Tue Aug 03 13:36:55 EDT 2021
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FW: Concerns regarding DOE's recent actions re: Oak Ridge Reservation CERCLA clean up while review of Radionuclide Pollution Decision is pending
To: "CMS.OEX" <cms.oex@epa.gov>; "Gaines, Cynthia" <Gaines.Cynthia@epa.gov>

DRF

From: Amanda Garcia <agarcia@selctn.org>
Sent: Monday, August 2, 2021 5:50 PM
To: Regan, Michael <Regan.Michael@epa.gov>
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Subject: Concerns regarding DOE's recent actions re: Oak Ridge Reservation CERCLA clean up while review of Radionuclide Pollution Decision is pending

Dear Administrator Regan:

We would like to thank EPA for informing us by letter dated June 9, 2021 that the agency is in the process of reviewing the Radionuclide Pollution Decision. Unfortunately, recent actions taken by the Department of Energy based on the Radionuclide Pollution Decision have only underscored the concerns of Southern Environmental Law Center, Advocates for Oak Ridge Reservation, Tennessee Citizens for Wilderness Planning, and Tennessee Chapter Sierra Club described in our letter dated May 26, 2021. Both DOE's recent actions and EPA's response highlight the flaws of the Radionuclide Pollution Decision and demonstrate why it is urgently important for EPA to reconsider the Decision, bring it into alignment with CERCLA's goals, and protect the water quality of our Tennessee communities who live and recreate near the Oak Ridge Reservation.

The exhibits to our letter are available here: https://southernenvironment.sharefile.com/d-s84e3d86076fc4e36a045377dd6b04319. Please let us know if you have trouble accessing the exhibits.

Sincerely,

Amanda

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August 2, 2021

VIA e-mail to

Administrator Michael S. Regan
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Regan.Michael@epa.gov

RE: Concerns Regarding the U.S. Department of Energy's Recent Actions During the U.S. Environmental Protection Agency's Review of the December 31, 2020 Radionuclide Pollution Decision for the Oak Ridge Reservation Facility in Oak Ridge, Tennessee

Dear Administrator Regan:

The Southern Environmental Law Center, Advocates for the Oak Ridge Reservation, Tennessee Chapter of the Sierra Club, and Tennessee Citizens for Wilderness Planning (Community Groups) write to follow up on our May 26, 2021 letter requesting that the U.S. Environmental Protection Agency (EPA) review and reconsider the December 31, 2020 decision issued by former EPA Administrator Andrew Wheeler regarding discharge of radioactive wastewaters at the Oak Ridge Reservation Facility (ORR Facility) in Oak Ridge, Tennessee (Radionuclide Pollution Decision or Decision).

Community Groups would first like to express gratitude to EPA for agreeing to review the Radionuclide Pollution Decision and for facilitating the June 23, 2021 discussion with EPA representatives. As we discussed during the June 23 meeting, the effects of the Radionuclide Pollution Decision have tangible, on-the-ground impacts to local communities who live and recreate near the ORR Facility. It is of critical importance that any final waste disposal decisions are truly protective of human health and the environment.

Unfortunately, the threat posed by the Radionuclide Pollution Decision to public health and the environment has come into stark relief since our June 23, 2021 meeting. As you know, the Decision governs the amount of carcinogenic, bioaccumulative radioactive pollution that the U.S. Department of Energy (DOE) will be able to discharge into Bear Creek, a tributary of the Clinch River, in connection with existing and proposed landfills that are intended to provide a remedy for DOE's contamination of the Oak Ridge Reservation. Contrary to the Comprehensive Environmental Response, Compensation, and Liability Act's (CERCLA) clear preference for technology-based clean-up standards,[1] the Decision invites DOE to potentially discharge large quantities of radioactive pollutants into Bear Creek based on flawed assumptions that are not protective of human health or the environment. Alarmingly, in a pair of recently-submitted documents, DOE has taken up that invitation and has proposed to sacrifice Bear Creek and the

[1] *See* 42 U.S.C.A. § 9621(b)(1).

health of communities downstream rather than install available and practicable treatment technologies required by CERCLA.

