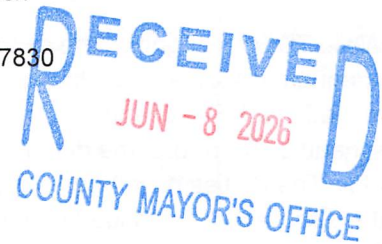




STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Land Protection – Remediation Branch
Oak Ridge Environmental Field Office
761 Emory Valley Road, Oak Ridge, Tennessee 37830



June 3, 2026

Mr. Roger Petrie
Federal Facility Agreement Manager
Oak Ridge Office of Environmental Management
U.S. Department of Energy
Post Office Box 4067
Oak Ridge, Tennessee 37831

Dear Mr. Petrie

Department of Energy Oak Ridge Environmental Management Fiscal Year 2028 Budget Request

The Tennessee Department of Environment and Conservation (TDEC), Division of Land Protection – Remediation Branch, Oak Ridge Environmental Field Office has identified the following priorities for inclusion with the U.S. Department of Energy's (DOE) Oak Ridge Environmental Management's (OREM) Fiscal Year 2028 (FY28) budget request. This information is being shared in accordance with the Oak Ridge Reservation (ORR) Federal Facility Agreement (FFA) Section XXXVIII (Funding).

DOE did not consult with TDEC or the U.S. Environmental Protection Agency (EPA) while formulating the FY28 budget request as specified in Section XXXVIII.A of the ORR FFA. Therefore, it is difficult to determine whether TDEC and DOE priorities are aligned. TDEC requests DOE follow the steps outlined in Section XXXVIII of the ORR FFA and the FFA Appendix I-16 Operating Instructions during subsequent budget formulations. This includes holding a January prioritization meeting with the intent of identifying differences between FY+2 budget proposals with previous Appendix J FY+3 milestones, as well as working towards consensus on FY+3/+4 milestones. TDEC looks forward to working with the FFA parties to continue to adjust and refine outyear plans.

TDEC's priorities and recommendations for DOE's FY28 budget request are outlined below.

PBS: OR-0041 – Outfall 200 Mercury Treatment Facility (OF200 MTF)

DOE paused the OF200 MTF project at the Y-12 National Security Complex (Y-12) due to cost overruns, delays, and estimated cost for completion. Last year, OREM requested a milestone extension for a Phased Construction Completion Report to mark the end of construction. TDEC understands the project is both over budget and over schedule, and it is estimated as not yet being half completed. Project costs have already

exceeded the original estimated project costs from 10 years ago in the Amendment to the Phase 1 Upper East Fork Poplar Creek (UEFPC) Interim Record of Decision (IROD).¹

While TDEC recognizes the existence of the delay, it viewed the five-year extension request as not adequately supported by the justification provided. Particularly, an FFA Appendix E milestone was being moved into FFA Appendix J, and no interim milestones were proposed to support steps for a realistic new schedule. Therefore, the denial of the milestone extension request is now in informal dispute per the ORR FFA. The parties have been engaged in some FFA discussion under informal dispute. TDEC recognizes that the discussions could lead to a modification of the scope of the project and have been willing to engage in the discussion with DOE and EPA. The importance of the project cannot be denied. It is unfortunate that the opportunity was missed to request more funding to resume the project or to proceed in a modified fashion for this budget cycle. Reducing the amount of contamination exiting the Y-12 site via surface water is a top priority for TDEC.

As prescribed in the Amendment to the IROD for Phase I Interim Source Control Actions in UEFPC, the completion of the OF200 MTF project is critical for beginning remediation within the West End Mercury Area (WEMA), in addition to minimizing mercury contamination in UEFPC which continues to exit Y-12 into the City of Oak Ridge and surrounding community. Demolition of these mercury-contaminated buildings and remediation of soil and principal threat waste beneath the building footprints are required to support the critical national security mission of the National Nuclear Security Administration (NNSA) and represent a significant risk reduction. While the Phase 1 IROD goal was directed at achieving surface water mercury reductions to reach a concentration of mercury of 200 nanograms per liter measured at Station 17, another aim of the OF200 MTF project was to design and operate a treatment system that could prevent larger releases of mercury during demolition than levels currently entering the creek from discharge at OF200. Demolition activities in the past, such as the 2018 West COLEX project associated with Alpha-4, resulted in a surge of additional mercury being released into UEFPC resulting in a four-month long fish kill. Any eventual resolution would need to also address this goal of the Amended IROD.

