RE, for the Buckhorn Bay Day Use Area will expire on March 15, 2021. If you are interested in continuing use of the Tennessee Valley Authority (TVA) property for the operation of Buckhorn Bay Recreation Area, please contact TVA prior to the expiration date. The renewal process for an easement takes approximately 10-14 months and your agreement will expire within five months. Based on the minimal infrastructure, TVA would consider conversion of the agreement from an easement to a revocable license which will take considerably less time to establish. Enclosed is a copy of the operating agreement for Buckhorn Bay Recreation Area for reference.

If you have questions or would like to discuss the process, you may contact me by email at vwalters@tva.gov or call 731-641-2006.

Sincerely,

A handwritten signature in black ink that reads "Veronica Walters".

Veronica Walters
Recreation Agreement Specialist
Recreation & Shoreline Management

Enclosures

Prepared by:

TVA TRACT NO. XTGIR-143RE

Janice K. Pulver
Janice K. Pulver, Attorney
Tennessee Valley Authority
1101 Market Street, EB-4A
Chattanooga, Tennessee 37402-2801

RLR# 55324

GRANT OF TERM EASEMENT
FOR A DAY USE PUBLIC RECREATION AREA
FROM
THE UNITED STATES OF AMERICA
TO
MARSHALL COUNTY, KENTUCKY, FISCAL COURT

THIS GRANT OF TERM EASEMENT, made and entered into this 15th day of March, 1996, by and between the UNITED STATES OF AMERICA (sometimes hereinafter referred to as "GRANTOR"), acting by and through 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 the MARSHALL COUNTY, KENTUCKY, FISCAL COURT, (sometimes hereinafter referred to as "GRANTEE");

W I T N E S S E T H:

WHEREAS TVA is authorized by Public Law No. 87-852 to grant to an applicant, on behalf of the United States of America, such easement affecting federal property in its custody and control as TVA's Board of Directors determines will not be adverse to the interests of GRANTOR; and

WHEREAS in considering GRANTEE's application, TVA's Board of Directors 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 Public Law No. 87-852, and subject to all of the terms, conditions, reservations, restrictions, exceptions, and/or limitations contained in this grant of easement and exhibits hereto, hereby gives and grants to GRANTEE, its successors and assigns, the right to enter for a term of twenty-five years from the date hereof, upon subject land to construct, operate, and maintain a day use public recreation area with all necessary appurtenances, as approved by TVA, in, on, over, across, upon, through and under certain land located in Marshall County, Kentucky, designated as TVA Tract No. XTGIR-143RE (hereinafter referred to as the "easement area") and more particularly described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and made a part hereof.
2. This grant of easement shall be effective as of the date first written above and shall be for a term of 25 years therefrom.

3. This entire grant is expressly made upon and subject to the following conditions:

- (a) The easement area shall be used solely for the purpose of constructing, operating, and maintaining a day use public recreation area and for no other purpose or purposes.
- (b) The easement area and any public facilities constructed in 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, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be subjected 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, and 1309, 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 GRANTEES 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.

- (c) In the event that GRANTEE shall cease to use such easement area for the purpose for which this easement is granted for a period of two (2) consecutive years or more or shall, regardless of the time period, initiate use of the area subject to such easement for some other purpose or shall abandon such easement or commit any breach of any of the foregoing conditions, in whole or in part, then GRANTOR, TVA, or their successors or assigns, may terminate the easement by written notice to GRANTEE, its successors and assigns, and take possession of the easement area as if this grant of easement had never been made. Such termination shall be effective as of the date of such notice; provided, however, that GRANTEE, its successors and assigns, shall have the right during a period of ninety (90) days immediately following the date of such notice 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 or reseeding TVA may deem appropriate. Title to any such improvements not removed within such 90-day period shall become the property of TVA at TVA's option and may be removed at GRANTEE's expense. Any failure of GRANTOR, TVA, or their successors or 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.

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, or succession:

- (a) GRANTEE will control all emissions of pollutants that might be discharged 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 it is legally empowered to do so, 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 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 which spread or move in whole or in part beyond the easement area to other areas owned by GRANTOR), to the extent it is legally empowered to do so, 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.

