

Subj: City of Oak Ridge wants to tinker with 3000-acre NRDA conservation easement
Date: 9/19/03 11:53:13 PM Eastern Daylight Time
From:
To:

Sent from the Internet

Discussion of the 3000-acre NRDA conservation easement is on the agenda for Monday evening's Oak Ridge City Council meeting. The proposed city comments present a somewhat hostile attitude toward the easement. Below is text from several items in the agenda package, including 2 city memos from August, an April letter from Gerald Boyd promising public involvement in the NRDA process, and the city's proposed comments. The colored highlighting of some words is my doing, and the interjections in blue are my comments. I withheld the urge to comment on everything that bugged me...

I assume that Amy wrote most of the city comments. Portions of EQAB's comments are presented as an afterthought at the very tail end of the proposed city comments.

- Ellen

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City Council Memorandum 03-54
DATE: August 1, 2003
TO: Honorable Mayor and Members of Council
FROM: Gary M. Cinder, Interim City Manager
SUBJECT: Public Meeting Regarding the DOE/State of Tennessee Management Plan for 3,073 Acres of Black Oak Ridge

A notice has been issued by the Tennessee Department of Environment and Conservation (TDEC) and the Tennessee Wildlife Resources Agency (TWRA) that an informal public meeting will be held on Tuesday, August 5, 2003, to receive comments and suggestions on the development of a management plan for 3,073 acres of the Black Oak Ridge area in Oak Ridge.

This land is part of DOE's Oak Ridge Reservation and, as such, is governed by the Superfund (CERCLA) law and regulations. *subject to the*

The Superfund law allows for Federal, State and Tribal "trustees" to recover natural resource damages that have occurred as a result of the release of contaminants from the Oak Ridge Reservation. The DOE and the State are proposing a conservation easement for the bulk of the Black Oak Ridge area, along with a portion of the City's Self-sufficiency Parcel D. A copy of the notice, a summary of the Natural Resource Damages Assessment (NRDA) regulations, and a list of City issues to consider are attached for your review.

damages as a result of the release of contaminants from the ORR

It is staff's understanding that this proposed action is to mitigate damage to Lower Watts Bar Reservoir as a result of releases by DOE and its predecessor agencies. A Record of Decision was signed in 1995 that estimated the cost of sediment removal and restoration to be between \$30 and \$40 billion.

This issue is also cited on Page 22 of City Council's Application to DOE for the Renewal of Annual Assistance Payments; Exhibit E of the Application contains the Price Waterhouse Coopers study of the associated economic impacts.

Staff is planning to attend the August 5, 2003, meeting to gather additional information, including the process and deadline for submitting comments. The attached draft comments will be provided to the parties for consideration, with the caveat that the City's official comments will

*instead of removal or restoration, a compensatory land transfer is envisaged
was Boyers attendance not official.*

*quest warning
Probably need to review this application*

Saturday, September 20, 2003 America Online: jobdrehab

be transmitted at a later date.

**August 1 –
City Issues to Consider in Development of a
Management Plan for 3,073 Acres of Black Oak Ridge**

* The 3,073-acre area for a conservation easement between the State of Tennessee (the State) and the U.S. Department of Energy (DOE) is within the Oak Ridge City limits and encompasses a significant portion of the 662-acre City DOE Self-Sufficiency Parcel D. The City Council approximately 200 acres of this parcel adjacent to Wisconsin Avenue for development of new housing. The State, DOE, and the City need to negotiate the boundaries of the easement to reflect the previous self-sufficiency commitment by DOE regarding the conveyance of Parcel D to the City.

What is happening on negotiation of the boundaries of the Black Oak Ridge Easement.

The configuration also ^{should} make reasonable accommodations for ongoing development of the Westwood Subdivision. Such accommodation could include a secondary access to the subdivision that is required by City regulations.

Westwood Subdivision (Whipper will?) secondary access to subdivision).

0 The Natural Resource Damages Assessment (NRDA) process does not have a provision for the appointment of a community "trustee" and does not appear to require early community involvement. The City seeks early participation in the decision making process to ensure community issues are addressed in the recovery of natural resource damages.

