

TENNESSEE VALLEY AUTHORITY**Environmental Impact Statement—
Tims Ford Reservoir Land
Management Plan, Franklin and Moore
Counties, Tennessee**

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of intent.

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 and the Tennessee Department of Environment and Conservation (TDEC), in partnership, will prepare an Environmental Impact Statement (EIS) on alternatives for management and disposition of Tims Ford Reservoir project lands in Franklin and Moore Counties, Tennessee.

DATES: Comments on the scope of the EIS must be received on or before August 31, 1999.

ADDRESSES: Written comments should be sent to Jon M. Loney, Manager, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1499.

FOR FURTHER INFORMATION CONTACT: Harold M. Draper, NEPA Specialist, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902-1499; telephone (423) 632-6889 or e-mail hmdraper@tva.gov

SUPPLEMENTARY INFORMATION:**Background**

Tims Ford Reservoir has a surface area of 10,600-acres (4,290-hectare) on the Elk River in Franklin and Moore Counties, Tennessee. It was completed in 1970 by TVA for the purposes of flood control, hydroelectric generation, recreation, and economic development. The reservoir is 34 miles (54.7 kilometers) long at full pool. There are approximately 250 miles (400 km) of shoreline and 10,000 acres (4050 ha) of project lands around the impoundment. TVA and TDEC are considering new allocations for approximately 6,200 acres (2510 ha) of this land. The remainder is already committed to project operations and long-term easements.

The Tennessee Elk River Development Agency (TERDA) was created by the Tennessee General Assembly in 1963. The enabling legislation (TCA 64-1-301) that created TERDA states:

The agency is created for the purpose of developing and effectuating plans and programs for comprehensive development including the control and development of the water resources of those portions of the Elk River watershed and integrating plans, programs, and development activities with the overall economic development of the area described.

On May 17, 1966, TVA and TERDA entered into Contract No. TV-27333A to "engage in a cooperative program of comprehensive, unified resource development for the purpose of fostering the orderly physical, economic, and social development of the Elk River area," which included the construction of the Tims Ford Dam and Reservoir. Under that agreement, properties that were voluntarily sold were purchased by the Federal Government for this project in the name of TERDA. Later, those properties below the 895-foot contour were transferred to TVA for reservoir project operations. Those tracts acquired under the power of eminent domain were purchased in the name of the United States Government and remain in the custody of TVA. In September 1980, Contract No. TV-27333A was replaced by Contract No. TV-50000A, which further defined the roles and responsibilities of each party in managing the overall Tims Ford project. In April 1996, the Tennessee General Assembly passed Public Chapter 816 of the Public Acts of 1996, which terminated TERDA and transferred all powers, duties, contractual obligations, functions, and remaining land interests of the agency to TDEC. TDEC was charged with the responsibility of disposing of the remaining land interests.

In February 1998, Contract No. TV-50000A was replaced by Contract No. 98RE2-229151, which redefined the obligations and responsibilities of each party to cooperatively develop a comprehensive Land Management and Disposition Plan. The EIS will evaluate the environmental impacts of implementing this Plan. Under this contract, all portions of project lands must be allocated to specific uses, including TVA project operations, resource protection, resource management, industrial/commercial, recreational, residential, and any other uses deemed desirable by the parties. In addition, the Plan will also determine which portions of such lands should be transferred to or retained by the State; transferred to or retained by TVA or other governmental entities for public purposes; or sold, leased, or otherwise disposed.

The Plan will seek to integrate land and water benefits, provide for optimum

public benefit, and balance competing and sometimes conflicting resource use goals. By providing a clear statement of how TVA and TDEC intend to manage land and by identifying land for specific uses, TVA and TDEC hope to balance conflicting uses and facilitate decision making for use of its land. This Plan will be submitted for approval by the TVA Board of Directors and the Tennessee State Building Commission and adopted as policy to provide for long-term land stewardship and accomplishment of TVA responsibilities under the 1933 TVA Act, carry forth the purposes for which Congress approved funding for the Tims Ford project, and fulfill the intent of Public Chapter 816 of the 1996 Tennessee General Assembly.

