



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

July 26, 2024

Honorable John Raymond Johnson, Governor
Absentee Shawnee Tribe
2025 S. Gordon Cooper Drive
Shawnee, OK 74801

SUBJECT: REQUEST TO INITIATE SECTION 106 CONSULTATION FOR THE
CLINCH RIVER NUCLEAR SITE PROJECT EXEMPTION REQUEST
REVIEW IN ROANE COUNTY, TENNESSEE (DOCKET NUMBER:
99902056)

Dear Governor John Raymond Johnson:

The U.S. Nuclear Regulatory Commission (NRC) is conducting an environmental review for an exemption request submitted by the Tennessee Valley Authority (TVA) for the proposed Clinch River Nuclear (CRN) Site Project. The exemption request was submitted by TVA in a letter dated November 30, 2023, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 50.10(c). The exemption request is available through the NRC's Agencywide Documents Access and Management System (ADAMS; <http://www.nrc.gov/reading-rm/adams.html>) at <https://www.nrc.gov/docs/ML2333/ML23335A100.pdf> (ML23335A100). If approved, the exemption would authorize certain proposed excavation activities at the CRN site, which is located adjacent to the Clinch River arm of the Watts Bar Reservoir in Roane County, approximately 11 miles southwest of Oak Ridge, Tennessee, consisting of approximately 935 total acres (see Enclosure). This letter provides a brief discussion of past, present, and future NRC activities at the CRN site and describes the NRC's current undertaking (review of TVA's exemption request).

Past, Present, and Future Activities at the CRN Site

Past

The site was previously selected and partially developed for the abandoned Clinch River Breeder Reactor Project (CRBRP). CRBRP site preparation activities began in late 1982 and were nearly complete at the time of project termination at the end of 1983. Ground disturbance had affected approximately 240 acres, which were cleared and grubbed for the project. The excavation for the planned structures measured approximately 475 feet by 300 feet in area and extended to a depth of approximately 100 feet below the finished grade. The present site topography reflects the backfilling and grading done to remediate the site after the CRBRP was cancelled, as well as surface drainage infrastructure, retention ponds, and other ponds that were left in place. The site has been characterized extensively through environmental reports which includes the NRC's "Final Environmental Statement Related to Construction and Operation of Clinch River Breeder Reactor Plant" ([ML082610503](https://www.nrc.gov/docs/ML0826/ML082610503)).

In 2019, the NRC completed an environmental impact statement (EIS), in compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, for the issuance of an Early

Site Permit (ESP) for the CRN site (EIS and reader's guide [ML19087A266](#); ESP website: <https://www.nrc.gov/reactors/new-reactors/large-lwr/esp/clinch-river.html#permit>). The NRC's ESP EIS evaluated the impacts of construction and operation of two or more small modular reactors (SMRs) at the CRN site, including impacts to historic and cultural resources, and historic properties. Approval/issuance of the ESP by the NRC approved the site as suitable for the future demonstration of the construction and operation of two or more SMRs consistent with TVA's application. Approval of the ESP effectively "banks" the CRN site for up to 20 years and provides regulatory clarity and efficiency for further NRC-required approvals. An ESP does not, however, authorize construction and operation of a nuclear power plant. To construct and operate a nuclear power facility, an ESP holder must obtain a construction permit (CP) and operating license (OL), or a combined license (COL), which are separate NRC actions that require their own environmental reviews in accordance with 10 Part CFR 51. The NRC completed consultations with the Tennessee State Historic Preservation Officer (TN SHPO) and Tribes (see [ML19087A266](#), Volume 1, Section 2.7.4, pages 2-156 – 2-161; and Volume 2, Appendix F) under the National Historic Preservation Act of 1966 (NHPA), as amended, during review of the ESP application.

As a federal agency, TVA completed its own separate and supporting Programmatic EIS for the CRN site in 2022 ([87 FR 59860](#)), which also included an analysis of the impacts to historic properties. TVA developed a Programmatic Agreement (PA) pursuant to NHPA, titled *Programmatic Agreement Between the Tennessee Valley Authority and the Tennessee State Historic Preservation Office Regarding the Management of Historic Properties Affected by the Clinch River SMR Project* ([ML17296A399](#)), which stipulates that TVA will seek ways to avoid or minimize adverse impacts to historic properties, and if avoidance is not possible, TVA will mitigate the adverse effects in accordance with the PA.

