



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

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

May 2, 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: DOE Federal Facility Agreement (FFA) Milestone Modification Request for the Environmental Management Disposal Facility Record of Decision (ROD) and Follow-On Documents and TDEC-EPA Request for Central Bear Creek Valley (CBCV) Site Characterization Report Technical Memorandum #2 and Model Information for the Proposed Environmental Management Disposal Facility (EMDF)

Dear Mr. Japp

The Tennessee Department of Environment and Conservation (TDEC) and the U.S. Environmental Protection Agency (EPA) received the referenced milestone extension requests for the proposed Environmental Management Disposal Facility (EMDF) on April 30, 2019 and April 29, 2019, respectively. The U.S. Department of Energy (DOE) letter requests milestone extensions "to allow sufficient time for DOE to develop waste acceptance criteria consistent with DOE Order 435.1 analysis of performance modeling, which is currently undergoing modifications."

In accordance with the Federal Facility Agreement (FFA) for the Oak Ridge Reservation, TDEC and EPA approve the milestone extension requests to allow sufficient time for DOE to ensure that waste acceptance criteria developed under DOE 435.1 are consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the National Contingency Plan (NCP, National Oil and Hazardous Substances Pollution Contingency Plan). Specifically, TDEC and EPA approve extending the new submittal date to August 2, 2019 for the draft (D1) Record of Decision (ROD). If the ROD selects onsite disposal, additional submittal dates include May 5, 2020 for the EMDF Remedial Design Work Plan (RDWP) and April 9, 2021 for the EMDF Remedial Design Report/Remedial Action Work Plan (RDR/RAWP).

During March 2018, DOE issued a Field Sampling Plan¹ to support characterization of the Central Bear Creek Valley (CBCV) site and reporting of the results. Chapter 5 of that document outlines the

¹ *Phase 1 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/01-2739&D2, March 2018): also Appendix B of the Proposed*

schedule for the fieldwork and associated reports, designated Technical Memorandum 1 (TM-1) and Technical Memorandum 2 (TM-2). According to the site characterization schedule, DOE anticipated TM-2 delivery after D1 ROD submittal and before submittal of the RDWP. At that time, the D1 ROD milestone was September 17, 2018, and the RDWP milestone was June 18, 2019², so DOE envisioned TM-2 delivery before June 18, 2019.

DOE based the original schedule on the expectation that TM-1 data collected during March-April 2018 would adequately represent the seasonal high water table. However, the high water table for the March 2018-February 2019 monitoring period occurred during February 2019. The seasonal water table elevations are key to evaluating compliance with the geologic buffer requirement in 0400-11-01-.04(4)(a)(2). Likewise, that requirement and any relevant landfill information, including landfill design, is key to DOE's demonstration and TDEC's and EPA's evaluation of Applicable or Relevant and Appropriate Requirement (ARAR) waiver request. Therefore, based on our current understanding of TM-2 data, these data are critical for evaluating compliance with or waivers from ARARs. Moreover, the Proposed Plan (p. 26) says that TM-2 data will support protection of human health and the environment, compliance with ARARs, and remedy selection in the ROD. In addition, despite six extensions of the ROD and RDWP milestones since DOE presented the March 2018 timetable, DOE essentially maintained the schedule for collecting data at the CBCV site and maintained the original TM-2 delivery date of June 18, 2019.

On April 11, 2019, DOE hosted a meeting to present information regarding hydrogeologic conditions at the proposed EMDF location, the CBCV site. The information indicated the forthcoming D1 ROD will base requests for waivers/exemptions from siting criteria in ARARs on elements of the design. DOE reported that site-specific data in TM-2 and groundwater modeling results support design components that directly influence protectiveness of the planned landfill. Therefore, it is critically important for TDEC and EPA to review and evaluate TM-2 *and* the modeling approach used to make the protectiveness determination required by CERCLA and the NCP.

For the reasons described above, TDEC and EPA request that DOE provide TM-2 and information on the groundwater model prior to submitting the D1 ROD. TDEC and EPA need sufficient information (such as that outlined in ASTM Standard D5718, *Standard Guide for Documenting a Groundwater Flow Model Application*) to understand and evaluate the model inputs, assumptions, and sensitivity analyses; evaluate how assumptions and sensitivities influence the model results; and confirm that conclusions derived from the modeling support the required protectiveness and ARAR waiver demonstrations. TDEC and EPA request that DOE provide TM-2 and the model documentation as soon as possible, but no later than June 18, 2019.