- (b) GRANTEE will not permit or suffer any offensive use of the easement area or the commission of waste thereon and will keep the easement area and all improvements thereon in a safe condition and in good order and appearance; and it will 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 and with sufficient frequency to keep the easement area orderly and sanitary.
- (c) GRANTEE will not construct, operate, or maintain buildings, facilities, structures, or improvements of any nature, or place

fill material on any portion of the easement area, except such as are constructed, operated, and maintained in accordance with plans and specifications which shall first have been approved in writing by TVA.

- (d) GRANTEE will not construct any structures or facilities which would be subject to damage if flooded on any portion of the easement area located below the structure profile elevation of 375 mean sea level.
- (e) 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.
- (f) GRANTEE will (a) conduct all land-disturbing activities on the easement area in accordance with the best management practices as defined by Section 208 of the Clean Water Act and implementing regulations to control erosion and sedimentation so as to prevent adverse impact on water quality and related aquatic interests; and (b) if more than five (5) contiguous acres of the easement area are to be disturbed, GRANTEE will obtain from TVA written approval of such activity prior to commencing it; provided, however, that if TVA has neither approved nor disapproved such plans within 45 days following their submission, they shall be conclusively presumed to be approved.
- (g) GRANTEE will manage and maintain the area below elevation 365.0 as a permanent buffer zone in which no soil disturbing activity will be allowed.
- (h) Natural vegetation, selected wildlife plantings, riprap and/or filter fabric will be used to stabilize disturbed areas, and to prevent runoff into any wetland fringe areas. All areas of the site will be maintained indefinitely to prevent erosion.
- (i) To the maximum degree practicable, Marshall County will use law enforcement personnel to prevent damage to natural resources on the adjacent (formerly proposed) TVA tract (as well as on the currently proposed tract).
- (j) TVA reserves the right to complete a limited shelterwood timber harvest initiated in 1993.
- (k) GRANTEE shall, within a five-year period of the date of execution of said transfer; site, develop and maintain a permanent "Type D" or equivalent toilet building and provide a paved access road and parking lots. If GRANTEE fails to comply with this condition, the term easement will be revoked and a 60-day revokable license will be initiated.

- (1) GRANTEE will 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 on the easement area.
5. Neither this easement nor any interest herein may be assigned, transferred, or conveyed by GRANTEE, in whole or in part, nor may the easement area or any portion of it be leased, nor may use or control of the easement area or any portion of it be granted by license, permit, or other agreement, unless GRANTEE has secured written permission from TVA prior to such assignment, transfer, conveyance, lease, license, permit, or agreement. Any such assignment, transfer, conveyance, lease, permit, or agreement granted or issued by GRANTEE without first obtaining the written consent of TVA shall be void and of no effect.
6. Nothing in this instrument shall be construed as nullifying or affecting in any way GRANTOR's right as fee owner or TVA's right as GRANTOR's agent, 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 carrying out any part of TVA's statutory programs for river control and development, including TVA's right to do anything it deems necessary or desirable in the promotion of vector control, flood control, navigation, or other programs; and TVA shall not be liable for any loss or damage to the easement area or improvements located thereon resulting therefrom, or as a result of wave action, fluctuation of water levels, or other causes.
7. GRANTOR, as fee owner, expressly reserves for itself, TVA, their successors and assigns, the permanent and paramount right to flood temporarily and intermittently, by the erection and operation of any dam or dams across the Tennessee River or its tributaries, all portions of the easement area and any access thereto, with water from any source or sources.
8. GRANTOR reserves the right to maintain any existing boundary and traverse monuments and silt range stations upon the easement area.
9. GRANTOR, as fee owner, expressly reserves for itself, TVA, their successors and assigns, 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 and chemicals thereon and do any and all other things GRANTOR deems necessary or desirable for the promotion and furtherance of public health.
10. GRANTOR, as fee owner, expressly retains for itself, TVA, their successors and assigns, 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, their successors or assigns, for any personal injury or property damage which may result therefrom.
11. This grant is made subject to such rights as may be vested in the public to a right-of-way for a county road, the rights of third parties to a right-of-way for ingress and egress, and subject to existing utilities.

