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U.S. DEPARTMENT OF
ENVIRONMENT & CONSERVATION

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BUREAU OF ENVIRONMENT

PHIL BREDESEN
THE GOVERNOR OF TENNESSEE

9 January 2008

The Honorable Samuel W. Bodman
Secretary of Energy
United States Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

RE: Oak Ridge Reservation

Dear Mr. Secretary:

I am writing to express my concerns about the Oak Ridge Reservation and the obligation of the U.S. Department of Energy (DOE) to cleanup the area and to protect the health and safety of those Tennesseans who live in the vicinity of the facilities there. Specifically, I believe that DOE is not in compliance with *The Federal Facility Agreement for the Oak Ridge Reservation* and the *Site Treatment Plan for Mixed Wastes on the U.S. Department of Energy Oak Ridge Reservation*. In my view, inadequate funding for the Oak Ridge Operations Environmental Management Program for FY2007 and FY2008 is the root cause of this problem.

Moreover, I am also concerned about DOE's failure to request sufficient funds to achieve compliance with agreed-upon environmental investigation and remediation activities in FY2009 or FY2010. DOE has exacerbated this situation by unilaterally shifting funding away from cleanup activities to non-cleanup activities at Building 3019 and cessation of work at the East Tennessee Technology Park and Oak Ridge National Laboratory cleanup projects. Mr. Secretary, these decisions were made without consultation with either the State of Tennessee or the U.S. Environmental Protection Agency (EPA)—a violation of our federal facilities agreements for this location.

I am turning directly to you because of the need for DOE to deal in good faith with the State of Tennessee and because you have the authority to ensure that lower-level management in your agency will demonstrate a willingness and ability to comply with existing agreements between DOE, the State, and EPA. While these agreements are cooperative in nature, they are also legally binding. Historically, when DOE has discussed the need to make changes in project schedule or scope, in a cooperative manner and following the terms of our agreements, the State and EPA have worked to accommodate DOE's needs. Unfortunately, DOE has strayed from this course, has breached its agreements, and, in some cases, has violated both state and federal laws.

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Our goal is to return to the cooperative and negotiated business process that all parties have followed successfully in the past. However, if DOE continues its current approach, the State intends to utilize all legal means at its disposal to enforce these agreements and the law. The State of Tennessee expects DOE to complete cleanup of the Oak Ridge Reservation by 2016 in accordance with *The Oak Ridge Accelerated Cleanup Plan Agreement* signed by the Assistant Secretary for Environmental Management in 2002.

Therefore, I respectfully request your personal assistance in resolving this serious situation. You can make the first steps in returning to our past cooperative practices by:

- 1) directing DOE to complete the activities as scheduled in our federal facilities agreements;
- 2) directing DOE to negotiate future environmental activities with the State of Tennessee and EPA, as required by our federal facilities agreements;
- 3) directing DOE to no longer unilaterally change project schedules or cease agreed-upon work activities as stipulated in our federal facilities agreements; and,
- 4) requesting the funds necessary to perform the environmental investigation and cleanup activities at the Oak Ridge Reservation from Congress as stipulated in our federal facilities agreements.

Thank you in advance for your careful and favorable consideration of these issues. I am confident that you share my desire to protect the health of our citizens and ensure their future well-being, and I look forward to working closely with you to resolve these problems. Please feel free to contact me directly about this important matter.

Sincerely,



Phil Bredesen



The Secretary of Energy
Washington, DC 20585

February 22, 2008

The Honorable Phil Bredesen
Governor of Tennessee
Nashville, Tennessee 37243-0001

Dear Governor Bredesen:

Thank you for your January 9, 2008, letter regarding cleanup of the Oak Ridge Reservation. The Department of Energy shares your goal of cleaning up the site and protecting the health and safety of Tennesseans while maintaining world class research and national security missions. I understand that, as a follow-up to your letter, the Assistant Secretary for Environmental Management, James A. Rispoli, had a very productive conversation on January 29 with Mr. William Pinkston of your staff.

While overall, Department of Energy funding levels at Oak Ridge have been relatively stable over the past several years, there have been some unanticipated and especially complex technical and funding challenges associated with Oak Ridge cleanup. The Deputy Director of the Tennessee Department of Environment and Conservation and the Manager of the Department of Energy Oak Ridge Office will shortly initiate a dialogic to address your concerns and our cleanup challenges at Oak Ridge.

The Department of Energy now has independently certified near-term baselines and outyear planning estimate ranges currently in place for the cleanup mission at Oak Ridge. These baselines and their underlying information should allow for meaningful discussions between the State of Tennessee and the Department of Energy regarding risk, budget prioritization, and development of a comprehensive cleanup strategy recognizing available funding levels.

If we can be of further assistance to you or your staff, please call me or Ms. Lisa E. Epifani, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

Samuel W. Bodman

