

**Tennessee Valley Authority
Regional Resource Stewardship Council
September 28-29, 2015
Meeting Minutes**

The Tennessee Valley Authority (TVA) Regional Resource Stewardship Council (RRSC or Council) convened for the third meeting of its eighth term at 9:30 a.m. EST on Monday, September 28, 2015, at TVA's Auditorium, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902.

Council members attending:

Avis Kennedy, Chair	Mike Ball	Lee Brown
Gregory Cable	Robert Englert	Phil Hazle
Mark Iverson	Mitch Jones	Adam Kinser
Brad Kreps	Tom Littlepage	Gary Myers
Will Nelson	Jack Simmons	Russ Townsend

Designated Federal Officer: Dr. Joseph Hoagland

Facilitator: Lee Matthews

Appendix A identifies the TVA employees, members of the public, and others who attended.

Appendix B is the agenda for the meeting.

Appendix C is the Formal Council Advice provided by the Council.

Copies of the presentations given at the meeting can be found at <http://www.tva.gov/rrsc/>.

The majority of the meeting was devoted to presentations by TVA staff about the current status of stewardship activities and encroachments on TVA reservoir property and answering questions asked by Council. Council members asked clarifying questions about and offered individual suggestions for the resolution of encroachments on TVA reservoir property. Formal Council advice was also provided by the Council at this meeting.

1. Welcome and Introductions

- a) Mr. Matthews, Facilitator, welcomed the Council and reviewed meeting protocols and provided a safety moment.
- b) Dr. Hoagland, Designated Federal Official (DFO), welcomed the Council and summarized the purpose of the meeting which was to reflect upon and provide advice to TVA about encroachments on reservoir property.
- c) Avis Kennedy, Chair, welcomed the Council. Council members and TVA staff introduced themselves.

2. Designated Federal Officer's Report and RRSC Meeting Protocols

a) DFO Report

Dr. Joseph Hoagland provided an update about Trout Hatchery funding. Since the last RRSC meeting, an agreement was reached this past May between TVA, Tennessee Wildlife Resources Agency (TWRA), Georgia Department of Natural Resources and U.S. Fish and Wildlife Service (FWS). TVA has agreed to pay for fish needed to stock the TVA system and FWS have agreed it will continue to operate and maintain those facilities and provide capital improvements, etc. He stated that the agreement is beneficial and it creates win-win situation. He appreciates the partnership with the agencies involved. Dr. Hoagland thanked the RRSC for its advice to create a stakeholder group and for working through this issue with TVA. For more information, see <https://www.tva.gov/Newsroom/Press-Releases/TVA,-Partners-To-Fund-Trout-Stocking-For-Tenn.,-Ga.-Tailwaters>.

Dr. Hoagland also mentioned another big development since the last RRSC meeting. TVA completed its Integrated Resource Plan (IRP). The IRP is located on TVA's website – www.tva.gov/irp. Dr. Hoagland noted a couple of items of importance from the process. TVA continues to need a diversified portfolio which includes nuclear, natural gas, coal, renewables, and efficiency, and TVA has to balance those different sources to maintain reliability.

Dr. Hoagland also thanked the Council for its prior input on floating houses and stated that TVA will provide an update on the floating houses environmental process today. He also informed the Council that TVA will provide updates on TVA's Dam Safety program and TVA's Stewardship activities. Finally, he informed the Council that TVA will present information on encroachments and ask for Council input and advice to resolve encroachments.

b) RRSC Protocols (Presentation can be found at www.tva.gov/rrsc)

Kendra Mansur, attorney from TVA's Office of General Counsel, highlighted the importance of this third meeting of the eighth term and she thanked the Council, on behalf of TVA, for its participation on past terms and for its participation in this current term. She reiterated that the Council complies with the Federal Advisory Committee Act and regulations. She remarked the recommendations of the Council are greatly appreciated by TVA. She discussed voting protocols and quorum issues, and complemented the Council on its balanced membership and achievements.