Subject property was acquired by the United States of America by virtue of the deed from Frederick L. Wallace and wife, Mary Lula Wallace, dated October 18, 1940, of record in Deed Volume 67, page 222 (TVA acquisition Tract GIR-990), and the deed dated October 25, 1940, of record in Deed Volume 67, page 226 (TVA acquisition Tract GIR-991 and 992), both in the office of the County Court Clerk of Marshall County, Kentucky.

TO HAVE AND TO HOLD said easement unto GRANTEE, its successors and assigns, for a term of twenty-five years from the date hereof, subject, however, to the conditions set forth herein.

And TVA does hereby covenant that the UNITED STATES OF AMERICA is seized and possessed of the easement area; that TVA as legal agent of the UNITED STATES OF AMERICA is duly authorized to convey the easement and right-of-way 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 duly authorized officers and its corporate seal to be hereunto affixed the day and year first written above.

ATTEST:

Wayne Owens
S. WAYNE OWENS
Assistant Secretary

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

By: T. D. Waller
T. D. WALLER, Manager
Realty Administration

STATE OF TENNESSEE)
) SS
COUNTY OF HAMILTON)

On this 15th day of March, 1996, before me appeared T. D. WALLER and J. WAYNE OWENS, to me personally known, who being by me duly sworn, did say that they are the Manager, Realty Administration, and Assistant Secretary, respectively, of the TENNESSEE VALLEY AUTHORITY, a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed, sealed, 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 the said T. D. WALLER and J. WAYNE OWENS 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 at office in Chattanooga, Tennessee, the day and year aforesaid.

Angela R. Bowers
Notary Public

My commission expires: 4-11-98

COMMONWEALTH OF KENTUCKY)
) SS
COUNTY OF MARSHALL)

I, _____, Clerk of the county and state aforesaid, hereby certify that the foregoing Grant of Term Easement from the United States of America to Marshall County, Kentucky, Fiscal Court, was this day produced to me in my county and state aforesaid, and was lodged for record in my office, and that it has been duly recorded in my office in Deed Book _____, page _____.

Given under my hand this _____ day of _____, 1996.

MARSHALL COUNTY COURT CLERK

By: _____

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

EASEMENT OWNER: Marshall County, Kentucky
1101 Main Street
Benton, Kentucky 42025
Telephone Number: 502-527-4750

The name and address of the legal owner is:

OWNER: United States of America
Tennessee Valley Authority
c/o Realty Administration
1101 Market Street, EB 4A
Chattanooga, Tennessee 37402-2801
Telephone: 423-751-2163

(See D.V. 67, page 222
and D.V. 67, page 226)
(Tax Exempt)

JKP:DDS
8483F
TVA 9567 [LA-1-89]

EXHIBIT A TO
GRANT OF TERM EASEMENT
TVA TRACT NO. XTGIR-143RE

A term recreation easement on, over, and across a parcel of land lying in the Second Magisterial District of Marshall County, State of Kentucky, on the west shores of an embayment and on the northwest side of the Big Bear Creek Embayment of Kentucky Lake, approximately 3/4 mile west of the mouth of the Big Creek Embayment as shown on US-TVA Drawing No. 08MS422B-380D R.0 the said tract being more particularly described as follows:

