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

November 9, 2023

Mr. Roger Petrie
Federal Facility Agreement Manager
Oak Ridge Office of Environmental Management
U.S. Department of Energy
Post Office Box 2001
Oak Ridge, Tennessee 37831

Request for Electronic Records (Engineering Drawings) per Federal Facility Agreement Section XXIX to Support State Oversight of the Groundwater Field Demonstration and Design of the Planned Environmental Management Disposal Facility

Dear Mr. Petrie

As noted in the October 16, 2023, approval letter, the Tennessee Department of Environment and Conservation (TDEC), Division of Remediation - Oak Ridge Office supports the U.S. Department of Energy's (DOE) efforts to complete work described in the *Remedial Design Work Plan/Remedial Action Work Plan* [RDWP/RAWP or plan] *for the Groundwater Field Demonstration* [GWFD] *at the Environmental Management Disposal Facility* [EMDF]*, Oak Ridge, Tennessee* (DOE/OR/01-2948&D2). Continued collaboration among DOE, TDEC, and the U.S. Environmental Protection Agency (EPA) is needed to ensure the landfill is constructed on schedule and in compliance with legal requirements and objectives documented in the Record of Decision (ROD).

Accordingly, the State continues to seek information requested in the RDWP/RAWP approval letter. Specifically, TDEC requests Computer Aided Design (CAD) files (electronic engineering drawings) containing details regarding the preliminary landfill design and GWFD plans. The request is for available information, including, and not necessarily limited to, the following:

- Locations of berms, roads, and drainage features.
- Coverage extents of the GWFD temporary liner and eventual landfill liner system.
- Elevations of surfaces, including ground, top of waste, liner system, and geologic buffer.

These files should provide data across the planned landfill footprint, such as contour maps of surface elevations. The requested data will support TDEC's *Federal Facility Agreement (FFA)* role to provide oversight and independently evaluate the effect the GWFD. Evaluation of the results

and establishment of the seasonal high water table (SHWT) are critical for landfill design. The requested data will assist the State in verifying the EMDF design meets Remedial Action Objectives (RAOs) codified in the ROD.

In recent FFA discussions on this topic, DOE indicated CAD files contain the design information being requested. Providing those files will satisfy this data request if they contain the information described above. If DOE's response does not satisfy TDEC's need for information to perform its FFA obligations, TDEC expects DOE to cooperate with follow-on discussions without the need for additional formal requests or actions by the State.

The State requests this information before the end of 2023. As detailed in TDEC's October 16 letter, the State has asked DOE to submit these electronic records for more than nine months— since February 1, 2023. FFA Section XXIX.A requires DOE to submit copies of records and data that are relevant to oversight activities upon request by EPA or TDEC. Furthermore, the same records would also be available to the public under the federal Freedom of Information Act (FOIA), which is recognized in FFA Section XXIX.D.

As noted in the approval letter, there was an email response to our request for the CAD files, but the statement was unclear as to the basis for refusal, citing only something about "consistency". The EMDF and the groundwater field demonstration are unique challenges that warrant more cooperation than ever before by the FFA parties. With files in the requested formats, TDEC will be able to evaluate groundwater elevations measured during the GWFD in the context of the preliminary landfill design in support of required regulatory reviews.

While there is no mention of records being produced in a specific requested format in the FFA, the FFA recognizes the FOIA. The FOIA allows a requester to specify the format needed, and the FOIA regulations provide for records to be produced in the requested format if "readily reproducible." Based on prior discussion, the requested CAD files exist, and they are "readily reproducible" in standard formats, such as those listed in the October 16 letter. TDEC is entitled to these readily reproducible records in the requested formats.

> 5 USCS § 552
>
> (B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

All three parties recognize the GWFD is a critical-path task on the construction schedule and that successful completion of the GWFD will involve more than simply executing activities summarized in the ROD and detailed in the approved plan. It will also entail independent oversight by TDEC and EPA, consensus regarding the study results, and regulatory approval of

the Remedial Design Report (RDR). This formal data request will assist TDEC in determining that the EMDF remedy protects public health and the environment.

Questions or requests for clarification concerning the contents of this letter should be directed to Brad Stephenson at the above address, by phone at 865-352-1235, or by e-mail at brad.stephenson@tn.gov.

Sincerely

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

ec: Dennis Mayton, DOE
        Brian Henry, DOE
        Sam Scheffler, DOE
        Carl Froede, EPA
        John Sayer, EPA
        Samantha Urquhart- Foster, EPA
        Sid Garland, UCOR
        Tanya Salamacha, UCOR
        Colby Morgan, TDEC
        Ethan Sweet, TDEC
        OREM Mailroom
        ORSSAB

xc: Terry Frank, ORRCA
        Wade Creswell, ORRCA
        Amanda Daugherty, ORRCA
        Amy Fitzgerald, ORRCA