

FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY
OCOEE RIVER WHITEWATER RAFTING AGREEMENT
POLK COUNTY, TENNESSEE

The Tennessee Valley Authority (TVA) is proposing to enter into new agreements with the U.S. Department of Agriculture Forest Service (USFS) and the State of Tennessee (State) to establish partner responsibilities to enable continued commercial rafting activities on the Ocoee River. The proposed agreements address water releases from Ocoee Dams 2 and 3 for a term of 15 years and a land action to improve recreation management. An Environmental Assessment (EA) was prepared to evaluate environmental, economic, recreational and other impacts of the proposed agreements.

New agreements are needed as the process established in 1983 to reimburse TVA for hydropower revenue that was lost from providing water releases for whitewater rafting on Middle Ocoee River ends on March 16, 2019. Existing agreements and easements established in 1984 between TVA and the State to set the number of recreational release days on the Middle Ocoee River, establish licensing of commercial rafting outfitters by TVA, and other arrangements expire on December 31, 2018. A 2006 agreement relating to water releases on the Upper Ocoee River expires at the end of 2018 as well. TVA, the State and the USFS recognize the desirability of continuing commercial rafting activities on the Ocoee River beyond the expiration of the existing agreements that support these activities.

TVA, in its mission of service, focuses on three key areas: energy, environment and economic development. This management agreement would demonstrate TVA's effort to balance those three objectives in the economic benefits brought to the Ocoee River region while continuing to promote the sustainable use of the river and the surrounding environment. However, TVA must produce power in a reliable and cost effective manner which necessitates that TVA be reimbursed for the cost of replacement power when the water is used for recreational releases in the Upper and Middle Ocoee rather than for hydroelectric generation.

The impacts of this proposal were assessed in the attached EA, finalized on May 15, 2018. The EA is incorporated herein by reference.

Alternatives

TVA evaluated three primary alternatives in the EA: Alternative A (No Action Alternative), Alternative B (Proposed Agreements), and Alternative C (Current Management Regime).

Under the No Action Alternative, the agreements and easements enabling commercial rafting on the Middle and Upper Ocoee River would expire at the end of 2018 and would not be replaced with new agreements. Thereafter, whitewater boating (rafting and kayaking) on the Middle and Upper Ocoee would only be possible during periods of naturally occurring high river flow and/or when TVA is not generating power at the Ocoee No. 2 and Ocoee No. 3 Powerhouses. This alternative does not meet the purpose of enabling continued recreational whitewater activities on the Ocoee River. The No Action Alternative provides a baseline for describing the anticipated

environmental effects of the proposed action, as required in regulations issued by the Council on Environmental Quality for implementing the National Environmental Policy Act.

Under Alternative B, TVA would enter into agreements that would provide scheduled water releases for a 15-year period on the Ocoee River. TVA would also enter into a Memorandum of Understanding (MOU) with the USFS and the State regarding licensing and continued oversight of commercial rafting activities on the Middle and Upper Ocoee. These elements are detailed below. TVA would be compensated under the agreement for the differential cost of power.

Alternative C is similar to Alternative B, except under this alternative, TVA would continue releasing water to the Middle Ocoee River for five weekdays in late September. Thus, over the 15-year agreement, TVA would provide a total of up to 116 release days per year. Although the additional five days of releases in late September would not be compensated under the agreement, the costs are minimal and are outweighed by the economic benefits to the community that the additional release days provide. TVA's preferred alternative is Alternative C.

Water Releases

As part of the proposed agreement with the State of Tennessee, TVA would provide scheduled water releases for a term of 15 years on the Middle and Upper sections of the Ocoee River, below the Ocoee No. 2 and No. 3 Dams. TVA would receive \$11.78 million from the State for the cost of replacement power arising from the water releases over the 15-year term. The water releases would be provided on a schedule similar to that defined by the water release agreements currently in place. In this analysis, the water release agreement may be renewed after this period for an additional 15-year period. Water release schedules would be consistent with the framework provided in Appendix C of the EA. The proposed water release agreement would not apply fees or restrict access to private boaters. Additionally and outside the contract with the State of Tennessee, TVA would continue releasing water to the Middle Ocoee River for five weekdays in late September.

