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TENNESSEE VALLEY AUTHORITY

Rarity Pointe Commercial Recreation and Residential Development on
Tellico Reservoir, Loudon and Monroe Counties, TN

AGENCY: Tennessee Valley Authority (TVA). **ACTION:** Issuance of record of
decision.

SUMMARY: This notice is provided in accordance with the Council on
Environmental Quality's regulations (40 CFR parts 1500 to 1508) and
TVA's procedures implementing the National Environmental Policy Act.
TVA has decided to implement the preferred alternative identified in
its Final Environmental Impact Statement (EIS), Rarity Pointe
Commercial Recreation and Residential Development on Tellico Reservoir.

In implementing Alternative E, TVA has decided to take several
actions related to the Rarity Pointe development: (1) Change the land
use allocation of approximately 116 acres of TVA property following the
820-foot elevation as marked on the Tellico Reservoir and sell it for
part of a privately planned residential resort and golf course
community, (2) authorize the use of about 5 acres of TVA property,
below the 820-foot elevation for a small (par-3) golf course, (3)
approve plans for a marina with up to 349 wet and 200 dry storage boat
slips using approximately 4 acres of TVA land below the 820-foot
elevation, (4) change the land use allocation of about 17 acres of TVA
property from natural resource conservation to recreation to allow the
construction of greenway trailhead facilities and grant the Tellico
Reservoir Development Agency (TRDA) a permanent easement over the
property to manage the property for the designated uses, and (5) accept
the transfer of 256 acres of property, designate this tract for
recreation and natural resources conservation, and grant the TRDA a
permanent easement over the property to manage the property for the
designated uses.

FOR FURTHER INFORMATION CONTACT: Richard L. Toennisson, Senior NEPA
Specialist, Environmental Policy and Planning, Tennessee Valley
Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee
37902-1499; telephone (865) 632-8517 or e- rltoennisson@tva.gov.

SUPPLEMENTARY INFORMATION: In May 2002, TVA received a request from LTR
Properties (Rarity Communities) to make available property under TVA's
control on Tellico Reservoir in Loudon County, Tennessee, for part of a
residential resort and golf community that Rarity Communities was
constructing. Rarity Communities already owned 539 acres of property
adjacent to the TVA property that it was proceeding to develop. It
wanted the TVA property to enhance and expand the development. TVA was
asked to take three actions related to the Rarity Pointe development:
(1) Release the land use allocations for approximately 116 acres of TVA
property above the 820-foot elevation (Parcels 8 and 9) on the Tellico
Reservoir from recreation and natural resource conservation and sell
Rarity Communities the property for its planned residential resort and
golf course community with 1,200 units; (2) approve of the use of about

5 acres of TVA property, below the 820-foot elevation for a small (par-3) golf course; and (3) approve a full service marina using approximately 4 acres of TVA property with shoreline stabilization, dredge, and up to 349 wet and 200 dry storage boat slips.

In August 2000 prior to receiving the Rarity Communities request, TVA adopted the preferred alternative in its Tellico Reservoir Land Management Plan Final EIS (2000 Land Plan). This plan allocated uses for 139 parcels of TVA land totaling 11,150 acres on Tellico Reservoir, including all of the TVA land sought by Rarity Communities. The allocated uses for the two parcels in the Lower Jackson Bend area comprising the 116 acres sought by Rarity Communities--recreation (46 acres) and natural resource conservation (70 acres)--are not consistent with the planned development and have to be changed to permit the development to proceed if the property is sold by TVA. Despite the conflict with the Year 2000 Land Plan, TVA decided to assess the merits of Rarity Communities' request because it was consistent with the overall purposes of TVA's Tellico project and would further implement that project. The request also was consistent with TVA's statutory responsibilities to promote economic development in the Tennessee Valley region.