Specifically, DOE has attempted to take two dramatic steps to solidify its waste disposal plans at the ORR Facility in reliance on the Radionuclide Pollution Decision, despite EPA's current review of the Decision's legality, appropriateness, and effect. First, on the same day that Community Groups met with EPA, DOE transmitted the third draft of the Focused Feasibility Study for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge Tennessee (revised FFS) to EPA and the Tennessee Department of Environment and Conservation (TDEC).[2] This premature revised FFS reflects DOE's interpretation of the Radionuclide Pollution Decision. Second, on July 12, 2021, DOE prematurely issued a draft Record of Decision for the disposal of waste at the ORR Facility, before EPA and TDEC were able to review or comment upon the deeply flawed revised FFS.[3] Although EPA and TDEC have subsequently rejected the revised FFS,[4] both DOE's submittal

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[2] Letter from Brian Henry and Roger Petrie (DOE) to Constance Jones (EPA) and Randy Young (TDEC), Re: Transmittal of the Focused Feasibility Study for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge, Tennessee (DOE/OR/01-2664&D3) (June 23, 2021), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/73212_EMDF_Wastewater_FFS_Ltr_06_23_2021.pdf; Focused Feasibility Study for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge Tennessee, U.S. Dep't. of Energy (June 13, 2021), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/73212_EMDF_Wastewater_FFS_06_23_2021.pdf.

[3] Letter from Dennis Mayton and Roger Petrie (DOE) to Constance Jones (EPA) and Randy Young (TDEC), Re: Submittal of the Record of Decision for Comprehensive Environmental Response, Compensation, and Liability Act Oak Ridge Reservation Waste Disposal at the Environmental Management Disposal Facility, Oak Ridge, Tennessee (DOE/OR/01-2794&D1) (July 12, 2021) (ROD Transmittal Letter), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/rem_73212_EMDF_ROD_D1_Ltr_07_12_2021.pdf; Record of Decision for Comprehensive Environmental Response, Compensation, and Liability Act Oak Ridge Reservation Waste Disposal at the Environmental Management Disposal Facility, Oak Ridge, Tennessee, U.S. Dep't of Energy (June 22, 2021), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/rem_73212_EMDF_ROD_D1_07_12_2021.pdf.

[4] *See* Letter from Carl Froede (EPA) to Roger B. Petrie (DOE) (July 22, 2021) (EPA Comments on Revised FFS), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/rem-73212_EMDF_Wastewater_FFS_EPA_07_22_2021b.pdf; Letter from Randy Young (TDEC) to Roger B. Petrie (DOE), Re: TDEC Comment Letter Focused Feasibility Study for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge, Tennessee (DOE/OR/01-2664&D3) (July 23, 2021) (TDEC Comments on Revised FFS),

and the agencies' response underscore the urgent need to reconsider the Radionuclide Pollution Decision and bring it into alignment with CERCLA's goals.

The concerns we highlight below with regard to these two premature documents are not exhaustive; they serve only to illustrate the harm that will be wrought by the Radionuclide Pollution Decision if left unchanged and the manner in which DOE is attempting to rely on the Decision to cut corners and costs at the expense of Tennessee's water quality and public health. The simple solution proposed by Community Groups is for EPA to reconsider the Decision and require DOE's radionuclide discharges to comply with technology-based effluent limitations and Tennessee's antidegradation policy as applicable or relevant and appropriate requirements (ARARs). EPA should require compliance with technology-based effluent limitations and Tennessee's antidegradation policy in addition to the Tennessee Water Quality Standards, EPA and Tennessee NPDES regulations relating to water quality based effluent limitations, and the Nuclear Regulatory Commission regulations at 10 C.F.R. §§ 61.41 and 61.43 already affirmed as relevant and appropriate to the discharge of radionuclide-containing wastewater at the ORR facility.[5]