The proposed agreement includes the following terms:

- *Middle Ocoee River* – TVA would provide water releases from Ocoee No. 2 Dam based on the same framework for determining annual water release schedules that have been in place since 1984. Thus, over the 15-year period, TVA would provide up to 116 release days annually. The number of release days would vary by year based on how weekend and holidays occur. The hours of releases per day would vary between 6 and 10 hours daily, consistent with current operations. The average rate of flow during these releases would be at least 1,200 cfs, which is also consistent with current operations.

TVA would consider requests by the Ocoee River Recreation and Economic Development Fund (Development Fund) Board for limited changes to the standard water release schedule as described below.

- *Upper Ocoee River* – There would be no change from the current schedule of release to the Upper Ocoee River. TVA would continue to provide water releases from Ocoee No. 3 Dam for recreational use on 34 weekend days. The hours of release per day would vary between five and eight hours. The average rate of flow during these releases would be at least 1,600 cfs. Consistent with TVA's 1997 management decision for water releases from Ocoee No. 3 Dam, which set a maximum of 74 release days, an additional 20 release days for recreational use and 20 release days for special events may be

requested by the outfitters or others for special events, provided reimbursement for the replacement power is given.

Based on TVA consideration of input from the public during the review period of the Draft EA, TVA modified Alternatives B and C to provide some flexibility in the water release calendar. TVA would accept and consider requests to change the standard water release schedule by trading water release days under certain circumstances. The requests must be made by the Development Fund Board to TVA by October 1 for changes to the scheduled rafting release days in the next calendar year. TVA would consider such proposals and seek concurrence from the State Park Manager. The number of days traded would be unlimited within a seven-day period, assuming there is a 48-hour period for the wooden flume to have water flowing in it within a seven-day period. In addition, TVA would consider up to five days traded within the entire calendar year of the schedule, subject to water availability and power system needs, assuming there is a 48-hour period within the seven-day period for the wooden flume to have water flowing in it. One of the trade days could be used to create a six consecutive day rafting period during a seven-day period containing a major holiday (Memorial Day, Independence Day, or Labor Day).

Recreation Management

Under this alternative, TVA, USFS, and the State would enter into a MOU under which the State would be responsible for the licensing (this is presently done by TVA) and continued oversight of commercial rafting activities on the Middle and Upper Ocoee. The State's responsibilities (as at present) would include emergency first response, law enforcement, traffic management, site maintenance, and enforcing commercial capacity limits. The State would be reimbursed for the annual cost of its oversight and management. The costs would be reimbursed from a Development Fund established by the State that will be administered by an independent board and funded through annual fees paid by the outfitters. For 2019, that cost is estimated to be \$450,000. Under the agreement, the State would also continue to manage TVA and USFS tracts of lands, which would require the following USFS and TVA land actions to be implemented:

- The USFS to make Tracts FS #1 and FS #2 available to the State (approximately 3.7 acres). These tracts are used for parking (FS #1) and restroom facilities (FS #2).
- TVA would grant a 30-year easement to the State to maintain three (3) parcels of land (approximately 27.2 acres) utilized in support of commercial activities. No construction or improvements on these parcels are proposed at this time. These tracts are:
 - Parcel 1, an 8.3-acre area near the Ocoee No. 2 Powerhouse used by commercial outfitters as the takeout for boaters on the Middle Ocoee;
 - Parcel 2, a 15.0-acre area at Ocoee No. 2 Dam used as the takeout for boaters on the Upper Ocoee River and as the launch area for boaters on the Middle Ocoee River; and
 - Parcel 3, the 3.87-acre area immediately downstream of Ocoee No. 3 Dam used as the launch area for boaters on the Upper Ocoee River (this tract is currently licensed by TVA to the USFS under the terms of a 30-day revocable license).

Impacts Assessment

Based on the analysis in the EA, TVA has determined that Alternative A, No Action, would create a significant impact to the local economy and recreators due to the loss of an estimated

200,000 rafting trips annually. There would be no cost to consumers to provide replacement power. In addition, the proposed change in flow characteristics of the Ocoee River could potentially affect a globally rare threatened and endangered plant species.