Although implementation of the Tellico project is exempt from environmental review, TVA decided to review the Rarity Communities' request under the National Environmental Policy Act. TVA issued a Notice of Intent to prepare an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) on June 24, 2002. A public scoping meeting was held on July 16, 2002, and was attended by over 400 people. Because of the degree of public interest, TVA extended the scoping period. TVA received over 500 written or oral comments on the proposal with the majority of commenters objecting to the transfer of TVA public land to a private developer.

TVA decided to prepare an EIS. A Notice of Availability of the Draft EIS was published in the Federal Register on March 28, 2003. Following release of the Draft EIS, TVA held a public meeting at Loudon, Tennessee, on April 10, 2003, attended by 95 people. TVA received approximately 112 sets of written and oral comments during the public comment period. The Notice of Availability for the Final EIS was published in the Federal Register on June 28, 2003. Appendix B of the Final EIS contains summaries of and responses to the comments TVA received on the Draft EIS.

Both the U.S. Army Corps of Engineers (USACE) and the Tellico Reservoir Development Agency (TRDA) have proposed actions related to the proposal and were cooperating agencies on the EIS. The USACE must decide whether to permit construction of marina water use facilities, related dredging, and disturbance of wetlands. TRDA has been requested to transfer ownership of property currently designated for industrial use needed to mitigate the sale of TVA's property to Rarity Communities and agree to permanently manage the property for recreation and natural resource conservation. In addition, TRDA has agreed to permanently manage the 17.6 acres trailhead property for recreation purposes.

Alternatives Considered

TVA identified five alternatives for responding to Rarity Communities' request. Under any alternative, construction and operation of a commercial recreation and residential project was expected to continue (and is proceeding now) on the 539 acres of private land already owned by Rarity Communities.

Under Alternative A, the No Action Alternative, TVA would not approve any of the requested actions and the Year 2000 Land Plan would remain unchanged.

Under Alternative B, the Applicants Proposal, TVA would modify the Year 2000 Land Plan and make the requested land available for sale and development. TVA would approve the marina plans, and allow the construction of the par-3 golf course on TVA land.

Under Alternative C, the Partial Land Sale with Mitigation Alternative, TVA would approve the new marina plans, allow the construction of the par-3 golf course on TVA land, and modify the Year 2000 Land Plan to allow the sale of part of the requested land (about 49 acres total) for development of an additional larger ``championship'' golf course, but with enhanced mitigation measures including at least a 60 acre land exchange.

Under Alternative D, the Small Golf Course and Marina with No Land Sale Alternative, TVA would approve the marina plans, and allow the construction of the par-3 golf course on TVA land, but not make any of the requested land available for sale.

Under Alternative E, the Applicant's Proposal with Mitigation, TVA would approve the new marina plans, allow the construction of the par-3 golf course, and modify the Year 2000 Land Plan to allow the sale of the requested land for development as described under Alternative B, but with enhanced mitigation measures including a 256 acre land exchange.

TVA identified the Alternative E as the preferred alternative in both the Draft EIS and the Final EIS.

Decision

TVA has decided to implement the preferred alternative identified in the Final EIS, Alternative E. TVA has determined that Alternative E achieves both Rarity Communities' objectives for the development of a high quality residential and recreational community and the regional and economic development goals of the Tellico Project in a manner that reduces associated environmental impacts to acceptable levels.

TVA has worked closely with Rarity Communities and TRDA to identify and put in place a number of mitigation measures. Of critical importance is the Rarity Communities' willingness to provide property to offset the loss of the TVA lands and their inherent public values. As a consequence, more land and shoreline comes under public ownership for recreation and natural resource uses than is lost by the sale of the TVA property to Rarity Communities. Under this alternative, Rarity Communities also would support development of a greenway trail on the eastern shore of the reservoir, thus fulfilling a component of the Year 2000 Land Plan. TVA is adopting commitments under Alternative E to further minimize the potential for adverse impacts to the environment. This includes prohibition of docks and other water use facilities on the 116 acres to be sold by TVA. As requested by the U.S. Environmental Protection Agency (EPA), these commitments are listed below, under the Environmental Commitments section. With these mitigation measures, all practicable means to avoid or minimize environmental harm would be adopted.

