DOE/EA-1175-A

Environmental Assessment Addendum for the Proposed Title Transfer of East Tennessee Technology Park Land and Facilities

July 2003

U. S. Department of Energy
Oak Ridge Operations
Oak Ridge, Tennessee

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CONTENTS

FIGURES

TABLES

ACRONYMS

BA	Biological Assessment
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CFR	*Code of Federal Regulations*
CROET	Community Reuse Organization of East Tennessee
DCG	derived concentration guideline
DOE	U. S. Department of Energy
EA	Environmental Assessment
EBS	Environmental Baseline Survey
EM	Environmental Management
E.O.	Executive Order
ETTP	East Tennessee Technology Park
FONSI	Finding of No Significant Impact
FRP	Facilities Revitalization Project
FWS	U. S. Fish and Wildlife Service
NEPA	National Environmental Policy Act of 1969
NERP	National Environmental Research Park
NRHP	National Register of Historic Places
OMI	Operations Management International
ORNL	Oak Ridge National Laboratory
ORO	Oak Ridge Operations
ORR	Oak Ridge Reservation
PILT	payment-in-lieu-of-tax
PMP	Performance Management Plan
R&D	research and development
ROD	Record of Decision
ROI	Region of Influence
SHPO	State Historic Preservation Officer
SNS	Spallation Neutron Source
TDEC	Tennessee Department of Environment and Conservation
TDOT	Tennessee Department of Transportation
T&E	threatened and endangered
THPO	Tribal Historic Preservation Office
TSCA	Toxic Substances Control Act of 1976
TVA	Tennessee Valley Authority
Y-12	Y-12 National Security Complex
VOC	volatile organic compound

1. INTRODUCTION

1.1 PURPOSE AND NEED FOR U. S. DEPARTMENT OF ENERGY ACTION

The purpose for U. S. Department of Energy (DOE) action is the title transfer of unneeded DOE real property located at the East Tennessee Technology Park (ETTP) (Fig. 1.1) in order to help support the accelerated cleanup of ETTP and to continue to support economic development in the region. DOE's action is needed to help reduce the eventual cost for building demolition and reduce or eliminate ETTP site landlord costs. This would also help to free money for reinvestment in cleanup projects to further reduce risks at the site. DOE also recognizes that transferring unneeded property can help offset economic losses resulting from continued DOE downsizing, facility closures, and workforce restructuring. DOE is also preparing this EA Addendum to address six additional areas of ETTP that were inadvertently not included in the 1997 EA (Fig. 1.1). These areas consist of roads, grounds, and other infrastructure that have been leased to CROET for maintenance purposes (e.g., mowing) and utility operations. Additional information on these areas is provided in Sect. 3.1 of this EA Addendum.

1.2 BACKGROUND

In 1996 DOE began a Reindustrialization Program to lease vacant, underutilized, and/or inactive facilities and equipment at ETTP for use by private-sector businesses and industries. The property at ETTP (also known as the Heritage Center) has been leased to the Community Reuse Organization of East Tennessee (CROET). CROET, including it subsidiaries, is the DOE-recognized, community reuse organization for Oak Ridge. Community reuse organizations were established and funded by DOE to implement community transition activities under Sect. 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 *U. S. Code* 7274 h). CROET, in turn, has been subleasing land parcels, facilities, and equipment to private-sector commercial firms for a range of industrial, commercial, office, research and development (R&D), manufacturing, and industrial uses.

For the most part, the initial leases were executed for reuse of ETTP facilities for the same purpose as used in the recent past (e.g., office buildings leased for office space). These leases were categorically excluded from National Environmental Policy Act of 1969 (NEPA) review because they met the criteria outlined in Categorical Exclusion A7 in 10 *Code of Federal Regulations* (*CFR*) 1021, Appendix A to Subpart D, "Categorical Exclusions Applicable to General Agency Actions."

In 1997, DOE proposed to expand its leasing program. The purposes for the proposed expansion included: (1) accelerating environmental cleanup by leasing facilities to tenants who would clean them up at their own expense, for example, as part of the lease agreement, and (2) as a secondary benefit, populating ETTP with businesses and industries that would offer local employment opportunities to help offset DOE downsizing, facility closures, and workforce restructuring. It was proposed that, in some cases, lessees would use ETTP facilities for the same function as previously used by DOE, and some facilities might be modified or demolished and new facilities constructed to support different uses.

Subsequently, in 1997, an Environmental Assessment (EA) resulting in a Finding of No Significant Impact (FONSI) was completed for the proposed expansion of DOE's Reindustrialization Program, whereby land and facilities at ETTP would be leased for industrial and business uses (DOE 1997).

More information about CROET and DOE's Reindustrialization Program at ETTP is available on the web at: http://www.croet.com and http://www.ettpreuse.com.

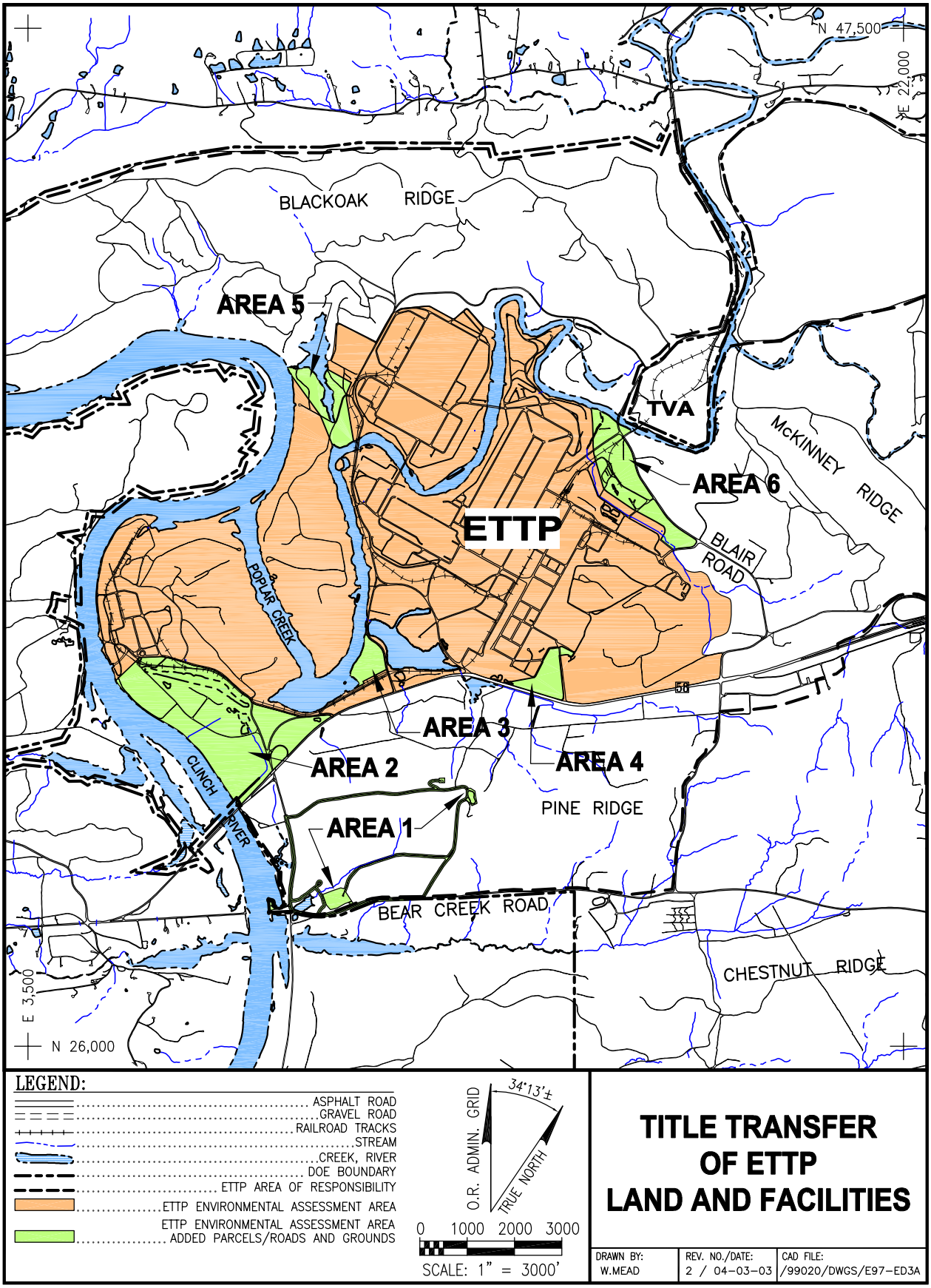

Fig. 1.1 ETTP title transfer area.

DOE Oak Ridge Operations (ORO) has developed a plan to accelerate cleanup of the Oak Ridge Reservation (ORR). Implementation of the accelerated cleanup plan is described in the Oak Ridge Performance Management Plan (PMP) (DOE 2002a). A major focus of the PMP is the reduction of site risks at ETTP and the reutilization of the site through title transfer to the private sector. This would allow future use of the property as a private industrial park, and reduce and ultimately eliminate mortgage costs. The plan is for these objectives to be accomplished through an aggressive and streamlined facility demolition program; a modified Reindustrialization approach focused on title transfer of some ETTP land and facilities; the removal of uranium hexafluoride cylinders; the disposition of legacy waste; and the remediation of soil and groundwater.

2. DESCRIPTION OF TITLE TRANSFER ALTERNATIVE (NEW PROPOSED ACTION)

DOE, in its EA prepared in 1997, analyzed two alternatives: (1) the proposed action for expansion of the leasing program at ETTP, and (2) no action. Two other alternatives, sale of ETTP land and facilities to a non-federal buyer and transfer of ETTP land and facilities to another federal agency, were dismissed from further consideration. At the time that the EA was developed, sale of the land and/or transfer to another agency was not a viable option because DOE had determined that ETTP land and facilities were essential to future opportunities that might include other adaptive reuses or potential missions.

On February 29, 2000, a DOE-issued interim final rule became effective that permits title transfer of facilities for economic development purposes. This rule is found in 10 *CFR* Part 770 and is entitled, "Transfer of Real Property at Defense Nuclear Facilities for Economic Development." The *Federal Register (FR)* notice of this rule is provided in Appendix A. 10 *CFR* Part 770 establishes a process for disposing unneeded real property at DOE's defense nuclear facilities for economic development purposes. With the publication of this rule, the rationale in the 1997 EA for elimination of the "sale or title transfer to a non-federal buyer" alternative is no longer valid.

