



Many Voices Working for the Community

Oak Ridge Site Specific Advisory Board

February 11, 2010

Mr. John Eschenberg
Assistant Manager for Environmental Management
DOE-Oak Ridge Operations
P.O. Box 2001, EM-90
Oak Ridge, TN 37831

Dear Mr. Eschenberg:

Recommendation 185: Recommendations on the Environmental Assessment for the Transfer of Land and Facilities within East Tennessee Technology Park and Surrounding Area

At our February 10, 2010, meeting, the Oak Ridge Site Specific Advisory Board approved the enclosed recommendation regarding Environmental Assessment for the Transfer of Land and Facilities within East Tennessee Technology Park (ETTP) and Surrounding Area.

ORSSAB has made a number of comments regarding the document as well as six specific recommendations. A table of comments is included with the enclosed recommendation.

Following are specific recommendations:

1. In general the board agrees with the proposed transfer of land and facilities at ETTP, with the exception of Parcel ED-3. The board believes it should remain undeveloped.
2. The EA needs to evaluate whether revising the land use Alternatives 1 and 2 for Zone 1 and 2 at ETTP requires reviewing the risk evaluated in the record of decision based on the assumed land uses.
3. The 'bounding' analysis should consider failure of implementation of the land use controls established in regulatory decision documents.
4. Independent verification of the identified parcels should be completed prior to transfer to assure that cleanup requirements have been met.
5. Complete and file Notices of Contamination with Roane County.
6. Include land use restrictions in the Covenant Deferral Requests, as appropriate.

We ask that you forward these recommendations and comments to Sue Cange, DOE-Oak Ridge, P.O. Box 2001, Oak Ridge, TN 37831 by February 15, 2010.

Sincerely,

Ron Murphree, Chair, PE, CPE

rm/rsg

Enclosure

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Mr. John Eschenberg

Recommendation 185: Recommendations on the Environmental Assessment for the Transfer of Land and Facilities within East Tennessee Technology Park and Surrounding Area

cc/enc:

Dave Adler, DOE-ORO

Cate Brennan, DOE-HQ

Sue Cange, DOE-ORO

Mike Farmer, Roane County Mayor

Pat Halsey, DOE-ORO

Gary Hartman, DOE-ORO NEPA Compliance Officer

Connie Jones, EPA Region 4

Local Oversight Committee

Rex Lynch, Anderson County Mayor

Melissa Nielson, DOE-HQ

Oak Ridge City Manager

John Owsley, TDEC



**Oak Ridge Site Specific Advisory Board
Recommendation 185:
Recommendations and Comments on the Draft
Environmental Assessment for the Transfer of Land
and Facilities Within East Tennessee Technology
Park and Surrounding Areas**

Background

The Department of Energy (DOE) has prepared a draft environmental assessment (EA) for the transfer of land and facilities at East Tennessee Technology Park (ETTP) and surrounding area.

The proposed action evaluated in the EA is the conveyance of DOE property located at ETTP and surrounding areas for mixed-use economic development. Leases, easements, and/or title transfers could be executed with the Community Reuse Organization of East Tennessee (CROET), the City of Oak Ridge, other agencies, or private entities.

DOE says action is needed to reduce the eventual cost for building demolition and reduce or eliminate landlord costs. According to DOE, the action also helps free up money for reinvestment in cleanup projects to further reduce risks at the site. The conveyance of unneeded property can also offset economic losses resulting from continued DOE downsizing, facility closures, and workforce restructuring.

In accordance with DOE and National Environmental Policy Act (NEPA) procedures, DOE is providing affected stakeholders and the general public the opportunity to review and comment on the draft EA prior to DOE's final decision on the proposal.

The study area for the EA includes approximately 5,000 acres located in the northwest portion of the Oak Ridge Reservation and includes the developed portion of ETTP. In 1996, DOE began a reindustrialization program to make land, facilities, and equipment at ETTP available for use by private-sector businesses and industries. As part of the reindustrialization effort, DOE and CROET are transitioning the former gaseous diffusion plant to a private industrial/business park known as the Heritage Center.

