DOE-TN Oak Ridge Reservation
Environmental Surveillance Oversight Agreement

1.0 AGREEMENT

Between the United States Department of Energy and the State of Tennessee

1.1 PREAMBLE

1.1.1 Agreement Name

This AGREEMENT, referred to as the DOE Oak Ridge Reservation (ORR) Environmental Surveillance Oversight (ESO) Agreement (Agreement), is voluntarily entered into between the United States Department of Energy (DOE), under the authority of 42 U.S.C. 7101 et seq., and the State of Tennessee (TN or State) under the authority of TCA 68 212.201 et seq. This Agreement is one of two new agreements to replace the existing Tennessee Oversight Agreement (TOA), which is effective until November 30, 2017.

This Agreement is designed to assure the citizens of Tennessee that DOE's activities in Oak Ridge, Tennessee are being performed in a manner that is protective of their health, safety, and environment. Through a program of independent environmental surveillance oversight and monitoring, this Agreement should enable TN to provide assurance that DOE's activities do not adversely impact the public health, safety, and the environment. DOE and the State, in a spirit of partnership and cooperation, are committed to assure DOE's Oak Ridge activities are performed in a manner that is protective of health, safety, and the environment.

1.1.2 Intent of Agreement

The parties to this Agreement understand that the oversight activities authorized by this Agreement are intended to supplement activities conducted under applicable environmental laws and regulations. This Agreement includes describing what activities will be funded and how communications with the local community regarding the state's activities associated with this Agreement will be facilitated. This Agreement is not intended to replace, overlap, nor interfere with legally required regulatory, permitting, or associated compliance monitoring activities required by environmental laws or regulations (such as issuance of regulatory permits, the review of DOE regulatory submissions required under regulatory programs, required regulatory inspections, required effluent monitoring,

issuance of regulatory notices of violations, support to the Oak Ridge Site Specific Advisory Board(s), etc.).

As required by DOE Order, the DOE performs routine environmental surveillance in and around the ORR as described in the current revision of *The Environmental Monitoring Plan for the Oak Ridge Reservation* (DOE/ORO-2227). DOE provides data that is collected by this program to the public via issuance of the *Annual Site Environmental Report for the Oak Ridge Reservation.* This Agreement is intended to support the ORR environmental surveillance program by enabling TN to perform independent oversight and monitoring of associated activities including independent evaluation of results.

The Agreement recognizes the continued need for TN to have access to DOE facilities and to exchange technical information consistent with the intent of this Agreement. The parties to this Agreement understand that the Agreement does not represent an extension or enlargement of any regulatory authority that Tennessee has under applicable laws. The parties further intend this ESO agreement to serve as a one-year agreement; on or before November 30, 2018, the Parties intend to execute a new ESO agreement with a corollary financial assistance instrument, subject to any potential revisions to the terms and conditions of the forthcoming ESO agreement.

1.1.3 Funding of State Participation

This Agreement provides the basis for the ORR Environmental Surveillance Oversight Grant (ESO Grant), which provide funding to support (1) independent environmental oversight by Tennessee in evaluating the adequacy of DOE's ORR environmental surveillance program, and (2) the option to collect independent and/or split sampling as necessary to verify the effectiveness of DOE activities and programs.

2.0 DESIGNATED LEAD AGENCIES SUPPORTING THIS AGREEMENT

2.1 DOE Lead

The DOE's Oak Ridge Office will administer this Agreement and the DOE's Oak Ridge Office of Environmental Management will administer the grant which supports this Agreement.

The designated State lead for purposes of this Agreement is the Tennessee Department of Environment and Conservation (TDEC).

2.2 Primary Contacts

The DOE and State signatories to this Agreement shall each designate in writing a technical coordinator within 30 days of signature of this Agreement. Both the DOE and State coordinators shall assure implementation and coordination of the provisions of this Agreement. Unless otherwise provided herein, all reports, documents or notifications required by this Agreement will be submitted to the appropriate coordinator.

3.0 FINANCIAL SUPPORT

The DOE and the State will take all the necessary steps and use their best efforts to obtain timely funding to meet their commitments under this Agreement. No provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. 341. In cases where payment or obligation of funds would constitute a violation of the Anti-Deficiency Act or in any case where appropriated funds are not available to fulfill DOE's obligations under this Agreement, the Parties shall attempt to agree upon appropriate adjustment to the dates that require the payment or obligation of such funds.

4.0 DOE COMMITMENTS

The DOE is committed to continue a comprehensive and integrated ORR environmental surveillance program to characterize the impacts from ORR activities to public health and the environment. DOE will continue to support open communications with TDEC on environmental issues.

4.1 Monitoring and Surveillance Data

Upon request, the DOE will furnish data and analytical results associated with DOE's ORR environmental surveillance program to the State.

The DOE will provide sufficient resources to the State to support the State's evaluation of the DOE's environmental monitoring programs as defined in the associated Grant, including funding office space and personnel.