Pursuant to Executive Order (E.O.) 12512 and to a mandate by DOE Headquarters, the Oak Ridge Operations Office is performing utilization surveys for the ORR. The first survey being performed is for the ETTP Area of Responsibility. However, the survey does not include the property lying within the Section 229 security fenced boundaries (i.e., the Federal jurisdictional boundary). The purpose of the survey is to identify those areas of real property which are found to be (1) utilized or needed, (2) underutilized, (3) not being put to optimum use or surplus and (4) not utilized or excess. The findings will be shared with the General Services Administration for concurrence in 2003 and would factor into the decisions made regarding title transfer.

This EA Addendum supplements the EA completed in 1997 by analyzing the proposal to transfer title of land and facilities within ETTP under a modified Reindustrialization approach consistent with the Oak Ridge PMP. This EA Addendum also addresses additional areas that were inadvertently not included in the 1997 EA. These areas as shown in Fig. 1.1 primarily consist of roads, grounds, and other infrastructure that have been leased for maintenance purposes (e.g., mowing) and the operation of utilities. These areas are described in more detail in Sect. 3.1. This proposed action does not differ substantially from the proposed action described in the EA prepared for leasing land and facilities at ETTP. The major difference is that ownership (title) of the property would be transferred to Heritage Center LLC, a subsidiary of CROET. Reindustrialization efforts would focus on transferring title of approximately 26 ETTP facilities and land parcels (Fig. 2.1). These facilities and land parcels are listed in Table 2.1 by the year of anticipated transfer. The types of buildings to be transferred may include offices, warehouse/storage buildings, former process buildings, utilities (e.g., the water treatment facility, telephone buildings, and the railroad), site support facilities (e.g., the visitor control center and the fire hall), and miscellaneous facilities like the ETTP Visitor Overlook. ETTP land parcels include remediated land parcels as they become available and areas referred to as Parcel ED-4 and Parcel ED-5 (formerly Parcel 4 and Parcel 3, respectively) (Fig. 2.1). Additional information on the facilities and land parcels is provided in Appendix B. The transferred facilities would still be used for various industrial and business purposes. Industrial uses would be similar to those bounded in the 1997 EA and would be required to conform to the City of Oak Ridge Zoning Ordinance (i.e., Sect. 8.02, IND-2, Industrial Districts and Sect. 8.03, IND-3, Industrial Districts).

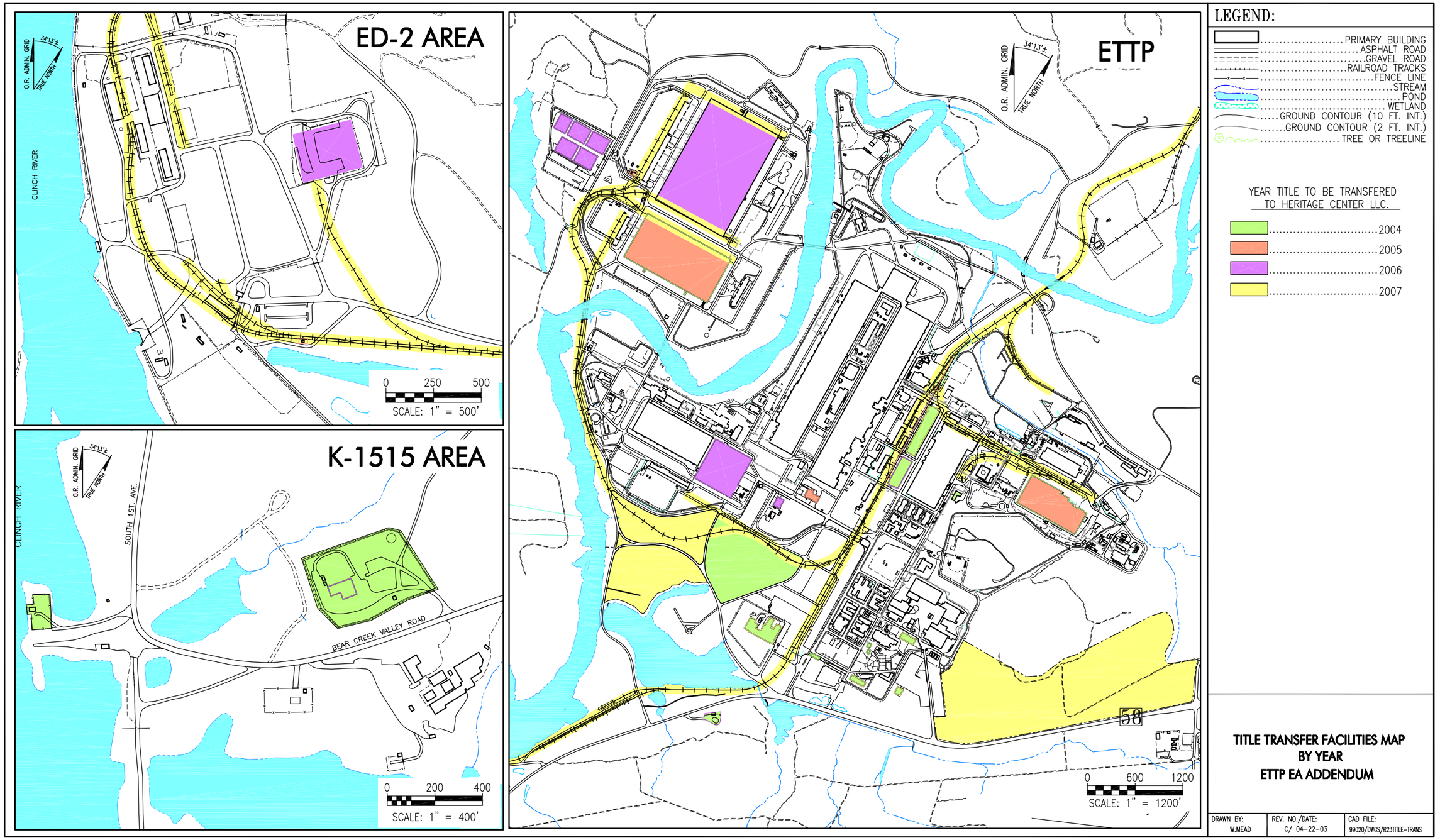

Fig. 2.1. ETTP land and facilities proposed for title transfer.

Table 2.1. ETTP land and facilities proposed for title transfer

FY 2004	FY 2005	FY 2006	FY 2007
K-1007	K-31	K-29	Railroad system
K-1225	K-791-B	K-33	Parcel ED-5 West
K-1330	K-1037	K-1065 group	Parcel ED-4
K-1580	K-1652	K-1650	Remediated land
K-1400		K-708-E	
K-1035		K-709	
K-1036			
K-1547			
K-1000			
K-1039/K-1039-1			
K-1515 group			
Parcel ED-5 East			

ETTP = East Tennessee Technology Park.
FY = Fiscal Year.

The PMP assumes the demolition of all ETTP buildings on an established schedule. If the title to a facility is transferred prior to the scheduled deactivation date, then the facility remains in place. However, if the title is not transferred prior to the scheduled deactivation date, then the facility would enter the decontamination and demolition program. Once the title is transferred, the eventual cost for building demolition would be the responsibility of the new owner instead of DOE. DOE would retain responsibility for addressing any legacy contamination that is discovered. The buildings that would be transferred would be released from radiological restrictions under DOE Order 5400.5.

For purposes of comparison, the no action alternative would be essentially the same as the one in the 1997 EA [i.e., continued environmental restoration, waste management, decontamination and decommissioning, and eventual closure of the site]. However, now this alternative would occur in accordance with the PMP.

DOE has determined that the EA Addendum is the appropriate supplemental documentation for the proposed action to transfer title of ETTP land and facilities for the purpose of economic development. This is because the alternative was introduced in the EA, but not evaluated. The EA Addendum updates information that was used in the 1997 EA and forms a link between that EA and the new proposed action of title transfer. The transfer and the associated documentation would require the Secretary of Energy's approval and would lie before the appropriate congressional defense committees and the Appropriations Committee before the transfer process could be finalized.

Appropriate restrictions would be included in the Quitclaim Deed to provide for environmental protection and to ensure that activities by the new owner(s) do not adversely affect any sensitive resources (i.e., cultural resources). If the new owner or any of its successors, transferees, or assigns fails to abide by the provisions of the Quitclaim Deed, then DOE would be able to seek enforcement in Federal District Court.

Because the ORR is on the National Priorities List, title transfers would comply with the requirements of Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Federal Facility Agreement (2003). Under Section 120(h) there are three options. In the first, under 120(h)(4), DOE can make a clean parcel determination. A clean parcel determination must be concurred on by EPA. The second option is to transfer title of facilities where a Record of Decision (ROD) has been signed and cleanup is complete. In this case, DOE-ORO can make an effectiveness determination under Section 120(h)(3)(A). Third, when cleanup has not been completed, title to a facility may be transferred under Section 120(h)(3)(c) or a "covenant deferral,"

allowing for cleanup to be finished after the transfer. Obtaining a covenant deferral requires the concurrence of EPA and the Governor of Tennessee. If a covenant deferral is used when transferring any of the 26 ETTP facilities or land parcels, cleanup must be completed by the time the site is closed. That is, cleanup cannot be extended beyond the schedule in the PMP.

To meet the applicable requirements set forth in CERCLA Section 120(h) an Environmental Baseline Survey (EBS) would be prepared. The EBS would include information on prior property ownership and past and present property use, as well as past and present activities on adjacent properties. Depending upon the review of historic records, environmental sampling may be conducted. Radiological surveys, consistent with the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) protocols, would also be conducted. The resultant data would be used in the EBS, as well as in a risk analysis. These documents provide the environmental risk management basis for DOE's title transfer decision-making, notwithstanding the policy-level decision-making that is achieved via the NEPA process.

3. AFFECTED ENVIRONMENT

The following sections update information found in the "Affected Environment" section of the EA prepared in 1997 for the lease of land and facilities within ETTP (DOE 1997). For certain resources, the affected environmental information presented in the 1997 EA is still valid and has not substantially changed. For this reason, the following resources are not addressed in this section: geology and soils, climate, cultural resources, radiation and chemical exposures, and accidents.

