

**Dispute Resolution Agreement**  
**for**  
**Dispute Concerning**  
**Oak Ridge Reservation Federal Facility Agreement**  
**East Tennessee Technology Park Ponds**  
**Removal Action Completion Report Milestone (May 9, 2010)**

THIS AGREEMENT resolves the dispute between the Department of Energy's Oak Ridge Operations (DOE), the United States Environmental Protection Agency Region 4 (EPA), and the Tennessee Department of Environment and Conservation (TDEC). The dispute, initiated by DOE on June 1, 2010, concerned whether DOE had failed to perform a requirement of the Federal Facility Agreement (FFA), making it subject to stipulated penalties. Specifically, DOE submitted a report in May 2009 that asserted work scope completion, when earlier damage had occurred to a fish barrier that subsequently allowed undesired fish species to reenter the ponds, inconsistent with the requirements of the response action.

Process Summary

On May 27, 2010 and June 1, 2010, TDEC and EPA, respectively, notified DOE that it had failed to perform a requirement of the FFA concerning the East Tennessee Technology Park, Ponds (Ponds) project that made it subject to stipulated penalties. On June 1, 2010, DOE initiated informal dispute in this matter. A meeting was held in Oak Ridge on June 16, 2010, to attempt to informally resolve the question of whether the failure occurred, where DOE provided materials and made a presentation of its views. DOE's presentation consisted of an explanation of why the report had omitted any discussion of damages to the grate. DOE acknowledged that there was an omission to the report but disagreed that there was a material failure under the FFA. The parties reviewed the materials, and EPA and TDEC concluded that DOE had not demonstrated that it had not failed to perform a requirement under the FFA. This requirement was to submit a Removal Action Report (RAR) demonstrating that the designed response measures were constructed and operational.

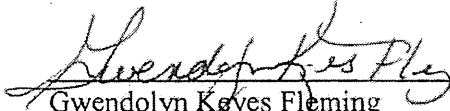
Agreement

In order to resolve the dispute, the parties acknowledge and agree:


- A failure occurred when DOE submitted the Ponds RAR by the milestone date notwithstanding damage to the fish barrier that undermined the performance of the response action.
- To take into account that DOE agreed in the Excess Materials Removal Dispute Resolution Agreement to undertake certain corrective measures to prevent similar recurring failures.

The Parties understand and agree that this agreement resolves only these particular matters under the dispute initiated by DOE on April 22, 2010.

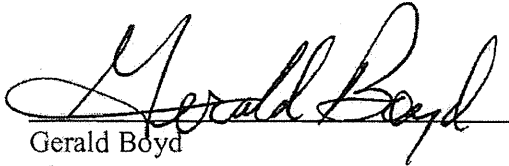
AGREED, this 19<sup>th</sup> day of October, 2010.

  
Gwendolyn Keyes Fleming  
Regional Administrator  
U.S. Environmental Protection Agency, Region 4

10/19/10  
Date

  
Paul Sloan  
Deputy Commissioner  
TN Department of Environment & Conservation

10/19/10  
Date

  
Gerald Boyd  
Manager  
Oak Ridge Office  
U.S. Department of Energy

10/19/10  
Date