Brubaker has asked for this from Brubaker

But there was early community involvement when the land was put on the table as excess to DOE mission. No mention was made of the parcel D other than the 200 acres adjacent to Wisconsin Avenue.

1. The management plan should have a provision stating that DOE shall maintain the ownership of land to ensure ongoing payments in lieu of taxes (PILT) to the City and Roane County.
2. The management plan should have a provision for the regular assessment and removal of dead trees and brush that could pose a safety hazard to nearby residential, commercial, and industrial properties. Residents in that area of the City have raised concerns that trees killed by pine beetles could pose a fire hazard.

The Land Use Planning Process was a legitimate process in which the City participated for the City by Mr. Boyer, City Manager and Ray Evans, City Council.

April 25, 2003

Letter from Boyd to Local Oversight Committee:

Mr. John B. Evans, Chairman
Local Oversight Committee
102 Robertsville Road, Suite B
Oak Ridge, Tennessee 37830

Dear Mr. Evans:

**REQUEST FOR LOCAL GOVERNMENTS TO BE INVOLVED IN SETTING
BOUNDARIES OF WEST END CONSERVATION EASEMENT**

in which the City represented the City Manager Boyer and City Councilman Ray Evans participated full

Thank you for your interest in the Oak Ridge Reservation Natural Resource Damage Assessment

Boyd's response to involve stakeholders in the process.

Discussing ways for involving stakeholders in the NRDA process for the ORR.

activities. Your letter requested that the City of Oak Ridge and Roane County governments be involved in the setting of a final boundary for the 3,000 acre Black Oak Ridge conservation easement. The Oak Ridge NRDA trustee council, represented by the Department of Energy, Tennessee Valley Authority, Tennessee Department of Environment and Conservation and U.S. Fish and Wildlife Services, is currently discussing ways in which to involve stakeholders in the NRDA process for the Oak Ridge Reservation, and we will bring your request to the attention of the Council. A final decision has not been made at this point but the council is considering a series of public meetings at key points in the process. These meetings will be announced and open to all members of the public.

Again, thank you for your interest in this important undertaking.

Bring this to attention of AFOR

- cc: Steve Alexander, USF&WS
- Holly Deal, DOI
- Pat Halsey, EM-9 1
- Mark Hastings, TVA
- Connie Jones, EPA
- John Owsley, TDEC
- Patrick Parker, TDEC OGC
- Joe Sanders, TDEC OGC
- Barry Turner, TN OAG
- Marsha White, TDEC

Council for NRDA Process

- DOE
- TDEC
- TVA
- Dept. of Intension

If include government city & county are to be represented, public stakeholders should be also - or public meetings.

according to

Comments on the Proposed Black Oak Ridge Area, ORR Conservation Easement Pursuant to the Natural Resources Damages Assessment (NRDA)
 Submitted by the City of Oak Ridge, Tennessee
 September 2003

NRDA Process

1. The NRDA process provides for the designation of federal and state government trustees, but does not appear to have a provision for the appointment of a local government "trustee." As a result, the City was unaware of the activities of the NRDA Trustee Council until an Agreement in Principle (AIP) was signed between the Governor and DOE Management in late December 2002. While there may be support for the proposed conservation easement, the City is concerned that this very important decision regarding land use within the corporate limits of Oak Ridge was made without the knowledge of, or input from the officials elected to represent community interests. Several members of DOE'S Oak Ridge Land Use Planning Focus Group that recommended land areas for conservation had an affiliation with the City; however, the views of these individuals did not indicate endorsement of the group's final report by Oak Ridge City Council. As a result, the City seeks participation in the NRDA process to ensure community issues are identified and addressed as the trustees seek the recovery of natural resource damages. Participation by the City is critical for a number of reasons, particularly since the trustees consider the proposed conservation easement only the first in a number of subsequent actions pursuant to the NRDA. Given that the proposed action is partial mitigation for damage that occurred outside the City of Oak Ridge, constituents have raised questions regarding why the proposed mitigation is conducted with land inside the City of Oak Ridge. Similarly, the trustees anticipate future mitigation for damages that have occurred on land within the city limits. The City should be engaged in NRDA land use discussions that impact the City's ability to expand its tax base, and hamper the City's attempt to achieve greater self-sufficiency.