3. Dam Safety Update and Stewardship Update (Presentation can be found at www.tva.gov/rrsc)

a. Dam Safety Update

Andy Dodson from TVA's Dam Safety program provided a dam safety update about Boone and Pickwick Dam rehabilitation. This presentation follows several presentations at prior meetings by TVA staff on River Management, Dam Safety, and the River Operations Study. For more information about Boone and Pickwick Dam Safety, please go to www.tva.gov/boonedrawdown and www.tva.gov/sites/pickwick.htm.

b. Stewardship Activities

Rebecca Tolene, Vice President of Natural Resources, discussed stewardship activities at Boone. Council was engaged with questions and comment. Ms. Tolene answered Council's questions and explained that much of the property around Boone reservoir is private property, and this leads to a multitude of issues. Ms. Tolene also discussed the impact to residents, commercial marinas, natural and cultural resources, vegetation management, and other reservoirs downstream from Boone. Council members commented that TVA has done an excellent job of communicating on and handling these issues.

4. TVA's Cultural Program -- Curation and Partnerships (Presentation can be found at www.tva.gov/rrsc)

Erin Pritchard, an Archeologist for TVA's Natural Resources, discussed TVA's curation projects with two universities. Ms. Pritchard informed the Council that TVA has archaeological collections at a number of institutions across the Tennessee Valley as a result of the excavations completed prior to the construction of TVA dams. She stated that two primary collections are at the University of Alabama and the University of Tennessee. In 2014, TVA was able to provide funding to initiate projects with both universities to help support curation of the collections. She advised the Council that it will be visiting the McClung Museum in Knoxville later in the afternoon, and that the museum constructed a Native American exhibit, in part, with TVA funding.

Council commented and had questions about TVA's archaeological resources. Ms. Pritchard stated that since 2006, removing surface collection on TVA land is not allowed. If members of the public find resources on TVA land, the public can not remove them. They can take a picture of it. They can also call a TVA archeologist to inform TVA about the artifact and location. The public is not allowed to pick up the artifact and remove it.

5. Floating Houses (Presentation can be found at www.tva.gov/rrsc)

Matthew Higdon, a TVA NEPA Compliance Specialist, provided the update on the environmental review. As discussed at the prior meeting, TVA is conducting an environmental review under the National Environmental Policy Act (NEPA) and scoping meetings have already occurred throughout the Tennessee Valley. TVA presented 6 alternatives in its Draft environmental impact statement (EIS) for consideration. TVA has received comments, and many of the comments expressed concern with the floating houses and water quality. Many comments encouraged removal of the floating houses. Some of the owners of floating houses have expressed concern about the financial implications of removal. TVA is currently preparing a final EIS, and it may be available late this year. More information can be found at <https://www.tva.com/Environment/Shoreline-Construction/Floating-Houses>.

6. Encroachment Resolution Presentation (Presentation can be found at www.tva.gov/rrsc)

Vice President Tolene introduced the topic with several examples of permanent encroachments (houses on TVA land) and stated that encroachments are challenging for TVA to address, especially when the encroachment is a permanent structure such as a house. Ms. Tolene stated

that TVA is seeking the Council's recommendations for encroachment prevention tools on TVA's reservoir property. She explained that TVA is marking boundaries and installing signage. TVA is sending targeted mailers and workshops to realtors and other who influence the public when purchasing property. TVA is still looking at ways to communicate with the public, particularly with people who are buying waterfront property. Despite these prevention measures, there are encroachments: houses, fences, sheds, makeshift homesteads, unauthorized vegetation removals, and docks built on TVA land. TVA is considering its enforcement tools and whether additional tools could be helpful. One such tool may be for TVA to obtain citation authority similar to what other agencies who manage federal land have. Ms. Tolene also answered questions from the Council about existing tools available, land rights, and types of violations. The Council was extremely engaged in this conversation.

