

## Brad Stephenson

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**Subject:** TDEC Letter

**From:** Cathleen Burnette

**Sent:** Thursday, October 31, 2019 11:31 AM

**To:** [john.japp@orem.doe.gov](mailto:john.japp@orem.doe.gov); Randy Young; Brad Stephenson; Jones, Connie; Froede, Carl; Pat Halsey ([pat.halsey@orem.doe.gov](mailto:pat.halsey@orem.doe.gov)); Joy Sager ([joy.sager@orem.doe.gov](mailto:joy.sager@orem.doe.gov)); [Susan.DePaoli@orem.doe.gov](mailto:Susan.DePaoli@orem.doe.gov); Tanya Salamacha ([Tanya.Salamacha@ettp.doe.gov](mailto:Tanya.Salamacha@ettp.doe.gov)); Sid Garland ([Sidney.Garland@ettp.doe.gov](mailto:Sidney.Garland@ettp.doe.gov)); Julie Pfeffer ([julie.pfeffer@ettp.doe.gov](mailto:julie.pfeffer@ettp.doe.gov))

**Subject:** TDEC Letter

Good Morning,

Please see the attached letter.

Thank you and have a great day!

-Cathleen



**Cathleen Burnette** | Administrative Services Assistant 2

Division of Remediation – Oak Ridge (DoR-OR)

761 Emory Valley Road

Oak Ridge, TN 37830

p. 865-481-0995

[Cathleen.Burnette@tn.gov](mailto:Cathleen.Burnette@tn.gov)

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STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Division of Remediation - Oak Ridge  
761 Emory Valley Road  
Oak Ridge, Tennessee 37830

October 29, 2019

Mr. John Michael Japp  
DOE FFA Project Manager  
Oak Ridge Office of Environmental Management  
U.S. Department of Energy  
Post Office Box 2001  
Oak Ridge, Tennessee 37831-2001

**Re: Phase 3 (Borrow Areas) Characterization Report for the Environmental Management Disposal Facility, Oak Ridge, Tennessee**

Dear Mr. Japp:

The Tennessee Department of Environment and Conservation (TDEC) – Division of Remediation received the subject report on October 1, 2019. The transmittal letter states that the report provides characterization data for three potential borrow areas for the proposed Environmental Management Disposal Facility (EMDF).

TDEC appreciates the U.S. Department of Energy (DOE) providing this information. As noted in TDEC's March 6, 2019 letter (Attachment 1), documents associated with this effort are pre-decisional before a Record of Decision (ROD) authorizes construction of an onsite landfill and demonstrates that it will achieve the threshold criteria of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).<sup>1</sup> Therefore, TDEC will review this report following TDEC approval of a final decision document.

In the meantime, TDEC remains committed to helping DOE expedite cleanup of environmental contamination in the ORR and is focusing its available resources on the effort to ensure the forthcoming ROD meets CERCLA criteria. In this context, TDEC continues to seek and encourage innovative solutions to CERCLA waste disposal challenges on the Oak Ridge Reservation. Based on DOE's April 4, 2019 letter (Attachment 2), TDEC understands that DOE has elected to perform pre-decisional work at its own financial and schedule risk.

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<sup>1</sup> Threshold criteria include overall protection of human health and the environment and compliance with applicable or relevant and appropriate requirements (ARARs).

Please direct any questions or comments regarding the contents of this letter to Brad Stephenson at 865-220-6587.

Sincerely

A handwritten signature in black ink that reads "Randy C. Young". The signature is written in a cursive style with a large "R" and "Y".

Randy C. Young  
TDEC FFA Manager

ec: Connie Jones, EPA  
Carl Froede, EPA  
Pat Halsey, DOE  
Joy Sager, DOE  
Susan DePaoli, DOE  
Tanya Salamacha, UCOR  
Sid Garland, UCOR  
Julie Pfeffer, UCOR

xc: Amy Fitzgerald, ORRCA  
Ron Woody, ORRCA  
Amanda Daugherty, ORRCA  
Shelley Kimel, SSAB

**Attachment 1**  
**TDEC Letter Dated March 6, 2019**



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Division of Remediation - Oak Ridge  
761 Emory Valley Road  
Oak Ridge, Tennessee 37830

March 6, 2019

Mr. John Michael Japp  
DOE FFA Project Manager  
Oak Ridge Office of Environmental Management  
U.S. Department of Energy  
Post Office Box 2001  
Oak Ridge, Tennessee 37831-8540

