

FINDING OF NO SIGNIFICANT IMPACT
TENNESSEE VALLEY AUTHORITY

CHEROKEE OUTDOOR RESORT BY THE SMOKIES
(FORMERLY NAMED SEQUOYAH LODGE AND LAKE RESORT)
TELLICO RESERVOIR

In 2004, the Tennessee Valley Authority (TVA) conveyed an easement on 41.8 acres of TVA public land on Tellico Reservoir to the Eastern Band of Cherokee Indians (EBCI) for the development of a commercial recreation complex. The land is within the town of Vonore, in Monroe County, Tennessee. The EBCI also requested approval from TVA under Section 26a of the TVA Act and from the U.S. Army Corps of Engineers (USACE) under Sections 401 and 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbor Act to construct water use facilities and install riprap for shoreline stabilization. TVA reviewed these actions in an Environmental Assessment (EA) in compliance with the National Environmental Policy Act, wherein TVA concluded that the proposal would not result in significant environmental impacts. TVA issued a finding of no significant impact in June 2004. The USACE served as a cooperating agency on the EA.

Since 2004, after TVA conveyed an easement to EBCI, only portions of the planned development have been constructed. The unimproved portion of the property consists of approximately 35 acres situated along the southeastern side of Tennessee State Route 411, just southwest of the Niles Ferry Bridge over the Tellico River (TVA Tract XTTELR-43RE, Map 19C, Tellico River Mile 0.4L).

In 2020, TVA received a new Land Use Permit Application as well as a Section 26a joint application, with USACE, to allow the completion of the development, under a revised plan. The EBCI continues to hold an easement from TVA that allows development of the parcel. In conveying the easement area, TVA also granted EBCI certain rights to construct and maintain water use facilities on the abutting TVA shoreline property between the 820-foot contour elevation and the waters of Tellico Reservoir.

The EBCI project is now referred to as “Cherokee Outdoor Resort by the Smokies.” TVA is considering granting a land use permit for all proposed facilities on the parcel above the floodplain and granting a Section 26a permit for proposed facilities within the floodplain and on the reservoir shoreline.

Because of the changes to the development plan, TVA prepared a Supplemental EA, which supplemented the analysis in the 2004 EA to address the potential environmental effects associated with the revised project plan and to consider whether there is significant new information relating to the proposed action. TVA’s 2004 EA and finding of no significant impact (FONSI) and the 2021 Supplemental EA are incorporated by reference herein.

Proposed Action

Under Alternative B, TVA would issue a land use permit and Section 26a permit to the EBCI to construct and operate the proposed facilities on 41.8 acres of TVA land. Generally, Alternative B would be similar to the Action Alternative reviewed by TVA in its 2004 EA. However, the EBCI has proposed numerous changes to the original development plan that TVA reviewed in the 2004 EA, including the following:

- Expansion of and new layout for the campground/RV resort on approximately 26.5 acres, with up to 250 camping sites;
- Construction of a welcome center, clubhouse and family recreation area;
- Construction of additional rental cabins;
- Abandoning the proposal to construct a 300-room Lodge and Hotel;
- Relocation of swimming and beach facilities;
- Addition of water-based amenities, including a “Wibit” inflatable playground placed in the reservoir and a floating dock;
- Reduction in parking spaces;
- Connection to the local publicly owned wastewater treatment works; and
- Addition of rip rap and vegetative armoring along the reservoir banks.

A more detailed description of the proposed development can be found in Section 2.1.2 of the Supplemental EA.

Purpose and Need

The purpose and need for the proposed action remains the same as those defined by TVA in its 2004 EA. The Cherokee Outdoor Resort by the Smokies is a commercial operation intended to add new recreation opportunities for the surrounding community and region and to generate revenue for the EBCI. Under the current proposal, the EBCI has partnered with a third-party that would be responsible for managing and operating the resort. In addition to the commercial interests of the EBCI and the operator, the project would result in other public benefits including economic development and increased tourism.