3.1 LAND USE

The ETTP geographic area of responsibility consists of approximately 5000 acres. Areas that have been potentially impacted in the past account for roughly 2200 of the 5000 acres. As part of the cleanup of ETTP, DOE's Environmental Management (EM) Program has divided the potentially impacted area of ETTP into two areas: outside the main fence (Zone 1 – 1400 acres) and inside the main fence (Zone 2 – 800 acres). Historically, Zone 1 was used for light industrial purposes and has some open areas, with waste disposal. Zone 2 is the main plant area and has historically had a heavy industrial use.

Major changes to the land use within ETTP have not occurred since the 1997 EA. The ETTP mission has been to remediate the site, as well as reindustrialize and reuse site assets through leasing of underutilized facilities. CROET continues to lease and sublease portions of ETTP to various businesses and industries. Including CROET, approximately 40 companies are currently leasing facilities at ETTP.

Recent EM Program projects at ETTP have included both remedial action and decontamination and decommissioning activities (DOE 2002b). Remedial action projects typically address contaminant releases to the environment by addressing contaminated soil, water, sediment, or biota. Decontamination and decommissioning projects address contamination in facilities and structures and can also include demolition.

Major remedial actions that have occurred since 1997 include the following:

- K-1070-A Burial Ground (excavation of contaminated soil and waste deposited in trenches and pits),
- K-1070-C/D G-Pit and K-1071 Concrete Pad (excavation and low-temperature thermal desorption treatment of contaminated G-Pit soils and soil cover over concrete pad), and
- K-1085 Old Firehouse Burn Area Drum Burial Site (excavation of waste drums and contaminated soil)
- Demolition of buildings (K-724, K-725, K-1001, K-1031, K-1045, K-1045-A, K-1131, K-1300, K-1301, K-1302, K-1303, K-1404, K-1407, K-1408, K-1410, and K-1413); and
- K-29, K-31, and K-33 Equipment Removal and Building Decontamination (ongoing).

Six additional areas of ETTP that were inadvertently not included in the 1997 EA are also included in this proposed action (Fig. 1.1). These areas primarily consist of roads, grounds, and other infrastructure that have been leased primarily for maintenance purposes (e.g., mowing) and utility operations. Brief descriptions of the areas follow.

Area 1. Approximately 56 acres of roads and grounds are associated with the K-1515 Water Treatment Plant area including Water Tank Road on Pine Ridge. The K-1515 area is located near the west end of

Bear Creek Road. Water Tank Road is a loop road that runs from Bear Creek Road (near K-1515) to the water tanks on Pine Ridge and back down to South First Avenue. The grounds are located within a fenced area surrounding the K-1515 Water Treatment Plant and are mostly mowed lawn areas. This area has been leased to CROET. Operations Management International (OMI) has a contract with Heritage Center LLC to maintain this area and to operate the water treatment plant.

Area 2. A 134-acre area is located south of the old Powerhouse Area and bordered by the Clinch River, State Route 58, and the railroad along Powerhouse Road. Historically, portions of the area were used for coal storage. In addition, a material yard and the K-720 fly ash disposal area were in this location. This area is no longer used and no structures remain. The area currently contains old roads and power line right-of-ways. Habitat within the area includes a backwater area of Poplar Creek, wetlands, open areas of fields, and small areas of pines and hardwoods. Much of the area is also located within the floodplain of the Clinch River. This area is leased to Heritage Center LLC whose contractor OMI maintains portions of it (e.g., mowing).

Area 3. This is a 10-acre area bordered by Burchfield Road, Poplar Creek, and the railroad used from 1943 to 1958 by the Southern Railway Company as a maintenance area for locomotives and a storage yard for railroad equipment and materials. All the buildings in this area have been removed and only a few concrete pads remain. Old rails, ties, and associated hardware (metal plates, rail spikes, bolts, etc.) are present in weed-covered gravel areas in the vicinity of the old rail spur. A small wooded hill covered with a mix of small hardwood trees and pines is located north of the rail yard. The Southern Appalachia Railway Museum and East Tennessee Rail Car are currently subleasing a portion of this area for railroad related activities.

Area 4. Approximately 14 acres of land are located along State Route 58 and bordered by the fence located along the South East Patrol Road and Boulevard Road. The area surrounds the K-1330 facility and includes mowed lawn and the K-1240 parking lot. The K-1007-P5 Pond is located in the southwest corner of the area. OMI has a contract with Heritage Center LLC to maintain these grounds.

Area 5. Approximately 23 acres of land are located south of the K-901-A Pond. The majority of the area is part of the K-901-Waste Disposal Area. The area also contains a portion of Gilliam Road and the Patrol Road to the Duct Island area. Poplar Creek bounds the area on the south and the railroad bounds the area to the east. A large power line right-of-way runs through the western portion of the area. OMI, under contract with Heritage Center LLC maintains much of the area through periodic mowing but some hardwoods and pines are also present.

Area 6. A 43-acre area of land is located on the south side of Blair Road (State Route 327). The main portion of the area is located across from the entrance to the Blair Road Quarry and adjacent to Ellis Cemetery. A small area also runs along the road south to the road leading into Portal 6. The larger portion consists of areas that are periodically mowed and of pine trees that are affected by the Southern pine beetle infestation. The smaller portion consists mainly of mowed right-of-way along Blair Road. OMI mows the area under contract to Heritage Center LLC.

3.2 AIR QUALITY

The ORR and surrounding area continue to be classified as an attainment area for the National Ambient Air Quality Standards. The state of Tennessee has adopted these national standards, and the Tennessee Department of Environment and Conservation (TDEC) has also adopted regulations to guide the evaluation of hazardous air pollutants and toxics to specify permissible short- and long-term concentrations.

The TDEC Division of Air Pollution Control issues air permits for nonradiological airborne emissions for ETTP. ETTP has eight major air emission sources subject to Tennessee Title V Major Source Operating Permit program rules. No direct monitoring of airborne emissions is required for nonradionuclide air contaminants from permitted sources. Instead, monitoring of key process and air pollution control device parameters is done to ensure compliance with all permitted emission limits. The major sources of criteria air pollutants at ETTP include three boilers in operation at the K-1501 Steam Plant and the Toxic Substances Control Act of 1976 (TSCA) incinerator. Actual nonradiological airborne emissions of criteria pollutants from ETTP have consistently been lower than the allowable limits (DOE 2002b).

For radiological pollutants, emissions are variable and from ETTP emanate mostly from the TSCA incinerator and two sources (decontamination and decommissioning workshop and supercompactor) in the K-33 building. In 2001, the emissions of radionuclides from ETTP operations were well within the allowable derived concentration guides (DCGs) published in DOE Order 5400.5, and were similar in most respects to 2000 emissions (DOE 2002b).

3.3 WATER RESOURCES

Surface water monitoring is conducted at seven locations at ETTP. Two locations are upstream of ETTP, two are located downstream, and the remaining sampling locations are at points where drainage in the major surface water basins converge before discharging to Poplar Creek or to the Clinch River. At most stations, semiannual sampling and analyses for radionuclides and field readings (dissolved oxygen, temperature, and pH) are conducted. At a few stations, samples are also analyzed for volatile organic compounds (VOCs) and selected metals (DOE 2002b).

Most of the results of the monitoring for nonradiological parameters are well within the applicable standards or below detection limits. In addition, analytical results for samples collected upstream of ETTP, are chemically similar in most respects to those collected below ETTP. Non-radiological results are compared with Tennessee water quality standards for fish and aquatic life. Radionuclide results are compared with DCGs. The sum of the fractions of the DCGs for all sampling locations remained below 4% of the DCG values for ingestion, which are the equivalent to the DOE drinking water systems criterion of 4 mrem/year (DOE 2002b).

Groundwater monitoring at ETTP is focused primarily on investigating and characterizing sites for remediation under CERCLA. The ETTP Groundwater Protection Program requirements are incorporated into the Water Resources Restoration Program. The program is responsible for conducting groundwater monitoring at ETTP, including collecting samples from exit pathway monitoring wells. Groundwater monitoring at ETTP exit point locations during Fiscal Year (FY) 2002 revealed little changes from previous monitoring results. In general, areas of known groundwater contamination continue to exhibit concentrations similar to historical results and no new releases of contamination were identified. A general trend at most of the monitoring wells sampled during FY 2002 indicates that overall concentrations of VOCs in groundwater appear to be decreasing (DOE 2002c).

3.4 ECOLOGICAL RESOURCES

An updated list of animal species of concern known to be present on the ORR is presented, along with their status, in Table 3.1. Listed plant species that currently occur on the ORR are given, along with their status, in Table 3.2.

Table 3.1. Animal species of concern reported from the ORR[a]

Species	Legal status[b]	
	Federal	State
Fish		
Spotfin chub *(Cyprinella monacha)*	T	
Tennessee dace *(Phoxinus tennesseensis)*		NM
Amphibians and reptiles		
Four-toed salamander *(Hemidactylium scutatum)*		NM
Birds		
Sharp-shinned hawk *(Accipiter striatus)*		NM
Anhinga *(Anhinga anhinga)*		NM
Great egret *(Casmerodius alba)*		NM
Northern harrier *(Circus cyaneus)*		NM
Olive-sided flycatcher *(Contopus borealis)*		NM
Cerulean warbler *(Dendroica cerulea)*	C	NM
Snowy egret *(Egretta thula)*		NM
Peregrine falcon *(Falco peregrinus[c])*		E
Bald eagle *(Haliaeetus leucocephalus[d])*	T	NM
Loggerhead shrike *(Lanius ludovicianus)*		NM
Osprey *(Pandion haliaetus)*		E
Yellow-bellied sapsucker *(Sphyrapicus varius)*		NM
Mammals		
Gray bat *(Myotis grisescens)*	E	E
Southeastern shrew *(Sorex longirostris)*		NM

[a]Land and surface waters of the Oak Ridge Reservation (ORR) exclusive of the Clinch River, which borders the ORR.
[b]E = endangered, T = threatened, C = species of concern, NM = in need of management.
[c]The Peregrine falcon was federally delisted on August 25, 1999.
[d]The Bald eagle was proposed for federal delisting on July 6, 1999.

