

TITLE V—LAND BETWEEN THE LAKES PROTECTION ACT

The Land
Between the
Lakes Protection
Act of 1998.
16 USC 460lllnote.
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SEC. 501. SHORT TITLE.

This title may be referred to as “The Land Between the Lakes Protection Act of 1998”.

SEC. 502. DEFINITIONS.

In this title:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **ADVISORY BOARD.**—The term “Advisory Board” means the Land Between the Lakes Advisory Board established under section 522.

(3) **CHAIRMAN.**—The term “Chairman” means the Chairman of the Board of Directors of the Tennessee Valley Authority.

(4) **ELIGIBLE EMPLOYEE.**—The term “eligible employee” means a person that was, on the date of transfer pursuant to section 541, a full-time or part-time annual employee of the Tennessee Valley Authority at the Recreation Area.

(5) **ENVIRONMENTAL LAW.**—

(A) **IN GENERAL.**—The term “environmental law” means all applicable Federal, State, and local laws (including regulations) and requirements related to protection of human health, natural and cultural resources, or the environment.

(B) **INCLUSIONS.**—The term “environmental law” includes—

(i) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(iv) the Clean Air Act (42 U.S.C. 7401 et seq.);

(v) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(vi) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(vii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(viii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ix) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) **FOREST HIGHWAY.**—The term “forest highway” has the meaning given the term in section 101(a) of title 23, United States Code.

(7) **GOVERNMENTAL UNIT.**—The term “governmental unit” means an agency of the Federal Government or a State or local government, local governmental unit, public or municipal corporation, or unit of a State university system.

(8) **HAZARDOUS SUBSTANCE.**—The term “hazardous substance” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(9) **PERSON.**—The term “person” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) **POLLUTANT OR CONTAMINANT.**—The term “pollutant or contaminant” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) RECREATION AREA.—The term “Recreation Area” means the Land Between the Lakes National Recreation Area.

(12) RELEASE.—The term “release” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(13) RESPONSE ACTION.—The term “response action” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(15) STATE.—The term “State” means the State of Kentucky and the State of Tennessee.

SEC. 503. PURPOSES.

The purposes of this title are—

- (1) to transfer without consideration administrative jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary so that the Recreation Area may be managed as a unit of the National Forest System;
- (2) to protect and manage the resources of the Recreation Area for optimum yield of outdoor recreation and environmental education through multiple use management by the Forest Service;
- (3) to authorize, research, test, and demonstrate innovative programs and cost-effective management of the Recreation Area;
- (4) to authorize the Secretary to cooperate between and among the States, Federal agencies, private organizations, and corporations, and individuals, as appropriate, in the management of the Recreation Area and to help stimulate the development of the surrounding region and extend the beneficial results as widely as practicable; and
- (5) to provide for the smooth and equitable transfer of jurisdiction from the Tennessee Valley Authority to the Secretary.

Subtitle A—Establishment, Administration, and Jurisdiction

SEC. 511. ESTABLISHMENT.

(a) IN GENERAL.—On the transfer of administrative jurisdiction under section 541, the Land Between the Lakes National Recreation Area in the States of Kentucky and Tennessee is established as a unit of the National Forest System.

(b) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Recreation Area for multiple use as a unit of the National Forest System.

(2) EMPHASES.—The emphases in the management of the Recreation Area shall be—

- (A) to provide public recreational opportunities;
- (B) to conserve fish and wildlife and their habitat;

and

(C) to provide for diversity of native and desirable non-native plants, animals, opportunities for hunting and fishing, and environmental education.

(3) STATUS OF UNIT.—The Secretary may administer the Recreation Area as a separate unit of the National Forest System or in conjunction with an existing national forest.

(c) AREA INCLUDED.—

(1) IN GENERAL.—The Recreation Area shall comprise the federally owned land, water, and interests in the land and water lying between Kentucky Lake and Lake Barkley in

the States of Kentucky and Tennessee, as generally depicted on the map entitled “Land Between the Lakes National Recreation Area—January, 1998”.

(2) MAP.—The map described in paragraph (1) shall be available for public inspection in the Office of the Chief of the Forest Service, Washington, D.C.

(d) WATERS.—

(1) WATER LEVELS AND NAVIGATION.—Nothing in this title affects the jurisdiction of the Tennessee Valley Authority or the Army Corps of Engineers to manage and regulate water levels and navigation of Kentucky Lake and Lake Barkley and areas subject to flood easements.