Re:

**1) Site Preparation Plan for the Proposed Environmental Management Disposal Facility for Comprehensive Environmental Response, Compensation, and Liability Act Oak Ridge Reservation Waste Disposal, Oak Ridge, Tennessee (DOE/OR/01-2805&D1)**

**2) Phase 3 (Borrow Areas) Field Sampling Plan for the Proposed Environmental Management Disposal Facility for Comprehensive Environmental Response, Compensation, and Liability Act Oak Ridge Reservation Waste Disposal, Oak Ridge, Tennessee (DOE/OR/01-2808&D1)**

Dear Mr. Japp,

The Tennessee Department of Environment and Conservation (TDEC) – Division of Remediation received the Site Preparation Plan (SPP) for the Central Bear Creek Valley (CBCV) site on January 3, 2019, and the Phase 3 Field Sampling Plan (FSP) for associated soil borrow areas on January 16, 2019. These documents concern the U.S. Department of Energy's (DOE's) proposed Environmental Management Disposal Facility (EMDF).

As noted in the minutes of the April 25, 2018 project team meeting, submittal of the SPP stems from DOE's desire to "have an early start" for "early site preparation activities" at the CBCV site. At that time, TDEC accepted the concept of an SPP if DOE elects to complete the planned work under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Federal Facility Agreement (FFA) for the Oak Ridge Reservation. While the SSP and FSP are secondary documents that do not require TDEC approval, TDEC usually chooses to review and comment on secondary documents.

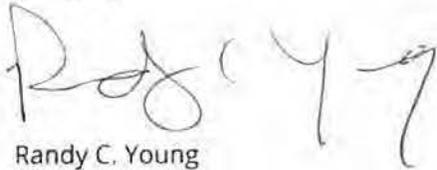
During September 2018, DOE issued the EMDF Proposed Plan identifying onsite disposal at the CBCV site as the preferred alternative. The Proposed Plan includes outstanding tasks to complete before deciding whether to build EMDF. Local community members provided numerous comments on the Proposed Plan, including the need to complete outstanding tasks before making a decision. In accordance with CERCLA, the remedial action decision is made and documented in a Record of Decision (ROD). Per the FFA, the ROD decision is made jointly by DOE, the U.S. Environmental

Protection Agency (EPA), and TDEC. A ROD has not been effectuated for this decision. Without a ROD authorizing construction of an onsite landfill, the SPP and FSP are pre-decisional documents.

The National Oil and Hazardous Substances Pollution Contingency Plan says a remedy may not be selected until it has been determined to meet CERCLA threshold criteria including overall protection of human health and the environment and compliance with applicable or relevant and appropriate requirements. It is the State's position that the seven key concerns identified in the State Acceptance section of the Proposed Plan must be resolved to demonstrate that threshold criteria are met. For these reasons, it would be premature for TDEC to review the SPP or the Phase 3 FSP before approving a ROD that selects onsite disposal of CERCLA waste.

Please direct any questions or comments regarding this letter to Brad Stephenson. You may reach him at the above address or by phone at (865) 220-6587.

Sincerely

A handwritten signature in black ink, appearing to read "Randy C. Young". The signature is stylized and cursive.

Randy C. Young  
FFA Manager

cc: Connie Jones, EPA  
Pat Halsey, DOE  
Amy Fitzgerald, ORRCA  
Shelley Kimel, SSAB  
Ron Woody, ORRCA  
Amanda Daugherty, ORRCA

## Brad Stephenson

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**Subject:** EMDF Site Prep Plan & Phase 3 FSP

**From:** Brad Stephenson

**Sent:** Wednesday, March 6, 2019 4:09 PM

**To:** John Michael Japp

**Cc:** James (Jim) Daffron ([james.daffron@orem.doe.gov](mailto:james.daffron@orem.doe.gov)); Halsey, Patricia J; Jones, Connie; Carl Froede ([froede.carl@epa.gov](mailto:froede.carl@epa.gov)); Randy Young ([Randy.Young@tn.gov](mailto:Randy.Young@tn.gov)); Michael D. Higgins

**Subject:** EMDF Site Prep Plan & Phase 3 FSP

John Michael,

The attached letter addresses the EMDF Site Prep Plan and Phase 3 FSP.

