



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

January 31, 2024

Mr. Brian McDermott, Director  
Licensing and Planning  
New Nuclear Program  
Tennessee Valley Authority  
1101 Market Street  
LP 1G-C  
Chattanooga, TN 37402

SUBJECT: ACCEPTANCE OF REQUESTED LICENSING ACTION RE: REQUEST FOR EXEMPTION FROM TITLE 10 OF THE CODE OF FEDERAL REGULATIONS SECTION 50.10(c) TO ALLOW EXCAVATION AT THE CLINCH RIVER NUCLEAR SITE PRIOR TO CONSTRUCTION PERMIT ISSUANCE (EPID L-2024-LLE-002)

Dear Mr. McDermott:

By letter dated November 30, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23335A100), Tennessee Valley Authority (TVA) submitted a request for exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.10, "License required; limited work authorization," paragraph (c) "Requirement for construction permit, early site permit authorizing limited work authorization activities, combined license, or limited work authorization," for the Clinch River Nuclear (CRN) Site. Specifically, TVA is requesting an exemption, pursuant to 10 CFR 50.12(b), to allow the conduct of certain excavation support activities at the CRN Site prior to the issuance of a construction permit, which are otherwise not permitted by 10 CFR 50.10(c). Although, under 10 CFR 50.10(a)(2)(v), excavation itself does not fall under the definition of "construction," under the limited work authorization final rule (72 FR 57416, p. 57443), certain activities, such as the installation of erosion control barriers that will remain in place after fuel load are considered "construction" activities, as they have a reasonable nexus to radiological health and safety or common defense and security. *Id.* at 57419. Although TVA noted in its exemption request that the initial ground support system (i.e., erosion control measures) it intends to install would be to ensure worker safety and would be independent of the future nuclear facility, it will remain in place, which is why an exemption is needed.

The purpose of this letter is to provide the results of the U.S. Nuclear Regulatory Commission (NRC or Commission) staff's acceptance review of the exemption request. In accordance with 10 CFR 50.12, "Specific exemptions," the Commission may, upon application by any interested person or upon its own initiative, grant an exemption from the requirements of the regulations in Part 50 if: (1) the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security; and (2) special circumstances are present. The NRC staff performed the acceptance review using the criteria in NRC Office Instructions LIC-103 and LIC-109 to determine if there is sufficient technical information in scope and depth to allow the NRC staff to initiate its detailed technical safety and environmental reviews. The acceptance review is also intended to identify whether the

exemption request application has any readily apparent information gaps or if there are other issues that could interfere with meeting NRC regulatory requirements.

The NRC staff has reviewed your application and concluded that it provides technical safety and environmental information in sufficient detail to enable the NRC staff to initiate its detailed safety review and meet the agency's obligations under the National Environmental Policy Act. Given the lesser scope and depth of the acceptance review as compared to the detailed technical safety and environmental reviews, there may be instances in which issues that impact the NRC staff's ability to complete the detailed technical safety and environmental reviews are identified despite completion of an adequate acceptance review. You will be advised of any further information needed to support the NRC staff's detailed review by separate correspondence.

Based on the information provided in your submittal, the NRC staff has estimated that review of this exemption request will require approximately 510 staff hours and \$150,000 contractor support to complete. With respect to your requested completion schedule of November 1, 2024, the NRC staff believes that it will complete both the safety and environmental reviews by that date and will endeavor to complete both reviews sooner, to the extent practicable. If there are emergent complexities or challenges in our review that would cause changes to the initial forecasted completion date or significant changes in the forecasted hours, you will be notified via separate correspondence.

If you have any questions please contact me, Allen Fetter, the Senior Project Manager at [Allen.Fetter@nrc.gov](mailto:Allen.Fetter@nrc.gov).

Sincerely,

*/RA/*

Allen H. Fetter, Senior Project Manager  
New Reactor Licensing and Infrastructure Branch  
Division of New and Renewed Licenses  
Office of Nuclear Reactor Regulation

Docket No.: 99902056

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DATED: JANUARY 31, 2024

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