

Preservation Order Attachment P

DUTY TO PRESERVE

(a) Until the parties reach agreement on a preservation plan, all parties and their counsel are reminded of their duty to preserve evidence that may be relevant to this action. The duty extends to documents, data, and tangible things in the possession, custody and control of the parties to this action, and any employees, agents, contractors, carriers, bailees, or other nonparties who possess materials reasonably anticipated to be subject to discovery in this action. Counsel is under an obligation to exercise reasonable efforts to identify and notify such nonparties, including employees of corporate or institutional parties.

(b) “Documents, data, and tangible things” is to be interpreted broadly to include writings; records; files; correspondence; reports; memoranda; calendars; diaries; minutes; electronic messages; voicemail; E-mail; telephone message records or logs; computer and network activity log; hard drives; backup data; removable computer storage media such as tapes, disks, and cards; printouts; document image files; Web pages; databases; spreadsheets; software; books; ledgers; journals; orders; invoices; bills; vouchers; checks; statements; worksheets; summaries; compilations; computations; charts; diagrams; graphic presentations; drawings; films; charts; digital or chemical process photographs; video, phonographic, tape, or digital recordings or transcripts thereof; drafts; jottings; and notes. Information that serves to identify, locate, or link such material, such as file inventories, file folders, indices, and metadata, is also included in this definition.

(c) “Preservation” is to be interpreted broadly to accomplish the goal of maintaining the integrity of all documents, data, and tangible things reasonably anticipated to be subject to discovery under Fed. R. Civ. P. 26, 45, and 56(e) in this action. Preservation includes taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutation of such material, as well as negligent or intentional handling that would make material incomplete or inaccessible.

(d) If the business practices of any party involve the routine destruction, recycling, relocation, or mutation of such materials, the party must, to the extent practicable for the pendency of this order, either

- (1) halt such business processes;
- (2) sequester or remove such material from the business process; or
- (3) arrange for the preservation of complete and accurate duplicates or copies of such material, suitable for later discovery if requested.

This litigation hold notice is being sent to all TVA officers because of the involvement of many individuals from numerous TVA organizations in the aftermath of the ash slide incident. Those officers should distribute this litigation hold notice to **all persons** in their organizations, and **all contractors** managed by their organizations, who **may be** sources or custodians of “documents, data, or tangible things” which TVA has a duty to preserve.

If you have any questions, please call [Louis Smythe 865-717-6505](tel:865-717-6505). Contractor’s ongoing and careful adherence to the terms of this notice is both required and appreciated. Thank you for your cooperation and assistance.