

John Michael Japp
OREM FFA Project Manager
Department of Energy (DOE) OE Oak Ridge
Oak Ridge, TN 37831
Via email: John.Japp@orem.doe.gov

December 3, 2018

Subject: Proposed Plan for the Disposal of Oak Ridge Reservation CERCLA Waste, DOE/OR/01-2695&D2/R1

Dear Mr. Japp,

I am writing on behalf of Advocates for the Oak Ridge Reservation (AFORR), a locally based nonprofit organization supporting the preservation of the natural resources of the DOE Oak Ridge Reservation for the long-term benefit of DOE, the local community, and national and international interests.

AFORR appreciates the hard work of DOE, the Tennessee Department of Environment and Conservation (TDEC), and U.S. Environmental Protection Agency on the subject planning process under CERCLA.

AFORR does not support establishment of new disposal facility on the Oak Ridge Reservation (the Onsite Disposal Alternative) for the following reasons:

1. DOE's preferred site in Central Bear Creek Valley (CBCV) and the West Bear Creek Valley (WBCV) option would add to the inventory of contaminated land by putting waste in a clean area that is a greenfield.
2. We believe that DOE would not be seeking a new landfill, at least not this soon, if the space in the existing EMWMF had been managed properly. In particular, if waste had been characterized before disposal to determine the best disposal path, much less waste would have been placed there.
3. Based on available characterization data (noting that there is not yet enough hydrologic characterization of the CBCV site to support a decision), none of the candidate sites is suitable hydrologically. The presence of abundant surface and subsurface water would require significant engineering effort to manage, both through the operating period and after closure, relying on diversion structures, gravel drains, pipes, liners, and caps, that can be expected to fail in the long term, with life expectancy only of decades.
4. Proximity to residential areas would exclude these sites from consideration if the EMDF were being sited as a new radioactive waste disposal facility.
5. The proposal to establish a landfill on a clean site and call it a "remedial action" is a misapplication of the CERCLA statute. This landfill could not be built if it had to comply with the normal environmental regulations for landfills – even for ordinary municipal landfills. The landfill only becomes possible if DOE can use the special legal rules for CERCLA remedial actions to obtain exemptions from procedural requirements and to seek waivers of some substantive requirements. The special legal provisions of CERCLA were intended to facilitate rapid action to remove wastes from contaminated areas, not to allow establishment of new waste sites that operate for decades without being subject to regulatory oversight (for example, the ability of a regulatory authority to require modifications or stop operations when serious issues arise).

Additionally, we note that DOE has not provided sufficient information on some significant aspects of the analysis of alternatives to allow informed comment by the public. Accordingly, AFORR asks that the

public comment period be extended to allow time for DOE to provide information on the following topics and give the public time to review and comment on the new information:

1. Details of waste acceptance criteria and requirements for waste characterization prior to acceptance.
2. Full details of the comparative analysis of costs for the Onsite and Offsite alternatives.
3. The specific waivers of regulatory requirements that would be requested for each of the Onsite options and the rationale for each requested waiver.
4. Treatment technologies that have been evaluated or are planned to (1) reduce waste volume in the disposal facility and (2) immobilize any mercury waste prior to disposal.

AFORR further notes that the lack of a site-wide environmental impact statement (EIS) for the entire Oak Ridge Reservation (as required by DOE rule 10 CFR Part 1021 and implemented at every other major DOE site) has contributed to the proposed plan's failure to effectively address the long-term land-use implications of onsite disposal. DOE needs to initiate a site-wide EIS, with full public input as required under the National Environmental Policy Act (NEPA).

If the objections of the community are not considered and the landfill is built, then AFORR asks for compensation to the people of east Tennessee, to include:

1. Making permanent the conservation protection of the Three Bend Scenic and Wildlife Management Refuge Area, as was promised when it was established, and providing similar permanent protection for the old growth forest tract and other sensitive areas on the Reservation. Permanent protection should be accompanied by increased public access to these areas and increased compensation to the other agencies managing these lands.
2. Federal cash payments to the City of Oak Ridge sufficient to compensate for the financial burdens (such as costs incurred when city staff interact with DOE on various matters) to city government resulting from the city being the host to multiple ongoing DOE and NNSA activities.

Thank you for the opportunity to comment on this matter. AFORR looks forward to seeing additional information made available on the issues listed above, as well as other questions that have been raised by others in the community, before the opportunity ends for public comment on this important matter.

Sincerely,

Virginia H. Dale

Virginia H. Dale (virginia.dale4@gmail.com)
President, Advocates for the Oak Ridge Reservation

CC: Colby Morgan, TDEC
Connie Jones, US EPA
Amanda Garcia, Southern Environmental Law Center
Senator Bob Corker
Senator Lamar Alexander
Representative Chuck Fleischmann
Robert Kennedy, Chair of the Environmental Quality Board of the City of Oak Ridge
Mayor Warren Gooch, City of Oak Ridge