The proposed schedule would allow approximately six weeks for TDEC and EPA to review the site characterization and modeling information before DOE submits the D1 ROD on August 2, 2019. In

Plan for the Disposal of Oak Ridge Reservation Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Waste (DOE/OR/01-2695&D2/R1, September 2018).

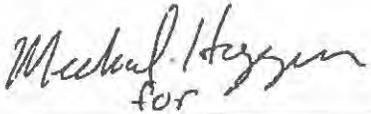
² DOE requested these milestone dates on January 16, 2018. TDEC and EPA approved DOE's request on January 23 and January 30, 2018, respectively.

addition, TDEC and EPA are willing to consider another milestone extension if DOE needs additional time to provide the information needed to support a decision on the proposed EMDF.

Lastly, the formal dispute on the *Focused Feasibility Study for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge, Tennessee, DOE/OR/01-2664&D2 (FFS)* is currently at the Administrator's level. DOE has not yet submitted the additional information that it indicated in its April 5, 2019, elevation letter it would like to submit to the Administrator for his consideration. EPA indicated to DOE by letter dated April 18, 2019, that EPA would suspend the 21-day deadline on the Administrator's decision until after such information is received from both DOE and TDEC. In evaluating DOE's extension request, therefore, EPA and TDEC take into account that the FFS dispute should be resolved prior to DOE's submittal of a D1 ROD. EPA is committed to timely resolution of the FFS dispute such that the D1 ROD, and not only a revised FFS, will reflect the outcome of the Administrator's decision.

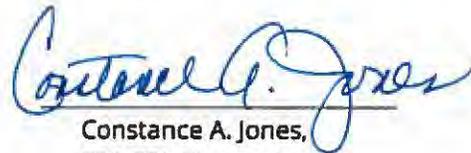
Please direct any questions or comments regarding the contents of this letter to Brad Stephenson (865-220-6586) or Carl Froede (404-562-8550).

Sincerely



Michael Haysen
for

Randy C. Young,
TDEC FFA Manager



Constance A. Jones

Constance A. Jones,
EPA FFA Manager

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



Department of Energy

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

PROGRAM	SITE	PROJECT #	FILE SEQUENCE

ROUTE TO RCY

April 24, 2019

APR 26 2019

CERTIFIED MAIL

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Region 4
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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:

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 (DOE) 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 three months.

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

ROD: May 7, 2019
RDWP: February 6, 2020
RDR/RAWP: January 12, 2021

Length of extension sought: About three months (64 working days) for each milestone.

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

ROD: August 2, 2019
RDWP: May 5, 2020
RDR/RAWP: April 9, 2021

CERTIFIED – RETURN RECEIPT REQUESTED
(JONES 7009 2820 0001 9922 6069)
(YOUNG 7009 2820 0001 9922 6076)

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

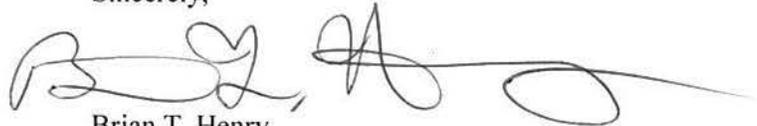
Good cause for extension: The reason for this extension is, under Federal Facility Agreement Subsection XXX.B.5 (delay caused by additional work agreed to by the Parties), to allow sufficient time for DOE to develop waste acceptance criteria consistent with DOE Order 435.1 analysis of performance modeling, which is currently undergoing modifications.

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

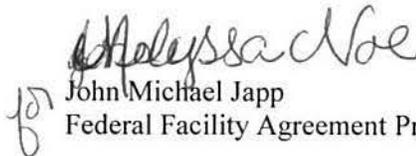
Description of project implementation strategy: The implementation strategy is to continue to advance modifications to DOE Order 435.1 modeling to develop more confidence in the proposed waste acceptance criteria numerical limits to be included in the D1 version of the ROD.

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,



Brian T. Henry
Portfolio Federal Project Director



John Michael Japp
Federal Facility Agreement Project Manager

cc:

Carl Froede, EPA Region 4
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