



Tennessee Valley Authority, 400 W. Summit Hill Dr., Knoxville, Tennessee 37902

November 8, 2017

Paul S. Ryerson, Chairman  
Dr. Gary S. Arnold  
Dr. Sue H. Abreu  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Docket:** *Tennessee Valley Authority (Clinch River Nuclear Site Early Site Permit Application), Docket No. 52-047-ESP*

**RE:** **Agreement of the Parties Regarding Mandatory Discovery Disclosures**

Dear Administrative Judges:

The purpose of this letter is to inform you that the parties to this proceeding have reached the following agreement concerning mandatory disclosures under 10 C.F.R. § 2.336. As used in this agreement, the term “parties” includes Tennessee Valley Authority (“TVA”) (applicant in this matter), the U.S. Nuclear Regulatory Commission (“NRC”) Staff, Southern Alliance for Clean Energy (“SACE”), and the Tennessee Environmental Council (“TEC”) (the admitted intervenors).

The parties have agreed to the following protocol:

1. All parties will make their initial mandatory disclosures no later than December 15, 2017. Disclosure updates will be due on the 2nd Tuesday of every calendar month, subject to the other rules governing the continuing disclosure requirements in 10 C.F.R. § 2.336(d).
2. The parties may limit the mandatory discovery disclosures to final documents that they develop, and need not disclose drafts (including comments on drafts, transmittals of drafts, resolution of comments on drafts, and similar documents).
3. Documents will be produced in electronic format. If the same document exists in both hard copy and electronic format, a party may produce the electronic copy only. Handwritten notes on a final document, however, constitute a separate document, and must be produced as well as the original document.
4. To the extent reasonably practicable, each party will provide electronic copies of requested documents. If the requested documents cannot be provided electronically, other arrangements will be made, including, if appropriate, in-person inspection. In the event that electronic delivery or in-person inspection is not possible, the party

requesting the documents from another party will pay expenses related to the copying and delivery of hard copies of such documents.

5. The parties have agreed to waive the requirement in 10 C.F.R. § 2.336(a)(3) and 2.336(b)(5) to produce a privilege log for documents asserted to be protected from disclosure under the attorney work product and/or attorney-client privilege and the deliberative process privilege. The parties, however, will produce as part of their disclosures lists of any documents withheld as proprietary. The party claiming the right to withhold listed documents as proprietary must describe the basis for the claim; *e.g.*, whether it is based upon an agreement with a third party, and the person or entity to whom the proprietary document belongs or whose privilege is being asserted.
6. A party need not identify or produce any document that has been served on the other parties to this proceeding.
7. The parties need not produce publicly available documents. Each party, however, will produce as part of its disclosures a log identifying publicly available documents upon which the party may rely and indicating the general location of such documents.
8. The parties need not identify or produce press clippings.
9. If the same relevant e-mail exists in multiple locations, each party may produce only one copy of that e-mail. If the e-mail exists in both sender and recipient email folders, the party will produce the sender's copy of the e-mail.
10. All parties may, at their option, update their disclosures under 10 C.F.R. § 2.336(d) through the use of e-mail alone. The Staff, however, will make the Hearing File available via the Electronic Hearing Docket.
11. The duty to update mandatory disclosures and the hearing file shall terminate at the close of the evidentiary hearing. If a contention has been dismissed, the duty to update mandatory disclosures shall terminate with respect to that contention upon issuance of the Board order dismissing that contention. Pending appellate review of a Board decision disposing of a contention, all parties should preserve and maintain disclosures relating to that contention, despite termination of the duty to update the disclosures for that contention.

Counsel of record for each of the other parties identified above has authorized counsel for TVA to submit this agreement on behalf of the parties.

Respectfully submitted,

/signed (electronically) by Blake J. Nelson/

Dated: November 8, 2017

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*Counsel for TVA*