

4/4/08 Sent To Rick,

Remind DOE ORO of the January 2001 request to refrain from making individual land-use decisions that would effectively disposal of separate, discrete parcels of the Oak Ridge Reservation (ORR) without first completing a comprehensive environmental impact statement that considers the impacts of these and other land-use actions on the ORR as a whole, as required by NEPA.

AFORR and its members do not oppose nonfederal economic development on lands formerly used by DOE, but we insist on full and fair consideration of the environmental impacts of land-use decisions, consistent with NEPA and DOE's own regulations and directives. Further, we note that sizeable tracts on the ORR that already have been made available for economic development remain vacant, and that additional suitable tracts within developed areas are expected to become available in the near future.

A long series of land transfers, pending transfers, and proposed transfers are having the collective effect of accomplishing the major federal action of dismantling the ORR, without appropriate NEPA review. Beginning the 1990s, transfer actions have included the lease and subsequent title transfer, to the Community Reuse Organization of East Tennessee (CROET), of portions of Parcel ED-1 to build the industrial park now known as the Horizon Center; sale in 2001 of the "Boeing floodplain" property to a residential developer to enable construction of the Rarity Ridge subdivision; a current proposal (first initiated in 1999 or 2000) to transfer parcel over 100 acres of land called Parcel ED-3 to CROET; the approved-but-not-yet-consummated transfer of Parcel ED-6 to the City of Oak Ridge for residential development; other transfers of property within and adjacent to the former K-25 site; transfer to CROET of a tract at the ORNL site for development of a science and technology park; and the transfer of Parcel G in the southeastern ORR, which was reviewed in an EA but has not occurred.

At this time, AFORR is concerned that (1) DOE is preparing to make a reservation land transfer (parcel ED-3) whose cumulative impacts cannot be adequately assessed without an EIS and (2) CROET is preparing to sell the largely undeveloped Horizon Center to a private developer, an action that likely would foreclose the possibility of reversing portions of the transfer that contravened the FONSI for the transfer or were based on flawed NEPA review.

Currently DOE is considering a request by the Community Reuse Organization of East Tennessee for more than 200 acres of Oak Ridge Reservation land, partially in the K-25 site but also including the tract known as parcel ED-3. When Parcel ED-3 was first proposed for transfer in [1999 or 2000], AFORR objected to the transfer and asked that the proposal and the cumulative impacts of ORR land use decisions be evaluated in the context of a comprehensive EIS on ORR land use. In January 2001 ORO agreed to prepare such an EIS, but later decided instead to conduct a land-use planning focus group to consider land use on the northwestern portion of the ORR, to include the ED-3 area. A focus group consisting of stakeholders representing a wide range of interests met frequently



over more than a year. At the conclusion of the group process, the group recommended development in certain areas and dedication of a 3,000-acre tract for conservation, but disagreed on other areas. Development of parcel ED-3 was not endorsed by a majority of the focus group participants. (DOE initially prepared a draft EA for public review; it was never finalized, ~~but we expect that the department will attempt to finalize the 8-year-old EA as a basis for a FONSI on the proposed transfer.~~)

*DOE is now doing an Ecological Eval To add to the old EA for*

In 2003, when DOE transferred the developable portions of the Horizon Center (Parcel ED-1), the transfer included a 37-acre tract (Development Area 4) that is isolated from the remainder of the developable area. AFORR commented at the time and still contends that the finding of no significant impact for the transfer of this area was based on an environmental assessment that did not adequately consider the potential for significant environmental impacts from developing this area and the road and utility access (through an area with substantial ecological and public recreational value) that would be required to develop it. Additionally, the deed with which DOE transferred the Horizon Center land directly contravened the FONSI by giving the CROET title to a second right-of-way corridor to Development Area 4 across an area that the FONSI expressly excluded from development. After working in good faith for over a year with DOE and CROET in an attempt to identify an equitable "swap" of land to help repair the flaws in both the FONSI and the deed, in 2004 AFORR asked DOE to reverse the deed for the right-of-way corridor, but there was no reply to the request.

DOE persists in proposing to transfer land to fulfill ostensible needs for economic development in spite of the failure of past initiatives. Much of the land already transferred for this purpose remains unused for the ostensible purposes of the transfers. For example, after 10 years, only two businesses have located in the Horizon Center, one of which has shut down; plans for a spec building in the industrial park have been shelved (the need for a spec building was the ostensible reason for deeding the property to CROET several years ago); and CROET has asked local economic development personnel to stop marketing the park pending its sale to a developer for "mixed-use" development (to include residential and commercial uses).

DOE Oak Ridge Reservation is not following its own regulations and orders as relates to site-wide NEPA review and comprehensive land use planning. The regulation 10 CFR §1021.330 (c) and (d) (in "Programmatic (including site-wide) NEPA documents") provides:

- (c) As a matter of policy when not otherwise required, DOE shall prepare site-wide EISs for certain large, multiple-facility DOE sites; DOE may prepare EISs or EAs for other sites to assess the impacts of all or selected functions at those sites.

*The purpose of issuing for*

(d) DOE shall evaluate site wide NEPA documents prepared under §1021.330(c) at least every five years. DOE shall evaluate site-wide EISs by means of a Supplement Analysis, as provided in §1021.314. Based on the Supplement Analysis, DOE shall determine whether the existing EIS remains adequate or whether to prepare a new site-wide EIS or supplement the existing EIS, as appropriate.

Additionally, DOE P 430.1 requires each DOE site to have a comprehensive land use plan developed with stakeholder involvement (see <http://www.eh.doe.gov/nepa/tools/guidance/volume2/1-7-p4301.pdf> -- *there might be something more recent than this*). Oak Ridge is virtually alone among DOE's large sites in never having prepared a site wide NEPA document.

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cc:

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