

**FINDING OF NO SIGNIFICANT IMPACT
PROPOSED TITLE TRANSFER OF
PARCEL ED-1**

AGENCY: U.S. Department of Energy

ACTION: Finding of No Significant Impact.

SUMMARY: The U.S. Department of Energy (DOE) has completed an Environmental Assessment (EA) Addendum (DOE/EA-1113-A) in response to a proposal from Horizon Center LLC, a subsidiary of the Community Reuse Organization of East Tennessee (CROET), requesting transfer of title of the presently leased Parcel ED-1 (also known as Horizon Center). The purpose of the title transfer is to continue DOE's support of economic development in the region, which is needed to help offset economic losses resulting from DOE downsizing, facility closures, and workforce restructuring. DOE also recognizes that transferring excess land for economic development purposes can benefit the federal government by reducing or eliminating landlord costs.

Based on the results of the analysis reported in the EA Addendum and implementation of monitoring and mitigation measures described in this Finding of No Significant Impact (FONSI), DOE has determined that the proposed action is not a major federal action that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969. Therefore, the preparation of an Environmental Impact Statement (EIS) is not necessary, and DOE is issuing this FONSI. DOE will also implement a Mitigation Action Plan for this action and provide the results of monitoring and mitigation activities in annual reports.

PUBLIC AVAILABILITY: The EA Addendum, FONSI, and Mitigation Action Plan may be reviewed at and copies of the documents obtained from:

U.S. Department of Energy
Information Center
475 Oak Ridge Turnpike
Oak Ridge, Tennessee 37830
Phone: (865) 241-4780

FURTHER INFORMATION ON THE NEPA PROCESS: For further information on the NEPA process, contact:

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DESCRIPTION OF PROPOSED ACTION: DOE proposes to transfer title of the developable portions of Parcel ED-1 to Horizon Center LLC. The developable acreage is approximately 489 acres of the 957-acre parcel and consists of seven major development areas, ranging in size from 11 to 48 acres. DOE will maintain ownership and control over the remainder of the parcel, which is referred to as the Natural Area. Horizon Center LLC, under a lease agreement with DOE, will lease the Natural Area and continue to be responsible for meeting the requirements of the Mitigation Action Plan.

Horizon Center LLC will continue the development of Parcel ED-1 as an industrial/business park for research and development, medical technology, manufacturing, distribution, and corporate office facilities. The proposed action does not differ substantially from the proposed action described in the EA prepared for leasing Parcel ED-1 to CROET (DOE/EA-1113). The primary difference is that ownership of the developable portions of the property would be transferred to Horizon Center LLC. Industrial uses will still be limited to those analyzed in the 1996 EA and will be required to conform to the City of Oak Ridge Zoning Ordinance (Chap. 7, Sect. 6-713 IND-2, Industrial Districts). The prohibition of certain uses (i.e., airport, wholesaling facilities, bulk oil and similar storage facilities) is also included as part of this proposed action.

Title of the developable portions of Parcel ED-1 will be transferred under Sect. 161(g) of the Atomic Energy Act of 1954 using the process described in the DOE-issued interim final rule, "Transfer of Real Property at Defense Nuclear Facilities for Economic Development" (10 *CFR* Part 770). The rule became effective on February 29, 2000 (65 *Federal Register* 10685).

ALTERNATIVES: The proposed action considered originally in the EA Addendum was the transfer of title for the entire Parcel ED-1. However, DOE also considered two options (i.e., alternatives). Based on comments received during the review of the Draft EA, DOE revised the proposed action to the transfer of only the developable portion of Parcel ED-1 to Horizon Center LLC (Option 1). Option 2 was the transfer of all of Parcel ED-1, except for EFPC and its floodplain, which would remain under DOE ownership and control in order to address possible future requirements under the Comprehensive Environmental Response, Compensation, and Liability Act. For purposes of comparison, it was determined that if DOE chose not to transfer Parcel ED-1 (i.e., no action) the current lease with CROET would continue.

ENVIRONMENTAL IMPACTS: Potential environmental impacts that could result from the proposed title transfer of the developable portions of Parcel ED-1 were evaluated for the following: land use, geology and soils, air quality, water resources, ecological resources, cultural resources, socioeconomics, infrastructure and support services, noise, and health and safety. Potential impacts identified were compared with the results of the analysis conducted for the 1996 EA.

