



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

July 31, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

Dear Mr. Japp:

This purpose of this letter is to respond to the Department of Energy's (DOE) July 30, 2019, request for an extension, under Section XXX of the Oak Ridge Reservation Federal Facility Agreement (FFA), of the D1 Record of Decision (ROD) for the Environmental Management Disposal Facility. While the EPA does not concur with DOE's extension request as described by DOE in its letter, the EPA agrees with the extension request for the reasons provided below. This letter also reiterates the U.S. Environmental Protection Agency's July 25, 2019, letter to DOE.

DOE provided as its basis for an extension

... under FFA Subsection XXX.B.5, *A delay caused by additional work agreed to by the Parties*, to allow sufficient time for DOE and the Tennessee Department of Environment and Conservation to draw up language to be inserted into the ROD, incorporating agreed-to fieldwork to be performed to address contingencies for approval of the ROD.

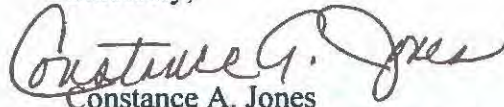
EPA has not agreed to additional work as described in the DOE letter, and there is, therefore, no additional work "agreed to" by all three FFA Parties. As a result, good cause under this FFA paragraph has not been established. In contrast, good cause for an extension is also defined in the Section XXX of the FFA as "a delay caused by the good faith invocation of dispute resolution . . ." Since a dispute regarding the Focused Feasibility Study (FFS) for the discharge of waste water is underway and approaching resolution by the EPA Administrator, the EPA believes that good cause exists under FFA Section XXX.B.3. EPA, therefore, approves an extension to August 30, 2019, for submittal of the D1 ROD.

Please note that any extension under "good faith invocation of dispute resolution" should also provide sufficient time for DOE and the Tennessee Department of Environment and Conservation to meet and confer with the Administrator (as discussed in Susan Bodine's July 22, 2019, letter to DOE Under Secretary Cabbage) and for DOE to incorporate, within 35 days of resolution of a dispute, the decision of Administrator in its D1 ROD submission (as well as a revision of the FFS) under FFA Section XXVI.J. As a factual matter, it is unknown whether an extension to August 30, 2019, will allow for DOE to submit a D1 consistent with this FFA requirement. If DOE is unable to incorporate a decision of

the Administrator by August 30, 2019, it should timely submit an additional extension request that provides for sufficient time to fulfill this FFA requirement, given the facts at the time of the additional extension request submittal.

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

Sincerely,



Constance A. Jones

Federal Facility Agreement Project Manager
Restoration & DOE Coordination Section
Superfund & Emergency Management
Division

cc: Randy Young, TDEC
Patricia Halsey, DOE
Joy Sager, DOE
Brian Henry, DOE
David Adler, DOE
Brad Stephenson, TDEC
Cathleen Burnette, TDEC
Melyssa Noe, DOE
ORSSAB



Department of Energy

PROGRAM

SITE

PROJECT #

FILE SEQUENCE

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

ROUTE TO

POE

July 30, 2019

JUL 31 2019

CERTIFIED MAIL

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

cc/
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

Reference: Electronic letter from Franklin E. Hill to John A. Mullis, dated July 25, 2019

In accordance with the Federal Facility Agreement (FFA) for the Oak Ridge Reservation, the U.S. Department of Energy (DOE) requests your approval to modify the Appendix E milestone date for submission of the Record of Decision (ROD) for the Environmental Management Disposal Facility. This extension requests moving the milestone out to August 30, 2019, with the understanding that the FFA Parties will work to submit the ROD sooner.

Schedule and date sought to be extended: The current milestone for the ROD is August 2, 2019.

Length of extension sought: About 20 working days.

New milestone date: The requested new milestone date for the ROD is August 30, 2019.

Good cause for extension: The reason for this extension is under FFA Subsection XXX.B.5, *A delay caused by additional work agreed to by the Parties*, to allow sufficient time for DOE and the Tennessee Department of Environment and Conservation to draw up language to be inserted into the ROD, incorporating agreed-to fieldwork to be performed to address contingencies for approval of the ROD.

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(YOUNG 7009 2820 0001 9922 5888)

FEDERAL FACILITY AGREEMENT MILESTONE EXTENSION REQUEST FOR ENVIRONMENTAL MANAGEMENT DISPOSAL FACILITY RECORD OF DECISION

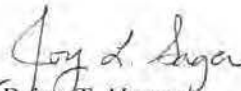
Additionally, DOE received the referenced U.S. Environmental Protection Agency letter by email on July 25, 2019, requesting that DOE delay issuing the ROD until a decision on the Focused Feasibility Study is issued. DOE does not, however, see a need to delay issuing the ROD for this reason since the decision on the Feasibility Study can be incorporated into the final ROD document.

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

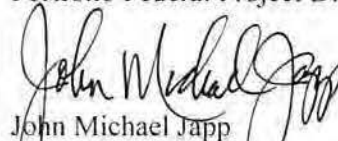
Description of project implementation strategy: The implementation strategy is for DOE and the Tennessee Department of Environment and Conservation personnel to work together in drafting the language to be inserted into the ROD, which will address the proposed field work and associated contingencies.

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

Susan DePaoli, Pro2Serve

Sidney Garland, RSI

SSAB

Brad Stephenson, TDEC, Oak Ridge

Julie Pfeffer, UCOR

Tanya Salamacha, UCOR

ETTPDMC@ettp.doe.gov

Dave Adler, EM-94

Pat Halsey, EM-942

Joy Sager, EM-921

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