(2) OCCUPANCY AND USE.—Subject to the jurisdiction of the Tennessee Valley Authority and the Army Corps of Engineers, the Secretary shall have jurisdiction to regulate the occupancy and use of the surface waters of the lakes for recreational purposes.

SEC. 512. CIVIL AND CRIMINAL JURISDICTION.

(a) ADMINISTRATION.—The Secretary, acting through the Chief of the Forest Service, shall administer the Recreation Area in accordance with this title and the laws, rules, and regulations pertaining to the National Forest System.

(b) STATUS.—Land within the Recreation Area shall have the status of land acquired under the Act of March 1, 1911 (commonly known as the “Weeks Act”) (16 U.S.C. 515 et seq.).

(c) LAW ENFORCEMENT.—In order to provide for a cost-effective transfer of the law enforcement responsibilities between the Forest Service and the Tennessee Valley Authority, the law enforcement authorities designated under section 4A of the Tennessee Valley Authority Act 1933 (16 U.S.C. 831c-3) are hereby granted to special agents and law enforcement officers of the Forest Service. The law enforcement authorities designated under the eleventh undesignated paragraph under the heading “Surveying the public lands” of the Act of June 4, 1897 (30 Stat. 35; 16 U.S.C. 551), the first paragraph of that portion designated “General Expenses, Forest Service” of the Act of March 3, 1905 (33 U.S.C. 873; 16 U.S.C. 559), the National Forest System Drug Control Act of 1986 (16 U.S.C. 559b-559g) are hereby granted to law enforcement agents of the Tennessee Valley Authority, within the boundaries of the Recreation Area, for a period of 1 year from the date on which this section takes effect.

SEC. 513. PAYMENTS TO STATES AND COUNTIES.

(a) PAYMENTS IN LIEU OF TAXES.—Land within the Recreation Area shall be subject to the provisions for payments in lieu of taxes under chapter 69 of title 31, United States Code.

(b) DISTRIBUTION.—All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall not be subject to distribution to States under the Act of May 23, 1908 (16 U.S.C. 500).

(c) PAYMENTS BY THE TENNESSEE VALLEY AUTHORITY.—After the transfer of administrative jurisdiction is made under section 541—

(1) the Tennessee Valley Authority shall continue to calculate the amount of payments to be made to States and counties under section 13 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 8311); and

(2) each State (including, for the purposes of this subsection, the State of Kentucky, the State of Tennessee, and any other State) that receives a payment under that section shall continue to calculate the amounts to be distributed to the State and local governments, as though the transfer had not been made.

SEC. 514. FOREST HIGHWAYS.

(a) IN GENERAL.—For purposes of section 204 of title 23, United States Code, the road known as “The Trace” and every other paved road within the Recreation Area (including any road constructed to secondary standards) shall be considered to be a forest highway.

(b) STATE RESPONSIBILITY.—

(1) IN GENERAL.—The States shall be responsible for the maintenance of forest highways within the Recreation Area.

(2) REIMBURSEMENT.—To the maximum extent provided by law, from funds appropriated to the Department of Transportation and available for purposes of highway construction and maintenance, the Secretary of Transportation shall reimburse the States for all or a portion of the costs of maintenance of forest highways in the Recreation Area.

Subtitle B—Management Provisions

SEC. 521. LAND AND RESOURCE MANAGEMENT PLAN.

(a) IN GENERAL.—As soon as practicable after the effective date of the transfer of jurisdiction under section 541, the Secretary shall prepare a land and resource management plan for the Recreation Area in conformity with the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.) and other applicable law.

(b) INTERIM PROVISION.—Until adoption of the land and resource management plan, the Secretary may use, as appropriate, the existing Tennessee Valley Authority Natural Resource Management Plan to provide interim management direction. Use of all or a portion of the management plan by the Secretary shall not be considered to be a major Federal action significantly affecting the quality of the human environment.

SEC. 522. ADVISORY BOARD.

(a) ESTABLISHMENT.—Not later than 90 days after the date of transfer pursuant to section 541, the Secretary shall establish the Land Between the Lakes Advisory Board.