Portions of Parcel ED-1 were already disturbed as a result of construction activities (i.e., roads, bridges, utilities) undertaken by CROET. Remaining development includes the continued build-out of the developable areas as industries and businesses are recruited, and the extension of access roads and utilities into those areas. Based on information from Horizon Center LLC, this will occur in phases so that large areas will not be under development at any one time.

Potential impacts to land use, threatened and endangered species, cultural resources, and socioeconomics were further analyzed in the EA Addendum. These elements are the only ones where changes could have occurred since CROET began land development of the parcel. Cumulative impacts on land use, air quality, socioeconomics, transportation, and biodiversity were also assessed. For the other resources (e.g., geology and soils, air quality, water resources, noise, and health and safety) it was determined that the analysis conducted for the 1996 EA was still sufficient and that additional or different impacts to those resources were unlikely to result from the proposed title transfer.

The proposed action could potentially have an adverse land use impact to an approximate 1.5-mile section of the North Boundary Greenway that borders the western boundary of Parcel ED-1. Future development within one of the seven development areas (Development Area 4) would require that the existing DOE patrol road be widened and paved to accommodate traffic that would access the area during construction and facility operations. Currently, the use of this road for the greenway is permitted under a license granted by DOE to the City of Oak Ridge.

Flora and fauna surveys conducted on Parcel ED-1 have resulted in the identification of three protected plant species: goldenseal (*Hydrastis canadensis*) [state threatened], ginseng (*Panax quinquefolium*) [state special concern species because of commercial exploitation], and pink lady slipper (*Cypripedium acaule*) [state threatened]. The Tennessee dace (*Phoxinus tennesseensis*) deemed “in need of management” by the state of Tennessee has been found in Dace Branch. The southeastern shrew (*Sorex longirostris*) and sharp-shinned hawk (*Accipiter striatus*) deemed “in need of management” have also been observed on Parcel ED-1. The transfer of Parcel ED-1 would not result in any additional impacts to the protected plant species, Tennessee dace, southeastern shrew, or the sharp-shinned hawk. The plant species and Dace Branch are located in the Natural Area, as is the habitat for the southeastern shrew and sharp-shinned hawk. DOE will continue to own the Natural Area and the terms of the lease will ensure its protection. Encroachment into the sensitive areas where federal or state-listed species are known to occur will be prohibited. Also, the majority of construction activities near Dace Branch have been completed and the disturbed areas surrounding the stream have been stabilized. These stabilization measures serve to buffer and protect the stream from additional sedimentation. However, it is possible that other future activities, not related to the further development of Horizon Center (e.g., TDOT’s expansion of SR 95), could adversely impact Dace Branch. The U.S. Fish and Wildlife Service has concurred with DOE’s conclusion that no federally listed species are likely to be adversely impacted as a result of the title transfer.

Construction activities associated with Development Area 4 could result in adverse impacts to rare bird species, such as the Cerulean Warbler, Wood Thrush, Kentucky Warbler, and Prothonotary Warbler. Loss of habitat from the complete or partial clearing of the woodland would be the greatest detriment to these species. However, although locally important, the loss of a minimal amount of marginal habitat within this area should not have a major adverse impact on the species. Adverse impacts from further forest fragmentation could also result from improvements to the existing DOE patrol road to provide access into the area for construction and operational activities. Another potential result of increased forest fragmentation from the development of Parcel ED-1 is the potential increases of other nest predators, such as raccoons and skunks. Populations of these species often increase as a result of habitat changes and increased human activity, which also provide them greater access to sensitive species.

No impacts to any known archaeological or historical resources located within Parcel ED-1 would result from the title transfer of the parcel. The Tennessee State Historic Preservation Officer concurred that the proposed action would not adversely affect any listed properties on the National Register of Historic Places so long as the language contained in the Monitoring and Mitigation section of this FONSI and the DOE letter dated August 22, 2002, is included in the transfer documents and runs with the land in perpetuity.

The socioeconomic impacts of title transfer are expected to be minimal and are limited to the potential revenue impacts for the City of Oak Ridge if the transferred land is sold to private, tax-paying corporations. The acreage developed and demographic and income impacts are unchanged. In addition, any improvements made to the land are taxable, whether the land is leased or owned. For Parcel ED-1, DOE currently provides the City of Oak Ridge a payment in-lieu-of-tax for the Natural Area. The potential change in revenue to the City would therefore be limited to additional tax collected on the transferred property.