Commercial use of the area does not constitute a change of the primary use of the property, which has been industrial for more than 60 years. The remainder of the study area, which is not being considered for transfer, consists of large, open tracts of undeveloped land.

DOE has prepared the EA to assess potential consequences of the proposed transfer on the human environment. If the impacts associated with the proposed transfer are not identified as significant as a result of the EA, DOE will issue a Finding of No Significant Impact and will proceed with the transfer. If impacts are identified as potentially significant, an Environmental Impact Statement will be prepared.

The EA:

- describes the existing environment within the EA study area relevant to potential impacts of the proposed action and alternatives;

- analyzes potential environmental impacts that could result from the proposed action and alternatives and;
- identifies and characterizes cumulative impacts that could result from the conveyance of DOE property in relation to other ongoing or proposed activities within the surrounding area.

Under the proposed action, DOE could convey up to approximately 1,800 acres of property located within the EA study area. This property includes the majority of the main ETTP plant area, Duct Island, a portion of the former K-25 Powerhouse Area, the K-1251 Barge Loading Area and the land adjacent to it, and land identified as Parcel ED-3.

Proposed uses for the land could include, but are not limited to:

- light to heavy manufacturing
- storage, wholesaling, distribution, warehousing
- research and testing
- administrative/technical/professional offices
- storage facilities
- waste treatment facilities
- recycling (including radioactively contaminated materials)
- broadcasting, publishing, recording, telecommunications
- food processing
- commercial uses including restaurants, convenience stores, banks, service centers
- public parks

Because actual future uses are not known, a ‘bounding’ analysis was used to estimate potential impacts. Because of the lack of detail of future uses, the bounding analysis typically uses conservative assumptions and analytical methods to estimate the maximum value of a potential environmental impact.

Conveyance of the property would be phased with the option of fee title transfer, easements, or leasing. Upon the completion of the conveyance, the portions of the property that could be developed would be marketed, sold, leased, or utilized by CROET for other owners. The proposed action assumes that the conveyed property would be developed for a mixed use, including but not limited to, industrial, commercial, recreation, tourism (including historic preservation), and open space.

The EA also describes three alternatives in addition to mixed-use economic development:

- Alternative 1 would convey the same property, but it would be developed to support heavy industrial operations only.
- Alternative 2 would convey the same property, but it would be developed for mixed uses except heavy industrial.
- A No Action alternative, in which no additional property within the EA study area would be leased or sold for development unless it has already been reviewed under a previous NEPA evaluation.

Discussion

The draft EA was received by the Oak Ridge Site Specific Advisory Board in early January 2010. The Stewardship Committee members reviewed the draft EA and reported to the board's Executive Committee on January 28, 2010.

The EA referenced the Land Use Planning Technical Report (ORNL/TM-2002/132) which recognized general agreement on the use of approximately 87% of the land under consideration. The Land Use Focus Group evaluated four land use planning scenarios: Greenspace Emphasis, Development Emphasis; Modified ED-3 Development, and Less Development (i.e., no development south of Highway 58).

While there were some preferences, no one scenario could be judged as representing a consensus of the Focus Group. The Focus Group Report did not reach a consensus on the preferred use for the remaining land designated as Parcel ED-3 and "Land Parcel 8" located along Bear Creek Road. Based on the results of the land use planning, DOE reconfigured Parcel ED-3. Due to the physical attributes not being suited for development, the property along Bear Creek Road is no longer considered for transfer. The land south of Highway 58 is included in the ED-3 land parcel where consensus could not be reached among the Focus Group members and through public review and comment.

The Focus Group agreed upon several "values" that should be reflected in any action regarding the disposition and/or management of the land. The five most highly rank values, in decreasing order of importance, were:

1. Protect Threatened/Endangered Species
2. Concern for Water Quality
3. Increase Oak Ridge Tax Base
4. Concentrate Any New Industry
5. Increase Number of Jobs in Oak Ridge.