TVA then adjourned for lunch and for the tour of the McClung Museum.

7. Day 2 Welcome and Discussion of Advice Questions

Dr. Hoagland and Mr. Matthews welcomed the Council to the second day of the third meeting of the eighth term. TVA stated that it looked forward to hearing from the Council. Council commented that it appreciated the wealth of valuable information provided yesterday and that it really enjoyed the tour of the McClung Museum. The Council participated in discussions to formulate its advice and asked further clarifying questions about floating houses.

Mr. Matthews reviewed the advice questions with the Council, and the Council asked many questions. Ms. Tolene provided responses to the various questions of the Council. The Council members debated various enforcement tools. Some of the enforcement tools discussed by the Council included obtaining citation authority, providing amnesty, receiving notification by local government agencies issuing construction permits to private individuals adjacent to TVA property, marking boundaries on the ground, taking a hard stance and removing encroachments regardless of the reasons constructed, allowing some encroachments to remain under certain circumstances such as lack of intent to encroach, or providing a date in the future in which TVA will treat all new encroachments decisively and remove the property regardless of intent or knowledge of the encroacher. The Council was firm that encroachments on public land should generally not be allowed, but the Council did not reach agreement on particular methods that TVA should utilize to remove or address the encroachments. The Council provided TVA with options to consider in its review. The Council suggested that future encroachments can be dealt with differently than existing encroachments. The Council recommended that TVA be consistent in its approach and have clear guidance.

8. Public Comment Period

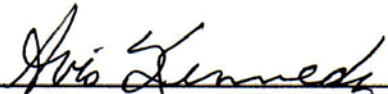
A member of the public, Billy Minser, from Maryville, Tennessee provided comments. He encouraged TVA to remove floating houses from TVA reservoirs.

9. Council Formal Advice Questions

The Council deliberated and finalized its advice. The Council formally moved to adopt the Formal Advice attached herein as Exhibit C. The Council unanimously approved the Formal Advice at approximately 11:45am EST.

10. Closing Comments

Dr. Hoagland thanked the Council for its efforts and advice. He said that the meeting was very productive and generated great ideas. TVA will finalize the minutes for the meeting and submit it for Chair approval. (The next meeting of the Council is tentatively scheduled for the spring of 2015, and the date and location will be determined in the near future.) The meeting concluded with a safety moment by Dr. Hoagland. The meeting adjourned at approximately 11:49 a.m. EST.

Minutes Approved:  Date: 17 Dec 2015
Avis Kennedy, RRSC Chair

**Appendix A
Non-Council Meeting Attendees**

TVA

Dr. Joseph Hoagland, DFO	Lee Matthews
Rebecca Tolene, Vice President Natural Resources and Realty And GIS Services	David Bowling
James Adams	Chellye Campbell
Scott Brooks	Jessica Coleman
Charles Chappelle	Andrew Dodson
Evan Crews	James Everett
Bucky Edmondson	Woody Farrell
Pat Ezzell	Rebecca Hayden-Morgan
Tina Guinn	Beth Keel
Matt Higdon	Lee Matthews
Kendra Mansur	Erin Pritchard
Holly Oswalt	Rusty Smith
Michael Scalf	Milli Warren
Liz Upchurch	

Members of the Public

Billy Minser	
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Others

Betty Spence, TVA Office of the Inspector General
Jennifer Short, Elite Reporting
Ed Marcum, Knoxville News Sentinel

Appendix B
Meeting Agenda
8th Term Regional Resource Stewardship Council (RRSC)
September 28-29, 2015
TVA Auditorium, Knoxville, Tennessee

Meeting Objectives:

1. Provide update on TVA's Floating Houses EIS
2. Share update on progress on Dam Safety approach at Boone Reservoir and mitigation activities
3. Share information on cultural program and University partnerships
4. Gain advice on managing Encroachments related to TVA managed public resources.