4.2 ORR Access

DOE will continue to use its best efforts to expedite the review and approval of access authorization applications for the State and its contractors' employees, in numbers appropriate and necessary to carry out the terms and conditions of this Agreement and related financial assistance agreements.

Per DOE's authority under Executive Order 12968, State representatives with the necessary security clearance will be granted access to ORR restricted areas to perform functions set forth in this Agreement. Access will be granted, provided applicable safety and security requirements are not compromised. DOE will issue appropriate picture badges to State representatives with the necessary security

clearance. State representatives will contact DOE/Contractor personnel before entering a restricted area.

Consistent with applicable classification requirements, DOE will make available (or provide access) to the State upon request DOE documents or reviews that are within the scope of this Agreement. Routine "need to know" restrictions and requirements for periodic security briefings will apply to State representatives. While it is not expected that any classified information will be generated by activities under this grant, it is expected that from time to time, the State may have access to classified information at certain DOE sites. In the event that there is access to classified information, grantee agrees to properly safeguard the information, agrees not to disclose any classified information (as well as UCNI, OUO, Business Sensitive, Proprietary and PII information), and agrees to conform to all security regulations and requirements of DOE. As requested by the State, the DOE will clarify and provide written explanation to the State of the "need-to-know" security information requirements specified in DOE and other Federal security requirements governing classified and sensitive unclassified information (e.g., 10 C.F.R. Parts 1016 and 1017, Executive Order 12356, and DOE Order 5635.1A) that apply to access to certain types of information or areas at the ORR.

The DOE will provide access to the State to all ORR environmental surveillance program data, consistent with the terms below. In carrying out the provisions of this Agreement, the parties will comply with applicable security laws and regulations, Privacy Act and Freedom of Information Act requirements, and trade secret, patent and related confidentiality requirements. Information designated by the DOE as "classified" in accordance with applicable laws, regulations or executive orders or which otherwise is entitled to confidentiality under applicable laws, regulations or orders shall not be released by the State unless authorized by the DOE pursuant to applicable laws, regulations or executive orders. Documents provided by either party under this Agreement shall be, unless otherwise agreed by the parties and consistent with applicable laws and regulations, agency documents representing the parties' considered position on the issues addressed therein. Where the DOE has determined, pursuant to applicable laws and regulations, that information or documents are entitled to confidentiality, the State will have view only access to such information or documents until it provides the DOE with written assurance that the State will maintain the confidentiality of such information or documents, at which time copies will be provided to the State. Nothing in this Agreement shall affect the rights either party may have under the Freedom of Information Act or other applicable laws and regulations.

4.3 Financial and Technical Assistance

Subject to the terms and conditions highlighted in Section 3 and 6 of this Agreement, DOE will provide funding for TN to perform independent monitoring and oversight of the DOE ORR environmental surveillance program, including independent evaluation of associated data. All funds provided to Tennessee under this Agreement are Federal funds to be administered by the State consistent with the terms and conditions of the grant and the DOE Financial Assistance Rules set forth in 10 C.F.R. Subchapter H, Part 600. The DOE will provide technical support and training, if requested by the State, to support the intent of this agreement and associated grant as appropriate.

5.0 STATE COMMITMENTS

The State is committed to: (1) provide oversight of the DOE ORR environmental surveillance program, and (2) make reports of State oversight activities and associated results available to local governments and the public.

5.1 Multimedia Personnel

The State TDEC Oak Ridge Oversight Office's role in emergency preparedness will focus on the recovery phase of emergency operations and will include training for post emergency environmental monitoring.

The State understands that the use of funds authorized by this agreement are for services, personnel, and equipment that are directly related to ESO activities. The State shall not use ESO funds to support activities not related to the ESO Grant. To the extent that personnel, equipment, or services are used for both ESO and non-ESO activities, the State shall allocate its costs and charge to the ESO Grant only that portion of the cost of the personnel, equipment, or services that is used to support AIP program activities.

5.2 Independent Verification

DOE will provide funding for TN to perform independent monitoring and oversight of the DOE ORR environmental surveillance program, including independent evaluation of associated data through the ESO Grant. The State's evaluation of the DOE's environmental monitoring programs for the DOE site(s) may include, as appropriate, review of the following activities or systems relating to environmental monitoring: monitoring protocol, system design, construction, operation and maintenance; sampling methodology, locations, frequency, procedures and parameters; quality assurance and quality control (QA/QC) methodology, plans and implementation; data collection, verification and management systems; chain-of-custody procedures and implementation; and reporting methods. The DOE will support periodic split sampling with TN and/or TN performance of independent environmental surveillance as necessary to verify the effectiveness of DOE's ORR environmental surveillance program.

6.0 GRANT INSTRUMENT FORMAT

6.1 Statement of Grant Objectives

The objectives of the DOE ESO Grant are to provide funding for the State of Tennessee to perform independent monitoring and environmental oversight of DOE's ORR environmental surveillance program in and around the ORR.