(b) MEMBERSHIP.—The Advisory Board shall be composed of 17 members, of whom—

(1) 4 individuals shall be appointed by the Secretary, including—

(A) 2 residents of the State of Kentucky; and

(B) 2 residents of the State of Tennessee;

(2) 2 individuals shall be appointed by the Kentucky Fish and Wildlife Commissioner or designee;

(3) 1 individual shall be appointed by the Tennessee Fish and Wildlife Commission or designee;

(4) 2 individuals shall be appointed by the Governor of the State of Tennessee;

(5) 2 individuals shall be appointed by the Governor of the State of Kentucky;

and

(6) 2 individuals shall be appointed by appropriate officials of each of the 3 counties containing the Recreation Area.

(c) TERM.—

(1) IN GENERAL.—The term of a member of the Advisory Board shall be 5 years.

(2) SUCCESSION.—Members of the Advisory Board may not succeed themselves.

(d) CHAIRPERSON.—The Regional Forester shall serve as chairperson of the Advisory Board.

(e) RULES OF PROCEDURE.—The Secretary shall prescribe the rules of procedure for the Advisory Board.

(f) FUNCTIONS.—The Advisory Board may advise the Secretary on—

(1) means of promoting public participation for the land and resource management plan for the Recreation Area; and

(2) environmental education.

(g) MEETINGS.—

(1) FREQUENCY.—The Advisory Board shall meet at least biannually.

(2) PUBLIC MEETING.—A meeting of the Advisory Board shall be open to the general public.

(3) NOTICE OF MEETINGS.—The chairperson, through the placement of notices in local news media and by other appropriate means shall give 2 weeks' public notice of each meeting of the Advisory Board.

(h) NO TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

SEC. 523. FEES.

(a) AUTHORITY.—The Secretary may charge reasonable fees for admission to and the use of the designated sites, or for activities, within the Recreation Area.

(b) **FACTORS.**—In determining whether to charge fees, the Secretary may consider the costs of collection weighed against potential income.

(c) **LIMITATION.**—No general entrance fees shall be charged within the Recreation Area.

SEC. 524. DISPOSITION OF RECEIPTS.

(a) **IN GENERAL.**—All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall be deposited in a special fund in the Treasury of the United States to be known as the “Land Between the Lakes Management Fund”.

(b) **USE.**—Amounts in the Fund shall be available to the Secretary until expended, without further Act of appropriation, for the management of the Recreation Area, including payment of salaries and expenses.

SEC. 525. SPECIAL USE AUTHORIZATIONS.

(a) **IN GENERAL.**—In addition to other authorities for the authorization of special uses within the National Forest System, within the Recreation Area, the Secretary may, on such terms and conditions as the Secretary may prescribe—

(1) convey for no consideration perpetual easements to governmental units for public roads over United States Route 68 and the Trace, and such other rights-of-way as the Secretary and a governmental unit may agree;

(2) transfer or lease to governmental units developed recreation sites or other facilities to be managed for public purposes; and

(3) lease or authorize recreational sites or other facilities, consistent with sections 503(2) and 511(b)(2).

(b) **CONSIDERATION.**—

(1) **IN GENERAL.**—Consideration for a lease or other special use authorization within the Recreation Area shall be based on fair market value.

(2) **REDUCTION OR WAIVER.**—The Secretary may reduce or waive a fee to a governmental unit or nonprofit organization

commensurate with other consideration provided to the United States, as determined by the Secretary.

(c) **PROCEDURE.**—The Secretary may use any fair and equitable method for authorizing special uses within the Recreation Area, including public solicitation of proposals.

(d) **EXISTING AUTHORIZATIONS.**—

(1) **IN GENERAL.**—A permit or other authorization granted by the Tennessee Valley Authority that is in effect on the date of transfer pursuant to section 541 may continue on transfer of administration of the Recreation Area to the Secretary.

(2) **REISSUANCE.**—A permit or authorization described in paragraph (1) may be reissued or terminated under terms and conditions prescribed by the Secretary.

(3) **EXERCISE OF RIGHTS.**—The Secretary may exercise any of the rights of the Tennessee Valley Authority contained in any permit or other authorization, including any right to amend, modify, and revoke the permit or authorization.

SEC. 526. COOPERATIVE AUTHORITIES AND GIFTS.