It missed today's mail pickup, but here is an advance copy.



**J. Brad Stephenson**

Division of Remediation | Oak Ridge

761 Emory Valley Rd

Oak Ridge, TN 37830

p. 865-220-6587

f. 865-482-1835

[Brad.Stephenson@tn.gov](mailto:Brad.Stephenson@tn.gov)

[tn.gov/environment](http://tn.gov/environment)

Had a recent experience with TDEC? Please take a few minutes to complete our survey:

[www.tn.gov/environment/customerservice](http://www.tn.gov/environment/customerservice)

**Attachment 2**  
**DOE Letter Dated April 4, 2019**



| PROGRAM | SITE | PROJECT # | FILE SEQUENCE |
|---------|------|-----------|---------------|
|         |      |           |               |

Department of Energy

ROUTE TO JBS

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

RECEIVED APR - 9 2019 1:23 P.M.

April 4, 2019

**CERTIFIED MAIL**

Ms. Constance A. Jones  
Superfund Division  
U.S. Environmental Protection Agency  
Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

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

Dear Ms. Jones and Mr. Young:

**RESPONSE TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY AND  
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION LETTERS**

- References:
1. *Site Preparation Plan for the Proposed Environmental Management Disposal Facility for Comprehensive Environmental Response, Compensation, and Liability Act Oak Ridge Reservation Waste Disposal, Oak Ridge, Tennessee (DOE/OR/01-2805&D1)*
  2. *Phase 3 (Borrow Areas) Field Sampling Plan for the Proposed Environmental Management Disposal Facility for Comprehensive Environmental Response, Compensation, and Liability Act Oak Ridge Reservation Waste Disposal, Oak Ridge, Tennessee (DOE/OR/01-2808&D1)*

The U.S. Department of Energy (DOE) acknowledges receipt of your notifications indicating that you will not review nor provide comments on the subject documents regarding site preparation activities that are to support the proposed Environmental Management Disposal Facility (EMDF).

These documents were prepared consistent with Federal Facility Agreement tri-party discussions and agreements reached in Integrated Project Team meetings. DOE will continue planning and performing activities to minimize delays in implementation of the proposed remedial action supportive of the continued remediation of the Oak Ridge National Priorities List Site in a safe, efficient, and effective manner. These planning activities include characterization of borrow area soils needed to support design of the facility (addressed in both the referenced documents). Field work described in the Site Preparation Plan (e.g., road re-routes and extension of utility services to the site) will not be undertaken prior to an approved Record of Decision.

**CERTIFIED – RETURN RECEIPT REQUESTED**  
(JONES 7009 2820 0001 9922 5826)  
(YOUNG 7009 2820 0001 9922 5833)

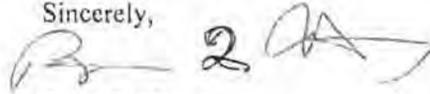
April 4, 2019

**RESPONSE TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY AND  
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION LETTERS**

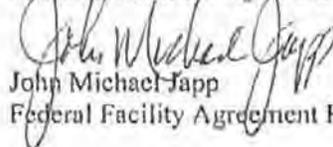
Your timely and constructive comments are appreciated, and do not constitute approval of the proposed EMDF. DOE intends to continue moving forward with activities described in these documents, recognizing that proactive, parallel planning is required to ensure that discussions surrounding the proposed EMDF do not unnecessarily and inappropriately interrupt or impede the Oak Ridge Site cleanup schedule.

If you have any questions concerning this letter or if we can be of further assistance, please contact John Michael Japp at (865) 241-6344 or Brian Henry at (865) 241-8340.

Sincerely,



Brian T. Henry  
Portfolio Federal Project Director



John Michael Japp  
Federal Facility Agreement Project Manager

cc:

Carl Froede, EPA Region 4  
Susan DePaoli, Pro2Serve  
Shelley Kimmel, SSAB  
Brad Stephenson, TDEC, Oak Ridge  
Julie Pfeffer, UCOR  
Tanya Salamacha, UCOR  
[ETTPDMC@ettp.doe.gov](mailto:ETTPDMC@ettp.doe.gov)  
Jim Daffron, EM-921  
Pat Halsey, EM-942

**CERTIFIED - RETURN RECEIPT REQUESTED**  
**(JONES 7009 2820 0001 9922 5826)**  
**(YOUNG 7009 2820 0001 9922 5833)**