



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

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

March 4, 2019

Mr. John Michael Japp
Federal Facility Agreement Manager
Oak Ridge Office of Environmental Management
U.S. Department of Energy
Post Office Box 2001
Oak Ridge, Tennessee 37831

Dear Mr. Japp

TDEC Position Regarding Long-Term Financial Assurance for the Proposed Environmental Management Disposal Facility

The Department of Energy's (DOE) Oak Ridge Environmental Management (OREM) office has recently requested guidance from the Tennessee Department of Environment and Conservation (TDEC) regarding any necessary financial assurance to address long-term requirements necessitated by the proposed construction of a new waste disposal facility on the Oak Ridge Reservation (ORR). This correspondence is to notify the OREM of the TDEC position regarding perpetual financial assurance to ensure (1) compliance with applicable or relevant and appropriate requirements (ARAR's) and (2) long-term protectiveness are maintained at the proposed Environmental Management Disposal Facility (EMDF).

TDEC does not plan to pursue a perpetual care fund or similar instrument to support funding of long-term stewardship (LTS) associated with DOE's proposed EMDF as was established nearly two decades ago at the Environmental Management Waste Management Facility (EMWMF). DOE has been involved in multiple efforts to develop guidance for the transition to Long-Term Stewardship (LTS) since the EMWMF Record of Decision (ROD) was signed in 1999. Therefore, in lieu of a perpetual care fund for financial assurance, TDEC expects the ROD to clearly discuss the remedial action's dependency on LTS; funding strategies for LTS surveillance and maintenance necessary to ensure satisfaction of CERCLA threshold criteria; potential effects of DOE transferring LTS commitments within DOE; and regulatory roles in future site decisions after possible transfers. TDEC expects the ROD to document DOE's commitment to follow relevant guidance relating to LTS.

Specifically, the upcoming Record of Decision (ROD) for the EMDF must detail DOE's commitment to fund all future surveillance, maintenance, monitoring, management of all forms of landfill wastewater, and corrective actions necessary to comply with ARAR's and ensure long-term protectiveness at the site. These commitments include, but may not be limited to, pursuing annual Congressional appropriations. ROD commitments to long-term protectiveness must include all practicable near-term and long-term contingencies plans that would be implemented if key conceptual or final design assumptions prove untrue. The original EMWMF ROD failed to (1) adequately estimate the volumes of all types of landfill waste water to be managed; (2) reach agreement on waste water treatment and discharge standards; or (3) develop contingencies for key assumptions such as the unexpected groundwater elevation below the waste leading to a corrective action. An EMWMF lessons-learned approach must be employed with a clear funding strategy to better manage unrealized assumptions and long-term stewardship.

Questions or comments concerning the contents of this letter should be directed to Randy Young at (865) 220-6584.

Sincerely

A handwritten signature in black ink that reads "Randy C Young". The signature is written in a cursive style with a large initial "R" and a long horizontal stroke at the end.

Randy C Young
FFA Manager

xc Connie Jones, EPA
 Carl Froede, EPA
 Pat Halsey, DOE
 Amy Fitzgerald, ORRCA
 Shelley Kimel, SSAB
 Ron Woody, ORRCA
 Amanda Daughtery, ORRCA

Brad Stephenson

Subject: TDEC.Copier@tn.gov

From: Randy Young

Sent: Monday, March 4, 2019 10:02 AM

To: Japp, John Michael (John.Japp@orem.doe.gov)

Cc: Constance Jones (Jones.Constance@epamail.epa.gov); Froede, Carl (EPA) (froede.carl@epa.gov)

Subject: FW: TDEC.Copier@tn.gov

All,

Sorry about the previous email. We got our lines crossed. The attached letter is in response to a DOE request to TDEC regarding questions received from the public during the public comment period. DOE was requesting TDEC provide a position on whether a new perpetual care fund would be pursued if a new disposal cell is agreed to in BCV. The attached letter relays TDEC's position regarding long-term financial assurance.

Thanks

Randy Young



Randy C Young | FFA Project Manager
Division of Remediation, Oak Ridge Office
761 Emory Valley Road, Oak Ridge, TN 37830
p. 865-220-6584
Randy.Young@TN.gov

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