Day 1 – Sept 28, 2015

9:30 - 9:40	Welcome (<i>Designated Federal Officer (DFO) - Joe Hoagland</i>)
9:40 - 9:50	Introductions and Agenda Review (<i>RRSC Chair – Avis Kennedy, Facilitator – Lee Matthews</i>)
9:50 - 10:00	FACA Briefing: (<i>OGC – Kendra Mansur</i>)
10:00 - 10:15	DFO Briefing (<i>Hoagland</i>)
10:15 – 10:30	Break
10:30 - 11:20	Dam Safety Update: Pickwick and Boone Dam Rehabilitation Projects (<i>Andy Dodson / Rebecca Tolene</i>)
11:20 - 11:45	Intro to Cultural Program / Field Trip Prep (<i>Erin Pritchard</i>)
11:45 - 12:45	Lunch (<i>TVA West Tower</i>)
12:45 - 1:30	Stewardship Update (<i>Tolene</i>) Floating Houses Update (<i>James Adams / Matthew Higdon</i>)
1:30 - 1:45	Break
1:45 - 2:30	Encroachment Resolution: Opportunities and Issues (<i>Tolene</i>)
2:30 - 4:30	Field Trip - University of Tennessee ∞ <u>McClung Museum</u>

4:30	Wrap-up & Adjourn Day 1 <i>(Matthews) (return to hotel)</i>
5:30 - 7:30	Dinner

Day 2 – Sept 29, 2015

7:30-8:00	Breakfast <i>(Knoxville)</i>
8:00 - 8:15	Welcome and Recap <i>(Matthews / Hoagland)</i>
8:15 - 9:00	Discussion and Initial Advice from the Council <i>(Matthews)</i> <i>General discussion about impressions on encroachment issues.</i>
9:00 - 10:00	Public Comment Session
10:00 - 10:15	Break
10:15 - 11:30	Council Discussion and Advice (continued) Encroachment Management
11:30 – 11:45	Wrap up and Adjourn <i>(Kennedy / Hoagland)</i>
11:45 - 12:15	Lunch <i>(Knoxville)</i>

Appendix C
Formal Council Advice
Regional Resource Stewardship Council
Advice Statement, September 29, 2015
Approved unanimously by RRSC

Public lands continue to be valuable to the citizens that TVA serves. The Council believes there should be no net loss of public lands under TVA's policies. Address existing dwelling encroachments with a blend of existing regulations and flexibility. Pending a robust communication plan, all future encroachments should be handled with limited flexibility / a firm approach using existing mechanisms. Have clear guidance, be consistent and treat all fairly when it comes to public land.

1. Does the Council have additional ideas or guidance on how to prevent encroachments on TVA property, particularly on narrow strips of shoreline land along the lengthy river system?
 - ∞ Effectively mark boundaries.
 - ∞ GIS map viewers with TVA property identified; clearly describe limits of accuracy.
 - ∞ Watch electrical permit process for any permits for locations near TVA property.
 - ∞ Determine if TVA can be included in the building permit process if property is adjacent to TVA property.
 - ∞ Provide checklist of rules/guidelines for each new permit holder.
 - ∞ Ensure revocability of permits for unresolved encroachment or violation.
 - ∞ Review and learn from original TVA acquisition in the 1930's. Be consistent across all areas land and water. Have integrity in implementation.
 - ∞ Ensure frontline personnel have clarity/clear guidance on response needed and their role.
 - ∞ Create warning option, and citation authority for helping to build compliance.
 - ∞ Use social media to educate – i.e. call before you dig.
 - ∞ Many members of public not aware of the rules. Continue to educate on 26a regulations/ land rights, etc. Continue educating Realtors, call TVA's 1-800 number for due diligence. Also educate land surveyors (many states require continuing education); work with lake front realtors and their surveyors/other partners (HOA, Homebuilder Associations, Dock builders, Real Estate Lawyers, County Probate offices, City/County Planning Board/ Building Permit Office, Bankers and Mortgage Lenders) as allies. Identify and send correction correspondence for misstatements and correct information to create formal record.
 - ∞ Communicate with current back-lying landowners. Send letters to them especially if new policy enacted. Provide fair warning. Also as property changes hands, notify new owner when known.