The impacts to threatened species for Less Development were equivalent to the impacts associated with the Greenspace Emphasis. Runoff water, on average, has a flow rate varying from 0.002 cubic meters per second (m^3/s) to 0.017 m^3/s . The maximum runoff currently associated with the Development Emphasis option is only 1.2% of the flow rate at which East Fork Poplar Creek discharges water to the Clinch River and therefore is not significant.

The analysis of soil loading in runoff concluded that the disposition of soil will be insignificant due to lack of intensity in the runoff flow. The chemical loading was evaluated as beryllium loading in runoff. The contaminant loading calculation for beryllium indicates the Development Emphasis option will cause the least amount of contaminant transport by runoff. This is due to the fact that developed lands tend to have a better erosion prevention mechanism than the undeveloped lands.

The key economic impacts analysis identified the Development Emphasis option would result in the greatest Oak Ridge city employment (440). The Less Development Emphasis and Greenspace Emphasis resulted in 280 and 260 jobs respectively. The lower and upper bound ranges of revenues for the City of Oak Ridge trended similar to the job gains discussed. The analysis indicated that the City of Oak Ridge is likely to be more dependent on these projects than the rest of the region. The Development Emphasis scenario resulted in the greatest cumulative impact (5.3%). The Less Development and Greenspace Emphasis resulted in a 5.1% impact to cumulative employment.

The Zone 1 Record of Decision (ROD) for Soil at ETPP assumes the primary receptor is the industrial worker. The industrial worker will be protected through the remedial action process, remediation of known areas of contamination, and the application of interim land use controls to 10 feet below ground surface. The Remedial Action Objective for Zone 1 is to “Protect human health under an unrestricted industrial land use to a risk level not to exceed 10^{-4} .”

The primary objective of the Zone 2 ROD for Soils, Buried Waste, and Subsurface Actions in Zone 2 is protection of industrial workers from exposure to hazardous substances within Zone 2 to risk based levels that do not exceed 1×10^{-4} excess cancer risk and non-cancer risk at or below a hazard index of 1. This will be done through the remediation of areas of contamination and the application of land use controls, including institutional controls, through the Zone 2 area to prevent an unacceptable risk of human exposure to contaminated soil and restrict the development of residential housing, schools, or daycare facilities. Another objective of the remediation measures in this ROD is to protect groundwater by removing contamination in soil, burial grounds, or infrastructure that could contribute to future groundwater contamination above maximum contaminant levels.

The EA considers industrial uses are the permitted principal uses requiring a Board of Zoning Appeals permit in the City of Oak Ridge Zoning Ordinance. Additional commercial and recreational uses included in Zoning Ordinance for UB-2, Unified General Business Districts, include “public recreation uses such as parks, playgrounds, golf courses, athletic fields, and stadiums and schools.” The EA indicates that acceptable land uses will be based on CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980) 120(h) compliance requirements, applicable City of Oak Ridge zoning requirements, and the ability to obtain construction and operating permits and licenses. As a bounding analysis, the NEPA does not evaluate whether the proposed non-industrial uses are consistent with the CERCLA derived risk based remedial action objectives for the Zone 1 or Zone 2 RODs for soil.

The land use and institutional controls are identified in the ROD to protect the industrial worker, however the bounding analysis in the EA does not consider failure of the land use controls after the parcels are conveyed and the property transferred to subsequent owners.

As a result of comments provided by the ORSSAB Stewardship Committee, the Executive Committee developed the following comments and recommendations to be considered by the full board. The board approved the comments and recommendations on February 10, 2010.

Recommendations and Comments

Recommendations

1. In general the board agrees with the proposed transfer of land and facilities at ETPP, with the exception of Parcel ED-3. The board believes it should remain undeveloped.
2. The EA needs to evaluate whether revising the land use Alternatives 1 and 2 for Zone 1 and 2 at ETPP challenge the risk based remedial action objectives evaluated in the record of decision documents.
3. The EA ‘bounding’ analysis should consider failure of implementation of the land use controls established in regulatory decision documents.
4. Independent verification of the identified parcels should be completed prior to transfer to assure that cleanup requirements have been met.
5. Complete and file Notices of Contamination with Roane County.
6. Include land use restrictions in the Covenant Deferral Requests, as appropriate.