6.2 Terms and Conditions

The grants will be governed by the following terms and conditions:

6.2.1 Special Terms and Conditions

DOE includes approved provisions in all terms and conditions that are uniquely agreed to by the government and the recipient and not included in standard regulations. The Special Terms and Conditions are included in full text as they are specifically developed just for the subject award.

6.2.2 Quarterly Performance Reports

The State shall submit a written quarterly report that summarizes the results of its accomplishments relative to the objectives established for that program quarter. Quarterly performance reports shall be submitted within thirty (30) days after the end of the quarter. Performance reports shall contain brief information on the following:

(i) A project narrative in sufficient detail to describe the program objectives addressed in the scope of work for that period.

(ii) A description of the accomplishments, significant changes from the intentions, and significant issues for each program objective established for that quarter.

(iii) A description of program area total expenditures for each major program activity and a comparison of actual expenditures to budgeted expenditures for the quarter. Discuss in detail significant variances.

(iv) A projection of key events and milestones and open items from the existing quarter that will be completed during the next quarter.

6.2.3 Financial Assistance Rules

2 C.F.R § 200 and 2 C.F.R § 900 Financial Assistance Rules are applicable to the Grants and include the following:

Subpart A	Acronyms and Definitions
Subpart B	General Provisions
Subpart C	Pre-Federal Award Requirements and Contents of Federal Awards

Subpart D	Post Federal Award Requirements
Subpart E	Cost Principles
Subpart F	Audit Requirements

7.0 PUBLIC DISCLOSURE OF FEDERAL FINANCIAL ASSISTANCE

When issuing statements, press releases, requests, requests for proposal, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to state and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

8.0 LIABILITIES AND LOSSES

DOE, by issuing the grants, assumes no liability with respect to any damages or loss arising out of any activities undertaken with financial support of these awards. Neither does the State, by receipt of such financial awards, assume any liabilities for any damages or loss which would not otherwise attach to any activities of the State.

9.0 OBLIGATION OF FUNDS

If at any time during the award a budget period is funded on an incremental basis, the maximum obligation of the DOE is limited to the amount shown on the Award Agreement. Tennessee is not obligated to continue performance of the project beyond the total amount obligated. Subject to the availability of additional funds appropriated by Congress for the purpose of this program and the availability of future-year budget authority, DOE anticipates obligating the total estimated amount for the current budget period. DOE is committed to working with the State to create an efficient, realistic, and mutually acceptable budgeting process to reduce unexpended funding. Unexpended funding may be carried over to the next grant budget period for approved projects. Should there be funding at the end of the period of performance the funding may be carried over to the next project period.

10.0 TENNESSEE/DOE AUTHORITY

This Agreement will in no way diminish or otherwise affect the State's authority to fully carry out its rights and responsibilities under applicable laws and regulations, nor will it affect the DOE's ability or right to raise any defenses available under law in the event the State may initiate an administrative or judicial enforcement action against DOE. Subject to applicable security, classification, and other confidentiality laws and regulations, nothing in this Agreement shall be construed to prohibit the parties from using information developed under this Agreement in furtherance of their statutory duties, rights and obligations.

11.0 COORDINATION WITH FEDERAL AGENCIES AND LOCAL GOVERNMENTS

In carrying out this Agreement, the Parties will fully cooperate and coordinate with each other and with other federal agencies and local governments affected by this Agreement. The parties to this Agreement shall commit to maintaining a direct and open relationship with local governments such as working through the Oak Ridge Reservation Communities Alliance (ORRCA) .

12.0 MODIFICATION OF AGREEMENT

Should Federal, State, or community issues arise related to ORR conditions or activities that could significantly affect public health or the environment which both Parties agree can be addressed through modification of this Agreement, DOE and the State will commence discussions to modify this Agreement as appropriate.

13.0 TERMINATION

This Agreement shall continue in effect through November 30, 2018 and may be extended as mutually agreed. The parties agree that they will review the terms, activities and funding levels of the Agreement on an annual basis to determine if any modifications are necessary. This Agreement shall only be amended or terminated by the written mutual agreement of both parties; provided, however, consistent with the laws and regulations applicable to the grant, DOE's funding obligations under this Agreement may be suspended or terminated by the DOE, in whole or in part, if DOE determines that the State is not in compliance with the terms and conditions of the Grant Provisions and provides the State ninety (90) days prior written notice specifying such noncompliance and the State's right to appeal.

NOW, THEREFORE, the undersigned representative of each party hereby certifies that he/she is fully authorized and hereby enters into the terms and conditions of this Agreement.

Dr. Kenneth R. Tarcza
Manager, Oak Ridge Office, United States Department of Energy

Date: 11/29/17

Geoffrey L. Beausoleil
Manager, NNSA Production Office, National Nuclear Security Administration
United States Department of Energy

Date 29 NOV 2017

Robert J. Martineau, Jr.
Commissioner, Tennessee Department of Environment and Conservation

Date 11-30-17