

US Department of Energy

Subject: AFORR comments on the Engineering Evaluation/Cost Analysis for Ponds at East Tennessee Technology Park

The Board of Directors for the Advocates for the Oak Ridge Reservation (AFORR) thank the Department of Energy for the opportunity to provide comments on the Engineering Evaluation/Cost Analysis (EE/CA) for Ponds at the East Tennessee Technology Park that is currently issued for public comment. This EE/CA provides a well documented basis for decisionmaking, a reasonable evaluation of credible alternatives, technically supported ecological and human health risk assessments, comparable and reasonable cost estimates for the evaluated options, and a good use of risk management in making the final recommendations for remediation. AFORR concurs with the DOE, EPA and TDEC selection of Alternative 2 (Ecological Enhancement) as the preferred alternative for the K-1007-P1 Pond remediation efforts. Though it involves some uncertainties and risks, ecological enhancement appears to be an innovative and scientifically sound approach to risk reduction at that site and also has the potential to influence national remedial action approaches.

Monitoring the effectiveness of the proposed eco-enhancement remedial action approach will be an important aspect of the long-term stewardship of the site. Annual and Five Year monitoring requirements and their resulting stewardship actions for this selected remedy must be appropriately addressed as the remedial action planning proceeds. Those monitoring and maintenance requirements should be tied to the ETTP Sitewide Record of Decision as that document moves through the regulatory process.

Based on our understanding of expected upstream contaminant input, AFORR believes that conducting the K-1007-P1 Pond remediation as an early action is feasible, although that action does result in some risk of recontamination from upstream cleanup activities. AFORR is not opposed to such an early action and leaves the scheduling decision to DOE as it considers the sequencing and workload requirements of the entire ETTP site remediation.

We look forward to seeing how DOE responds to the broad range of public input on this important project and the decision that is finally made.

Sincerely,

Virginia Dale

However, several months into the process, City officials raised objections to CROET's acquiring this land, and Mr. Young consequently told us he was no longer interested in that area.

Subsequent discussions focused primarily on the parcel ED-3 area. AFORR offered to withdraw its past objections to transferring portions of ED-3 east of the Heritage Center and north of Highway 58, in exchange for CROET's relinquishing the land in the Horizon Center. In addition, DOE had offered to relieve CROET from responsibility for environmental monitoring of natural areas associated with Development Area 4. However, CROET adopted and firmly held the position that the only equitable exchange would give them almost all of the developable land in ED-3. CROET's own analysis indicated that the developable portion of the requested tracts had about three times the acreage of the 37-acre parcel in Horizon Center. The CROET President repeatedly stated that his position was "intractable" (his words) in insisting on this total package.

AFORR considers the final CROET request to be completely unreasonable. Not only is their request for an area much larger than the area CROET would be giving up, but we perceive that it is far more attractive for economic development. The land that Mr. Young requested has immediate highway access near a major intersection (Blair Road), is close to existing utility lines at the ETTP Heritage Center and other developed sites, and abuts additional developable land on Highway 58 (ED-4). In contrast, the 37-acre parcel that CROET would be relinquishing is not adjacent to any other developable sites or existing infrastructure, and would require over a mile of new access roads (including three stream crossings) from the nearest highway.

Note that AFORR's position is consistent with Scenario 4 as developed in the Final Report of the Oak Ridge Land Use Planning Focus Group. This option received the most favorable rating of the four scenarios considered, when all members of the Focus Group was asked to vote their preference (see Appendix D, page D-2 of the final report). On the other hand, the request made by CROET's manager matches the plan for ED-3 described in Scenario 2 ("High Development"). Focus Group members voted this option as the least favorable.

AFORR is frustrated to have reached this stalemate in our efforts to conserve this small but ecologically significant 37-acre tract and its access. We believe that CROET has placed DOE in a vulnerable legal position with regard to NEPA. Neither DOE's original EA nor the EA Addendum for the transfer of Parcel ED-1 gave realistic consideration to the environmental impacts of creating access to Development Area 4. Development of access would include converting over a one-mile segment of a narrow one-lane DOE patrol road to a multi-lane roadway and installing three bridges across streams. The patrol road traverses ecologically valuable habitat that could serve as a connecting corridor between the Black Oak Ridge and McKinney Ridge portions of the conservation easement, is designated and popular as an Oak Ridge public greenway, and is adjacent to an important wetland. Thirteen separate organizational and individual commenters on the Draft EA Addendum raised concerns about this aspect of the transfer, but the final EA and FONSI declared that there would be no significant impact, without addressing the specific environmental concerns or prescribing mitigation. Furthermore, this transfer action reminds us of

the NEPA concerns related to broader Oak Ridge Reservation land use that we and other organizations raised with DOE in January 2001.

AFORR is disappointed and frustrated by the failure of our efforts. We hope that DOE can succeed where we failed and find an exchange that resolves the department's NEPA vulnerability and satisfies both environmental and economic interests. We still believe that a "win-win" solution should be achievable.

Also, we note that DOE is still in the embarrassing situation of having deeded to CROET a second right of way corridor to Development Area 4, across the Horizon Center Exclusion Zone. This transfer directly contravenes the FONSI for the transfer, and when we brought this situation to your staff's attention in the summer of 2003, all agreed that it needed to be reversed. At that time, your staff said they would prefer to process this reversal as part of the same real estate transaction that implemented the land exchange being negotiated by AFORR and CROET. In view of the unfortunate failure of our negotiations, we think it is time for DOE to withdraw the transfer of the corridor across the Exclusion Zone.

Sincerely,

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