In developing the plan, it is anticipated that lands currently committed to a specific use would be allocated to that current use unless there is an overriding need to change. Commitments include transfers, easements, leases, licenses, contracts, utilities, outstanding land rights, or developed recreation areas. All lands under TVA and TDEC control would be allocated in the planning process. At this time, TVA anticipates that four alternatives would be analyzed in the EIS. The No Action alternative would be chosen if either or both agencies decline to adopt a jointly-prepared land management and disposition plan. In the absence of a joint plan, TVA and TDEC would proceed with disposition or management of properties on a case-by-case basis, using the scope of the Tims Ford Project as originally set forth and subject to existing laws and policies. TDEC would be guided by Public Chapter 816.

A second alternative would seek to provide a balance of sensitive resource management, natural resource conservation, and development. A third alternative would allocate lands into categories that emphasize maximum development on suitable and capable tracts of land. The fourth alternative would prohibit any new development excluding existing uses. This alternative would deem all lands unsuitable for development and would allocate them for natural resource conservation.

Scoping

TVA and TDEC formally began the environmental review process with a press release on October 2, 1998, announcing a public comment period extending through December 1, 1998 to solicit input and to conduct public scoping meetings. Public meetings were held on November 9, 1998 at Winchester, Tennessee and on

November 10, 1998 at Fayetteville, Tennessee and attended by 181 people. TDEC also requested comments through a website (<http://www.state.tn.us/environment/elk/>) and requested written comments.

Subsequent to the scoping meetings, the agencies determined that an EIS would allow a better understanding of the impacts of the alternatives. Accordingly, this notice publishes the intent of the agencies to prepare an EIS. Based on the results of the previous scoping, the agencies anticipate that the EIS will include discussion of the potential effects of alternatives on the following resources and issue areas: visual resources, cultural resources, threatened and endangered species, terrestrial ecology, wetlands, recreation, water quality, aquatic ecology, and socioeconomic. Other issues which may be discussed, depending on the potential impacts of the alternatives, include floodplains, prime farmland, and air quality.

TVA is interested in receiving additional comments on the scope of issues to be addressed in the EIS. Written comments on the scope of the EIS should be received on or before August 31, 1999. TVA and TDEC anticipate completing the Draft EIS in the Fall of 1999. An opportunity to review and comment on the draft EIS will be provided at that time.

Dated: July 14, 1999.

Kathryn J. Jackson

Executive Vice President, River System Operations & Environment.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D-170]

WTO Dispute Settlement Proceeding Regarding Canada—Patent Term

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USRT") is providing notice of the request for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO"), by the United States, to examine the Canadian Patent Act. In this dispute, the United States alleges that the patent term granted by the Canadian patent Act is inconsistent with obligations of Canada under the Agreement on Trade-Related Aspects of

Intellectual Property Rights ("TRIPS Agreement"). The USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted by September 1, 1999, to be assured of timely consideration by the USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: Canada Patent Term Dispute, Office of the United States Trade Representative, 700 17th Street NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT:

Geralyn Ritter, Assistant General Counsel, (202) 395-6800.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that on July 15, 1999, the United States submitted a request for the establishment of a WTO dispute settlement panel to examine whether the patent term as provided by the Canadian Patent Act is inconsistent with certain provisions of the TRIPS Agreement. The WTO Dispute Settlement Body ("DSB") will consider the United States' request for the establishment of a panel for the first time on July 26, 1999.

Major Issues Raised and Legal Basis of the Complaint

The TRIPS Agreement obligates all Members of the WTO to grant a term of protection for patents that runs at least until twenty years after the filing date of the underlying application. The TRIPS Agreement also requires each Member to grant this minimum term to all patents existing as of the date of the application of the Agreement to that Member. Canada has been obligated to apply the provisions of the TRIPS Agreement in full since January 1, 1996. However, the Canadian Patent Act provides that the term granted to patents issued on the basis of applications filed before October 1, 1989, is 17 years from the date on which the patent is issued. The United States considers this to be inconsistent with Canada's obligations under Articles 33 and 70 of the TRIPS Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute.

Comments must be in English and provided in fifteen copies to Sandy McKinzy at the address provided above. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by the USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), the USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington DC 20508. The public file will include a listing of any comments received by the USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding, the submissions, or non-confidential summaries of submissions, to the panel received from other parties in the dispute, as well as the report of the dispute settlement panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D-170, Canada Patent Term) may be made by calling Brenda Webb, (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

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