Table 3.2. Currently known or previously reported vascular plant species reported from the ORR listed by state or federal agencies

Species	Habitat on ORR	Legal status[a]	
		Federal	State
Spreading false-foxglove *(Aureolaria patula)*	River bluff	C2	T
Heavy sedge *(Carex gravida)*	Varied		S
Hairy sharp-scaled sedge *(Carex oxylepis var. pubescens[b])*	Shaded wetlands		S
Appalachian bugbane *(Cimicifuga rubifolia)*	River slope	C2	T
Pink land's-slipper *(Cypripedium acaule)*	Dry to rich woods		E-CE
Tall larkspur *(Delphinium exaltatum)*	Barrens and woods	C2	E
Northern bush-honeysuckle *(Diervilla lonicera)*	River bluff		T
Branching whitlow-grass *(Draba ramosissima)*	Limestone cliff		S
Nuttall waterweed *(Elodea nuttallii)*	Pond, embayment		S
Mountain witch-alder *(Fothergilla major)*	Woods		T
Golden seal *(Hydrastis canadensis)*	Rich woods		S, CE
Butternut *(Juglans cinerea)*	Slope near stream	C2	T
Small-head rush *(Juncus brachycephalus)*	Open wetland		S
Canada lily *(Lilium canadense)*	Moist woods		T
Michigan lily *(Lilium michiganense[c])*	Moist woods		T
Fen orchid *(Liparis loeselii)*	Forested wetland		E
Ginseng *(Panax quinquifolius)*	Rich woods		S, CE
Tuberculed rein-orchid *(Platanthera flava var. herbiola)*	Forested wetland		T
Push's wild-petunia *(Ruellia purshiana)*	Dry, open woods		S
River bulrush *(Scirpus fluviatilis)*	Wetland		S
Shinning ladies-tresses *(Spiranthes lucida)*	Boggy wetland		T
Northern white cedar *(Thuja occidentalis)*	Rocky river bluffs		S
Three-parted violet *(Viola tripartita var. tripartita)*	Rocky woods		S

[a]C2 = Special concern, under review for federal listing; was listed under the formerly used C2 candidate designation. More information needed to determine status, E = endangered, T = threatened, S = special concern, CE = status due to commercial exploitation.
[b]*Carex oxylepis var. pubescens* has not been located during recent surveys.
[c]*Lilium michiganense* is no longer found on the Oak Ridge Reservation (ORR).

DOE sent a notification letter to FWS on October 2, 2002, informing them of the preparation of this EA Addendum and requesting their recommendations and comments regarding the potential effects of the proposed action. FWS provided a response back to DOE on November 20, 2002, and requested that DOE provide further information on the proposed action and that DOE prepare a BA to assess potential impacts and determine if the action could affect the federally listed gray bat, Indiana bat, and spotfin chub. DOE has completed this BA and submitted it to the FWS. Correspondence from the FWS is included in Appendix C and Appendix D includes a copy of the BA.

The benthic macroinvertebrate community downstream of the main storm drains in Mitchell Branch continues to show impacts when compared with the upstream reference site. However, the taxonomic richness, including the richness of the pollution sensitive taxa (Ephemeroptera, Plecoptera, and Trichoptera), has increased at all sites in Mitchell Branch, and pollution abatement and remediation measures have improved the overall quality of the stream. The fish community of Mitchell Branch is also still showing impacts, but recently collected data also indicate that some recovery is taking place (DOE 2002b).

3.5 SOCIOECONOMICS

The Region of Influence (ROI) for the purpose of this analysis includes Anderson, Knox, Loudon, and Roane counties in Tennessee. These counties are geographically close to ETTP and account for over

90% of DOE-related employment (Table 3.3). This distribution has been relatively stable for the last decade (DOE 2002d).

Table 3.3. Distribution of DOE-related employment by employee residence in 2001

County of residence	DOE-related employees	Percent of total (%)
Anderson	3,547	27.3
Knox	5,019	38.6
Loudon	723	5.6
Roane	2,228	17.1
All other[a]	1,481	11.4
Total	12,842	100.0

[a]Includes more than 16 other counties.
Source: U. S. Department of Energy (DOE) 2002d.

3.5.1 Demographic and Economic Characteristics

Table 3.4 summarizes population, per capita income, and wage and salary employment information from 1995 to 2000. The total population of the ROI was 545,188 in 2000. Knox County accounted for the largest share, with 70% of the regional population. Anderson County accounted for 13% of the regional population, Roane County for 10%, and Loudon County for the remaining 7%. Between 1995 and 2000, the regional population grew an average of less then 1% per year. Loudon County grew the most rapidly (2.0% per year), followed by Roane (0.81%) and Knox (0.72%). Population in Anderson County declined by 0.09% per year over the same period (BEA 2002).

Employment and income for the region from 1995 to 2000 are shown in Table 3.4. Total employment for the region was 364,698 in 2000. Knox County accounted for 75% of that total, followed by Anderson (14%), Roane (7%), and Loudon (4%) counties. Employment for the region grew slowly from 340,422 in 1995 to 364,698 in 2000. It declined in Roane County and grew only slightly in Anderson County, following declines in 1996 and 1997. These declines coincided with major reductions in DOE-related employment during the same period. Per capita income for the region grew by roughly 4% per year, growing fastest in Knox and Loudon Counties. Total personal income grew from $11.8 billion to $14.9 billion over the same period (BEA 2002).

Professional and related occupations accounted for 22.0% of the impact region's employment in 2000, while management and business occupations accounted for another 12.5%. Statewide, professional and related occupations represented 17.7% of total employment, and management and business occupations represented 11.8%. Sales and office workers also represented a large fraction of employment (27.7%), as did service workers (14.5%). Professional and management occupations were even more concentrated in the City of Oak Ridge, where professional and related occupations comprised 32.6% of employment, and management and business occupations comprised 14.0% (Census 2000a).

Table 3.4. Demographic and economic characteristics in the Oak Ridge Region of Influence

County	1995	1996	1997	1998	1999	2000	Annual growth 1995–2000 (%)
Anderson							
Population	71,597	71,797	71,736	71,321	71,454	71,269	-0.09
Per capita income ($)	22,179	22,586	23,392	24,500	24,847	26,032	3.26
Total employment	50,088	48,315	48,109	50,139	50,563	50,984	0.36
Roane							
Population	49,892	50,727	51,179	51,462	51,736	51,943	0.81
Per capita income ($)	19,166	19,160	19,379	20,116	20,895	22,000	2.80
Total employment	27,670	28,043	25,753	25,541	25,099	24,281	-2.58
Knox							
Population	369,171	373,621	376,767	378,319	380,010	382,723	0.72
Per capita income ($)	23,059	23,736	24,559	26,092	26,582	28,281	4.17
Total employment	247,713	252,955	257,256	261,899	266,030	273,547	2.00
Loudon							
Population	35,479	36,572	37,427	38,068	38,741	39,253	2.04
Per capita income ($)	20,540	21,108	22,227	23,301	24,385	26,241	5.02
Total employment	14,951	14,894	15,220	14,982	15,269	15,886	1.22
Region Totals							
Population	526,139	532,717	537,109	539,170	541,941	545,188	0.71
Per capita income ($)	22,401	22,965	23,748	25,113	25,654	27,242	3.99
Total employment	340,422	344,207	346,338	352,561	356,961	364,698	1.39

Source: Bureau of Economic Analysis 2002.

3.5.2 Distribution of Minority and Economically Disadvantaged Populations

For the purposes of this analysis, a minority population consists of any census tract in which minority representation is greater than the national average of 30.7%. Minorities include individuals classified by the U. S. Bureau of the Census as Black or African-American, American Indian and Alaska Native, Asian, Native Hawaiian and Other Pacific Islander, and Hispanic or Latino, and Some Other Race. This provides a conservative estimate consistent with recent Office of Management and Budget guidance (OMB 2000). Hispanics may be of any race and are excluded from the totals for individual races in order to avoid double counting.

The distribution of minority and economically disadvantaged populations changed little between 1990 and 2000. Figure 3.1 shows the distribution of minority populations for the census tracts in and around the Oak Ridge area. As of the 2000 census, minorities represented 40.1% of the population in tract 201. As in 1990, Black or African-American residents comprised the largest group (29.6%). The proportion of minority residents in all other Oak Ridge census tracts was below the national average, ranging from 17.4% in tract 205 to 8.8% in tract 206 (Census 2000a).

According to the 2000 Census, 12.4% of the U. S. population and 13.5% of the Tennessee population had incomes below the poverty level (Census 2000a). In this analysis, a low-income population consists of any census tract in which the proportion of individuals below the poverty level exceeds the national average. Within the ROI, 13.1% of the population in Anderson County had incomes below the poverty level in 1999. The proportion in Knox County was 12.6%, in Loudon County it was 10.0%, and in Roane County it was 13.9%. Figure 3.2 shows the distribution of low-income populations for the census tracts in and around the Oak Ridge area. Within Oak Ridge, low-income populations were located in census tracts 201 (15.8% below poverty level) and 205 (27.9%). In other Oak Ridge census tracts, the percentages ranged from 12.1% in tract 204 to 1.9% in tract 301 (Census 2000a).

