



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Remediation, Oak Ridge Office
761 Emory Valley Road
Oak Ridge, Tennessee 37830

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COUNTY MAYOR'S OFFICE

September 29, 2023

Mr. Roger Petrie
Federal Facility Agreement Manager
Oak Ridge Office for Environmental Management
Department of Energy
PO Box 2001
Oak Ridge, TN 37831

Dear Mr. Petrie

RE: TDEC Response to DOE's Appendix J FY+3 Milestone Notification, September 21, 2023

The Tennessee Department of Environment and Conservation (TDEC) Division of Remediation, Oak Ridge Office (DoR-ORO) is in receipt of the U.S. Department of Energy (DOE) submittal dated September 21, 2023, transmitting the above referenced Appendix J FY+3 notification. DoR-ORO received the transmittal the same day. TDEC has completed a review of the submittal pursuant to the Federal Facility Agreement (FFA) for the Oak Ridge Reservation (ORR).

The subject milestone notification does not accurately represent a complete set of milestones which are consistent with current planning discussions among the FFA project teams. This specific issue is discussed in more detail within the TDEC and DOE correspondence shared during FY 2023:

- TDEC comment letter to DOE (dated 3-24-23) regarding the DOE proposed Appendix J including additional milestone proposals;
- DOE response letter to TDEC (dated 4-17-23) on that same subject; and
- TDEC letter to DOE (dated 4-28-23) agreeing to temporarily delay addressing TDEC interests.

Because of the ongoing contract negotiations, the most recent subject submittal fails to satisfy the intent of the FFA to establish milestones reflecting planned remediation projects on the ORR. As DOE acknowledges in the subject submittal:

DOE anticipates Appendices E and J milestone rearrangements and additions to occur after contract negotiations, currently taking place for future cleanup work, are completed in FY 2024.

Ultimately, these continued contract negotiations are still preventing the FFA parties from establishing remediation milestones within Appendix E and J as prescribed by the FFA. TDEC interests in this matter include the tri-parties working in a manner consistent with the FFA. In the above referenced April 17, 2023, correspondence from DOE, the Department estimated that the

planned progression and execution of the FFA scope of work would be completed by the end of June. Such a schedule would allow for the population of the milestone tables in Appendix E and Appendix J by September 30, 2023, satisfying the TDEC request laid out in its correspondence of March 24, 2023. However, in this subject September submittal, the contract negotiations have not concluded, and DOE is unable to provide a hard deadline for contract negotiations to be completed, resulting in the Appendix E and J tables not being populated as TDEC described in the March correspondence.

Given the current situation, TDEC will continue to assist DOE by allowing DOE to delay addressing additional milestone requests so that contract negotiations can be completed to inform and allow compliance with FFA obligations. Most recent discussions extend the anticipated completion of these negotiations until the end of CY 2023. TDEC expects DOE to expeditiously propose appropriate project milestones for the FFA appendices as the contract negotiations proceed. All FFA parties have agreed to the need and duty to establish milestones in sufficient detail to demonstrate the flow of primary documents under review as the FFA work proceeds.

While TDEC does not object to the limited proposal made in this subject submittal, it reserves the position taken in March regarding the need for a complete set of milestones. In addition, specific milestones currently included must be adjusted for accuracy and approval. TDEC's lack of objection to the revised Appendix J reflected in DOE's subject September 21 letter does not indicate approval. The DOE proposal is being submitted before the contract talks are finished and still does not address additional milestones requested by DoR-ORO regarding the required annual FFA Section XVIII update submittal from March 2023.

DoR-ORO looks forward to working with DOE and the U.S. Environmental Protection Agency to develop milestones which clearly represent the remediation priorities and schedules as intended by the FFA. Questions or comments concerning the contents of this letter should be directed to Randy Young at the above address or by phone at (865) 310-1157.

Sincerely

Randy C Young

Digitally signed by Randy C Young
Date: 2023.09.29 13:53:18 -04'00'

Randy C. Young
FFA Project Manager
Division of Remediation - Oak Ridge Office

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