



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902

**Ralph E. Rodgers**  
Executive Vice President and General Counsel

May 22, 2012

Joseph Carson, P.E.  
10953 Twin Harbour Drive  
Knoxville, Tennessee 37934

Dear Mr. Carson:

I am writing in response to your May 2, 2012, letter to William Sansom, Chairman of the TVA Board, regarding statutory protections provided to TVA employees and the Office of Special Counsel's authority to investigate them.

As you know, TVA officials (including myself) and you have exchanged several letters and emails on this same subject over the past several years. As we observed earlier, it seems clear that we and you have some fundamentally different perspectives as to the meaning of several of the provisions of law in question, and their applicability or inapplicability to TVA.

Section 3 of the Tennessee Valley Authority Act (16 U.S.C. § 831(b)) provides that TVA employees are appointed "without regard to the provisions of the civil service laws applicable to the employees and officers of the United States . . . ." This is the central basis for the now 79-year old legal principle that TVA and its employees are only covered by those federal employee system laws which specifically are made applicable to them (in whole or in part) by Congress.

As I noted previously in my November 5, 2010, letter, the "Prohibited Personnel Practices" provisions set forth in 5 U.S.C. § 2302 are an excellent example of how that legal principle operates. Subsection (a)(2)(C)(i) of that section specifically exempts government corporations from the definition of those federal entities which are covered by it, except with regard to that law's specific "Whistleblower Protection Act" provisions.

With regard to those "Whistleblower Protection Act" provisions, TVA has consistently held the view that the Office of Special Counsel can address whistleblower complaints from TVA employees under those provisions of law. In addition, under TVA's "No Fear Act" training program, which all TVA employees are required to complete at least once every two years, TVA specifically informs its employees of their right to contact the Office of Special Counsel to make a complaint of whistleblower retaliation.

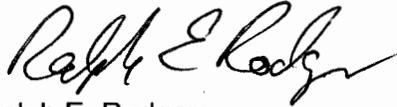
The fact that the other "Prohibited Personnel Practices" provisions are not legally applicable to TVA and its employees does not mean that TVA is not mindful of the importance of providing

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clear and well-known opportunities and means to all employees to express any concerns that they have in either a confidential or more open manner. I outlined a number of those in my November 5, 2010, letter to you.

In closing, I wish to emphasize that the entire Board of Directors and our CEO, Tom Kilgore, are committed to assuring a work environment at TVA in which employees can feel free to express their concerns without fear of retaliation or other forms of adverse action.

Sincerely,

A handwritten signature in black ink that reads "Ralph E. Rodgers". The signature is written in a cursive style with a large, stylized initial "R".

Ralph E. Rodgers