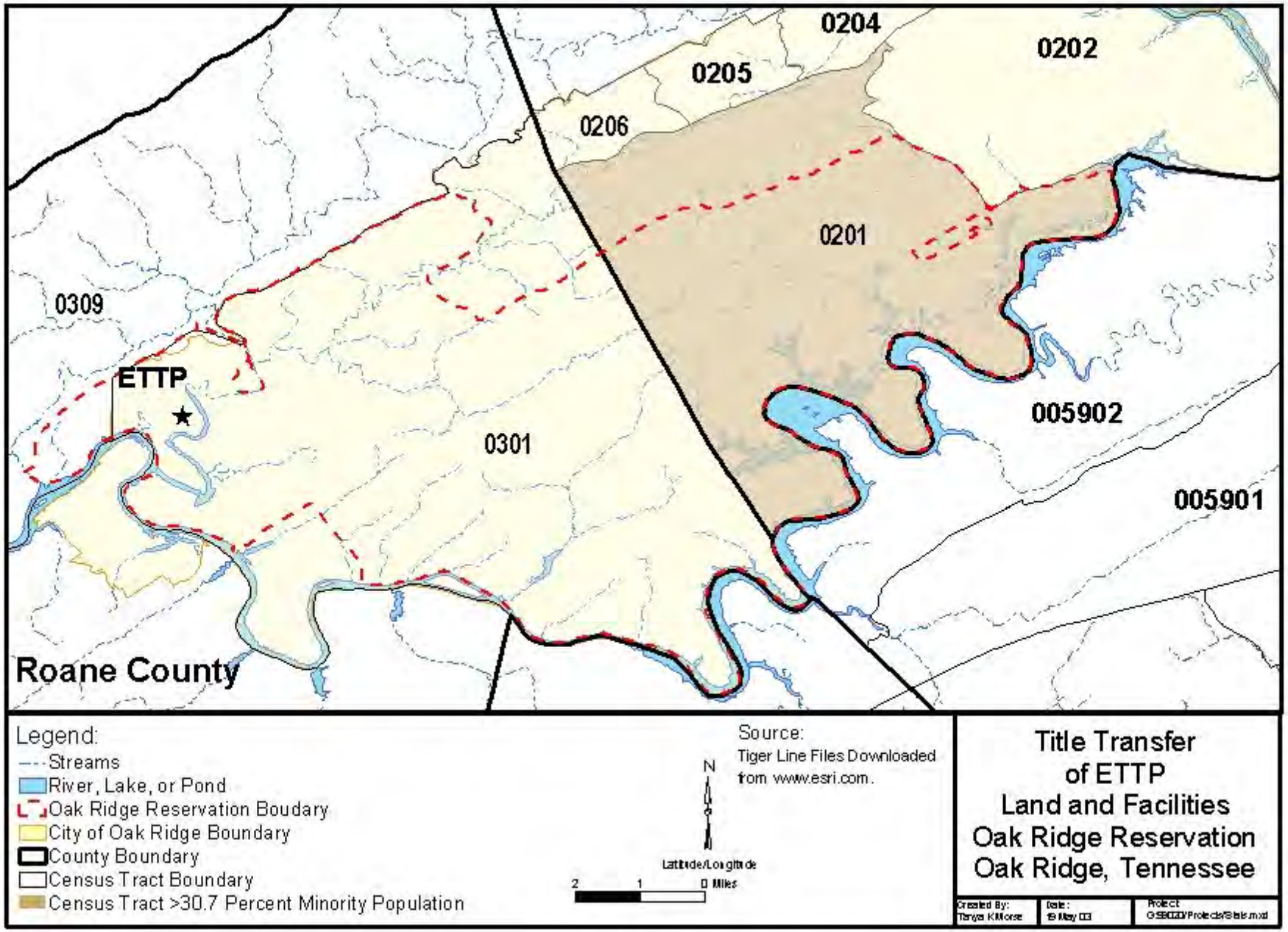

Fig. 3.1. Census tracts with minority population porportions greater than the national average of 30.7%.

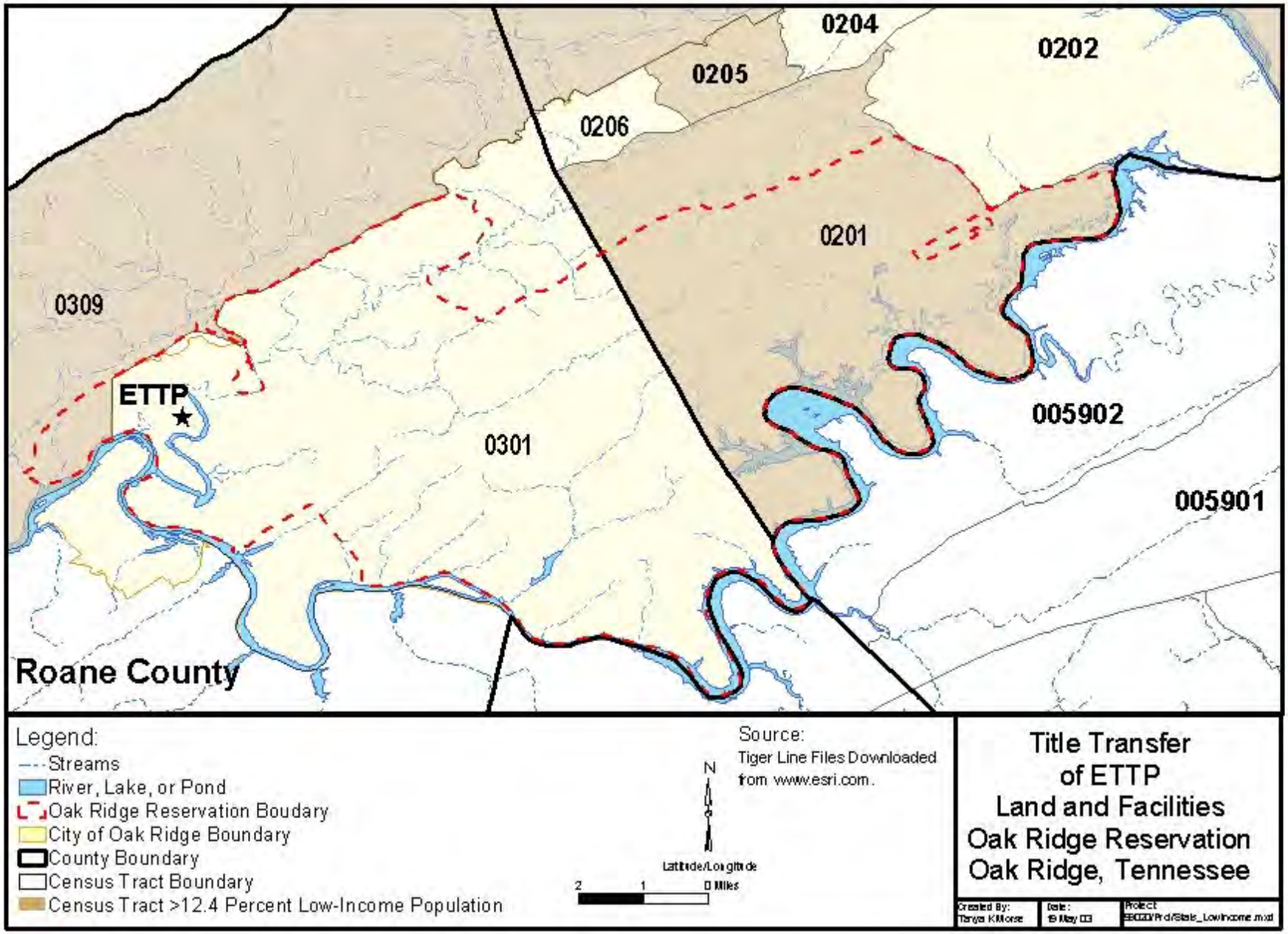

Fig. 3.2. Census tracts with low-income population proportions greater than the national average of 12.4%.

3.5.3 Housing

There were 244,536 housing units in the ROI in 2000, of which 224,796 (91.9%) were occupied and 19,740 (8.1%) were vacant. Of the occupied units, 69.5% were owner-occupied, and 30.5% were renter-occupied. More than half (68.7%) of the vacant units were located in Knox County, 13.5% were in Anderson County, and 11.0% were in Roane County. Loudon County accounted for only 6.8% of the vacant units. In Oak Ridge, there were 13,417 housing units in 2000, of which 12,062 (89.9%) were occupied and 1,355 (10.1%) were vacant. Of the occupied units, 68.4% were owner-occupied and 31.6% were renter-occupied (Census 2000b).

Median housing prices for owner-occupied units ranged from $86,500 in Roane County to $98,500 in Knox County. The price asked for vacant-for-sale units was lower in all counties, especially in Roane County, with a median asking price of $69,900. Oak Ridge prices were similar to those in Knox County, with a median asking price of $98,200 for owner-occupied units, and a median asking price of $80,700 for vacant units (Census 2000b).

Among renter-occupied units, the median rent ranged from $398/month in Roane County to $493/month in Knox County, as of the 2000 Census. The median rent asked for vacant units similarly ranged from $335/month in Roane County to $393/month in Knox County. In Oak Ridge, these figures were $487/month for occupied units and $389/month for vacant units (Census 2000b).

3.5.4 Fiscal Characteristics

Oak Ridge City general fund revenues and expenditures for FY 2003 and projected revenues and expenditures for 2004 are presented in Table 3.5. The general fund supports the ongoing operations of local governments, as well as community services, such as police protection and parks and recreation. The largest revenue sources have traditionally been local taxes (which include taxes on property, real estate, hotel/motel receipts, and sales) and intergovernmental transfers from the federal or state government. Local property taxes are expected to account for more than half (60%) of the 2003 general fund revenues (City of Oak Ridge 2003). For FY 2004, the property tax rate is $2.87 per $100 of assessed value. The assessment rate for industrial property was 40% (Boyer 2002). The city also receives a payment-in-lieu-of-tax (PILT) for the ORR acreage that falls within the city limits. For FY 2002, the payment was based on a value of $5,327/acre, and the farmland assessment rate of 25% (DOE 2002e).

Table 3.5. City of Oak Ridge revenues and expenditures, FY 2003 and FY 2004 ($)

	2003 Actual	2004 Projected
Revenues		
Taxes	19,652,987	20,394,000
Licenses and permits	195,000	215,000
Intergovernmental revenues	10,906,717	11,083,380
Charges for services	1,391,461	1,392,621
Fines and forfeitures	281,400	319,000
Other revenues	447,500	447,500
Total revenues	32,875,065	33,851,501
Expenditures and other financing		
Expenditures	(14,693,586)	(14,833,127)
Other financing uses	(18,670,239)	(19,330,235)
Total expenditures and other financing	(33,363,825)	(34,163,362)

Source: City of Oak Ridge 2003.
FY = Fiscal Year.

3.6 UTILITIES

Since the 1997 EA was completed there have been modifications to some of the existing ETTP utilities in order to extend utility service from ETTP to the Horizon Center. A 12-inch force main sewer line was installed along State Route 58 and Oak Ridge Turnpike, which ties into the existing 15-inch line located south of ETTP. The existing overhead 13.8 kV, 3-phase, dual primary-feed electrical service was extended along State Route 58 and Oak Ridge Turnpike. The line extends approximately 2 miles along the existing transmission line right-of-way to the Horizon Center. Fiber optic telecommunications was extended from the existing ETTP cable tap. Also, work has begun on a new gas and sewer line extension project within ETTP. The proposed gas line will tie into the existing line near the intersection of Contractors Road with State Route 58. One branch of the line will follow Avenue E and provide gas to the K-1007 building and the other will follow Contractors Road and provide service to new facilities in the area northwest of K-1007 (i.e., Parcel ED-5). In addition, a new force main is proposed to tie into the existing sewer system to provide service into Parcel ED-5.

