



National Park Service  
U.S. Department of the Interior

## Briefing

Great Smoky Mountains  
National Park  
Office of Public Affairs

107 Park Headquarters Road  
Gatlinburg, TN 37738  
865-436-1208  
[www.nps.gov/grsm](http://www.nps.gov/grsm)

**BUREAU:** National Park Service  
**ISSUE:** Great Smoky Mountains National Park – North Shore Road Monetary Settlement

### Key Points:

- During the depths of World War II the Tennessee Valley Authority (TVA) constructed the Fontana Dam along the Little Tennessee River to provide power for war industries in Tennessee. When the reservoir was brought to full pool it flooded highway NC 288 cutting off access to hundreds of residents of 44,000 acres of private land which lay between the river and the Park's south boundary at that time. Construction of a replacement road at that time was infeasible due to war-time scarcities of labor and materials.
- The Tennessee Valley Authority, North Carolina, Swain County, NC, and the Department of the Interior (DOI) entered into an agreement in 1943 that called for: (1) TVA to pay \$400,000 to the County as compensation for the flooding of NC Road 288 (2) TVA to buy the 44,000 acres, displacing the residents, and to transfer the land to the National Park Service for addition to Great Smoky Mountains National Park; and (3) DOI, contingent upon appropriation of all necessary funds, to build a replacement park road around the north side of Lake Fontana (the North Shore Road).
- Work on the North Shore Road began in the 1960's but was discontinued in the early 1970's because of severe environmental and cost concerns. A lawsuit brought by a group of Swain County residents to force the NPS to resume construction ended in 1983, when the Federal Court of Appeals for the 4<sup>th</sup> Circuit concluded that the 1943 agreement to construct the North Shore Road had not been breached by DOI as Congress had not appropriated funds for the completion of the road. The court also held that DOI was under no obligation to seek further appropriations for the completion of the road.
- In FY 2001 former NC Representative Charles Taylor inserted \$16 million into the Federal Highway Administration appropriation to resume work on the North Shore Road. The funding triggered preparation of an Environmental Impact Statement (EIS) to evaluate a range of alternatives that could resolve the DOI's obligations under the 1943 Agreement.

- The EIS resulted in an NPS Record of Decision (ROD) on December 28, 2007 that payment of a monetary settlement to Swain County, in lieu of further construction, was the alternative that would best protect the resources of the Park. The ROD called for the four original signatories to the 1943 Agreement to negotiate the amount of this settlement (subject to necessary legislation and appropriation) as equitable compensation for the non-completion of the North Shore Road. Three meetings of the four signatories were held between March and May, 2008 focused on identifying a basis for a settlement. No settlement amount was offered to the signatories by the DOI.
- In anticipation of a settlement being reached, Representative Heath Shuler (NC) and Senator Lamar Alexander (TN) were successful in including \$6 million in the 2008 DOI budget to be available as an initial payment to Swain County to become available upon execution of a new 4-party agreement to replace the 1943 Agreement.
- No further meetings were scheduled during the remainder of the George W. Bush/DOI Secretary Kempthorne administration. Once the new administration was in place, they were briefed on the issue and a meeting was held with the signatories on October 29, 2009.
- Representative Shuler was successful in including \$12.8 million to Swain County as partial settlement in lieu of the road in the 2010 Defense Appropriation. The appropriation releases \$4 million to Swain County immediately, with the remaining \$8.8 million to be released 120 days after a settlement agreement was reached.
- On February 6, 2010 the signatories met in Bryson City, NC and executed a new Agreement that explicitly extinguished the 1943 Agreement and called for a \$52 million settlement to be paid to Swain County over a period of years. The agreement provides for the \$12.8 million referenced above to be released to Swain County and calls for the remaining \$39.2 million to be provided, as appropriated by Congress on or before December 31, 2010.

**Current Status:**

- The *FY 2011 Interior Budget Justifications* includes a \$4 million request in the Line-Item Construction Program for the “North Shore Road Settlement”.

Prepared by: Bob Miller, Management Assistant, Great Smoky Mountains National Park, (865) 436-1207, email: Bob\_Miller@nps.gov

Date: March 15, 2010