I. Concerns Regarding the Use of the Radionuclide Pollution Decision in the Revised FFS

Based on its interpretation of the Radionuclide Pollution Decision, DOE included as Appendix K to the revised FFS proposed risk-based radiological wastewater discharge limits.[6] Community Groups are alarmed because the levels of carcinogenic, bioaccumulative radionuclides DOE proposes to discharge into Bear Creek in the revised FFS in reliance on the Decision are exceedingly high. For example, in the revised FFS, DOE proposes that EPA should authorize a discharge limit for Technetium-99, a known carcinogen,[7] at 1,818,240 picocuries per liter (pCi/L).[8] DOE also proposes that EPA should authorize a discharge limit for Strontium-90, another known carcinogen,[9] at 327,872 pCi/L.[10] These levels are orders of magnitude higher than what DOE proposed *before* the Decision in an earlier draft FFS: 11,000 pCi/L for

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https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/rem-73212_EMDF_Wastewater_FFS_TDEC_07_23_2021a.pdf.

[5] *See* Radionuclide Pollution Decision, p. 14.

[6] Revised FFS, p. K-14.

[7] *Radionuclide Basics: Technetium-99*, U.S. Env't Prot. Agency (last updated July 14, 2021), https://www.epa.gov/radiation/radionuclide-basics-technetium-99#technetiumhealth.

[8] Revised FFS, p. 35, Table 6.

[9] *Radioisotope Brief: Strongtium-90*, Ctrs. for Disease Control and Prevention (last updated Apr. 4, 2018), https://www.cdc.gov/nceh/radiation/emergencies/isotopes/strontium.htm, ("Sr-90 can be inhaled, but ingestion in food and water is the greatest health concern. Once in the body, Sr-90 acts like calcium and is readily incorporated into bones and teeth, where it can cause cancers of the bone, bone marrow, and soft tissues around the bone.").

[10] Revised FFS, p. 35, Table 6.

Technetium-99 and 275 pCi/L for Strontium-90.[11] Although EPA has rejected the revised FFS's discharge limits as premature, the agency relies on the flawed framework of the Decision as the basis for its rejection and cites the Decision as the foundation from which to calculate new limits.[12] It is worth noting that *both* of DOE's proposals (pre- and post-Decision) are dramatically higher than levels that could and should be achieved with available and practicable methodologies such as ion-exchange resin treatment. EPA should also have rejected the revised FFS based on the agency's decision to review the Radionuclide Pollution Decision.

Community Groups also note that the public is only able to evaluate landfill wastewater discharge information for those radionuclides included in the public record. Yet waste disposed at EMWMF and waste proposed for disposal at EMDF also include classified waste. Treating all landfill wastewater with available and practicable technology-based treatments would additionally serve to protect downstream surface water users if there are other radionuclides present in the discharge which are not part of the public record.

Furthermore, the assumptions made by DOE in Appendix K of the revised FFS to formulate exposure scenarios and develop discharge alternatives are not protective of human health and the environment and highlight the problems invited by the ambiguities created by the Radionuclide Pollution Decision. For example, DOE acknowledges that the most restrictive use designation of the receiving water—Bear Creek—is recreational, and that the individual with the potential maximum exposure to radionuclides in effluent from ORR landfills would be a recreational fisherman who fishes from Bear Creek. However, DOE opines that "there is considerable uncertainty as to whether or not [Bear Creek] is large enough to support a viable fishery that will sustain significant populations of fish large enough to be edible."[13] Therefore, DOE finds it "more plausible" that edible fish will only be able to be caught further downstream from the discharge location around BCK 3.3 to 4.5.[14] This assertion contradicts a 2019 Remediation Effectiveness Report issued by DOE for the Oak Ridge Site, which notes that:

> Over recent decades beavers have expanded their range in the Oak Ridge area and as a result lower Bear Creek has multiple large beaver dams that have extensively flooded riparian zones. The dams have created deeper stream pools suitable for rock bass, which has expanded its range in the last couple years to the middle sections of Bear Creek nearer BCK 9.9. In FY 2018, a full collection of six rock bass were collected from BCK 9.9 in both the spring and fall.

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[11] Focused Feasibility Study for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge, Tennessee, U.S. Dep't of Energy, p. 35, Table 6 (Feb. 4, 2016), https://doeic.science.energy.gov/uploads/F.0600.029.0700.pdf.

