



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 25 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John A. Mullis, Manager
Oak Ridge Office of Environmental Management
U.S. Department of Energy
Post Office Box 2001
Oak Ridge, Tennessee 37831

Dear Mr. Mullis:

The Environmental Protection Agency is writing this letter to request that the Department of Energy (DOE) postpone its August 2, 2019, submittal of the D1 Record of Decision (ROD) to allow DOE to incorporate the "resolution and final determination" by the EPA Administrator in the formal dispute regarding the *Focused Feasibility Study (FFS) for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge, Tennessee* (FFS). Until the Administrator issues his decision, it will not be possible to meet the requirement in Section XXVI.J of the Federal Facility Agreement (FFA) for DOE to incorporate the "resolution and final determination" of the Administrator's final decision into the D1 ROD within 35 days after the decision is issued.

In addition, rescheduling submittal of the D1 ROD will allow EPA to "meet and confer" with DOE and the Tennessee Department of Environment and Conservation (TDEC), as described in Section XXVI.G of the FFA, following the DOE and TDEC submittals of additional materials on June 21, 2019, and July 5, 2019, respectively. As noted in EPA's July 22, 2019, letter to Mr. Cabbage, EPA is currently working to schedule that meeting. As you may remember on May 2, 2019, a joint letter was issued by EPA and TDEC to DOE that approved the milestone extension to submit the D1 ROD to August 2, 2019. The letter stated in part "...EPA and TDEC take into account that the FFA dispute should be resolved prior to DOE's submittal of the D1 ROD." Since the preferred alternative from the Proposed Plan exceeds \$50 million, the protectiveness determination and siting requirements (i.e., meeting or waiving applicable or relevant and appropriate requirements) must be resolved before the Administrator can approve the ROD.

Further, on July 1, 2019, the Oak Ridge Reservation Community Alliance also noted that "a number of questions" about the landfill have not been answered. On July 12, 2019, the City of Oak Ridge reiterated its concerns regarding site characterization, waste acceptance criteria, mercury treatment and

disposal, long term leachate and water management, contingency planning, and lifecycle costs. Both the Alliance and the City requested that DOE hold a public meeting to answer these questions prior to issuing a D1 ROD.

If you have any questions regarding this matter, please contact me.

Sincerely,



Franklin E. Hill, Director
Superfund & Emergency Management Division

cc: Christine Thompson, TDEC