



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 7, 2022

Mr. Scott Hunnewell
Vice President, New Nuclear Program
Tennessee Valley Authority
1101 Market Street
Chattanooga, TN 37402

SUBJECT: TENNESSEE VALLEY AUTHORITY - ONLINE REFERENCE
PORTAL INFORMATION ACCESS AGREEMENT

Dear Mr. Hunnewell:

By letter date February 23, 2022 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML22055A738), Tennessee Valley Authority (TVA) requested to engage in pre-application activities with the Nuclear Regulatory Commission (NRC) staff on TVA's new nuclear program in support of development of a potential construction permit application for the Clinch River Nuclear Site.

To support pre-application interactions, TVA and NRC staff discussed the use of an online reference portal (also known as the electronic reading room or eRR) that would provide authorized NRC staff and contractors with limited read only access to certain materials owned by and under the control of TVA. Access to any eRR requires an NRC process (such as a regulatory Audit) to be viewed and shall be treated as proprietary/business confidential information that will not be shared or copied. Pre-application engagement will be done in accordance with "Pre-application Engagement to Optimize Advanced Reactors Application Reviews" (ML21145A106) and the Office of Nuclear Regulation's Office Instruction LIC-116: "Pre-application Readiness Assessment," (ML20104B698).

The purpose of the online reference portal is to enhance the NRC's ability to timely and efficiently engage in pre-application activities and other regulatory responsibilities, including the subsequent development of an operating license application, by providing access to reference materials. If the NRC staff determines that the information viewed or accessed via the online reference portal is necessary for formal evaluation or otherwise necessary to support the NRC's regulatory licensing responsibilities, the NRC staff will request that TVA formally submit such information in accordance with Title 10 of the *Code of Federal Regulations* Section 50.4, "Written communications."

The enclosed "Information Access Agreement" should be used as the only acknowledgement form for the authorized NRC staff and contractors' access to the online reference portal. Any proposed modification or addition to the enclosed "Information Access Agreement" would require further review by the NRC staff. The NRC requests that TVA sign, date, and return the "Information Access Agreement" enclosed with this letter.

S. Hunnewell

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If you have any questions or comments concerning this matter, I can be reached at (301) 415-6500 or via email at Michael.Dudek@nrc.gov.

Sincerely,

Michael I. Dudek, Chief
New Reactor Licensing Branch
Division of New and Renewed Licenses
Office of Nuclear Reactor Regulation

Project No. 99902056

Enclosure:
Information Access Agreement

SUBJECT: TENNESSEE VALLEY AUTHORITY - ONLINE REFERENCE PORTAL
INFORMATION ACCESS AGREEMENT. DATED: SEPTEMBER 7, 2022

DISTRIBUTION:

- PUBLIC
- AFetter, NRR
- JGlisan, NRR
- LWillingham, NMSS
- JGiacinto, NMSS
- MDudek, NRR
- SGreen, NRR
- KErwin, NMSS
- BSmith, NRR
- CRegan, NMSS
- JMoses, NMSS
- MShams, NRR
- MWright, OGC
- KDowling, OGC
- EStocking, OGC
- RidsNrrOd Resource
- RidsOgcMailCenter Resource
- RidsNrrDnrl Resource
- swhunnewell@tva.gov
- bmcdermott@tva.gov
- rjschiele@tva.gov

ADAMS Accession No: ML22227A010

***concurring via email**

NRR106

OFFICE	NRR/DNRL/NRLB	NRR/DNRL/NRLB
NAME	AFetter	SGreen
DATE	08/15/2022	08/15/2022
OFFICE	OGC	NRR/ DNRL/NRLB
NAME	EStocking*	MDudek*
DATE	08/30/2022	09/07/2022

OFFICIAL RECORD COPY

INFORMATION ACCESS AGREEMENT BETWEEN TENNESSEE VALLEY AUTHORITY AND THE NUCLEAR REGULATORY COMMISSION

This agreement is made and effective on September 7, 2022 ("Effective Date") by and between the UNITED STATES NUCLEAR REGULATORY COMMISSION ("NRC") and the Tennessee Valley Authority ("TVA") (collectively "the Parties") for the purpose of facilitating the NRC's access to an online reference portal maintained by TVA, through which NRC staff and contractors approved in accordance with Section 1 ("authorized NRC staff and contractors") may access certain documents related to activities associated with development of the TVA construction permit and operating license applications and siting actions for the Clinch River Nuclear ("CRN") Site.