[12] EPA Comments on the Focused Feasibility Study for Water Management for the Disposal of CERCLA Waste on the Oak Ridge Reservation, Oak Ridge, Tennessee (DOE/OR/01-2664&D3), p. 5 (July 23, 2021) (EPA Comments on the Revised FFS), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/rem-73212_EMDF_Wastewater_FFS_EPA_07_22_2021b.pdf.

[13] Revised FFS, p. K-14.

[14] *Id.*

Id.[15]

Advocates for the Oak Ridge Reservation have also documented beaver activity in Bear Creek, as well as fishable and wadeable portions of Bear Creek accessible by a public greenway.[16] The greenway trail crosses Bear Creek three times, and Community Group members have often observed families with children walking the trail between the Bear Creek bridges, most recently this summer on a hot July day. These sightings illustrate the ease with which families may access Bear Creek for fishing or wading.

This readily-accessible information—some of it reported by DOE itself—casts doubt on DOE's fishery assumptions. It also has significant consequences for the agency's assumptions about site-specific fish ingestion exposure frequencies. The Revised FFS states that a high-end exposure to fish harvested downstream from the EMWMF and a future EMDF would be a person consuming a total of 6 ounces of fish per year.[17] Those 6 ounces represent one serving of fish per year.[18] Yet in its August 26, 2019 letter to Administrator Wheeler, DOE utilized a fish consumption equivalent of about 85.7 ounces of fish per year.[19] There is no support in the record for DOE's revised fish consumption assumptions. Further, in our June 23, 2021 meeting with EPA, the agency indicated only that site-specific fish *tissue* studies were being conducted, not site-specific fish consumption studies that could reasonably answer the questions of who is eating the fish and how much of it.

As EPA recognized in its comments on the revised FFS, DOE's use of dilution to establish water quality-based effluent limits is inappropriate.[20] To the extent DOE may need to calculate in-stream flows for the point of reasonable maximum exposure in Bear Creek, DOE also needs to comply with relevant and appropriate state requirements. State regulations require

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[15] 2019 Remediation Effectiveness Report for the U.S. Department of Energy Oak Ridge Site Oak Ridge, Tennessee, DOE/OR/01-2787&D1, U.S. Dep't. of Energy, p. 4-49 (Mar. 13, 2019), https://doeic.science.energy.gov/uploads/A.0100.064.2630.pdf.

[16] Images of these locations are available on the Advocates for the Oak Ridge Reservation website, https://aforr.info/gallery/, and are attached as Exhibit 1. More recent photographs taken by Community Group members along the Bear Creek greenway are also included as Exhibit 2.

[17] Revised FFS, p. K-18.

[18] *Id.*

[19] Letter from Bill Cooper (DOE) to Andrew R. Wheeler (EPA), p. 17 (Aug, 26, 2019), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/ffs-water-management/73212_EMWMF_EMDF_FFS_Formal_Dispute_DOE_08_26_2019.pdf.

[20] EPA Comments on Revised FFS, p. 4 ("Further, neither the CWA, which is a relevant and appropriate requirement, nor the Administrator's decision, allows for the use of a dilution or attenuation factor in developing water quality based effluent limits. The decision specifically states that the compliance with instream water quality criteria is to be achieved at 'the point of discharge.' Please remove use of dilution for the development of proposed discharge limits.").

in-stream flow calculations to be based on the 30-day minimum five-year recurrence interval, not annual mean flows.[21]

As written, the Radionuclide Pollution Decision invites DOE to ignore the facts on the ground in favor of assumptions that serve its favored remedy rather than the remedy that is best for surrounding communities. The establishment of sufficiently protective discharge limits is particularly important given the anecdotal information shared by Community Groups at the June 23, 2021 meeting regarding potential fishing practices in the area by local Latino communities, as well as the proximity of the Scarboro community and residential communities in general to the existing and proposed landfill sites.

To comply with CERCLA and to be sufficiently protective of public health in our communities, radionuclide discharge limits should be based on available and practicable technology (TBELs), and should take into account existing degradation of Bear Creek from past discharges from DOE's existing landfill and other sources. Precedent exists for applying a state's antidegradation policy as an ARAR in a CERCLA clean up, [22] and it should be applied here—particularly because much of the degradation that exists in Bear Creek is due to DOE's ongoing untreated discharges of radionuclides and other pollutants from the existing landfill.