Beginning at US-TVA Monument stamped 16-15 on the boundary of US-TVA's Kentucky Reservation (Coordinates of N. 223,685.8 E. 1,275,633.1); thence with the property line of the herein described parcel N 12° 18' E, 13.5 feet to a point on the 381 foot (Mean Sea Datum) contour; thence with the meanders of the 381 foot (MSD) contour in a southeasterly direction forming a chord of S 44° 12' E, 399.1 feet to a metal marker on the 381 foot (MSD) contour; thence leaving the 381 foot (MSD) contour and continuing with the said property line S 58° 35' E, 183.4 feet to a metal marker; thence continuing with the said property line N 81° 46' E, 278.7 feet to a point on the 359 foot (MSD) contour; thence with the meanders of the 359 foot (MSD) contour in a southeasterly direction and subsequently in a general westerly direction forming a chord of S 29° 16' W, 1205.4 feet to a metal marker; thence leaving the 359 foot (MSD) contour and continuing with the said property line of the herein described parcel N 81° 12' W, 45.1 feet to a metal marker on the southern property line of the herein described parcel; thence continuing with the southern property line of the herein described parcel N 77° 04' W, 689.5 feet to a US-TVA Monument stamped 143RE-6 on the boundary line of US-TVA's Kentucky Reservation; thence with the said boundary line of US-TVA N 24° 27' E, 160.1 feet to a metal marker; thence continuing with the said boundary line of US-TVA N 78° 33' E, 967.1 feet, crossing a metal marker at 62.6 feet, to US-TVA Monument stamped 16-11; thence continuing with the said boundary line of US-TVA N 00° 39' E, 349.1 feet to a US-TVA Monument stamped 16-13; thence continuing with said the boundary line of US-TVA N 86° 55' W, 428.1 feet to a metal marker; thence continuing with the said boundary line of US-TVA N 00° 14' E, 509.7 feet to the point of beginning and containing 21.71 acres, more or less.

The positions of corners and directions of lines are referred to the Kentucky (South) State Coordinate System, NAD 27 Horizontal Datum.

The description prepared from a boundary survey by:

John R. Lewis, RLS
Tennessee Valley Authority
Haney Building 2A
1101 Market Street
Chattanooga, Tennessee 37402-2801
Tennessee License No. 770

1275000

1275000

1275000

10-16 { N. 22° 56' 05" E. 127° 56' 33" J

1280000

- 143RE-1 S44°12'E-399.1' (Chard) Meander 381' Contour
- 143RE-2 S58°35'E-183.4'
- 143RE-3 N87°46'E-278.7'
- 143RE-4 S25°16'W-1205.4' (Chard) Meander 359' Contour
- 143RE-5 N87°12'W-45.1'
- 143RE-6WC N77°04'W-689.5'
- 143RE-6 N24°27'E-180.1'
- 16-10 N78°33'E-62.5'
- 16-53 N78°33'E-904.5'
- 16-11 N07°39'E-349.1'
- 16-13 N86°55'W-428.1'
- 16-14 N01°4'E-509.7'
- 16-15

XTGIR-143RE
TRANSFER OF TERM
RECREATION EASEMENT
COMMONWEALTH OF KENTUCKY
21.71 ± AC.