Cumulative impacts would occur from increased development and growth under the proposed action. However, because of the small amount of land involved (< 1% of the remaining ORR land), the cumulative contribution of impacts that the title transfer makes on land use, air quality, socioeconomics, transportation, and biodiversity is essentially unchanged from the 1996 analysis and is minor.

MONITORING AND MITIGATION: The following is a summary of the monitoring and mitigation requirements described in the Mitigation Action Plan. These requirements will be implemented in order to

preserve and maintain the integrity of the Parcel ED-1 Natural Area, including the sensitive resources it contains.

Horizon Center LLC will be responsible for conducting on-site inspections of the sensitive areas within the Natural Area boundary three times each year. These inspections will be conducted to assess whether the integrity of the sensitive areas within the Natural Area is being maintained and to identify encroachments and any necessary maintenance or potential mitigation. During construction activities, Horizon Center LLC, or its designee, will conduct more frequent inspections of areas being disturbed to ensure that minimal encroachment of the Natural Area boundary is occurring and that no significant adverse impacts occur. These inspections will be in addition to any other inspections that may take place by city or state officials (i.e., codes or other regulatory enforcement).

Monitoring of birds will continue for at least 3 more years with the first of those 3 years to include the 2002 data already collected. The bird surveys will be conducted in the spring, preferably during the months of May and June, which is the prime nesting season for most birds. The standard procedure that has been used for the previous surveys will continue to be used including use of the two established routes (floodplain and periphery). This will ensure that the future data collected can be statistically compared with the historical data.

Results of the amphibian monitoring conducted on Parcel ED-1 in 2002 (June-July) will be presented in the next Annual Report. Additional monitoring of amphibians can be conducted by recording observations made during the on-site inspections, which include inspections of the wildlife corridors.

Monitoring of benthic macroinvertebrates will continue to be performed once per year in the spring for at least 3 more years with the first of those 3 years to include the 2002 data already collected. Monitoring will occur at upstream station East Fork Poplar Creek Kilometer (EFK) 6.3 and downstream station EFK 2.3. The method for conducting the benthic sampling will be the same as what has been used previously. The resulting data will allow analysis for trends in total abundance, taxonomic richness, percent Ephemeroptera, Plecoptera, and Trichoptera, and percent chironomids.

Monitoring of the fish community in Dace Branch will continue because it contains a reproducing population of the Tennessee Dace, which is listed by the state as a species "in need of management." Dace Branch will be sampled annually during the spring (April-May) for at least 3 more years. The 2002 data already collected will be counted as the first of the 3 years.

Horizon Center LLC will continue to recommend that native plants be used for all revegetation of disturbed areas and landscaping of developed areas. Lawn areas will also be kept to a minimum to the extent possible. To help control erosion and sedimentation during land disturbing activities, best management practices like those described in the *Tennessee Erosion & Sediment Control Handbook* will be used as appropriate.

If, based on the on-site inspections, it is determined that exotic/invasive plants are encroaching into areas of sensitive plant communities [i.e., *Hydrastis canadensis* (goldenseal), *Cypripedium acaule* (pink lady-slipper), and *Panax quinquefolius* (ginseng)], Horizon Center LLC will make a good faith effort to eliminate the encroachment (a determination on the best method of removal will be made on a case-by-case basis). This maintenance will provide the mitigation needed to help reduce or eliminate potential impacts (i.e., degradation) to the sensitive plant communities.

Use of the Natural Area will be permitted as long as that use is non-intrusive and consistent with the natural environment (e.g., walking paths). Encroachment into the Natural Area for additional infrastructure development may be necessary and if so, it will be done in accordance with the appropriate regulations and the conditions specified in the lease. Construction of habitable structures within the Natural Area will be

prohibited. If unanticipated impacts to the sensitive resources take place that could cause significant adverse impacts, especially those resources protected by law (e.g., wetlands, threatened and endangered species, and surface waters), Horizon Center LLC will be required to take mitigation measures, such as rehabilitation, restoration and/or compensation, as appropriate. If Horizon Center LLC or any of its successors, transferees, or assigns fail to abide by the provisions of the lease or deed then DOE will be able to seek enforcement in Federal District Court. DOE, as owner of the Natural Area, will also be able to conduct mitigation within the Natural Area if it becomes necessary.