4. ENVIRONMENTAL CONSEQUENCES

Potential environmental impacts that could result from the proposed title transfer of ETTP land and facilities were evaluated for the following: land and facility use, air quality, water resources, ecological resources, cultural resources, socioeconomics, utilities, noise, and health and safety. Potential impacts identified were compared with the results of the analysis conducted in the 1997 EA. Land and facility use, threatened and endangered (T&E) species, cultural resources, socioeconomics, utilities, and health and safety impacts are discussed below, either because of changes that have occurred since completing the 1997 EA, or because of potential impacts that could result from the proposed action. The other impacts have not changed. Appropriate restrictions would be included in the Quitclaim Deed to provide for environmental protection and to ensure that activities by the new owner(s) do not adversely affect any sensitive resources (i.e., cultural resources).

4.1 LAND AND FACILITY USE

DOE's PMP (DOE 2002a) presents a modified reindustrialization approach that is part of the accelerated closure of ETTP. The modified approach would focus only on certain target facilities. If the title is not transferred for a target facility prior to its scheduled deactivation date, then the facility would be enter the decontamination and demolition program.

The uses of title-transferred facilities would still be limited to those bounded in the 1997 EA, which could include metals recycling and fabrication; industrial services (e.g., laundry); administrative support services; laboratory services; warehousing; technology research, testing, and demonstration; waste management, including recycling, waste treatment, and waste packaging; metals smelting and machining; manufacturing (including the use of uranium enrichment technology); and general office space. The majority of these uses would conform to the City of Oak Ridge Zoning Ordinance (Article VIII, Sect. 8.02 IND-2, Industrial Districts). Certain uses (e.g., waste management, smelting, and heavier manufacturing) could be required to conform to the IND-3, Industrial Districts zoning requirements (Article VIII, Sect. 8.03). It is expected that the uses of certain facilities would remain unchanged upon title transfer (i.e., offices, utilities, certain roads/ parking/loading areas, and the railroad), while others may undergo modifications. New facilities are likely to be constructed on transferred land parcels.

Although the six additional areas described in Sect. 3.1 could continue to be leased, it is possible that portions of Areas 1, 3, 4, and 6 could be transferred in the future. Areas located within a floodplain, or with wetlands or other sensitive resources (e.g., Area 2), or containing waste disposal areas (e.g., Area 5) would be excluded from title transfer.

The total amount of land that would actually be transferred is unknown at this time. However, for analysis purposes about 1600 of the 2200 total acres (see Sect. 3.1) are assumed for eventual title transfer. Of this, approximately 30% of the 1600 acres (i.e., 500 acres) is assumed to be suitable for development purposes. This amount includes the approximately 100 acres associated with the facilities listed in Table 2.1, another 100 acres for Parcels ED-4 and ED-5, and about 70 acres that include portions of Areas 3, 4, and 6. The remainder of the 500 acres would include the areas of remediated land within ETTP that have not yet been identified. The analysis also assumes that the remaining acreage would not be suitable for development because of various constraints (e.g., wetlands and floodplains, land with greater than 15% slope, utilities, etc.).

4.2 THREATENED AND ENDANGERED SPECIES

No impacts to any T&E species are expected from the title transfer of ETTP land and facilities. No listed species are known to occur within the developed areas of ETTP. Because of the previously disturbed nature of the vacant land parcels that could potentially be transferred and their proximity to the developed industrial areas, it is also unlikely that any listed species are present.

The FWS was notified about the proposed action on October 2, 2002. FWS provided a response back on November 20, 2002, and requested that DOE provide further information on the proposed action and that they prepare a BA to assess potential impacts and determine if the action could affect the federally listed gray bat, Indiana bat, and spotfin chub. DOE completed the BA, concluded that the proposed title transfer is not likely to adversely affect any of the listed species, and submitted it to the FWS. Based on the conclusion in the BA that none of the species appear likely to be present within, or in, the immediate vicinity of ETTP, and proposed or designated critical habitats for the species are not present on, or near, the project area, the FWS determined that the BA was adequate and supports the conclusion of "not likely to adversely affect". The FWS also stated that obligations under Sect. 7 of the Endangered Species Act must be reconsidered if: (1) new information reveals that the proposed action may affect listed species in a manner, or to an extent, not previously considered; (2) the proposed action is subsequently modified to include activities that were not considered in the BA; or (3) new species are listed or critical habitat designated that might be affected by the proposed action. Correspondence from the FWS is included in Appendix C and a copy of the BA is included in Appendix D.

4.3 CULTURAL RESOURCES

The Tennessee State Historic Preservation Officer (SHPO) and the Eastern Band of Cherokee Indians Tribal Historic Preservation Office (THPO) were notified about the proposed undertaking. The SHPO provided a response on November 7, 2002 indicating that the proposed action may adversely affect properties that are eligible for listing in the National Register of Historic Places (NRHP). The SHPO also requested that DOE begin consultation with their office.

In response to the SHPO and to ensure that the potential effects of each title transfer are thoroughly considered, consultation would be conducted with the Tennessee SHPO on a proposal-by-proposal basis, as necessary, for those resources that are listed in or eligible for inclusion in the NRHP. DOE would require a determination of effect on identified NRHP-included or -eligible properties. If an adverse impact were determined, procedures would be developed and any required mitigation measures needed to address the adverse impacts, would be conducted. These activities would require approval from the SHPO and possible review by the Advisory Council on Historic Preservation.

DOE would include appropriate deed restrictions to ensure that any adverse impacts on cultural resources would be avoided to the extent practicable. The deed between DOE and the new property owner(s) would also require that if an unanticipated discovery of cultural materials (e.g., human remains, pottery, bottles, weapon projectiles, and tools) or sites is made during any development activities, all ground-disturbing activities in the vicinity of the discovery would be halted immediately. The property owner would be responsible for contacting the SHPO and the Eastern Band of Cherokee Indians THPO to initiate and complete consultation prior to any further disturbance of the discovery-site area.

On February 4, 2003, the SHPO provided a letter to DOE stating that based on their review of additional information provided by DOE, they concur that the proposed project will not adversely affect any listed properties on the NRHP as long as the above conditions are met. Copies of correspondence with the SHPO and THPO are included in Appendix C.

4.4 SOCIOECONOMICS

The socioeconomic evaluation in the EA Addendum is intended to assess the potential impacts from transferring ETTP land and facilities versus the potential impacts that were evaluated for the leasing action in the 1997 EA. For this reason, the economic effectiveness of CROET's and Heritage Center LLC's operations is not within the scope of the EA Addendum. Under the current lease, the City of Oak Ridge can only tax improvements made by Heritage Center LLC or its subleases. Since Heritage Center LLC is a not-for-profit organization, they cannot be taxed. With title transfer, facilities could be sold and the property and improvements by the new owners would be subject to property and sales taxes. This would indicate that title transfer should be more advantageous to the community (in terms of tax revenue) than the current leasing arrangement.

It was determined that the majority of the bounding socioeconomic impact analysis conducted for the 1997 EA was still valid for the current proposed action. This determination is based on the estimate of direct and indirect jobs created and the minor demographic changes that have occurred. The additional socioeconomic impacts of title transfer of ETTP land and facilities are limited to the potential revenue impacts for the City of Oak Ridge and Roane County if title transfer is to private, tax-paying corporations. The demographic, employment, and income impacts are essentially unchanged. No environmental justice impacts are expected, since the locations of minority and low-income populations remain unchanged. Little if any net in-migration is expected as a result of the proposed action. Therefore, little or no impact on demand for housing or other public services (e.g., schools, utilities, police and fire protection) is anticipated.

There are two potential changes in local revenue as a result of title transfer: (1) additional tax revenue as property becomes taxable, and (2) loss of DOE PILT on any acreage transferred. It should be noted that initially mostly facilities would be transferred and therefore the actual amount of acreage would be small. Transfer of the majority of the land parcels, including remediated areas, would not begin until the 2006-2007 timeframe or later depending on the actual completion of remedial actions. Therefore, initially, the difference in the PILT would be minor. While DOE owns the land and buildings they are not taxable, but leasehold improvements made by tenants are taxable (Young 2002). Therefore, only the land itself and any buildings transferred with the land represent a potential new source of revenue. Moreover, only land eventually sold to private corporations is likely to become taxable; transfer to Heritage Center LLC is unlikely to change the property's tax status (Young 2002). As a result, the net change in revenue to the city would be the tax collected on land and improvements sold to for-profit organizations, minus any lost revenues from discontinued PILT.

The total amount of land that Heritage Center LLC would be able to sell is unknown at this time. Nationwide experience with brownfield sites suggests that even after remediation, these sites are more difficult to market and develop than comparable sites with no history of contamination (United States Conference of Mayors 2000). The Conference of Mayors defines a brownfield site as one in which redevelopment is complicated by either real or perceived environmental contamination. The amount of land sold would depend on the final size of the parcels transferred, the proportion of the land considered developable after remediation, and on other market factors.

For the purposes of this analysis, it is assumed that approximately1600 acres would be transferred (see Sect. 4.1). The analysis also assumes that the entire 1600 acres would be transferred at one time. However, the actual transfers would likely be phased over a yet to be determined time period. If Heritage Center LLC retains ownership of all of the land and existing buildings, then there would be no change in the tax status, and the net result of the transfer is the annual loss of the PILT. For 1600 acres, this would amount to roughly $61,000 in 2003 (1600 acres valued at $5,327/acre × 25% assessment rate × $2.87 per $100 assessed value) (Heiskell 2002). The amount for Roane County would be approximately $56,000 at the current tax rate of $2.64 per $100 assessed value (RCCC 2003). It should be noted that tax revenue would be generated on improvements made to the property regardless of whether it is leased to Heritage Center LLC or the title is transferred.