Since 2004, the EBCI revised the original proposal because market evaluations show that the commercial lodging and hotel uses were not suitable uses for the site. Certain aspects of the original master plan (e.g., hotel and lodging) also do not comply with TVA’s Land Policy and Commercial Recreation Guidelines issued since 2004. EBCI has since determined that recreational vehicle resort use is more commercially viable. When combined with existing and additional rental cabin amenities and additional water-based recreation amenities, the proposed modified resort plan would serve as the EBCI’s best and highest use of the property.

Although TVA has previously conveyed an easement for this development, TVA must consider the issuance of a land use permit to the EBCI, consistent with applicable TVA regulations and land use policies. Additionally, Section 26a of the TVA Act requires that TVA approval be

obtained prior to the construction, operation, or maintenance of a structure or activity affecting navigation, flood control, or public lands. This approval process ensures that the proposed activities do not interfere with TVA's management of the Tennessee River system. TVA's interest in this project arises from these obligations under TVA land use policies and under Section 26 of the TVA Act as well as its commitment to support economic growth within the Tennessee River Valley region and to provide for commercial recreational opportunities.

Supplemental Environmental Assessment

In the Supplemental EA, TVA reviewed the potential environmental impacts of developing the TVA parcel as a commercial recreation resort. After dismissing numerous environmental resources from the review because they were not present in the project area, TVA reviewed terrestrial ecology, aquatic ecology, threatened and endangered species, surface water resources, floodplains, recreation, navigation, and air resources. TVA considered whether the information and analysis for each resource in the 2004 EA remains valid for the revised proposal and whether new circumstances or information exist related to the presence of sensitive resources in the project area. The project area is essentially the same as reviewed in 2004, except that the area includes a portion of the reservoir where the floating playground would be anchored and excludes the marina area, which has already been developed.

In the Supplemental EA, TVA found that the proposed activities at the 35-acre project area would result in permanent impacts to the environmental, commencing with the construction phase of the resort development, as the parcel is converted from its current natural setting to a commercial recreation site. After construction, long-term commercial and recreation activities at the resort would result in a permanent change in character and use of the area.

The development of the parcel would result in permanent loss of terrestrial habitat, with some temporary impacts occurring during construction as well. Potential impacts to bat and bird species would be reduced because TVA would apply a seasonal clearing requirement (see below). Potential impacts to aquatic ecology during construction activities would be minor given the implementation of best management practices and permit requirements. The permanent impacts to aquatic features, such as the placement of riprap along the reservoir shoreline, would be minor.

Potential impacts to surface water quality would also be reduced by BMPs and permitting requirements, although there may be minor effects due to construction activities. With an increase in impermeable surfaces due to development of the parcel, there would be minor permanent effects on water quality from increased runoff. There would be no effects of wastewater because the commercial facility would be connected to the municipal water works.

The proposed activities would also result in minor impacts to floodplains, with 0.06 acre-foot of fill located within the 100-year floodplain and a negligible amount located within the Power Storage and Flood Storage zones. The proposal is consistent with Executive Order 11988

(Floodplain Managements) and TVA Flood Storage Loss Guidelines. Mitigation measures identified below would reduce floodplain impacts and flood risk.

The proposed development of the resort would result in a minor increase in recreational opportunities on Tellico Reservoir and in the general area. As described in the 2004 EA, the Tellico Reservoir Development Agency agreed to relinquish its rights to manage the 13.5-acre portion of Parcel 94 (XTTELR-17RE). To offset the potential loss of public recreation for the EBCI's development, the EBCI agreed to develop an access road, parking lot, walkway, and fishing pier about 1 mile upstream on a portion of Parcel 95 as mitigation for the loss of existing public access/facilities at the 411 fishing pier. These 2004 commitments have been completed.

TVA also reviewed the proposal for potential to affect navigation on the reservoir and found that the proposed water-based play area would not affect navigation because the playground would have a maximum lakeward extension of 235 feet from the 820-foot contour on the shore.