In reaching this decision, TVA has carefully considered the comments and concerns voiced by the public. Based on the comments TVA received during the EIS and scoping review processes, the primary concern to opponents of the proposed action appears to be that adjusting the Year 2000 Land Plan to allow the Rarity Communities development to expand onto TVA property would set a precedent for

future deviations from the land plan. TVA does not agree that this decision will create a precedent for future decisions leading to deviations from the Year 2000 Land Plan and additional environmental impacts. Deviations from the Year 2000 Land Plan are completely within TVA's control and the decision announced here in no way requires or binds TVA to make similar decisions in the future. As EPA noted in its comments, flexibility and the ability to adapt to events are the hallmarks of good land plans. TVA always maintains the ability to modify its reservoir land plans as events dictate, subject to appropriate environmental review. As was done here, if TVA receives additional requests to deviate from the Year 2000 Land Plan, TVA would carefully review the merits of such requests. Only if a request has sufficient merit, would TVA undertake a detailed review of the request, including appropriate environmental review and stakeholder input. Reviews of any such future requests would include an assessment of the cumulative impacts of such requests with the Rarity Communities development as well as other actions impacting or foreseeably impacting Tellico Reservoir and the area.

As discussed here and in the EIS, TVA agreed to consider the merits of Rarity Communities proposal because it is consistent with and further implements the overall goals of TVA's Tellico project. However, consistency with Tellico project goals likely would not have been sufficient for TVA to agree to a deviation from the Year 2000 Land Plan so early in the plan's life. Rarity Communities' willingness to offset the loss to TVA public land by providing higher quality land elsewhere on the reservoir was, as stated above, a critical factor in TVA's decision to allow the expansion of Rarity Communities' development onto TVA property and to approve Rarity Communities' associated requests. This allows TVA to make the decision here that furthers the Tellico project's economic development goals while enhancing the Year 2000 Land Plan's recreation and natural resource management goals.

Environmentally Preferred Alternative

Because the Rarity Communities' development would occur and is occurring on private land adjacent to the TVA land, none of the alternatives, including the no action alternative (Alternative A), would be free of environmental impacts. However, TVA's analyses indicate that Alternative A would have fewer environmental impacts especially to resources on TVA's public lands. On balance, TVA has decided that the no action alternative is the environmentally preferable alternative. However, of the action alternatives, Alternative E has a number of environmentally attractive features and in TVA's judgment would have important environmental benefits. These include a net gain of accessible public land and shoreline on Tellico Reservoir allocated to natural resource conservation and recreation and on-site environmental protection measures related to design and construction of the Rarity Pointe golf courses, resort housing, marina, and other development that would otherwise be foregone. In addition, Alternative E would jump-start the development of a greenway trail on the eastern shore of the reservoir. The major environmental negative feature of Alternative E would be that it could be seen from another development on Tellico Reservoir, known as Tellico Village, and would therefore have negative visual effects for village residents and lake users within that view shed.

Environmental Commitments

For the reasons discussed in the Final EIS and summarized here, TVA is committing to the following measures to avoid, reduce, or mitigate the potential environmental impacts associated with these actions:

- A vegetated buffer zone of at least 50 feet will be retained by TVA and maintained along the shoreline from the summer pool level and around the periphery of Parcels 8 and 9 (the land transferred by TVA) in order to maintain continuity on the site, and reduce possible impacts to water quality and wetlands.

- In order to further minimize potential impacts to water quality and avoid wildlife exposure to pesticides, Rarity Communities will utilize golf course design and management practices approved by TVA and included in Tennessee Department of Agriculture guidelines and/or the certification of the golf courses by Audubon or similar organizations that reduce exposure to and impacts from golf course maintenance and that provide a method of tracking compliance with this commitment.

- Rarity Communities will replace forested wildlife habitat and recreation land lost from the development of Parcels 8 and 9 through a land exchange with TVA at the Wildcat Rock site as described in Alternative E. TVA and/or TRDA will maintain the acquired parcel for public recreation and natural resource management.