Parcel D was not reviewed by Leah Dever.

Final Report of the Land Use Planning Focus Group.

Kosby did attend some meetings.

Idea mine. As compensation to the people of Tenn which NRDA is about - it is both logical and ethical compensation.

2. It is unclear whether the proposed action has been analyzed pursuant to the National Environmental Policy Act (NEPA). Since a management plan has not yet been developed, a categorical exclusion—if one has been issued—appears to be inappropriate in this case. The management plan may include activities that have an impact on the environment. The proposed action of conserving more than 3000 acres is likely to be considered a major federal action, which results in socioeconomic and ecological impacts that need to be analyzed.

Compensation under NRDA is to the people of Tennessee, to the public and not to compensation to a city or county government who can sell it to private interest.

Conservation Easement Boundary

1. The 3,073-acre area proposed for a conservation easement between the State and DOE is within the Oak Ridge City limits and encompasses a significant portion of the 662-acre City/DOE Self-sufficiency Parcel D. Under the City's self-sufficiency agreement with DOE, the City has the first right of refusal to certain parcels of land within the Oak Ridge Reservation, including Parcel D. The City Council Strategic Plan identifies a need for DOE to release a portion of Parcel D adjacent to Wisconsin Avenue for development of new housing. Thus, the boundaries of the easement should reflect the previous self-sufficiency commitment by DOE regarding the conveyance of Parcel D to the City. For the purposes of the proposed easement, the City does not relinquish its right of first refusal for Parcel D; rather the City supports a five-year agreement for the inclusion of approximately 417 acres of Parcel D in the proposed easement, and the conveyance of the remainder, approximately 245 acres, to the City for housing.
2. The configuration of the proposed easement needs make reasonable accommodations for ongoing development of the Westwood Subdivision. Such accommodation includes a secondary access to the subdivision that is required by City regulations. Should DOE convey the 245 acres of Parcel D, the secondary access could be located within this parcel.
3. The configuration needs to consider the Roane County/City of Oak Ridge Planned Growth area, as adopted pursuant to Public Law 1101. This area is vital to the systematic growth in the West End of Oak Ridge.
4. Based on the map that accompanied the State's "Notice of Public Meeting," it is unclear whether the North Boundary Greenway borders the boundary or is a part of the proposed conservation easement. This issue should be clarified.

Management Plan

1. The management plan needs to have a provision stating that DOE shall maintain the ownership of land to ensure ongoing payments in lieu of taxes (PILT) to the City and Roane County.
2. The management plan needs to address the regular assessment and removal of dead trees and brush that could pose a safety hazard to nearby residential, commercial, and industrial properties. Residents in that area of the City have raised concerns that trees killed by pine beetles could pose a fire hazard.
3. The management plan should clarify whether DOE plans to continue maintaining the Greenway, which doubles as a security-patrol road or whether maintenance will be performed by the State. The management plan should allow the potential to create additional trails within the easement that would or could be linked to the existing Greenway trail.
4. A large state-managed natural area within Oak Ridge could serve as a reservoir for flora and fauna, thus aiding in maintaining the quality of the natural environment in greenbelts and residential areas. Increased public access to this area for recreation could benefit both residents and visitors. However, it is important to ensure that this does not inadvertently turn into a negative for the City. Specific recommendations with respect to the management of this area to ensure the quality of the City's environment are:
 - 0 Like Oak Ridge city greenbelts, the area should be managed to maintain a natural state.
 - 0 The public greenway on the patrol road on the perimeter of this area should remain open for non-motorized recreation.
 - 0 Managed hunting needs to continue in this area to help control the deer population.
 - 0 Residents and businesses adjoining this area should have avenues open to them to express concerns that may arise regarding the area's management or the behavior of its users.