The analysis in Section 4.1 also assumes that about 500 out of the 1600 acres potentially transferred would eventually be suitable for development. The city and county would collect maximum tax revenue if Heritage Center LLC sells all of the 500 acres to tax-paying corporations. Unimproved Oak Ridge industrial land has been valued from $17,000 to $35,000 per acre (FLUOR 2001). The total land value for 500 acres would fall between $8.5 million and $17.5 million, and the assessed value between $3.4 million and $7.0 million. At $2.87 per $100 assessed value (McCoy 2003) that would result in roughly $98,000 to $201,000 in tax revenue for the City of Oak Ridge. Subtracting the $61,000 in lost revenue from discontinued DOE PILT suggests that net new city revenue could range from $37,000 to $140,000 ($98,000 minus $61,000 to $201,000 minus $61,000). Using the same assumptions, Roane County could receive $89,000 to $184,000 in tax revenue. Subtracting $56,000 in lost PILT revenues suggests that net new revenue for Roane County could range from $33,000 to $128,000. Any improvements made to the land would further increase the net gain to both the city and the county. A recent analysis estimated that the value of improved industrial land can range from 8 to 15 times its unimproved value (ORNL 2002). Actual revenues would depend on the acreage transferred, the amount of property sold, the types of improvements made, and on future land valuations, assessments, and tax rates.

4.5 UTILITIES

It is anticipated that the existing ETTP Water Treatment Plant (K-1515) would be transferred and continue to provide service to the remaining facilities. Transferred facilities would also tie into other existing and new utility infrastructure (i.e., electrical, gas, communications, sewer). Some new utility infrastructure construction is expected in order to provide utility service to new facilities that may be built. Other upgrades and modifications may also be needed. The City of Oak Ridge is currently designing a new package wastewater treatment plant for Rarity Ridge, which will serve that development. The City is also constructing a new, elevated water tank and associated water infrastructure to serve the Rarity Ridge development from the neighboring public water supplies of the Cumberland Utility District and the City of Kingston. It is possible that these systems could also be configured to accommodate future development located at the Heritage Center. Installation of utility improvements consistent with ETTP plans and coordinated (as applicable) with the City of Oak Ridge would be expected to occur.

4.6 HEALTH AND SAFETY

Health and safety impacts under the proposed action are expected to be similar to those addressed in the 1997 EA. It is expected that commercial businesses and industries would have occupational hazards, emissions, and effluents common to other industrial sites. These businesses and industries would be required to follow appropriate environmental regulations and obtain applicable permits that are intended to protect human health and the environment.

Construction workers would be subject to typical hazards and occupational exposures faced at other industrial construction sites. Falls, spills, vehicle accidents, confined-space incidents, and injuries from tool and machinery operation could occur. Similar hazards also would be present during industrial operations. Workers would be expected to receive applicable training, be protected through appropriate controls and oversight, and follow standard industrial and protective engineering practices, including the use of personal protective clothing and equipment, as specified in applicable Occupational Safety and Health Act of 1970 regulations (e.g., 29 *CFR* 1910 and 29 *CFR* 1926).

For industries that could handle radioactive material (e.g., radioactive waste treatment and metals decontamination/recycling), no unique radiological emissions would be anticipated. The Nuclear Regulatory Commission and/or TDEC Division of Radiological Health would regulate and inspect these facilities for compliance with the terms and conditions of their radioactive materials licenses.

5. CUMULATIVE IMPACTS

Cumulative impacts are those that may result from the incremental impacts of an action considered additively with the impacts of other past, present, and reasonably foreseeable future actions. Cumulative impacts are considered, regardless of the agency or person undertaking the other actions (40 *CFR* 1508.7), and can result from the combined or synergistic effects of individual minor actions over a period of time.

5.1 POTENTIALLY CUMULATIVE ACTIONS

This section describes present actions, as well as reasonably foreseeable future actions, that are considered pertinent to the analysis of cumulative impacts for the proposed action. The information presented includes new actions that were not considered in 1997 EA, or it updates information included in the 1997 EA. The locations of these actions and their relationship to ETTP are shown on Fig. 5.1. The actions are as follows.

Horizon Center. On April 29, 2003, DOE transferred title to the developable portions (approximately 489 acres) of Parcel ED-1 (also known as the Horizon Center) to Horizon Center LLC, a subsidiary of CROET. Horizon Center LLC plans to continue the development of the Horizon Center as an industrial/business park for R&D, medical technology, manufacturing, distribution, and corporate headquarters office facilities. DOE will maintain ownership of the remainder of the parcel, which includes the Natural Area (approximately 468 acres). Horizon Center LLC, under a lease agreement with DOE, will lease the Natural Area, and continue to be responsible for meeting the requirements of the Mitigation Action Plan. The environmental consequences of the title transfer were reviewed in an EA Addendum and a FONSI was signed on April 2, 2003 (DOE 2003).

Oak Ridge Industrial Center. The Oak Ridge Industrial Center is located at the site partially developed by the Tennessee Valley Authority (TVA) for the Clinch River Breeder Reactor prior to 1983. The 1245-acre property is for sale by TVA and has been considered for development by several manufacturing industries. TVA has graded a 150-acre tract on the property to < 2% slope. The remaining land is rolling to rough terrain, having an 8 to 20% slope (ORCC 1999). The developable land contains tracts with hardwood forests and pine plantations impacted by the Southern pine beetle. The site also contains cultural resources. TVA has also designated a 103-acre tract bordering Grassy Creek as the Grassy Creek Habitat Protection Area to be reserved for protection of bugbane (*Cimicifuga rubifolia*) habitat (TVA 1988). A feeder road may be constructed by the Tennessee Department of Transportation (TDOT) to improve access from State Route 58, pending the sale and further industrial development of the property (ORCC 1999).

Oak Ridge National Laboratory Revitalization Project. DOE is implementing a Facilities Revitalization Project (FRP) at ORNL in order to modernize some ORNL facilities, maintain ORNL's competitive R&D capabilities, enhance worker health and safety, and reduce operating costs. The FRP includes constructing new facilities on brownfield land and remodeling numerous existing facilities. Up to six buildings will potentially be demolished. Approximately 1.8-million ft^2 of space in aging buildings, mostly at Y-12, is being vacated.

Conceptual plans for the FRP include construction of up to 24 new facilities totaling approximately 1.2-million ft^2 in Bethel Valley near the main ORNL entrance, near the West Portal in Melton Valley, and within the footprint for the SNS. Some of the new construction is being funded by the state of Tennessee and the private sector. About 50 acres of brownfield property in Melton Valley have been transferred from DOE to the private sector in support of this proposed action. The environmental consequences of this

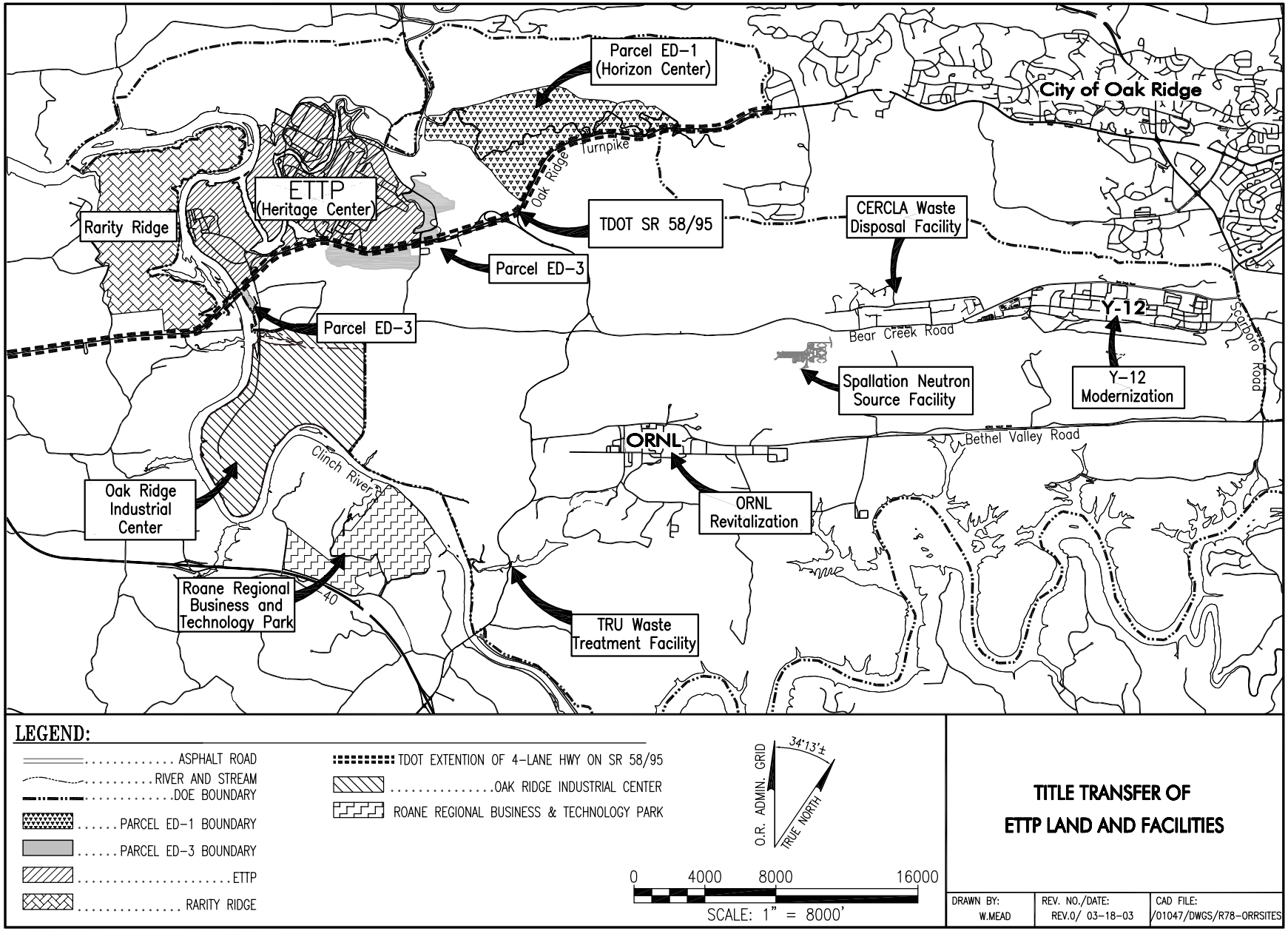

Fig. 5.1. Present and potential future actions contributing to cumulative impacts.

project were reviewed in an EA, and a FONSI was signed on June 1, 2001 (DOE 2001b). Construction began in August 2002 on the Joint Institute for Computational Sciences, Research Office Complex, Engineering Technology Facility, and the new facility for the Mouse Genetics and Genomics Program. These facilities should be completed by September 2003.