The Council has diverging views on some of the specifics relating to questions 2 and 3, but the Council is recommending that TVA consider the following when developing its encroachment policies.

2. For permanent structures (i.e., portions of homes), should TVA develop more flexible resolution options in addition to removal or sufferance agreement (some examples include public land exchange or receiving public value)?
- ∞ Consider flexibility for serious encroachments that have no evidence of intentional encroachment.
 - ∞ TVA must manage the public resources entrusted to them. TVA is the steward of these resources. Is it morally right to swap out the land that Congress entrusted to you?
 - ∞ No loss of land first.
 - ∞ Offset encroachments with land purchased elsewhere.
 - ∞ Consider a land fund where people resolve encroachments by providing funds that are then used for appropriate property acquisition; beware of people who do this to beat the system.
 - ∞ When looking for flexible ways to respond, don't give preferential treatment to those with power/funds and influence. Understand how you can handle these types in the policies.
 - ∞ Clean up all; get encroachments off the land and make people feel good about it.
 - ∞ Look at sufferance calculation. Be consistent.
 - ∞ For existing serious encroachments (dwellings), TVA should consider using sufferance dollars to eventually pay for property they encroached on and then use funds to allow purchase of replacement property.
 - ∞ On permitting process, why allow boat houses but not allow houses to be permitted? Be crisp on definitions to clarify.

If so, should these options only be available for individuals with "clean hands", and how would you define "clean hands"?

- ∞ Be consistent in how land and water encroachments are dealt with.
- ∞ 'Clean hands' is defined by a lack of intent.
- ∞ Keep in mind these are people too (all of us are public owners of these resources).
- ∞ TVA is entrusted as a steward to manage the public resources.
- ∞ Is TVA really ready to be the judge of 'clean hands' or not? The infraction is the same clean or non-clean.
- ∞ Make sure mitigating circumstances are collected factually. Ensure decision makers have factual information.
- ∞ What leeway does TVA have in making this determination? Consistency is the best tool. Can the community help correct /remove the issue through the use of volunteers or similar partners. This could help address public relations issues of addressing these.
- ∞ Perhaps clean hands comes into play in response or mitigation and how you respond to net loss.
- ∞ If someone has 'clean hands', don't let them off completely. Work through the issues and ensure no net loss to TVA through mitigation.
- ∞ Pick a date and notify how encroachments will be handled from this point forward. Prior encroachments should be handled on a case by case basis.

- ∞ Consider if the remedy is the same for clean hands or non-clean hands.
3. For temporary structures (i.e., fences) or unauthorized activities (i.e., vegetation removal), TVA has primarily four current options: (1) request removal or cessation of unauthorized activity, (2) TVA removal or access prevention (i.e., fence or bolder placement), (3) withhold a TVA approval (i.e., Section 26a permit) where applicable, or (4) court action. Are there other enforcement options that you would advise TVA to pursue?
- ∞ Manage vegetation removal with permitting process. Work with people to allow recreation on residential access. Consider landscape plans or other mechanism for vegetation management that works for TVA and the adjacent landowner.
 - ∞ Define what a tree is; set rules for management or removal. Generally, don't allow removal of sound trees. Consider view from the water too.
 - ∞ On tree removal, 3x stumpage fee is not enough to discourage future removal. Encourage TVA to consider other methods such as related to 'amenity tree value' recently upheld in court.
 - ∞ Provide citation authority.
 - ∞ Vegetation is a water quality and wildlife issue. If vegetation does not belong to you, you don't have authority to remove it.