- Dead trees and mature trees greater than 14 inches in diameter will not be cut on any of the lands that comprise the development project, especially oaks and hickories with loose, shaggy bark, until Indiana bats are not likely to be present (October 15-March 31).

- Fully shielded light fixtures or those with internal low-glare optics (so no light is emitted from the fixture at angles above the horizontal) will be used in the development.

- The following commitments are required for dredging associated with the marina:

- A. Silt curtains must be placed around the perimeter of the dredge area, so as to not allow silt laden water outside the work area.

- B. All saturated spoil will be dewatered using berms, straw bales, silt fencing, or other silt control devices positioned in such a way as to not allow silt-laden water to re-enter the reservoir. The method of dewatering must be approved by TVA.

- C. All dredged material must be removed to an upland site (above 820-foot elevation) and contained in a manner to prevent its return to any water body or wetland, and permanently stabilized to prevent erosion.

- Rarity Communities will mitigate impacts to wetlands (W4 and W5) by implementing the wetland mitigation plan in Appendix C of the Final EIS. In addition, in response to comments from the FWS, the following additional wetland mitigation measures will be established;

- A. The height of the riprap behind the dredge will be no higher than the 814-foot elevation.

- B. The marina parking lot will be located no closer to the shoreline than 55 feet from the 813-foot contour.

- C. The area between the marina parking lot and shoreline will be maintained as a vegetated filter buffer with the larger vegetation (trees and shrubs) left in place, the larger vegetation may be side pruned.

- All of the general and the designated standard conditions for Section 26a and Land Use approvals identified in Appendix G of the Final EIS are conditions of 26a approval and will be placed in the 26a permit, including conditions 6b, 6f, 6g, and 6h, and implemented by

Rarity Communities on all licensed and leased TVA property. Article 3 General Provisions, TVA Contract 60000A, will be adopted by Rarity Communities and implemented on all former TVA property by Rarity Communities and its land owners.

- To minimize pollutant loading and prevent spilling fuel or wastewater, any fuel storage or dispensing facility located temporarily or permanently on development project property will comply with TVA Resource Stewardship (TVARS) Guidelines for Storage Tanks (4.5.5), including the preparation and implementation of a Spill Prevention and Control Plan. A marina sewage pump out station will be installed and operated according to TVARS Guidelines 4.5.3, and the marina will comply with TVARS Guidelines for Discharges (4.5.1) (See Appendix F of the Final EIS).

- Rarity Communities will construct a trail terminal on TVA Parcel 6 (Parcel 6A), consisting of a paved access road, paved parking lot for approximately 18 vehicles, walkways, 6 picnic sites, and restroom in accordance with TVA design specifications described Figure G-2 in Appendix G, and permit public ingress/egress across Rarity Pointe property to access the proposed greenway trail system on TVA's adjoining upstream and downstream property.

- TVA's deed transferring title of the approximately 116 acres to Rarity Communities will state that residential access for individual water use facilities will not be considered anytime in the future by TVA and that individual water use facilities are prohibited.

- To prevent an increase in future flood damages:

- A. Rarity Communities and the operator of the marina will securely anchor all floating facilities to prevent them from floating free during major floods.

- B. Any future facilities or equipment subject to flood damage would be located above the TVA Flood Risk Profile elevation of 817.0 feet MSL.

- C. Any future development proposed within the limits of the 100-year floodplain, elevation 816.2 feet MSL, would be consistent with the requirements of Executive Order 11988.

- D. All future development would be consistent with the requirements of TVA's Flood Control Storage Loss Guideline.

- TVA Cultural Resources will review the proposed dredge site area during low winter pool, prior to any disturbance, to verify the results of a previous archeological survey.

As appropriate, these commitments will be implemented through the documents transferring title to the TVA property, conveying easement rights, and/or TVA's approval of development project elements under section 26a of the TVA Act and TVA will remain responsible for enforcing compliance.

Dated: September 4, 2003. Kathryn J. Jackson, Executive Vice President, River System Operations & Environment.