(a) **FISH AND WILDLIFE SERVICE.**—

(1) **MANAGEMENT.**—

(A) **IN GENERAL.**—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may issue a special use authorization to the United States Fish and Wildlife Service for the management by the Service of facilities and land agreed on by the Secretary and the Secretary of the Interior.

(B) **FEES.**—

(i) **IN GENERAL.**—Reasonable admission and use fees may be charged for all areas administered by the United States Fish and Wildlife Service.

(ii) **DEPOSIT.**—The fees shall be deposited in accordance with section 524.

(2) **COOPERATION.**—The Secretary and the Secretary of the Interior may cooperate or act jointly on activities such as population monitoring and inventory of fish and wildlife with emphasis on migratory birds and endangered and threatened species,

environmental education, visitor services, conservation demonstration projects and scientific research.

(3) SUBORDINATION OF FISH AND WILDLIFE ACTIVITIES TO OVERALL MANAGEMENT.—The management and use of areas and facilities under permit to the United States Fish and Wildlife Service as authorized pursuant to this section shall be subordinate to the overall management of the Recreation Area as directed by the Secretary.

(4) AUTHORITIES.—For the management, maintenance, operation, and interpretation of the Recreation Area and its facilities, the Secretary may—

(5) make grants and enter into contracts and cooperative agreements with Federal agencies, governmental units, non-profit organizations, corporations, and individuals; and

(6) accept gifts under Public Law 95-442 (7 U.S.C. 2269) notwithstanding that the donor conducts business with any agency of the Department of Agriculture or is regulated by the Secretary of Agriculture.

SEC. 527. DESIGNATION OF NATIONAL RECREATION TRAIL.

Effective on the date of transfer pursuant to section 541, the North-South Trail is designated as a national recreation trail under section 4 of the National Trails System Act (16 U.S.C. 1243).

SEC. 528. CEMETERIES.

The Secretary shall maintain an inventory of and ensure access to cemeteries within the Recreation Area for purposes of burial, visitation, and maintenance.

SEC. 529. RESOURCE MANAGEMENT.

(a) MINERALS.—

(1) WITHDRAWAL.—The land within the Recreation Area is withdrawn from the operation of the mining and mineral leasing laws of the United States.

(2) USE OF MINERAL MATERIALS.—The Secretary may permit the use of common varieties of mineral materials for the development and maintenance of the Recreation Area.

(b) HUNTING AND FISHING.—

(1) IN GENERAL.—The Secretary shall permit hunting and fishing on land and water under the jurisdiction of the Secretary within the boundaries of the Recreation Area in accordance with applicable laws of the United States and of each State, respectively.

(2) PROHIBITION.—

(A) IN GENERAL.—The Secretary may designate areas where, and establish periods when, hunting or fishing is prohibited for reasons of public safety, administration, or public use and enjoyment.

(B) CONSULTATION.—Except in emergencies, a prohibition under subparagraph (A) shall become effective only after consultation with the appropriate fish and game departments of the States.

(3) FISH AND WILDLIFE.—Nothing in this title affects the jurisdiction or responsibilities of the States with respect to wildlife and fish on national forests.

SEC. 530. HEMATITE DAM.

Within one year from the date of transfer pursuant to section 541, the Tennessee Valley Authority shall cause any breach in the Hematite Dam to be repaired, or if such repairs have previously been made, the Tennessee Valley Authority shall certify in a letter to the Secretary the sound condition of the dam. Future repair costs and maintenance of the Hematite Dam shall be the responsibility of the Secretary.

SEC. 531. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a special interest-bearing fund known as the “Land Between the Lakes Trust Fund”.

(b) AVAILABILITY.—Amounts in the Fund shall be available to the Secretary, until expended, for—

(1) public education, grants, and internships related to recreation, conservation, and multiple use land management in the Recreation Area; and

(2) regional promotion in the Recreation Area, in cooperation with development districts, chambers of commerce, and State and local governments.

(c) DEPOSITS.—The Tennessee Valley Authority shall deposit into the Fund \$1,000,000 annually for each of the 5 fiscal years commencing in the first fiscal year of the transfer. Funding to carry

out this section shall be derived from funding described in section 549.

Subtitle C—Transfer Provisions

SEC. 541. EFFECTIVE DATE OF TRANSFER.

