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STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
NASHVILLE, TENNESSEE 37243-0435

DAVID W. SALYERS, P.E.
COMMISSIONER

BILL LEE
GOVERNOR

September 13, 2019

John A. Mullis, Manager
Oak Ridge Office of Environmental Management
U.S. Department of Energy
Post Office Box 2001
Oak Ridge, Tennessee 37831

Dear Mr. Mullis:

The purpose of this letter is to respond to your March 28, 2019, letter regarding the Department of Energy's (DOE) position on its obligations under the Site Treatment Plan (STP) to provide information on mercury mixed waste streams DOE anticipates to generate through demolition of buildings in the Y-12 West End Mercury Area and other projects.

The Tennessee Department of Environment and Conservation (TDEC) disagrees with DOE's position that the STP imposes no obligation on DOE to disclose information for TDEC's review and approval regarding DOE's management of anticipated mercury mixed waste streams. However, following discussions with counsel for DOE, TDEC proposes to defer disputing the scope of the STP's requirements for mercury mixed waste streams pending DOE's submission of information demonstrating how DOE intends to treat mercury mixed wastes to meet RCRA requirements for onsite disposal. Agreement on the use of removal, containment, and/or neutralization technologies for onsite disposal of mercury mixed wastes may avoid a dispute on the requirements of the STP.

Although the parties had agreed to defer selection of treatment methodologies for certain mercury mixed waste streams during prior negotiations, mercury treatment is a relevant inquiry to determine the protectiveness of onsite disposal in DOE's proposed Environmental Management Disposal Facility (EMDF). One component of a protective EMDF is to ensure that mercury mixed waste be treated according to the STP or agreement between TDEC and DOE on mercury mixed waste treatment technology. As there is a scheduled submittal for a draft Record of Decision (ROD) and there have been many concerns expressed during public participation related to the EMDF, it is now appropriate to discuss mercury mixed waste treatment strategies.

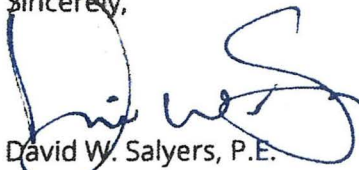
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In addition to the need to address treatment methodologies for mixed wastes in the form of debris and soils, which by definition are also hazardous wastes if concentrated enough to be characteristically hazardous (D009) for mercury, there is concern that a landfill wastewater would be generated that would itself require treatment prior to discharge. Treatment of mercury-containing waste that is not characteristically hazardous will likely reduce the need for treatment of landfill wastewater. The lack of any firm commitment to treatment and discharge limits has caused TDEC to limit its approval for a Waste Handling Plan (WHP) for potential mercury-contaminated waste streams intended for disposal at EMWMF originating at building Beta 4.

In order to move forward on issues related to treatment and disposal of all the waste forms expected to be generated as mixed wastes containing mercury, TDEC requests that DOE submit its proposed plans for the treatment of mercury mixed waste streams bound for onsite disposal within 30 days. This schedule will allow TDEC to review DOE's proposal in advance of the next STP annual update and provide opportunity for discussions. Agreement on mercury mixed waste treatment strategies may moot TDEC's May 14, 2019, request that DOE include additional information on anticipated mercury mixed waste streams or plans to develop such information in the STP annual update due by October 31, 2019.

Sincerely,



David W. Salyers, P.E.
Commissioner

cc: Mary Walker, EPA
Amy Fitzgerald, ORRCA
Amanda Daugherty, ORRCA
Honorable Ron Woody, ORRCA
Shelley Kimel, OR-EM SSAB
Deputy Commissioner Greg Young, TDEC Bureau of Environment
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