With the use of BMPs, adherence to State of Tennessee air pollution rules, and other required measures to reduce emissions and control fugitive dust during construction, air quality impacts associated with construction would be minor, temporary, and localized, and would not be anticipated to result in violations of applicable ambient air quality standards or impact regional air quality. Minor air quality impacts during operation of the resort would primarily be related to vehicle emissions.

Necessary Consultation

TVA was the lead federal agency in the preparation of the Supplemental EA and the USACE served as a cooperating agency. As noted above, in addition to the land use and Section 26a approvals from TVA that the EBCI requires, approval from the USACE under Sections 401 and 404 of the CWA and Section 10 of the Rivers and Harbor Act to construct water use facilities and install riprap for shoreline stabilization is also required. Before the USACE can issue a permit, the General Aquatic Resources Alteration Permit for the proposed beach area and bank stabilization must be issued by the Tennessee Department of Environment and Conservation (TDEC) Division of Water Resources pursuant to Section 401(a)(1) of CWA, certifying that applicable state water quality standards would not be violated by the work. TDEC issued this permit to the applicant on June 24, 2021.

In addition, a general construction storm water permit from TDEC (in accordance with National Pollutant Discharge Elimination System (NPDES) requirements) would be needed because more than one acre would be disturbed. Coverage would require development of a site-specific Stormwater Pollution Prevention Plan, which would detail applicable best management practices to minimize surface water impacts from erosion of sediment, solid waste, chemicals usage, equipment usage and maintenance, dust control, and septic issues.

Should hydrostatic test discharges occur, coverage would be obtained under the 2021 NPDES General Permit for Discharges of Hydrostatic Test Water (TN670000).

In addition to the federal and state environmental permits identified above, the developer would also be required to obtain a Water Main Extension Permit and Sanitary Sewer Main and Lift Station/Force Main Permit. If required, the developer would also obtain TDEC approval for the engineering plan and obtain a pretreatment or discharge permit from the publicly owned treatment works.

As described in the 2004 EA, TVA consulted with the Tennessee Historical Commission in April 2002 and June 2004, consistent with Section 106 of the National Historic Preservation Act, and gained concurrence that the project area contained no archaeological resources eligible for listing in the National Register of Historic Places (NRHP) and that an historic property to the west of the project area would not be adversely affected by the proposal. In February 2021, TVA consulted with the Tennessee Historical Commission and federally-recognized Indian tribes regarding the revised proposal. TVA received concurrence from the Tennessee Historical Commission once more that there were no properties listed or eligible for the NRHP and there were no objections to the undertaking. One tribe provided a comment to TVA, stating that it had no objection to the proposal.

The proposal has been reviewed by local entities as well. On March 8, 2020, the proposed RV resort use received a special exception approval from the Town of Vonore pursuant to its zoning ordinance.

Public Involvement

When completing the EA in 2003 and 2004, TVA provided notice to the public, held a public comment period, and hosted a public meeting (December 18, 2003). On March 25, 2021, the USACE and TVA issued a joint public notice to inform the public of the revised proposal and solicit input. The USACE received two comment submittals in response to the notice. TVA addressed issues raised in the two submittals in the Supplemental EA.

On May 28, 2021, TVA issued the draft Supplemental EA for public review and comment. The availability of the draft Supplemental EA was announced in a newspaper advertisement and the EA was posted on TVA's website. During the comment period, TVA received a letter from TDEC and a letter from the Watershed Association of the Tellico Reservoir. TVA identified nine comments from these letters and provided responses to the comments in Appendix B of the Final EA. TVA made several revisions to the EA in response to this input.