Effective on October 1 of the first fiscal year for which Congress does not appropriate to the Tennessee Valley Authority at least \$6,000,000 for the Recreation Area, or, if this Act is enacted during a fiscal year for which Congress has not made such an appropriation, effective as of the date of enactment of this Act, administrative jurisdiction over the Recreation Area is transferred from the Tennessee Valley Authority to the Secretary.

SEC. 542. STATEMENT OF POLICY.

It is the policy of the United States that, to the maximum extent practicable—

(1) the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary should be effected in an efficient and cost-effective manner; and

(2) due consideration should be given to minimizing—

(A) disruption of the personal lives of the Tennessee Valley Authority and Forest Service employees; and

(B) adverse impacts on permittees, contractees, and others owning or operating businesses affected by the transfer.

SEC. 543. MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 30 days after the date of transfer pursuant to section 541, the Secretary and the Tennessee Valley Authority shall enter into a memorandum of agreement concerning implementation of this title.

(b) PROVISIONS.—The memorandum of understanding shall provide procedures for—

(1) the orderly withdrawal of officers and employees of the Tennessee Valley Authority;

(2) the transfer of property, fixtures, and facilities;

(3) the interagency transfer of officers and employees;

(4) the transfer of records; and

(5) other transfer issues.

(c) TRANSITION TEAM.—

(1) IN GENERAL.—The memorandum of understanding may provide for a transition team consisting of the Tennessee Valley Authority and Forest Service employees.

(2) DURATION.—The team may continue in existence after the date of transfer.

(3) PERSONNEL COSTS.—The Tennessee Valley Authority and the Forest Service shall pay personnel costs of their respective team members.

SEC. 544. RECORDS.

(a) RECREATION AREA RECORDS.—The Secretary shall have access to all records of the Tennessee Valley Authority pertaining to the management of the Recreation Area.

(b) PERSONNEL RECORDS.—The Tennessee Valley Authority personnel records shall be made available to the Secretary, on request, to the extent the records are relevant to Forest Service administration.

(c) CONFIDENTIALITY.—The Tennessee Valley Authority may prescribe terms and conditions on the availability of records to protect the confidentiality of private or proprietary information.

(d) LAND TITLE RECORDS.—The Tennessee Valley Authority shall provide to the Secretary original records pertaining to land titles, surveys, and other records pertaining to transferred personal property and facilities.

SEC. 545. TRANSFER OF PERSONAL PROPERTY.

(a) SUBJECT PROPERTY.—

(1) INVENTORY.—Not later than 60 days after the date of transfer pursuant to section 541, the Tennessee Valley Authority shall provide the Secretary with an inventory of all property and facilities at the Recreation Area.

(2) AVAILABILITY FOR TRANSFER.—

(A) IN GENERAL.—All Tennessee Valley Authority property associated with the administration of the Recreation Area, including any property purchased with Federal funds appropriated for the management of the Tennessee Valley Authority land, shall be available for transfer to the Secretary.

(B) PROPERTY INCLUDED.—Property under subparagraph (A) includes buildings, office furniture and supplies, computers, office equipment, buildings, vehicles, tools, equipment, maintenance supplies, boats, engines, and publications.

(3) EXCLUSION OF PROPERTY.—At the request of the authorized representative of the Tennessee Valley Authority, the Secretary may exclude movable property from transfer based on a showing by the Tennessee Valley Authority that the property is vital to the mission of the Tennessee Valley Authority and cannot be replaced in a cost-effective manner, if the Secretary determines that the property is not needed for management of the Recreation Area.

(b) DESIGNATION.—Pursuant to such procedures as may be prescribed in the memorandum of agreement entered into under section 543, the Secretary shall identify and designate, in writing, all Tennessee Valley Authority property to be transferred to the Secretary.

(c) FACILITATION OF TRANSFER.—The Tennessee Valley Authority shall, to the maximum extent practicable, use current personnel to facilitate the transfer of necessary property and facilities to the Secretary, including replacement of signs and insignia, repainting of vehicles, printing of public information, and training of new personnel. Funding for these costs shall be derived from funding described in section 549.

(d) SURPLUS PROPERTY.—

(1) DISPOSITION.—Any personal property, including structures and facilities, that the Secretary determines cannot be efficiently managed and maintained either by the Forest Service or by lease or permit to other persons may be declared excess by the Secretary and—

(A) sold by the Secretary on such terms and conditions as the Secretary may prescribe to achieve the maximum benefit to the Federal Government; or

(B) disposed of under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(2) DEPOSIT OF PROCEEDS.—All net proceeds from the disposal of any property shall be deposited into the Fund established by section 531.

