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PROGRAM	SITE	PROJECT #	FILE SEQUENCE

ROUTE TO: IBS

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Remediation - Oak Ridge
761 Emory Valley Road
Oak Ridge, Tennessee 37830

MAR 25 2019

March 25, 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: Federal Facility Agreement Milestone Modification Request for the Environmental Management Disposal Facility Record of Decision (ROD) and Follow-On Documents

Dear Mr. Japp

The Tennessee Department of Environment and Conservation (TDEC) - Division of Remediation (DoR) received the referenced milestone extension requests for the proposed Environmental Management Disposal Facility (EMDF) on March 18, 2019. The U.S. Department of Energy (DOE) letter requests milestone extensions "to allow sufficient time for the U.S. Department of Energy to expand the justification of waivers/exceptions based on recent conversations with the Tennessee Department of Environment and Conservation".

In accordance with the Federal Facility Agreement for the Oak Ridge Reservation, the State approves the milestone extension requests to allow sufficient time for DOE to provide justification in the Record of Decision (ROD) for any requested waivers/exemptions from the list of Applicable or Relevant and Appropriate Requirements (ARARs). Specifically, TDEC approves extending the new submittal date to May 7, 2019 for the EMDF D1 ROD. If the ROD selects onsite disposal, additional submittal dates include February 6, 2020 for the EMDF RDWP and January 12, 2021 for the EMDF Remedial Design Report/Remedial Action Work Plan (RDR/RAWP).

As a point of clarification, TDEC's position has remained consistent that DOE must provide supporting evidence or grounds as basis to invoke any requested waivers/exemptions from the list of ARARs that the U.S. Environmental Protection Agency (EPA), TDEC, and DOE must agree on before signing a ROD. The State's expectation is the same whether waivers are pursued within the context of the rules and regulations identified as ARARs, as the Proposed Plan actually mentions, or through Section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and 40 CFR 300.430(f)(ii)(C) of the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan or NCP), as the Proposed Plan was amended to allow during the 2018 formal dispute. For example, the State documented that DOE must justify requested ARAR waivers/exemptions in 2015, 2016, and 2017 through comments on the third (D3),

fourth (D4), and fifth (D5) drafts of the remedial investigation/feasibility study (RI/FS) report. The "State Acceptance" section of the Proposed Plan also indicates the State's expectation that DOE must demonstrate ARAR waivers/exemptions with specific evidence:

The State intends to review exemption and waiver requests pursuant to statutory and regulatory requirements and the State's *site specific understanding, including characterization data, projections of waste proposed for disposal (i.e., volumes, types, and characteristics), and the conceptual dimensions for a waste disposal unit* at Central Bear Creek Valley Site 7c.

As noted in TDEC's milestone extension approval letter dated February 13, 2019, TDEC continues to support DOE's efforts to resolve key concerns identified in the State Acceptance section of the Proposed Plan and to develop substantive responses to public comments on the Proposed Plan. In particular, TDEC notes that community members expressed the need for additional public review *after* DOE provides the information needed to resolve State and citizen concerns and *before* the ROD codifies a decision. After additional public review, the State would be in a better position to evaluate public comments in the context of technical information available at that time to determine if approval, disapproval, or modification of the proposed remedy is appropriate to comply with CERCLA, the Federal Facility Agreement (FFA) for the Oak Ridge Reservation (ORR), and the National Oil and Hazardous Substances Pollution Contingency Plan, also known as the National Contingency Plan (NCP).

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

Sincerely



Randy C. Young
FFA Manager

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 19 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

Dear Mr. Japp:

The U.S. Environmental Protection Agency has received the Department of Energy (DOE) letter requesting an extension for the submittal of the Environmental Management Disposal Facility (EMDF) Record of Decision (ROD), Remedial Design Work Plan, and the Remedial Design Report/Remedial Action Work Plan. The request was submitted from DOE on March 15, 2019, and received by the EPA on March 18, 2019.

For the extension justification DOE cited the need to allow enough time for the U.S. Department of Energy to expand the justification of waivers/exceptions based on recent conversations with the Tennessee Department of Environment and Conservation. Despite this delay, the DOE has stated that every attempt will be made to submit these documents earlier than the dates requested in this extension. None of these extensions should adversely impact subsequent Federal Facility Agreement (FFA) schedules or milestones.

In accordance with FFA, Subsection XXX.B.6, the EPA agrees that DOE has established good cause for the extension request. The EPA will continue to work with the DOE to maintain open communication concerning project status, issues, and schedules as we progress toward determining the site suitability and protectiveness of the EMDF at Site 7c in Central Bear Creek Valley.