II. Concerns Regarding the Use of the Radionuclide Pollution Decision in the Premature Draft Record of Decision

On July 12, 2021, DOE issued a draft Record of Decision for the disposal of waste at the ORR Facility. The draft Record of Decision incorporates findings from the Radionuclide Pollution Decision but declines to include final radionuclide discharge limits despite their central importance to the effectiveness of DOE's selected remedy.[23] The draft Record of Decision is premature for a number of reasons, including but not limited to the ongoing review by EPA of the Radionuclide Pollution Decision. It is unclear how EPA can meaningfully review and approve the draft Record of Decision without first understanding the amount of radioactive pollution that DOE is proposing to discharge into Bear Creek.

The issuance of the draft Record of Decision highlights the arbitrariness of DOE's remedy selection process for the proposed landfill. CERCLA and its implementing regulations set forth the appropriate order of events when conducting a remedy selection process, and specifically envision the preparation of a Remedial Investigation and Feasibility Study (RI/FS)

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[21] *See* TDEC Rule 0400-40-03-.05(4); TDEC Rule 0400-40-05-.08(1)(m).
[22] *See In the Matter of Mather Air Force Base and George Air Force Base, California*, Decision of the Administrator Carol M. Browner (April 22, 1993) (finding State of California narrative groundwater anti-degradation policy is a state ARAR for federal facility remedial actions).
[23] ROD Transmittal Letter, ("Radiological discharge limits, as acknowledged in the Dispute Resolution Decision rendered by the EPA Administrator on December 31, 2020, are currently being determined in parallel with this ROD submittal. It is expected that those limits will be completed in a timely manner and included in the second and final version of the ROD submitted for approval.").

before a Proposed Plan is issued for public review.[24] Here, the revised FFS is properly considered an element of the RI/FS that is intended to establish preliminary remediation goals for the site.[25] Yet DOE has issued a Proposed Plan, and now a draft Record of Decision, *before* preliminary remediation goals for radionuclide pollution have even been identified. Although DOE, EPA, and TDEC agreed to this disjointed approach in a December 7, 2017 Dispute Resolution Agreement,[26] the shortcomings of this arrangement are evident, as the Radionuclide Pollution Decision enables DOE to select discharge limits that suit its pre-selected remedy, rather than requiring the remedy to achieve properly-established remediation goals.

CERCLA regulations require that selected remedies for hazardous substances must meet the threshold requirements of being protective of human health and the environment and complying with all non-waived ARARs.[27] As currently written, the revised FFS and the draft Record of Decision do not appear to meet this standard. EPA and TDEC have noted as much in their comments on the revised FFS.[28] EPA cannot approve the revised FFS and any final Record of Decision until it can verify that these threshold criteria are achieved.

Issuance of the draft Record of Decision is also inappropriate at this time because DOE must comply with established law and reopen the public comment period on the Proposed Plan for the Disposal of Oak Ridge Reservation Comprehensive Environmental Response, Compensation, and Liability Act Waste (September 2018) (revised Proposed Plan) based on the amount of new and unanticipated information that has developed since the original comment period closed in January 2019. Community Groups have repeatedly asked DOE to reopen the public comment period on its revised Proposed Plan in accordance with 40 C.F.R. § 300.430(f)(3)[29], and recent developments only underscore the importance of doing so.

If left effective, the Radionuclide Pollution Decision significantly influences the scope and performance of the remedial activity at the ORR Facility by deciding what law governs the