The dispute needs to be resolved, and milestones should be established and the appropriate level of funding requested to fund/reinitiate completion of the OF200 MTF project or identify and implement alternative project(s) that would not only provide equivalent total reductions but also address preventative measures to be undertaken with WEMA demolition. Continued funding of OF200 MTF or some other agreed upon alternative actions is a TDEC priority.

PBS: OR-0041 – Y-12 Soil Remediation

TDEC requests OREM procure funding to accelerate remediation of soil in areas where NNSA has plans to construct new facilities. Planning and initiation of soil remediation within the UEFPC watershed is a TDEC priority. The demolition of contaminated buildings allows access to land at Y-12 making it available for construction of new facilities to support NNSA's missions and modernization efforts. Prior to new buildings being constructed within the footprints of demolished facilities, the contaminated soil and principal threat waste below these buildings must be remediated in accordance with regulatory commitments. As written and

¹ Amendment to the Record of Decision for Phase I Interim Source Control Actions in the Upper East Fork Poplar Creek Characterization Area, Oak Ridge, Tennessee: Water Treatment at Outfall 200, [DOE/OR/01-2697&D2](#) (May 2016)

approved, the IROD at Y-12² requires soil remediation to be implemented as buildings are remediated and contaminated soil becomes "accessible". The purpose of soil remediation under the IROD is not just for worker protection at a shallow two-foot depth but also to remove soils threatening contamination to groundwater and surface water down to the water table or to bedrock. At the present time, due to successful completion of the demolition of the Alpha-2 building, soils have now become "accessible". This is one near-term example and funding should be pursued for a removal action as discussed by the FFA parties to address soils in this area. The IROD language referenced recognizes the existence of a source of mercury contamination present in the former basement area of the Alpha-2 building.

Contaminated soil in WEMA and other areas at Y-12 contribute to the impairment of EFPC for methylmercury in both upper and lower reaches. While the creek exits Y-12 at Station 17, it does not end. Rather, the Lower East Fork Poplar Creek travels for miles running through the City of Oak Ridge. The proper sequencing of demolition, soil remediation, and new construction is necessary to ensure that a remediation strategy is implemented at Y-12 that allows beneficial reuse of the property, is protective of human health and the environment, supports NNSA's mission, and saves on overall costs. It is not TDEC's preference to delay necessary soil remediation and construct new facilities over sources of contamination. Such an approach would allow contamination to continue spreading in the environment while greatly increasing both remediation schedules and associated costs.

PBS: OR-0040 – East Tennessee Technology Park (ETTP)

TDEC requests OREM procure funding to accelerate implementation of existing groundwater remediation commitments at ETTP. *Ensuring regulatory commitments for groundwater remediation are fully funded is critical to achieve final closure of ETTP and is a TDEC priority.* Many areas of ETTP have been transferred to the public while contaminated groundwater remains to be addressed. Obtaining adequate funding to implement current regulatory commitments for these now public use areas is critical to ensure continued protectiveness of new users of the property while also characterizing source areas prior to redevelopment activities. DOE must ensure the response action assurances under approved ORR covenant deferral requests are satisfied, specifically including funding requests prescribed in 42 USC 9620 (h)(3)(C)(ii)(IV) which states "... the Federal agency responsible for the property subject to transfer will submit a budget request to the Director of the Office of Management and Budget that adequately addresses schedules for investigation and completion of all necessary response action, subject to congressional authorizations and appropriations".