Because the FFA Section XXX-Extensions, provides for dispute to be considered 'good cause' for extension requests, EPA has no concerns with regard to that issue. It is of concern that DOE might submit this D1 EMDF ROD prior to resolution of the underlying Environmental Management Waste Management Facility (EMWMF) Wastewater Focused Feasibility Study (FFS) dispute and the creation of a clear Administrative Record that would contain the necessary information to support the ultimate waste disposal action.

Further, as you may be aware, because the proposed remedy costs more than \$50 million (the estimated costs are in excess of \$750 million), the remedy must be selected by the EPA Administrator. The Region will be unable to brief the Administrator that the record is complete if the D1 ROD is submitted prematurely, that is prior to the finalization of the FFS consistent with the outcome of the dispute. DOE should consider factoring a minimum of 60 additional days to the proposed schedule (as presented in the

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extension request) in an effort to complete and submit a D1 EMDF ROD that clarifies and supports the Administrative Record.

Therefore, based on the DOE extension request, the EPA is approving the request as submitted with the new milestones to be reflected as follows:

D1 ROD: May 7, 2019

RDWP: February 6, 2020

RDR/RAWP: January 12, 2020

The EPA appreciates the recent timely notification of contact water releases due to the excessive volume of precipitation at EMWM. The EPA reminds DOE that these and all future releases may need to be contained and treated subject to the decisions made regarding the outcome of the EMWMF-EMDF Wastewater FFS.

If you have any questions regarding this matter, please contact Carl Froede, Jr. at (404) 562-8550 or me at (404) 562-8551.

Sincerely,



Constance A. Jones, FFA Project Manager
Restoration and DOE Coordination Section
Restoration and Site Evaluation Branch
Superfund Division

cc: Brad Stephenson, TDEC (electronic copy)
Beth Rowan, TDEC (electronic copy)
Dave Adler, DOE (electronic copy)
Brian Henry, DOE (electronic copy)
Pat Halsey, DOE (electronic copy)
ORSSAB (electronic copy)
Cathleen Burnette (electronic copy)



PROGRAM	SITE	PROJECT #	FILE SEQUENCE

Department of Energy

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

ROUTE TO: DCY

MAR 18 2019

March 15, 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

CC1
JBS

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:

FEDERAL FACILITY AGREEMENT MILESTONE EXTENSION REQUEST FOR ENVIRONMENTAL MANAGEMENT DISPOSAL FACILITY RECORD OF DECISION AND FOLLOW-ON DOCUMENTS

In accordance with the Federal Facility Agreement for the Oak Ridge Reservation, the U.S. Department of Energy requests your approval to modify the Appendix E milestone dates for submission of the Record of Decision (ROD), the Remedial Design Work Plan (RDWP), and the Remedial Design Report/Remedial Action Work Plan (RDR/RAWP) for the Environmental Management Disposal Facility. This extension requests moving the milestones out about one month; however, every attempt will be made to submit the ROD (and subsequent documents) as soon as possible prior to the stated extended dates.

Schedule and dates sought to be extended: The current milestones are as follows:

- ROD: April 8, 2019
- RDWP: January 8, 2020
- RDR/RAWP: December 14, 2020

Length of extension sought: About one month (22 working days) for each milestone.

New milestone dates: The requested new milestone dates are as follows:

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(YOUNG 7009 2820 0001 9922 5635)

FEDERAL FACILITY AGREEMENT MILESTONE EXTENSION REQUEST FOR ENVIRONMENTAL MANAGEMENT DISPOSAL FACILITY RECORD OF DECISION AND FOLLOW-ON DOCUMENTS

ROD: May 7, 2019

RDWP: February 6, 2020

RDR/RAWP: January 12, 2021

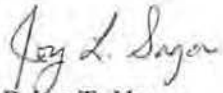
Good cause for extension: The reason for this extension is under Federal Facility Agreement Subsection XXX.B.5 (delay caused by additional work agreed to by the Parties) to allow sufficient time for the U.S. Department of Energy to expand the justification of waivers/exceptions based on recent conversations with the Tennessee Department of Environment and Conservation.

Related schedules impacted if extension granted: The delay in these milestones should not impact any other schedules or milestones.

Description of project implementation strategy: The implementation strategy is to more thoroughly develop justifications for waivers/exceptions and continue conversations regarding that subject, and incorporate the information into the ROD.

If you have any questions 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,


for Brian T. Henry
Portfolio Federal Project Director


John Michael Japp
Federal Facility Agreement Project Manager

cc:

Carl Froede, EPA Region 4

Sidney Garland, RSI

SSAB

Brad Stephenson, TDEC, Oak Ridge

Julie Pfeffer, UCOR

Tanya Salamacha, UCOR

ETTPDMC@ettp.doe.gov

James Daffron, EM-921

Pat Halsey, EM-942

Laura Wilkerson, EM-90

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(JONES 7009 2820 0001 9922 5628)
(YOUNG 7009 2820 0001 9922 5635)