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[24] 40 C.F.R. § 300.430.
[25] *Id.*
[26] Dispute Resolution Agreement (Dec. 7, 2017), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/rem-investigation-feasibility-study/11)%2073212_EMDF_DRA_12_07_2017.pdf.
[27] 40 C.F.R. § 300.430(f)(i)(A).
[28] *See e.g.*, Letter from Carl Froede (EPA) to Roger B. Petrie (DOE) *supra* note 4 ("The proposed effluent limits ['screening level discharge limits'] do not comply with identified CWA ARARs for meeting effluent limits at the end of the pipe and attainment of AWQC equivalents throughout the stream."); Letter from Randy Young (TDEC) to Roger B. Petrie (DOE) *supra* note 4 ("ARARs discussed in earlier meetings are omitted from the D3 FFS.").
[29] *See, e.g.,* Letter from Nate Watson (SELC) to John Japp (DOE), Re: Continuing lack of meaningful public comment on Proposed Plan for the Disposal of Oak Ridge Reservation Comprehensive Environmental Response, Compensation, and Liability Act Waste (September 2018) (Aug. 1, 2019), appended as Exhibit 3; Letter from Christina Reichert (SELC) to John Japp (DOE), Re: New information regarding the proposed landfill site for Oak Ridge Reservation Comprehensive Environmental Response, Compensation, and Liability Act Waste. (Oct. 1, 2019), appended as Exhibit 4.

selection of effluent limits for radionuclide wastewater discharges at the site and which federal and state regulations are ARARs for the discharges. This constitutes new information which significantly changes the basic features of the proposed remedy at ORR with respect to scope, performance, or cost, in a manner unanticipated by the public. Therefore, additional public comment is necessary.

CERCLA regulations state that new information "significantly changes the basic features" of a CERCLA remedy where "the remedy significantly differs from the original proposal in the proposed plan and the supporting analysis and information." *Id.* The Radionuclide Pollution Decision does so here. DOE chose to release its revised Proposed Plan in 2018 before a final RI/FS was agreed to and finalized between TDEC, DOE, and EPA. This meant that several key components of the Proposed Plan were left undetailed. In its October 2018 comments on the Proposed Plan, TDEC articulated as much, stating that it could not approve the Proposed Plan until numerous "key issues" were resolved, including the legally-applicable ARARs which would apply to the site.[30] Given these omissions, and as articulated several times by Community Groups, the public could not adequately assess and comment on the Proposed Plan when so much of the proposal, its supporting analysis, and relevant information remained incomplete.

The Radionuclide Pollution Decision would resolve one of the "key issues" omitted from the Proposed Plan, its supporting analysis, and the documents available to the public at the time of the previous public comment period. This information "significantly changes basic features" of the Proposed Plan and could not have been reasonably anticipated by the public, given the dueling views of appropriate ARARs between the agencies and in light of Administrator Wheeler's surprising decision to exclude TBELs as ARARs.

By issuing a Record of Decision now without reopening a public comment period, DOE is essentially trying to shift the cost of its decision to issue a premature Proposed Plan onto the public. DOE's strategy to forge ahead with issuing an incomplete Proposed Plan meant that new information would be generated after the public comment period closed, and much of that new information has significantly changed the basic features of the proposed remedy. Although TDEC and EPA agreed to allow DOE to issue the Proposed Plan prior to a finalized RI/FS, the public never agreed to forego their rights under CERCLA to provide public comment on new significant and unanticipated information that was revealed thereafter. EPA should submit comments on the Record of Decision issued by DOE demanding that public comment be reopened prior to finalizing any decision.[31]

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[30] Environmental Management Disposal Facility Fact Sheet, Tennessee Dep't of Env't and Conservation (Oct. 11, 2018), https://www.tn.gov/content/dam/tn/environment/remediation/documents/oakridgereservation/emdf-documents/proposed-plan/EMDF%20Fact%20Sheet.pdf.

[31] In its comments on the revised FFS, EPA acknowledges that "[t]he public was not afforded the opportunity to review the Administrative Record regarding wastewater management since it was in dispute when the EMDF [Proposed Plan] was issued." EPA Comments on the Revised FFS, p. 2. Although EPA then recommends that DOE provide "additional public involvement

In addition to the reasons already identified by Community Groups, the Radionuclide Pollution Decision provides yet another basis for requiring that additional public comment be solicited on the Proposed Plan. EPA should urge DOE to comply with applicable law and reopen the public comment period. EPA should also revise the Radionuclide Pollution Decision so that DOE can formulate a revised FFS and Record of Decision that is consistent with CERCLA and adequately protective of human health and the environment.

Community Groups appreciate EPA's continued attention to this matter.

Sincerely,

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opportunities," *id.*, to address this shortcoming, the agency should specify that CERCLA regulations require that DOE reopen the public comment period.

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