Horizon Center LLC will be responsible for the continued protection of the McKamey-Carmichael cemetery and cultural sites 40RE195 and 40RE200. Horizon Center LLC, or its designee, will conduct annual inspections of the perimeter of the McKamey-Carmichael cemetery and the 100-ft buffer zone around sites 40RE195 and 40RE200 to ensure that their integrity has not been compromised. Inspection results will be included in the Annual Reports.

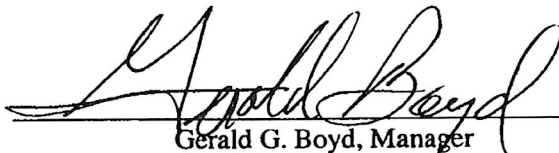
If, during any development activities, an unanticipated discovery of cultural materials (e.g., human remains, pottery, bottles, weapon projectiles, and tools) or sites is made, all ground-disturbing activities in the vicinity of the discovery will be halted immediately. If the discovery is made on DOE-owned property then Horizon Center LLC will be responsible for immediately informing the DOE-Oak Ridge Operations Cultural Resources Management Coordinator. DOE will be responsible for contacting the Tennessee State Historic Preservation Office and the Eastern Band of Cherokee Indians Tribal Historic Preservation Office for completing consultation prior to any further disturbance of the discovery-site area. If on the other hand, the discovery is made on property where title has been transferred then the property owner will make the required consultations.

FLOODPLAIN STATEMENT OF FINDINGS: This is a Floodplain Statement of Findings prepared in accordance with 10 CFR Part 1022, Compliance with Floodplain/Wetlands Environmental Review Requirements. A Notice of Floodplain and Wetland Involvement was published in the Federal Register on June 20, 2002 (Volume 67, Number 119) and a floodplain assessment was incorporated in the EA Addendum. DOE is proposing to transfer title to the developable portions of Parcel ED-1 to Horizon Center LLC for the continued development of an industrial/business park. Parcel ED-1 contains approximately 287 acres of the 100-year floodplain of East Fork Poplar Creek (EFPC). The portion of the EFPC floodplain within Parcel ED-1 is outside of the limits of the existing City of Oak Ridge Flood Insurance Rate Maps. Limited encroachment into the 100-year floodplain, which was covered under a U.S. Corps of Engineers Nationwide Permit (33 CFR 330), has already occurred during construction activities associated with the initial development of Parcel ED-1 under the lease. No additional adverse direct or indirect impacts to the floodplain are expected except for potential minor encroachments into two small areas of the floodplain in the developable areas. These encroachments would be for construction of a parking area and road and bridge improvements. Alternatives to the proposed action that were considered included no action and mitigation (avoidance and minimization). The proposed action will conform to all applicable floodplain protection standards including regulation by the U.S. Army Corps of Engineers, Tennessee Department of Environment and Conservation, and if required, the Tennessee Valley Authority.

Mitigation of adverse impacts to the floodplain include minimizing the potentially impacted areas to the smallest amount practicable and implementing best management practices, such as sediment controls to reduce or prevent soil erosion and runoff and minimum grading requirements that reduce land disturbance on steep slopes adjacent to the floodplain and stream. The appropriate engineering studies will be completed and the appropriate permits obtained prior to any action in the floodplain. The amount of fill material potentially needed should not adversely impact the floodway or affect flooding conditions. Also, no critical actions, as defined in 10 CFR 1022 will occur as a result of the proposed action. DOE will allow 15 days of public review after publication of the Statement of Findings before implementation of the proposed action.

DETERMINATION: Based on the findings of this EA Addendum, after careful consideration of all public and agency comments, and implementation of monitoring and mitigation requirements described in this FONSI and the Mitigation Action Plan, DOE has determined that the proposed title transfer of the developable portions of Parcel ED-1 does not constitute a major federal action that would significantly affect the quality of the human environment within the context of NEPA. Therefore, preparation of an EIS is not required.

Issued at Oak Ridge, Tennessee, this 2nd day of April 2003.



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