SEC. 546. COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) DOCUMENTATION OF EXISTING CONDITIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of transfer pursuant to section 541, the Chairman and the Administrator shall provide the Secretary all documentation and information that exists on the environmental condition of the land and waters comprising the Recreation Area property.

(2) ADDITIONAL DOCUMENTATION.—The Chairman and the Administrator shall provide the Secretary with any additional documentation and information regarding the environmental condition of the Recreation Area property as such documentation and information becomes available.

(b) ACTION REQUIRED.—

(1) ASSESSMENT.—Not later than 120 days after the date of transfer pursuant to section 541, the Chairman shall provide to the Secretary an assessment indicating what action, if any, is required under any environmental law on Recreation Area property.

(2) MEMORANDUM OF UNDERSTANDING.—If the assessment concludes action is required under any environmental law with respect to any portion of the Recreation Area property, the Secretary and the Chairman shall enter into a memorandum of understanding that—

(A) provides for the performance by the Chairman of the required actions identified in the assessment; and

(B) includes a schedule providing for the prompt completion of the required actions to the satisfaction of the Secretary.

(c) DOCUMENTATION DEMONSTRATING ACTION.—On the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary, the Chairman shall provide the Secretary with documentation demonstrating that all actions required under any environmental law have been taken, including all response actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) that are necessary to protect human health and the environment with respect to any hazardous substance, pollutant, contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product on Recreation Area property.

(d) CONTINUATION OF RESPONSIBILITIES AND LIABILITIES.—

(1) IN GENERAL.—The transfer of the Recreation Area property under this title, and the requirements of this section, shall not in any way affect the responsibilities and liabilities of the Tennessee Valley Authority at the Recreation Area under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other environmental law.

(2) ACCESS.—After transfer of the Recreation Area property, the Chairman shall be accorded any access to the property that may be reasonably required to carry out the responsibility or satisfy the liability referred to in paragraph (1).

(3) NO LIABILITY.—The Secretary shall not be liable under any environmental law for matters that are related directly or indirectly to present or past activities of the Tennessee Valley Authority on the Recreation Area property, including liability for—

(A) costs or performance of response actions required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) at or related to the Recreation Area; or

(B) costs, penalties, fines, or performance of actions related to noncompliance with any environmental law at or related to the Recreation Area or related to the presence, release, or threat of release of any hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product of any kind at or related to the Recreation Area, including contamination resulting from migration.

(4) NO EFFECT ON RESPONSIBILITIES OR LIABILITIES.—Except as provided in paragraph (3), nothing in this title affects, modifies, amends, repeals, alters, limits or otherwise changes, directly or indirectly, the responsibilities or liabilities under any environmental law with respect to the Secretary.

(e) OTHER FEDERAL AGENCIES.—Subject to the other provisions of this section, a Federal agency that carried or carries out operations at the Recreation Area resulting in the release or threatened release of a hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product for which that agency would be liable under any environmental law shall pay the costs of related response actions and shall pay the costs of related actions to remediate petroleum products or their derivatives.

SEC. 547. PERSONNEL.

(a) IN GENERAL.—

(1) HIRING.—Notwithstanding section 3503 of title 5, United States Code, and subject to paragraph (2), the Secretary may—

(A) appoint, hire, and discharge officers and employees to administer the Recreation Area; and

(B) pay the officers and employees at levels that are commensurate with levels at other units of the National Forest System.

(2) INTERIM RETENTION OF ELIGIBLE EMPLOYEES.—

(A) IN GENERAL.—For a period of not less than 5 months after the effective date of transfer to the Forest Service—

(i) all eligible employees shall be retained in the employment of the Tennessee Valley Authority;

(ii) those eligible employees shall be considered to be placed on detail to the Secretary and shall be subject to the direction of the Secretary; and

(iii) the Secretary shall reimburse the Tennessee Valley Authority for the amount of the basic pay and all other compensation of those eligible employees.

(B) NOTICE TO EMPLOYEES.—The Secretary shall provide eligible employees a written notice of not less than 60 days before termination.

(C) TERMINATION FOR CAUSE.—Subparagraph (A) does not preclude a termination for cause during the period described in subparagraph (A).