Under Alternative B (Proposed Agreements), there would have no impacts relative to existing conditions on demographics, environmental justice, traffic and transportation, hydrology, water quality, aquatic ecology, threatened and endangered species, wetlands, natural areas and parks, and cultural resources. TVA estimates that implementation of this alternative would result in 8,445 lost trips per year (4.7 percent total reduction) as a result of increased maintenance fees and the reduction in the water release schedule. Minor impacts to the local economy and to recreators may occur as a result of lost rafting trips due to increased fees to support the State's operation, maintenance and administrative costs to support commercial rafting and the proposed change in water release schedules. Under the agreement, TVA would be compensated for the differential cost of power for all recreational days extending through October. As such, TVA consumers would not bear the marginal cost associated with reduced hydropower generation under this alternative.

Alternative C is similar to Alternative B and is substantially the same as the current management regime. Like Alternative B, the only impacts identified for Alternative C were economic impacts, relative to the existing conditions. The additional five days of releases that would occur in late September each year would have no discernible impact on environmental resources. Under this alternative, TVA estimates that increased fees to support the State's operation, maintenance and administrative costs to support commercial rafting would result in an annual loss of 8,050 trips (4.4 percent reduction). This reduction in rafting trips would result in minor impacts to the recreators and the local economy but the impact would be incrementally less than Alternative B. It is assumed that TVA would not be compensated for the five additional release days in September. As such, TVA consumers would bear the fractional cost associated with the replacement power generation during the five days in September.

Public and Intergovernmental Review

In developing the EA, TVA provided the public and interested stakeholders with opportunities to participate in the environmental review process. TVA conducted a 30-day public scoping period from June 19, 2017, through July 19, 2017, to solicit comments on the alternatives and environmental resources to be considered in the EA. TVA received 34 comment submissions during scoping from 31 individual members of the public and nongovernmental organizations. TVA also received a response from the Eastern Band of the Cherokee Indians. Most comments supported continuing the release of water to allow whitewater rafting citing economic and recreation benefits, and many commenters requested that TVA provide additional water release days and increase flow volumes. In response to comments received during the scoping period, TVA added a third alternative to the EA (Alternative C) because it would provide additional water release days and represents the current water release framework.

The availability of the Draft EA was announced in newspapers that serve the Polk County area and the Draft EA was posted on TVA's Web site. TVA's agency involvement included notification of the availability of the Draft EA to local, state, and federal agencies and federally recognized Indian tribes as part of the review. Comments were accepted from November 30, 2017, through January 5, 2018, via TVA's Web site, mail, and e-mail. TVA conducted a public

meeting on December 11, 2017, in Cleveland, Tennessee, which was attended by 38 members of the public. At the end of the comment period, TVA had received comment submissions on the Draft EA from 27 members of the public, organizations, and intergovernmental agencies. The comment submissions were carefully reviewed and summarized. TVA made revisions to the EA in response to the public comments. Most of the comments received on the Draft EA were related to the loss of five days in the water release schedule under Alternative B.

Pursuant to Section 106 of the National Historic Preservation Act, TVA consulted with the Tennessee State Historic Preservation Officer (SHPO) requesting concurrence that the proposed action would have no effect on cultural resources. On December 27, 2017, the Tennessee SHPO concurred with TVA's findings. Pursuant to 36 CFR Part 800.3(f)(2), TVA also consulted with federally recognized Indian tribes regarding historic properties within the proposed project's Area of Potential Effect that may be of religious and cultural significance and are eligible for the National Register of Historic Properties. The Eastern Band of Cherokee Indians and the Shawnee Tribe responded and stated they concurred with the finding of no adverse effects.

Mitigation

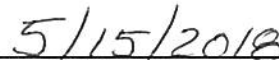
The EA evaluates the impacts related to the decision to enter into new agreements to enable continued commercial rafting opportunities on the Ocoee River. No activities that would have adverse impacts on the environment are proposed as part of the action evaluated in this EA; therefore, specific mitigation measures have not been identified.

Conclusion and Findings

After considering public comments on the proposal and further internal deliberations, TVA has identified Alternative C as its preferred alternative. Based on the findings in the EA, TVA concludes that implementing Alternative C would not be a major federal action significantly affecting the environment. Accordingly, an environmental impact statement is not required.



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Date Signed