PBS: OR-0041 – Construction Project 17-D-401 – Environmental Management Disposal Facility (EMDF)

TDEC requests OREM procure funding to support construction of EMDF. TDEC's priorities relating to construction and operation of EMDF include:

- accelerating EMDF baseline sampling (groundwater and surface water) to allow timely evaluation and reporting before EMDF operation commences;
- designing the EMDF landfill wastewater treatment system including finalizing plans for conveying the existing Environmental Management Waste Management Facility wastewater to the EMDF system to support compliance with discharge limits; and

² Record of Decision for Phase II Interim Remedial Actions for Contaminated Soils and Scrapyard in Upper East Fork Poplar Creek ([DOE/OR/01-2229&D3](#)), (April 2006)

- evaluating and implementing a robust EMDF monitoring program that provides more conclusive water-level data beneath the landfill and minimizes uncertainties that result from the use of pneumatic piezometers and interpolation of data from wells/piezometers outside the landfill footprint.

The EMDF is a critical project to support ORR-wide remediation and continues to be a TDEC priority.

PBS: OR-TD-0100 – Technology Development Activities

Consistent with the ROD for the EMDF, TDEC places priority on actions to mitigate the presence of methylmercury in Bear Creek and continuation of mercury remediation technology development. As described in the EMDF ROD, reducing the current generation of methylmercury in Bear Creek is vital to supporting soil remediation and building demolition schedules within UEFPC. Much of the waste generated from future remediation projects will contain mercury contamination and is planned for disposal at the EMDF. Adequate funding should be requested to expeditiously satisfy this previous ROD commitment of the FFA parties. Recently, the methylmercury levels in fish have increased from a previous downward trend in 2022 when the ROD was signed. The mercury strategy agreed to by the FFA parties and inserted into the ROD anticipated this contingency by requiring actions in a compliance schedule to support a new discharge while the creek remains impaired under the federal CWA section 303(d) listing. OREM needs to be prepared to comply with the applicable or relevant and appropriate requirements for discharges of landfill wastewater including but not limited to the state antidegradation rule. Furthermore, because of the scope of the mercury problem within UEFPC, TDEC strongly suggests DOE continue to evaluate effective mercury remediation technologies. Obtaining funding for technology development for mercury characterization and remediation is vital to overcoming the challenges to be encountered during remediation.

The ORR FFA Sec. XXXVIII.B prescribes:

B. The parties shall attempt to reach agreement regarding work scope, priorities, schedules/milestones, and Program Baseline Summary (PBS) funding levels required to accomplish the purpose of the Agreement. These discussions shall be conducted before DOE-OR submits its annual budget request and supporting PBS to DOE-HQ. EPA and TDEC shall, to the extent practicable, identify in its comments to DOE whether additional or accelerated activities recommended by the EPA and/or TDEC are believed by the EPA or TDEC to be outside of target funding levels for the activities covered under this Agreement.

In absence of the necessary information being provided in the budget briefings to have meaningful discussions about scope of work and budget formulation for FY28, it is not possible for TDEC to determine if or how its stated priorities would be affected by OMB target guidance³. It is also not possible, specifically, to

³ [Federal Facility Agreement for the Oak Ridge Reservation](#) - Unlike briefings from several years ago, the information now being provided is so restricted as to discussion of the OMB target guidance and its impact that it is questionable whether the information and briefing provided is sufficient for compliance with the FFA Sec. XXXVIII.A: *DOE shall consult with EPA and TDEC in formulating its annual DOE-OR Environmental Management budget requests as set forth in this section. By February 15 of each year, DOE shall provide EPA and TDEC with information, including the Priority List, or a briefing on the proposed DOE-OR Environmental Management budget*

identify if the activities TDEC prioritizes would be “additional or accelerated” and outside the target funding. Therefore, TDEC continues to state its broad priorities. In accordance with Section XXXVIII, paragraph C of the ORR FFA, if the issues above cannot be resolved prior to the transmittal of OREM’s budget request to DOE-HQ, then TDEC’s priorities should be forwarded by OREM along with the FY28 budget request.

Questions or comments concerning the contents of this letter should be directed to Eileen Marcillo at eileen.marcillo@tn.gov or by phone at (865) 985-2397.

Sincerely

Eileen Marcillo

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Eileen Marcillo
FFA Project Manager
Division of Land Protection – Remediation Branch
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request, including appropriate supporting documents. In the process of formulating its annual budget request, DOE may be subject to target funding guidance directed by the Office of Management and Budget (OMB). The information or briefing will address the impacts of such OMB target funding guidance.