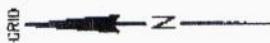
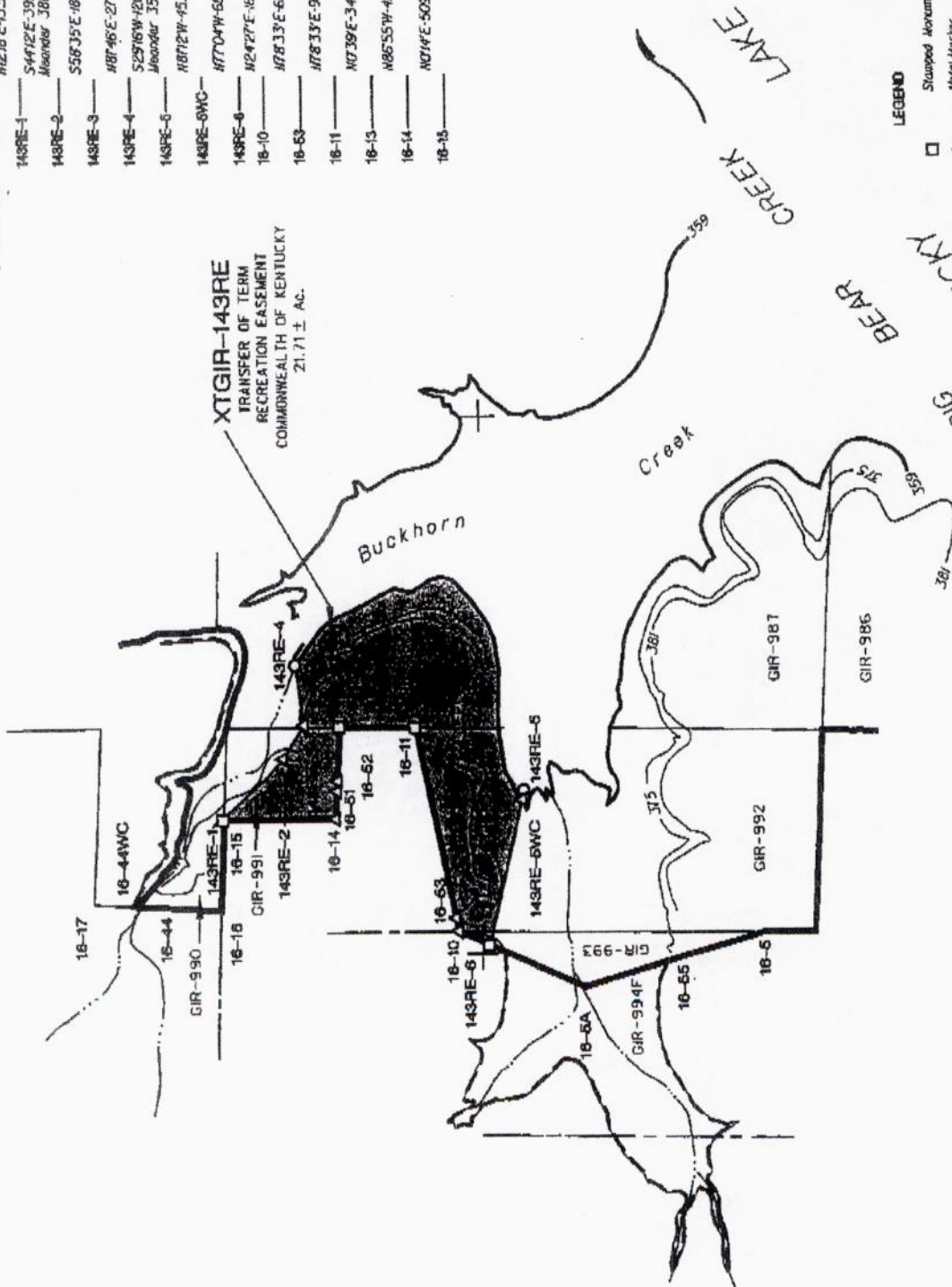


Exhibit B

The positions of corners and
directions of lines are referred to
the Kentucky (South State) Coordinate System
NAD 83 Horizontal Datum.

LAND CONVEYANCE
TRANSFER OF TERM RECREATION EASEMENT MARSHALL COUNTY, KENTUCKY SECOND INDUSTRIAL DISTRICT
KENTUCKY RESERVOIR TENNESSEE VALLEY AUTHORITY MAPS AND SURVEYS DEPARTMENT
CHATTANOOGA Jan 1993 MS 422 B 3800 09090000

- LEGEND**
- Stamped Monument
 - Metol Marker
 - Corner as Described
 - Reservation Boundary
 - Monro Pior Contour
 - Units of Easement

Compiled from Reservation Map 08 MS 422 P 526-D-16,
and Survey Data dated 05-23-1995.
Located on VTN Quad BIRMINGHAM POINT, KENTUCKY 17-AN.

1275000

TVA TRACT NO. XTCIR-143RE

GRANT OF TERM EASEMENT

EXHIBIT C

This program is supported by assistance from the Tennessee Valley Authority (TVA), a federal agency. Under 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, and 1309, no person shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under this program. In addition, no qualified handicapped person shall, on the basis of handicap, 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 90 days from the date of the alleged discrimination. The complaint should be sent to Tennessee Valley Authority, Equal Opportunity Staff, 400 West Summit Hill Drive, Knoxville, Tennessee 37902. A copy of the applicable TVA regulations may be obtained on request by writing TVA at the address given above.

JKP
8483F