(b) APPLICATIONS FOR TRANSFER AND APPOINTMENT.—An eligible employee shall have the right to apply for employment by the Secretary under procedures for transfer and appointment of Federal employees outside the Department of Agriculture.

(c) HIRING BY THE SECRETARY.—

(1) IN GENERAL.—Subject to subsection (b), in filling personnel positions within the Recreation Area, the Secretary shall follow all laws (including regulations) and policies applicable to the Department of Agriculture.

(2) NOTIFICATION AND HIRING.—Notwithstanding paragraph (1), the Secretary—

(A) shall notify all eligible employees of all openings for positions with the Forest Service at the Recreation Area before notifying other individuals or considering applications by other individuals for the positions; and

(B) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(3) NONCOMPETITIVE APPOINTMENTS.—Notwithstanding any other placement of career transition programs authorized by the Office of Personnel Management of the United States Department of Agriculture, the Secretary may noncompetitively appoint eligible employees to positions in the Recreation Area.

(4) PERIOD OF SERVICE.—Except to the extent that an eligible employee that is appointed by the Secretary may be otherwise compensated for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the Secretary for the purposes of probation, career tenure, time-in-grade, and leave.

(d) TRANSFER TO POSITIONS IN OTHER UNITS OF THE TENNESSEE VALLEY AUTHORITY.—The Tennessee Valley Authority—

(1) shall notify all eligible employees of all openings for positions in other units of the Tennessee Valley Authority before notifying other individuals or considering applications by other individuals for the positions; and

(2) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(e) EMPLOYEE BENEFIT TRANSITION.—

(1) MEMORANDUM OF UNDERSTANDING.—

(A) IN GENERAL.—The Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall enter into a memorandum of understanding providing for the transition for all eligible employees of compensation made available through the Tennessee Valley Authority Retirement System.

(B) EMPLOYEE PARTICIPATION.—In deciding on the terms of the memorandum of understanding, the Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall meet and consult with and give full consideration to the views of employees and representatives of the employees of the Tennessee Valley Authority.

(2) ELIGIBLE EMPLOYEES THAT ARE TRANSFERRED TO OTHER UNITS OF TVA.—An eligible employee that is transferred to another unit of the Tennessee Valley Authority shall experience no interruption in coverage for or reduction of any retirement, health, leave, or other employee benefit.

(3) ELIGIBLE EMPLOYEES THAT ARE HIRED BY THE SECRETARY.—

(A) LEVEL OF BENEFITS.—The Secretary shall provide to an eligible employee that is hired by the Forest Service a level of retirement and health benefits that is equivalent to the level to which the eligible employee would have been entitled if the eligible employee had remained an employee of the Tennessee Valley Authority.

(B) TRANSFER OF RETIREMENT BENEFITS.—

(i) IN GENERAL.—Eligible employees hired by the Forest Service shall become members of the Civil Service Retirement System (CSRS) Offset Plan and shall have the option to transfer into the Federal Employees Retirement System (FERS) within six months of their date of transfer. Such employees shall have the option at any time to receive credit in CSRS Offset or FERS for all of their TVA service in accordance with applicable procedures. Any deposits necessary to receive credit for such service shall be considered transfers to a qualified plan for purposes of favorable tax treatment of such amount under the Internal Revenue Code.

(ii) FUNDING SHORTFALL.—

(I) IN GENERAL.—For all eligible employees that are not part of the Civil Service Retirement System, the Tennessee Valley Authority shall meet any funding shortfall resulting from the transfer of retirement benefits.

(II) NOTIFICATION.—The Secretary shall notify the Tennessee Valley Authority Board of the cost associated with the transfer of retirement benefits.

(III) PAYMENT.—The Tennessee Valley Authority shall fully compensate the Secretary for the costs associated with the transfer of retirement benefits.

(IV) NO INTERRUPTION.—An eligible employee that is hired by the Forest Service and is

eligible for Civil Service Retirement shall not experience any interruption in retirement benefits.

(C) NO INTERRUPTION.—An eligible employee that is hired by the Secretary—

(i) shall experience no interruption in coverage for any health, leave, or other employee benefit; and

(ii) shall be entitled to carry over any leave time accumulated during employment by the Tennessee Valley Authority.