Mitigation Measures and Environmental Commitments

In addition to the requirements of any necessary permits, which include mitigation measures and best management practices (BMPs), TVA would require EBCI to implement numerous measures to avoid, minimize, or resolve adverse impacts on the environment. Shoreline stabilization and construction activities would be subject to environmental requirements of the State of Tennessee and applicable regulations. Construction-related BMPs would be critical to ensuring that environmental resources are not affected. BMPs include the appropriate

measures to control erosion, stabilize disturbed areas, minimize storm water impacts, and reduce sedimentation. BMPs also ensure that construction-related waste is properly contained so that environmental impacts are avoided. All wastes would be managed in accordance with applicable waste management laws and regulations.

As noted above, the ECBI requires approval from the USACE under Sections 401 and 404 of the CWA and Section 10 of the Rivers and Harbor Act to construct water use facilities and install riprap for shoreline stabilization. The General Aquatic Resources Alteration Permit for the proposed beach area and bank stabilization (issued by the Tennessee Department of Environment and Conservation (TDEC) Division of Water Resources on June 24, 2021) was issued pursuant to Section 401(a)(1) of CWA, certifying that applicable state water quality standards would not be violated by the work. This permit includes mitigation, monitoring and reporting activities that must be implemented by the applicant that address potential impacts to water quality.

In addition, as noted above, since greater than one acre of land would be disturbed at a given time, the applicant would need to obtain approval under the 2016 NPDES General Permit for Discharges Associated with Construction Activity (TNR100000) from TDEC to address potential impacts to water quality. Activities involving chemical or fuel storage or resupply and equipment and vehicle servicing would be handled in such a manner as to prevent these items from reaching a watercourse. Earthen berms or other effective means are expected to be installed to protect nearby surface waters from direct surface runoff. Servicing of equipment and vehicles is expected to be done with care to avoid leakage, spillage, and subsequent surface or groundwater contamination. Oil waste, filters, and other litter are expected to be collected and disposed of properly. Should hydrostatic test discharges occur during construction, coverage would be obtained under the 2021 NPDES General Permit for Discharges of Hydrostatic Test Water (TN670000).

To address potential impacts to federally listed bat species, the EBCI would remove suitable summer roosting habitat for Indiana bat and northern long eared bat only during the winter clearing window (October 15 – March 31) when bats are not present on the landscape. In addition, the applicant would implement the specific conservation measures identified on Table 4 of the TVA Bat Strategy Project Review Form (Appendix A of the Supplemental EA). The seasonal clearing restriction would also address potential impacts to the nesting habitat of several migratory bird species of conservation concern.

Should burning activities occur, the applicant would comply with local burn permits, conservation measures identified in TVA's Bat Strategy Project Review Form (Appendix A), and the requirements in TDEC Air Pollution Control Rule 1200-3-4, which provides open burning prohibitions, exceptions, and certification requirements. To control fugitive dust during construction activities, the applicant would comply with the TDEC Air Pollution Control Rule 1200-3-8 and implement reasonable precautions and applicable BMPs.

Adhering to the following measures would ensure that there would be no significant impact on floodplains and their natural and beneficial values:

- All floating facilities, including the Wibit, would be securely anchored to prevent them from floating free during major floods.
- The shoreline stabilization would be placed no more than two feet thick, and no more than 2 feet from the existing shoreline at June 1 flood guide, and extend from elevation 806 to 815, and be on a 2-to-1 or steeper slope.
- No flood-damageable equipment or items would be stored in the beach area.
- Any excess excavated material would be disposed of on land lying above the 500-year flood elevation 817.8.
- The land-based retaining wall would be designed to withstand flooding with minimum damage.

Permits issued under Section 26a of the TVA Act also include standard conditions to which applicants must adhere. TVA will ensure that the EBCI is aware of these requirements.

Conclusion and Findings

Based on the findings of the Supplemental EA, TVA concludes that issuing a land use permit and Section 26a permit to the EBCI to construct and operate the proposed facilities on TVA land would not be a major federal action significantly affecting the environment. This determination is contingent upon the implementation of the mitigation measures identified above to minimize or avoid potential impacts to environmental resources, implementation of the BMPs identified above, and adherence to all applicable regulatory and permitting requirements. Accordingly, an environmental impact statement is not required.



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Date Signed