Comments on the EA-1640 document

Comment No.	Sect/ Page	Comment
1	2.1.1/2-2	Line 19. Identify the organization that has responsibility to review proposals to ensure proposed activities fall within the bounding analysis of the EA after parcels have been conveyed.
2	2.2/2-4	Replace " CERCLA 120(h) compliance requirements" with "land use controls identified in Zone 1 and Zone 2 remedial action documents"
3	2.1.2/2-3	Line 19. Add "and controls identified in remedial action documents"
4	3.1.1/3-1	Line 20. Add a sentence that "Remedial action projects are based on land use goals and the associated exposure risks as analyzed in Records of Decision (ROD) documents. In many instances remediation efforts result in long-term controls on the use of the land."
5	3.1.1/3-1	Line 23. Suggest replacing reference to Annual Site Environmental Report (ASER) with a reference to the "Remedial Effectiveness Report (RER), Volume 1 and Volume 2."
6	3.1.1/3-3	Line 11. Add "slabs and filled basements" after "facilities"
7	3.3.2.1/3-9	General comment. Add sentences indicating "The Excavation/Penetration Permit program is a land use control for Zone 1 and Zone 2. The responsible organization is responsible for obtaining an excavation/penetration permit for ground disturbing activities."
8	3.3.2.1/3-9	This section needs to include a discussion of the existing storm drain system at ETTP and impacts (e.g., CROET would be the sitewide National Pollutant Discharge Elimination System (NPDES) permit holder).
9	3.3.2.1/3-9	Identify the land use assumptions of the remedial action document and the associated controls and reference the remedial action documents for Zone 1 and Zone 2.
10	3.3.2.2/3.9	This section needs to evaluate the potential for the proposed action to result in uncontrolled release of (i.e. failure of the remediation controls) the hazardous materials that will remain in the soil after remediation is complete.
11	3.4.1.1/3-10	This section needs a description of the groundwater plumes within Zone 1 and Zone 2 and an indication that a final decision on the groundwater has not been made.
12	3.4.1.1/3-10	Suggest also referencing the Treatability Study for the Hexavalent Chromium.
13	3.4/General Comment	The proposed actions could impact groundwater flows just as decontamination and decommissioning actions at ETTP have affected groundwater flow (e.g. Hexavalent Chromium in groundwater into Mitchell Branch).
14	3.4.2.1/3-14	This section needs to indicate that implementation of the controls identified in the soil remedial action documents is an underlying assumption for protection of the groundwater. A final decision has not been made (i.e. and associated controls for the Zone 1 and Zone 2 groundwater.
15	3.5.1.3/3-17	This section should reference the results of the Aquatic Resource Sampling program as described in the RER Vol. 2. for Zone 1 and Zone 2.
16	3.6.1/3-22	The existing memorandum of agreement (MOA) for preservation of the K-25 Building needs to be included in this section as it is the agreement of record until superseded by a revised or new MOA.
17	3.8.1.2/3-31	The main roads within ETTP (e.g. Perimeter Road) have been transitioned to the City of Oak Ridge.
18	3.9.1/3-32	Waste management is currently contracted to Bechtel Jacobs Company, LLC, until no later than December 31, 2011.
19	3.9.1/3-32	The Toxic Substance Control Act Incinerator (TSCAI) shut down operations in calendar year 2009 and is in process of Resource Conservation Recovery Act closure. The TSCAI will be managed under surveillance & maintenance until decontamination and decommissioning.

20	3.9.1/3-32	Suggest replacing reference to ASER with the RER.
21	Appendix A	Suggest adding correspondence relating to historic preservation of the K-25 North Tower