

# ADVOCATES FOR THE OAK RIDGE RESERVATION

136 West Revere Circle, Oak Ridge, Tennessee 37830

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February 10, 2005

Industrial Economics, Inc.  
2067 Massachusetts Avenue  
Cambridge, MA 02140  
Attn: Jessica Sargent-Michaud

Re: Comments on Black Oak Ridge Conservation Easement and management plan

Dear Ms. Sargent-Michaud:

Advocates for the Oak Ridge Reservation (AFORR) requests your consideration of the following comments related to the value of the Black Oak Ridge Conservation Easement (BORCE) in Oak Ridge, Tennessee.

AFORR is very pleased to see progress toward making the BORCE a reality. This land has substantial value for its plant communities and rare plants, as wildlife habitat, and for recreation. DOE's Land-Use Planning Focus Group, which concluded its work in late 2002, identified conservation as the most suitable use for this land. This conclusion was due not only to the area's difficult topography but also in recognition of the presence of substantial tracts of contiguous interior forest, providing valuable nesting habitat for songbirds whose populations are in decline. The benefits of protecting this area under a conservation easement will become even more evident in years to come, as encroaching development makes natural habitats increasingly rare in the surrounding region.

We are concerned, however, that restrictions expected to be placed on the easement and management plan (as described in the draft management plan and at the January 11, 2005, public meeting about the plan) will prevent the State and people of Tennessee from realizing the full potential value of this area. The assessed value of this area as compensation for natural resources damages should be reduced to the extent that these provisions reduce the area's real value. The provisions of concern are the following:

- 1 - The easement will not be "permanent" because it can be terminated by the federal government in the event of national emergency.
- 2 - Although public access is contemplated, state agencies will lack the authority to make decisions on allowable access. Instead, it appears that state agencies will need to negotiate each permission separately with DOE.
- 3 - The state will not have the authority to direct the management of the area's forests or the prevention and control of wildfires. Instead, DOE reportedly intends to retain authority to manage the area's timber and to implement measures for fire prevention and control.
- 4 - The area of the easement does not include the perimeter roads, including the North Boundary road that separates the easement area from DOE's boundary.

Details of our concerns with these provisions follow.

**Duration of the easement.** The easement must be permanent, not for an "indefinite term." The provision of the easement allowing termination by the federal government in the event of national emergency substantially diminishes the chance that this land will be protected forever (as intended).

Declarations of “national emergency” are more common than most people realize, so the circumstances potentially providing reason or pretext for termination of the easement may be more frequent than the parties currently contemplate. Furthermore, application of this provision to this particular land is puzzling. This land is acknowledged to have considerably less development potential than nearby lands (some of which also possessed substantial conservation value) that are being given away for private development with no arrangement for possible reversion to the government. Is there something about this land that makes it more important to national needs than the nearby areas that are being transferred for development? AFORR believes that if the Department of Energy can transfer other parts of the Oak Ridge Reservation for development without an arrangement to take the land back in a national emergency, then DOE should also be able to dedicate land to conservation permanently, without a reversion clause.

**Public access.** In order for the people of Tennessee to receive value from this conservation arrangement, the public must have recreation access to the land, in the same manner as the public has access to the state’s other natural areas and wildlife management areas. Denying the state land managers the authority to make decisions on access (consistent with the conservation objectives of the area’s management) limits the land managers’ ability to manage the area responsibly and is likely to reduce the public’s actual access. Furthermore, requiring the agencies to negotiate access on a site-specific basis would add significant costs to the state’s cost for managing the area, without providing any apparent benefits.

**Forest management.** In order to effectively manage this area for conservation purposes, particularly for the maintenance of forest interior habitat for breeding songbirds, the state agencies must have authority over forest management. By withholding this authority from the state (in effect, reserving the right to cut timber), DOE will significantly reduce the conservation value of the easement. For effective conservation management, the associated authority to direct fire management also must reside with the state agencies. Considering that DOE does not currently plan to retain other lands or facilities adjacent to this area and the state agencies have far more wildland fire experience and expertise than DOE (or any other public or private entity in the region), it is not apparent why DOE would want fire management responsibility.

**Perimeter roads.** In order to effectively manage the easement area for conservation and to manage public access in the area, the state agencies must have authority over the perimeter access roads, including portions of the North Boundary road that currently are licensed to the City of Oak Ridge for use as a public greenway. As with fire management, it is not apparent why DOE would want to retain responsibility for these roads.

We also expect to provide the state agencies with specific comments on their proposed management plan.

Sincerely,

/ submitted electronically /

Ellen D. Smith, Vice President, AFORR

cc: John Bascietto, DOE