

DOE-17-0370



Department of Energy

Oak Ridge Office of Environmental Management
 P.O. Box 2001
 Oak Ridge, Tennessee 37831

July 18, 2017

Mr. Randy C. Young
 State of Tennessee
 Department of Environment and Conservation
 Division of Remediation – DOE Oversight Office
 761 Emory Valley Road
 Oak Ridge, Tennessee 37830-7072

Dear Mr. Young:

RESPONSE TO COMMENTS FOR THE REMEDIAL INVESTIGATION/FEASIBILITY STUDY FOR ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OAK RIDGE RESERVATION WASTE DISPOSAL, OAK RIDGE, TENNESSEE (DOE/OR/01-2535&D5)

This letter provides the U.S. Department of Energy (DOE) summary responses to comments on the subject document provided by the Tennessee Department of Environment and Conservation (TDEC) on April 21, 2017. The DOE Oak Ridge Office of Environmental Management program initiated a formal dispute on May 26, 2017, related to the failure of DOE, the Environmental Protection Agency (EPA), and TDEC to move forward and issue a Proposed Plan (PP) for this project.

DOE recognizes that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process for a Remedial Investigation (RI)/Feasibility Study (FS) does not align very well with evaluating future waste disposal alternatives where no release has occurred and, therefore, no remedial action is required. However, this process was used successfully in siting the existing Environmental Management Waste Management Facility which has been key to the current success of the cleanup of the Oak Ridge Reservation.

Among others, the TDEC comment letter dated April 21, 2017, contained the following statement:

The D5 RI/FS report does not include the site-specific characterization, waste characterization, and modeling necessary to assess risks of the waste disposal alternatives evaluated. Such information would normally be evaluated during the FS as required by [CERCLA].

The purpose of the RI and FS as stated in the National Contingency Plan (NCP) (1, 2),¹ assessing site conditions and evaluating alternatives to the extent necessary to select a remedy, have been achieved or exceeded. Consistent with DOE's formal dispute position, the Federal Facility Agreement (FFA) Parties should move forward with the next step in the CERCLA process, the presentation of a PP for public comment.

¹1) Title 40, Code of Federal Regulations, Subsection 300.430 (d)(1). The purpose of the RI is to collect data necessary to adequately characterize the site for the purpose of developing and evaluating effective remedial alternatives.

2) Title 40, Code of Federal Regulations, Subsection 300.430 (e)(1). The primary objective of the FS is to ensure that appropriate remedial alternatives are developed and evaluated such that relevant information concerning the remedial action options can be presented to a decision-maker and an appropriate remedy selected.

RECEIVED JUL 25 2017

RESPONSE TO COMMENTS FOR THE REMEDIAL INVESTIGATION/FEASIBILITY STUDY FOR ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OAK RIDGE RESERVATION WASTE DISPOSAL, OAK RIDGE, TENNESSEE (DOE/OR/01-2535&D5)

DOE believes that the D5 RI/FS, as well as earlier versions of the RI/FS, go above and beyond the required quality of information evaluation that is otherwise consistent with CERCLA, the NCP, and EPA's RI/FS guidance.

As part of the remedy selection process, the Record of Decision (ROD) will select a remedy that is protective and Applicable or Relevant and Appropriate Requirements (ARAR) compliant upon implementation consistent with CERCLA and the NCP. The facility will be designed during the Remedial Design phase to be protective and ARAR compliant consistent with the requirements set forth in the ROD through ARARs, remedial action goals, and other criterion agreed upon by the Parties necessary to ensure protectiveness. Further, the individual remedial activities addressing known or suspected releases on the Oak Ridge Reservation include extensive analysis of the risks posed by those constituents; the new disposal cell facilitates the decision making of those risk-based CERCLA decisions. Finally, after construction, DOE, with input from the FFA Parties, will conduct five year reviews to confirm that the remedy is still protective and ARAR compliant.

Waste Acceptance Criteria and Modeling: In accordance with CERCLA, the NCP, and EPA's RI/FS guidance, the information presented in the D5 RI/FS is sufficient to proceed to the PP stage of remedy selection. A final Waste Acceptance Criteria (WAC) is not necessary to evaluate and/or select a remedy in the forthcoming ROD. The WAC will be presented in a future CERCLA primary document after development during the Remedial Design phase with EPA and TDEC input consistent with the terms of the FFA. In the D5 RI/FS, DOE submitted an analytic WAC range (low to high values) for each isotope expected to be managed by the onsite disposal facility (e.g., Environmental Management Disposal Facility), along with the a plan for obtaining specific isotopic analytic WAC limits. Draft administrative WACs were included in the D5 RI/FS and to-be-determined inventory limit for isotopes at closure where appropriate.

Applicable or Relevant and Appropriate Requirements: In several previous drafts of the RI/FS, the project team worked diligently to generate and agree to a final ARARs list which was included in the D4 RI/FS. The D5 RI/FS ARARs list is similar to the D4 RI/FS ARARs, with a few exceptions (two deletions, one addition, several modifications, and modified rationales) reflecting DOE's position as the lead agency on what constitutes applicable or relevant and appropriate requirements for the proposed remedy. Per the NCP, ARARs must be complied with or specifically waived to achieve the threshold criteria for remedy selection; the ROD documents final decision on how the remedy will attain ARARs and where a waiver has been invoked and justified.²

Therefore, DOE positions that justifications for ARAR waivers appropriate for the preferred alternative will be finalized in the PP.

² Title 40, Code of Federal Regulations, Subsections 300.430(f)(2)(iv). At a minimum, the PP shall provide a summary explanation of any proposed waiver identified under paragraph (f)(1)(ii)(C) of this section from an ARAR.

Mr. Randy C. Young

-3-

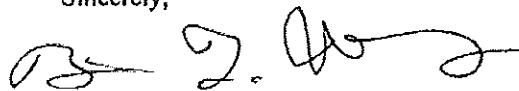
July 18, 2017

RESPONSE TO COMMENTS FOR THE REMEDIAL INVESTIGATION/FEASIBILITY STUDY FOR ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OAK RIDGE RESERVATION WASTE DISPOSAL, OAK RIDGE, TENNESSEE (DOE/OR/01-2535&D5)

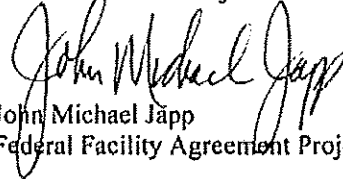
Waste Characterization: DOE believes that the waste characterization and volume estimates made to date are sufficient to support the need for additional onsite disposal capacity. DOE continues to work to define and refine the future waste streams that will be generated from currently approved remediation activities that are not yet initiated, as well as CERCLA remedial decisions, and their appropriate disposition pathways. DOE has included estimates of anticipated waste characteristics throughout the five versions of the RI/FS, which is an evolving process. DOE will continue to refine its estimates and share with TDEC and EPA the progress made in this effort.

If you have any questions or if we can be of further assistance, please contact John Michael Japp at 241-6344 or Brian Henry at 241-8340.

Sincerely,



Brian T. Henry
Portfolio Federal Project Director



John Michael Japp
Federal Facility Agreement Project Manager

cc:

Amy Fitzgerald, City of Oak Ridge
Rich Campbell, EPA Region 4
Carl Froede, EPA Region 4
Connie Jones, EPA Region 4
Susan DePaoli, Pro2Serve
Julie Pfeffer, UCOR, K-1225, MS-7294
ETTPDMC@ettp.doe.gov
Dave Adler, EM-94
Pat Halsey, EM-942

RECEIVED
AUG 02 2017

... 