

**Dispute Resolution Agreement
for
Formal Dispute Concerning
Oak Ridge Reservation
Federal Facility Agreement Appendix E and J**

THIS AGREEMENT resolves certain issues herein specified of the formal 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 EPA and TDEC on December 21, 2007, concerned the adequacy of the Oak Ridge Reservation Federal Facility Agreement (FFA) Appendix E and J milestones and targets.

In order to resolve the dispute, the parties agree:

- DOE proposes and EPA and TDEC hereby approve the attached milestones for FY 2008 and 2009. DOE shall submit change pages consistent with the FFA to incorporate these pages into the FY 2008 Appendix E. DOE added additional ETTP milestones in FY 2008, 2009 and 2010 by utilizing carry-over monies from uncommitted FY 2007 funds and other FY 2008 monies.
- EPA, TDEC and DOE agree that the following milestones will be included within the Appendix E scope of work for FY 2010:

○ ETTP Zone 1	RAR	8/1/10
○ ETTP Powerhouse	PCCR	6/30/10
○ ETTP EU 31,32,36	PCCR	3/31/10
○ ETTP K-1070B Burial Ground	PCCR	7/1/10
○ ETTP Ponds	RmAR	5/9/10
○ ETTP Sitewide ROD	CS (Ph 2)	5/16/10 Field Studies/Field Imp
○ ETTP K-25//27 D&D	PCCR (FY09 Earned value)	11/15/09**
○ ORNL BV Soils & Sediments	PCCR Ph 1	9/30/10
○ ORNL BV Corehole 8 AM	RmAR	6/30/10
○ ORNL MSRE Flush & Fuel Salt Removal	Cont. Mob	12/30/09
○ ORNL MSRE Flush & Fuel Salt Removal	Engr Eval Rpt	1/30/10
○ EMWMF	CARAR	4/1/10
○ Y-12 Y-12 Salvage Yard, Scrap Removal	CS	9/30/10
○ Y-12 UEFPC Soils Remediation	Eng Study Rpt	9/30/10
○ Y-12 UEFPC Sediments (81-10 Area)	Treat Study Rpt	9/30/10
○ Y-12 UEFPC West End Mercury Area	CS	7/1/10
○ ORR Water Resources Restoration	RER	3/30/10
○ Other	PIP	5/31/10

**Includes commitment to start K-27 high risk equipment removal

- If the dispute is unresolved prior to its budget submittal, DOE agrees to seek funding for all FY2010 projects, including the following:

○ Y-12 Alpha 4 D&D	WHP	12/31/09
○ Y-12 Alpha 4 D&D	CS	4/30/10
○ Y-12 BCV Burial Ground	RDR/RAWP	2/1/10
○ Y-12 BCV Burial Ground	CS	9/30/10

- Upon resolution of the dispute and approval of FY 2010 milestones by EPA and TDEC, DOE shall submit change pages consistent with the FFA to incorporate the final agreed-upon FY 2010 milestones into the FY 2008 Appendix E.

- EPA, TDEC and DOE agree that a pilot approach to earned value milestones for the K-25/27 removal action will be included in the FY 2008 to 2010 Appendix E. The earned value milestones include definitive metrics for performance that allow DOE flexibility in deployment of specific phases of the K-25/27 project. The definitive performance metrics are attached to this agreement. These metrics include completion of all phases of K-25 demolition and documentation in a PCCR in FY 2012, start of K-27 high risk equipment removal by FY 2010, and demonstration of completion of K-27 by documentation in a K-25/27 RmAR by FY 2016. DOE agrees to provide monthly reports to the Core Team and quarterly reports to the FFA Project Managers.

- EPA and TDEC agree to the Construction Start milestone for K-1070-B Burial Ground in the approved milestones for FY 2009 on the condition that DOE agrees that this FY 2009 milestone reflects some flexibility in its projected schedule of a September 2008 construction start, and that this flexibility will not jeopardize completion of this project by July 1, 2010, and will not impact any other project in FY 2009. DOE has submitted a February 26, 2008, a letter further documenting this agreement.

- DOE agrees that it will include in FY2011 a Remedial Action Report milestone that documents completion of ROD scope remedial action at the Molten Salt Reactor Experiment and has submitted a February 26, 2008, a letter further documenting this agreement.

- DOE agrees that it will include in FY 2011 a Construction Start milestone for BV D&D Isotopes Facilities (3026 (C&D)).

- DOE agrees that it will collaborate with EPA and TDEC prior to adding non-FFA EM work scope. The parties agree that milestones may only be changed by unanimous agreement or at the conclusion of the dispute resolution process.

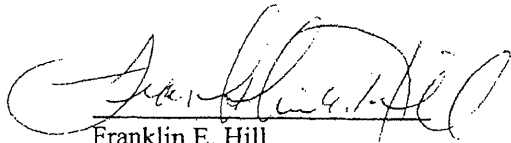
- EPA, TDEC and DOE agree to hold, as soon as practicable, a workshop on FFA processes and procedures, as well as, policies and guidance produced by the agencies that are important in administering the FFA. The purpose of the workshop is to discuss the parties' respective understanding of the FFA processes for developing and adjusting milestones and targets within Appendices E and J. It is the expectation that such discussion will enhance mutual understanding of and compliance with these FFA processes. Examples for scope of the workshop include timeliness and good cause for extension requests, responding to allocation shortfalls, defining an allocation shortfall, and displaying FFA milestones in terms of annual lifecycle costs, DOE Project Baseline, CERCLA D&D and remedial action; etc.

The parties agree that the following issues have not been resolved and will be elevated to the SEC:

- DOE maintains that it is unable to establish or maintain regulatory milestones in FY+2 that it considers to be above target. These FY 2010 projects are:

○ Y-12 Alpha 4 D&D	WHP	12/31/09
○ Y-12 Alpha 4 D&D	CS	4/30/10
○ Y-12 BCV Burial Ground	RDR/RAWP	2/1/10
○ Y-12 BCV Burial Ground	CS	9/30/10
- DOE maintains that it is unable to establish or maintain regulatory milestones and targets in Appendix J (FY+3 and beyond) that it considers to be above target.
- EPA and TDEC believe that DOE's position that it cannot establish or maintain regulatory milestones and targets above budget target is inconsistent with the FFA and allows DOE's target budget guidance to drive, rather than inform, long-term planning.
- TDEC and EPA received an Appendix J Clean-up Schedule from DOE which DOE projected completion of site-wide clean-up under the current FFA by the end of FY 2016. EPA and TDEC do not believe the DOE schedule maintains a steady pace of clean-up for the 2010 thru 2016 time period. EPA and TDEC believe the DOE 2010 through 2016 clean-up budget profile will require a significant increase in annual funding for those years to complete clean-up by the end of FY 2016 and that given historic funding for DOE Environmental Management, a substantial annual funding increase is unlikely.

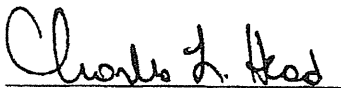
AGREED, this 19th day of March, 2008.



Franklin E. Hill
Director, Superfund Division
U.S. Environmental Protection
Agency

3/25/08

Date



Charles L. Head
Senior Director - Land Programs
Bureau of Environment
TN Department of Environment & Conservation

3/19/08

Date



Stephen H. McCracken, Assistant Manager
Environmental Management
Oak Ridge Reservation
U.S. Department of Energy

3/21/08

Date