(D) PERIOD OF SERVICE.—Notwithstanding section 8411(b)(3) of title 5, United States Code, except to the extent that an eligible employee may be otherwise compensated (including the provision of retirement benefits in accordance with the memorandum of understanding) for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the U.S. Department of Agriculture for all purposes relating to the Federal employment of the eligible employee.

(4) ELIGIBLE EMPLOYEES THAT ARE DISCHARGED NOT FOR CAUSE.—

(A) LEVEL OF BENEFITS.—The parties to the memorandum of understanding shall have authority to deem any applicable requirement to be met, to make payments to an employee, or take any other action necessary to provide to an eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause and that does not accept an offer of employment from the Secretary, an optimum level of retirement and health benefits that is equivalent to the level that has been afforded employees discharged in previous reductions in force by the Tennessee Valley Authority.

(B) MINIMUM BENEFITS.—An eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause shall, at a minimum be entitled to—

(i) at the option of the eligible employee—

(I) a lump-sum equal to \$1,000, multiplied by the number of years of service of the eligible employee (but not less than \$15,000 nor more than \$25,000);

(II) a lump-sum payment equal to the amount of pay earned by the eligible employee for the last 26 weeks of the eligible employee's service; or

(III) the deemed addition of 5 years to the age and the years of service of an eligible employee;

(ii) 15 months of health benefits for employees and dependents at the same level provided as of the date of transfer pursuant to section 541;

(iii) 1 week of pay per year of service as provided by the Tennessee Valley Authority Retirement System;

(iv) a lump-sum payment of all accumulated annual leave;

(v) unemployment compensation in accordance with State law;

(vi) eligible pension benefits as provided by the Tennessee Valley Authority Retirement System; and

(vii) retraining assistance provided by the Tennessee Valley Authority.

(C) **SHORTFALL.**—If the board of directors of the Tennessee Valley Authority Retirement System determine that the cost of providing the benefits described in subparagraphs (A) and (B) would have a negative impact on the overall retirement system, the Tennessee Valley Authority shall be required to meet any funding shortfalls.

SEC. 548. TENNESSEE VALLEY AUTHORITY TRANSFER COSTS.

Any costs incurred by Tennessee Valley Authority associated with the transfer under this subtitle shall be derived from funding described in section 549.

SEC. 549. TENNESSEE VALLEY AUTHORITY TRANSFER FUNDING.

(a) **IN GENERAL.**—The funding described in this section is funding derived from only 1 or more of the following sources:

- (1) Nonpower fund balances and collections.
- (2) Investment returns of the nonpower program.
- (3) Applied programmatic savings in the power and nonpower programs.
- (4) Savings from the suspension of bonuses and awards.
- (5) Savings from reductions in memberships and contributions.
- (6) Increases in collections resulting from nonpower activities, including user fees.
- (7) Increases in charges to private and public utilities both investor and cooperatively owned, as well as to direct load customers.

(b) **AVAILABILITY.**—Funds from the sources described in subsection (a) shall be available notwithstanding section 11, 14, 15, or 29 or any other provision of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) or any provisions of the covenants contained in any power bonds issued by the Tennessee Valley Authority.

(c) **SUFFICIENCY OF SAVINGS.**—The savings from and the revenue adjustment to the budget of the Tennessee Valley Authority for the first fiscal year of the transfer and each fiscal year thereafter shall be sufficient so that the net spending authority and resulting outlays to carry out activities with funding described in subsection

(a) shall not exceed \$0 for the first fiscal year of the transfer and each fiscal year thereafter.

(d) **ITEMIZED LIST OF REDUCTIONS AND INCREASED RECEIPTS.**—

(1) **PROPOSED CHANGES.**—Not later than 30 days after the date of transfer pursuant to section 541, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts that are proposed to be made as a result of activities under this subsection during the first fiscal year of the transfer.

(2) **ACTUAL CHANGES.**—Not later than 24 months after the effective date of the transfer, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts as a result of activities under this subsection during the first fiscal year of the transfer.

Subtitle D—Funding

SEC. 551. AUTHORIZATION OF APPROPRIATIONS.

(a) **AGRICULTURE.**—There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to—

- (1) permit the Secretary to exercise administrative jurisdiction over the Recreation Area under this title; and
- (2) administer the Recreation Area area as a unit of the National Forest System.

(b) **INTERIOR.**—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to carry out activities within the Recreation Area.