Whereas TVA desires to enhance the NRC's ability to timely and efficiently perform its regulatory licensing responsibilities with respect to activities associated with the TVA construction permit and operating license applications and siting, including providing authorized NRC staff and contractors with access to certain documents owned by or under the control of TVA through an online reference portal so that the NRC may access such information in a timely manner; and

Whereas information accessed by authorized NRC staff and contractors may consist of information considered by TVA to be trade secrets or privileged or confidential commercial and financial information ("Proprietary Information"); and

Whereas TVA is willing to make such Proprietary Information available to authorized NRC staff and contractors for the purpose of promoting timely and efficient performance of the NRC's regulatory licensing responsibilities with respect to activities associated with the TVA construction permit and operating license applications and siting, subject to the terms and conditions set forth below.

The Parties mutually agree as follows:

Terms:

At no charge to the NRC, TVA agrees to maintain and make available to authorized NRC staff and contractors an online reference portal in which TVA will provide access to documents relating to activities associated with the TVA construction permit and operating license applications and siting, which may include Proprietary Information. TVA will provide the NRC staff with login credential access to the online reference portal. The Parties will separately agree upon a list of authorized NRC staff and contractors permitted to use the login credential access. This list of authorized users will include only NRC staff and contractors who have been determined to have a requisite need to access the online reference portal in furtherance of official duties in relation to regulatory licensing responsibilities with respect to activities associated with TVA's applications. This list of authorized users may be revised from time to time upon agreement of the Parties. The points of contact for the Parties for the purpose of agreeing upon the list of authorized users are TVA's Senior Licensing Manager (for TVA) and the NRC's Lead Project Manager for the TVA CRN Site Project (for the NRC).

Authorized NRC staff and contractors may use the online reference portal only to access TVA documents, including Proprietary Information, and only in furtherance of official duties and in accordance with any of TVA's reasonable policies and procedures governing access and use. The Parties expressly recognize that TVA reserves the right to revoke NRC access to the portal at any time.

Enclosure

The online reference portal will be available to authorized NRC staff and contractors through "read only" access with no capability to (a) modify information on the online reference portal, (b) control the online reference portal application, or (c) print, save, or download information from the online reference portal.

The Parties expressly acknowledge that documents placed into the online reference portal and made available to authorized NRC staff and contractors are owned by and under the control of TVA. The NRC does not consider documents placed in the online reference portal to constitute "agency records" for purposes of the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the NRC's implementing FOIA regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 9. The fact that TVA makes Proprietary Information available to the NRC as provided in this Agreement shall not, in and of itself, be construed as a waiver of the proprietary nature of such Proprietary Information, or an acknowledgment that such information residing within the online reference portal is not "owned by," "under the control of," and "in the possession of" TVA.

If the NRC staff determines that information viewed or accessed via the online reference portal is necessary for formal evaluation or otherwise necessary in support of the NRC's regulatory responsibilities with respect to activities associated with the TVA construction permit and operating license applications, the NRC will request that TVA formally submit such information in accordance with 10 CFR § 50.4, "Written communications." TVA shall abide by the requirements in 10 CFR § 2.390(b) when submitting such information to the NRC if TVA seeks to have information contained within that correspondence withheld from public disclosure. If the NRC receives a FOIA request that encompasses records formally submitted by TVA to the NRC in accordance with the affidavit requirements of 10 CFR § 2.390(b), and for which such information shall be subject to disclosure only in accordance with the provisions of 10 CFR § 9.19.

Information made available to authorized NRC staff and contractors only through the online reference portal does not constitute "communications" as part of the formal licensing, oversight, or enforcement functions with respect to the TVA construction permit and operating license applications pursuant to applicable regulations contained in 10 CFR. TVA is not required to submit an affidavit or mark documents in accordance with 10 CFR § 2.390 when making them accessible through the online reference portal. TVA makes no warranty, guarantee, or representation as to the completeness or accuracy of information that authorized NRC staff or contractors' access through the portal. With the exception of information made available through the online reference portal as described in this paragraph, NRC requirements governing completeness and accuracy of information apply to any information that TVA provides to the NRC or that TVA is required to maintain pursuant to statute or NRC regulations, orders, or license conditions.

This Agreement may be modified at any time in a writing signed by the Parties. Either party shall have the right, upon written notice to the other party, to terminate this Agreement, in whole or in part, at any time, without cost, penalty, or liability to any party.

IN WITNESS WHEREOF, the undersigned have executed this Agreement.

NUCLEAR REGULATORY COMMISSION

By: Michael I. Dudek

Title: Branch Chief, NRR/DNRL/NRLB

Date: September 7, 2022

TENNESSEE VALLEY AUTHORITY

By: Scott Hunnewell

Title: Vice President, New Nuclear Program

Date: _____