Present

As part of the current exemption review, the NRC staff is preparing an environmental assessment (EA) as required by 10 CFR Part 51, the NRC's regulations that implement NEPA, to determine whether to prepare an EIS or finding of no significant impact (FONSI). In accordance with 36 CFR 800 "Protection of Historic Properties," specifically Section 800.8(c), the NRC is using the NEPA process to comply with Section 106 of the NHPA, as amended, in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. NRC's EA will tier from the NRC's EIS prepared for the ESP, where the identification of historic and cultural resources and historic properties and an analysis of potential effects of the overall project, were completed. See further discussion in "**NRC's Current Undertaking**" section.

Potential Future

If TVA submits an application for either a CP and OL, or a COL, NRC staff would review the application and conduct an environmental review for the proposed action. The review would document the impacts of any unresolved issues from the ESP and any new and significant information on those issues that were previously resolved.

NRC's Current Undertaking

The exemption request is to allow TVA to conduct certain excavation support activities in advance of a potential application for a CP and OL, or COL (which as noted previously, would be evaluated by NRC as separate undertakings). Specifically, the scope of the NRC staff's exemption review is limited to allowing structural components to permanently remain in the pit (132' wide by 115' deep) to be excavated for a reactor building since the structural components will have a nexus to nuclear safety; digging the pit itself is not an NRC-regulated activity. However, the NRC staff will evaluate any necessary road improvement work, staging areas, utility work, excavation activities, and placement of spoils from the pit, consistent with:

- 36 CFR 800.5(a)(1): "...*Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.*"
- 36 CFR 800.16(d): "*Area of potential effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties...*"

As depicted on the Enclosure, the direct APE is approximately 935 acres and is inclusive of the entire CRN site, while the indirect APE is a surrounding one-half-mile area centered on the proposed "cleared area" from the ESP EIS. As defined by NRC, the direct and indirect APE for the exemption request is within the area where historic and cultural resources and historic properties have previously been analyzed and considered; see NRC's "Final Environmental Statement Related to Construction and Operation of Clinch River Breeder Reactor Plant" ([ML082610503](#)), the PA between TVA and the TN SHPO ([ML17296A399](#)), TVA's Programmatic EIS ([87 FR 59860](#)), and NRC's EIS for the ESP ([ML19087A266](#)).

Pursuant to 10 CFR 51.28 and 36 CFR 800.8(c)(1)(iii), the NRC is ensuring that Indian Tribes that might attach religious and cultural significance to historic properties in the APE are afforded the opportunity to identify their concerns, provide advice on the identification and evaluation of historic properties including those of traditional religious and cultural importance and, if necessary, participate in the resolution of any adverse effects to such properties. The purpose of this letter is to initiate Section 106 government-to-government consultation.

Summary

The NRC expects to publish the draft EA, and if applicable, a draft FONSI, in the third quarter of 2024, which will be made available for your review and comment. After consideration of comments, the NRC will determine whether to prepare an EIS or a final EA and final FONSI.

The NRC invites you to submit any comments or concerns that you may have to offer on the scope of the environmental review within 30 days. Should you be interested in meeting to discuss the current undertaking, the NRC staff invites you to inform us of your availability to do so, either in-person or virtually.

Comments, questions and concerns may be submitted to Beau Goldstein, Staff Archaeologist, by phone at 301-415-1765 or via email at Beau.Goldstein@nrc.gov or Joseph Giacinto, Project Manager, by phone at 301-415-0714 or via email at Joseph.Giacinto@nrc.gov.

Sincerely,



Signed by Moses, John
on 07/26/24

John M. Moses, Deputy Director
Division of Rulemaking, Environmental,
and Financial Support,
Office of Nuclear Material Safety
and Safeguards

Docket No. 99902056

Enclosure
As stated

cc:
Devon Frazier, Tribal Historic Preservation Officer
dfrazier@astribe.com

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DATED: July 26, 2024

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ADAMS Accession No: ML24172A251 (letter) *concurrence via e-mail

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