

Advocates for the Oak Ridge Reservation (AFORR)

Ms. Anne Davis
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Southern Environmental Law Center
2 Victory Avenue
Suite 500
Nashville, Tennessee 37213

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Dear Ms. Davis,

Advocates for the Oak Ridge Reservation (AFORR) looks forward to your upcoming presentation in Oak Ridge on April 25. We are providing some background information in this mailing to give you some advance understanding of the land use and environmental concerns we have in dealing with the Department of Energy (DOE).

Enclosed are:

- A brief historical background for potential legal issues;
- A brochure describing AFORR's goal of conserving the natural resources of the Oak Ridge Reservation (ORR);
- Two relatively recent letters from AFORR to DOE concerning current environmental issues;
- Three letters prepared by Richard Parrish (SELC Charlottesville office) on our behalf, to provide insight concerning previous SELC and AFORR collaborations;
- And a technical report on Physical Characteristics of the Oak Ridge Reservation and several fact sheets which provide an introduction to the value of the ORR as a local, regional, and national/international resource.

We appreciate the time you will spend in Oak Ridge and we are hopeful for fruitful interaction into the future.

Sincerely,



Bill Johnston

Advocates for the Oak Ridge Reservation

**Historical background on Advocates for the Oak Ridge Reservation (AFORR) related to
potential legal issues
March 28 2013**

In the years before AFORR formed, there was a history of land transfers (out of federal ownership) that, taken together, gave the impression that DOE was systematically dismantling the Oak Ridge Reservation (ORR) in piecemeal fashion. NEPA environmental assessments were done on some of these, but not all, and there was never a comprehensive EIS on future land-use (or Reservation dismantlement). The remaining 20,000+ acres of land is about one third of the original Reservation area but retains unique environmental, conservation, and recreation values.

In general, AFORR supports federal government uses of the Reservation, as well as the transfer and redevelopment of certain brownfield areas no longer being used for federal missions. However AFORR is concerned about the loss of public lands with value for conservation, recreation, ecological research, etc., and about the dismantlement of the Reservation without an appropriate plan.

In those years before the formation of AFORR, the transfer of Parcel ED-1 (now known as the Horizon Center) is particularly noteworthy. A political decision was made circa 1996 to make 1000 greenfield acres available to an economic development consortium for development of a speculative industrial park. An environmental assessment was done (completed in 1997) for a lease of ED-1. Much of the property was floodplain. Environmental review identified significant environmental values on the property, and thus a potential for significant impacts. To avoid preparing an EIS (which would delay industrial development), DOE decided to exclude large tracts from development, and memorialized this in a mitigated finding of no significant impact (FONSI). The FONSI allowed leasing of roughly half the area for industry, with the remainder restricted from development, and monitoring required during development.

Not long after the ED-1 lease, and around the time that AFORR started, DOE proposed to transfer another set of undeveloped lands (parcel ED-3) nearby. This proposal – and several variations of it – has been discussed in several draft EAs over the years, but the transfer hasn't happened. AFORR raised concerns about impacts, particularly cumulative impacts related to the dismantlement of the ORR without an EIS. DOE encouraged us to negotiate with the prospective property recipient – the Community Reuse Organization of East Tennessee (CROET) – to find a compromise that would give CROET the land they “needed” with a minimum of impacts to environmental resources. AFORR negotiated in good faith in a number of meetings over a period of several months but did not reach a mutually acceptable plan.

The “Boeing transfer” occurred in 2001. A large parcel that DOE had sold to Boeing (for an industrial facility that would have occupied a relatively small part of the area, with a large buffer) some years earlier had never been developed. There was a deed restriction limiting the use to industry. When Boeing proposed to sell it to a residential developer, DOE declined to exercise its right to enforce the deed restriction by buying the property back; so it sold. So the developer could sell waterfront land, the developer also wanted a narrow strip of floodplain land (surrounding the property on three sides) that DOE had retained when it sold the land to Boeing. DOE did an EA on the land transfer, concluding in a FONSI that land use restrictions in the deed would prevent significant impacts from the transfer of the floodplain strip. (AFORR's comments to DOE strongly disagreed with that decision.) DOE quickly sold the land for \$54 per acre.

The debate over the Boeing floodplain and Parcel ED-3 was the context for letters that Rick Parrish sent to DOE on behalf of AFORR.

After the Boeing transfer, DOE held off on plans for the ED-3 transfer and made an oral commitment to do a site-wide EIS on Reservation land use. The DOE site manager who made that promise was abruptly removed from her position, and DOE reneged on the promise of EIS, instead proposing a land-use planning process with stakeholder participation for the northwestern part of the Reservation (the area of all the transfer activity). AFORR acquiesced to this new direction and participated. The planning process led to some areas being

generally agreed to be suitable for development, while a 3000-acre complex of steep ridges was determined to be most appropriate for conservation.

The ridges identified for protection in that planning process were later placed under conservation easement (the Black Oak Ridge Conservation Easement or "BORCE") as compensation for CERCLA Natural Resources Damage Assessment (NRDA) for DOE's contamination of the Clinch River portion of Watts Bar Reservoir. The NRDA economic evaluation of the BORCE was heavily based on recreational values; it also considered conservation value as wildlife habitat (especially songbirds) and value of interconnection with other protected habitats, including riparian habitat in Parcel ED-1.

In 2003, DOE completed an "EA addendum" and revised FONSI to transfer the developable parts of ED-1 to the lessee at no cost. (DOE regulation 10 CFR 770, issued February 29, 2000, allowed DOE to give away some lands for economic development, instead of requiring sale at full market value.) AFORR raised some concerns then.

Mitigation that was supposedly required to prevent adverse impacts to restricted areas at ED-1, registered state natural areas on the former Boeing property, and the Boeing floodplain has not been carried out to AFORR's satisfaction. DOE is unlikely ever to enforce deed restrictions on its transfers, except for restrictions intended to avoid exposure to contamination. A current issue for AFORR is DOE's intent to allow a powerline to be built in the exclusion zone of ED-1, on the boundary of ED-1 and the BORCE, along an unpaved road that has become very popular as a greenway trail.

Relevant items on AFORR's website:

Chronology of events related to the Boeing floodplain: <http://aforr.org/boeing.html> *(note that most weblinks are no longer working)*

Map of some of the areas mentioned above: <http://aforr.org/roanemap.html>