ORR Conservation Easement. DOE and the state of Tennessee have signed an "agreement in principle" that would create a conservation easement for approximately 3000 acres of ORR land located west of Wisconsin Avenue along Blackoak Ridge. The designation is intended to be a partial settlement by DOE for natural resource damages at the Lower Watts Bar reservoir. Once finalized, the easement will allow DOE to retain ownership of the land but DOE will provide funding to the state for the management of the property.

Parcel ED-3. DOE is also considering the transfer of a parcel of land designated as Parcel ED-3 for economic development purposes. Consistent with the PMP and E.O. 12512, DOE may consider disposal (i.e., title transfer) of this parcel. Parcel ED-3 is located along portions of State Route 327 (Blair Road) and State Route 58 (Oak Ridge Turnpike). If transferred, the property would be marketed for commercial and light industrial uses. The environmental consequences of the proposed transfer of this property were reviewed in a Draft EA (DOE 2000) issued to the public on September 27, 2000. DOE is evaluating a revised footprint that is consistent with one of the alternatives evaluated as a part of the ORR Land Use Planning Process (ORNL 2002) and the recently completed Draft E.O. 12512 Utilization Survey for the ETTP Area of Responsibility.

Pine Ridge Development. In 1969 the City of Oak Ridge acquired 230 acres of property, identified as Site X, from the then Atomic Energy Commission. The property included the current Valley Industrial Park and a portion of Pine Ridge. In 1999 the City transferred approximately 71 acres of Pine Ridge between South Illinois Avenue, Union Valley Road, and Scarboro Road to the Industrial Development Board who in turn sold the property to a private developer. The area is now being developed for office space, light manufacturing, and storage facilities. The ridge top has been clear-cut and leveled as much as 60 to 70 ft. The dirt has been used to fill a valley between the ridges and to grade the slopes, creating a plateau for the construction of up to 12 buildings with parking. Once completed, the developer expects between five and 15 tenants. The developer has also stated that he is working with both the University of Tennessee Agricultural Department and Greenways Oak Ridge on plans to revegetate and landscape the development.

Rarity Ridge Development. A private development company has proposed a mixed, residential/ commercial development project for the former Boeing property in western Oak Ridge (Roane County). The developer has purchased about 1200 acres from the previous property owner and an additional 182 acres of adjoining floodplain from DOE. DOE completed an EA for the transfer of the floodplain and issued a FONSI on January 31, 2001 (DOE 2001c). In February 2000, the Oak Ridge City Council voted to rezone the property from industrial to mixed-use. The Rarity Ridge master plan calls for 1734 single-family homes, 133 townhouses, 2106 multi-family dwelling units, and 1,257,900 ft^2 of commercial space. Over 100 acres are planned for parks, 17 acres for active recreation, and over 30 acres will be retained as a preserve with limited access. In addition, approximately 440 acres will be transferred to a third party for open space and recreational purposes. Property sales are currently in progress and construction on a portion of the property has begun.

Roane Regional Business and Technology Park. This industrial park is located north of Interstate 40 between Buttermilk Road and the Clinch River in Roane County. The 655-acre site will include areas for industrial development and greenbelt uses. The park will be developed in three phases. Phase I development of 200 acres was completed in late 2001 and is expected to house industries that will provide about 500 jobs. Examples of the types of industries expected to locate at the site include

information technology, instrumentation, automotive transportation, light metalwork, materials handling, and corporate administrative offices (Human 2000).

Spallation Neutron Source Project. The Spallation Neutron Source (SNS) will be a state-of-the-art, high-flux, short-pulsed neutron source facility occupying about 110 acres near Oak Ridge National Laboratory (ORNL). The SNS will be located within the ORR on Chestnut Ridge. About 15 permanent buildings covering about 6 acres will be constructed for the project. The SNS facility will generate sub-atomic particles called neutrons for materials testing and other research. Operational employment should begin in 2006 and is estimated to continue for 40 years (DOE 1999). Construction is 60 percent complete on the $1.4 billion research facility, which should be completed by June 2006.

State Route 58/95 Expansion. TDOT has completed widening of a 5.2-mile section of State Route 58 to four lanes from the intersection with Interstate 40 to 0.5 miles south of the intersection with State Route 95 (TDOT 1999). There is another project under consideration by TDOT to widen an additional 2.8 miles of State Route 95 east to Westover Drive in Oak Ridge. Right-of-way plans have been developed for this project but construction funding has not yet been approved.

USEC Facilities and Equipment Leasing. DOE has completed an Environmental Assessment and on October 18, 2002 issued a FONSI for the lease of facilities and equipment to USEC Inc., which will be used in its Gas Centrifuge Research and Development Project at ETTP (DOE 2002f). The project will utilize a large majority of Building K-1600 and additional leased space in Buildings K-1037, K-1220, and K-101 under a Cooperative Research and Development Agreement between the University of Tennessee, UT-Battelle, and USEC. USEC also intends to use certain leased equipment at an off-site facility at the Centrifuge Technology Center on the Boeing Property in Oak Ridge. The purpose of the USEC Gas Centrifuge Research and Development Project is to develop an economically attractive gas centrifuge machine and process using DOE's centrifuge technology.

West End Utility Expansion. Partners-for-Progress, a group of public and private organizations, is working to extend the utility infrastructure to make industrial sites in western Oak Ridge more attractive to prospective industries. Proposed projects include the following:

- provide water and wastewater to Horizon Center;
- construct a new electrical substation;
- construct a wastewater pump station and force-main, plus provide electric service to Heritage Center;
- provide utilities to the Rarity Ridge and Heritage Center sites; and
- provide utilities to the Oak Ridge Industrial Center.

Some of these projects have been completed (e.g., utility infrastructure to Horizon Center) and others are ongoing. The City of Oak Ridge is currently designing a new package wastewater treatment plant for Rarity Ridge, which will serve that development and could be configured to accommodate other nearby areas (i.e., ETTP). The City's sewage treatment plant located at Turtle Park is no longer expected to accept waste from the west end due to the need to construct the new Rarity Ridge plant. The City is also constructing a new, elevated water tank and associated water infrastructure to serve the Rarity Ridge development from the neighboring public water supplies of the Cumberland Utility District and the City of Kingston.

Y-12 Modernization Program. DOE has issued a Final Site-Wide Environmental Impact Statement and ROD (DOE 2001a) for the operation of the Y-12 National Security Complex (Y-12) and modernization of facilities. Major actions include construction of an Enriched Uranium Manufacturing Facility, an Assembly/Disassembly/Quality Evaluation Facility, a Depleted Uranium Operations Facility, a Lithium Operations Complex, and other facilities, as needed, to meet Y-12 mission requirements. Design of these

modernized facilities is in the early stages and, thus, no detailed quantitative impacts have been assessed. However, modernized facilities would reduce radiation exposure to workers, incorporate pollution prevention/waste minimization measures in their operation, and reduce emissions to the environment compared to the facilities that are currently operating. Demolition of some facilities has been completed and additional demolition is underway in order to prepare for the new construction that is scheduled to begin in late 2003.

5.2 CUMULATIVE IMPACTS BY RESOURCE AREA

Cumulative impacts are discussed below for land use, socioeconomics, and transportation. Impacts primarily result from the actions presented in Sect. 5.1. The magnitude of the impacts depends on the timing of the actions (i.e., greater potential for impacts if several activities are ongoing at the same time). Several of the actions in Sect. 5.1 are unlikely to impact the proposed title transfer of ETTP land and facilities (e.g., SNS, Y-12 Modernization, and ORNL) while others (e.g., continued development of the Horizon Center, proposed development of Parcel ED-3, west end utility expansion, and State Route 58/95 expansion) have a greater potential to impact or be impacted by the proposed action. Because ETTP facilities are currently being leased for commercial and industrial development, the proposed transfer of title would not have a large incremental impact on the environment (including air quality, water quality, cultural resources, and biodiversity) when added to the other past, present, and reasonably foreseeable future actions discussed in Sect. 5.1.

5.2.1 Land Use

Of the original 58,575 acres of land purchased in 1942 by the federal government, 24,340 acres have been conveyed and 34,235 acres remain within the ORR. The purposes for which ORR land has been conveyed include: 16,855 acres for residential, commercial, and community development; 1031 acres to federal agencies and for transportation easements; 3208 acres for preservation and recreation; 3239 acres for industrial development; and 7 acres for mission-related purposes. Current land outgrants (lease/license/permit areas) include 3498 acres for preservation/recreation and 485 acres for industrial development. The title transfer of a portion of Parcel ED-1 removed an additional 489 acres of land from the ORR. Title transfer of land and facilities at ETTP could potentially remove an additional 1600 acres of land (see Section 4.1). However, the majority of the ETTP area being considered for title transfer has already been developed for industrial purposes or been impacted in some other way. Therefore, the change in land use would result in negligible cumulative land use impacts.

A few changes in the acreage of the National Environmental Research Park (NERP) have occurred over the past 23 years. When designated in 1980 the NERP was about 13,590 acres. Some research land was lost with the sale of the former Boeing property and some other land areas. In 1998, the NERP designation was removed from the ETTP Area of Responsibility and Parcel ED-1. Since then the NERP has been expanded to include most of the undeveloped area of the ORR and is currently about 20,000 acres.

5.2.2 Socioeconomics

Nearby developments may also increase employment in the ROI. Major initiatives include development of the nearby Horizon Center, the SNS project at ORNL, the Roane Regional Business and Technology Park, the proposed Rarity Ridge residential/commercial development, and potential development of the Oak Ridge Industrial Center.

There is not sufficient information available to project employment associated with the Rarity Ridge development and the Oak Ridge Industrial Center. A recent analysis developed for land use planning estimated that if ETTP redevelopment and other initiatives succeed during the next 20 years, the cumulative impact could result in up to 25,000 direct and indirect new jobs, or an increase of 6.9% over the 2000 ROI employment figures (ORNL 2002). This rate is about 0.3% per year. Given the uncertainties surrounding future success of any of these initiatives, this represents an upper bound on the cumulative employment impacts.

5.2.3 Transportation

Cumulative transportation impacts in Roane and Anderson Counties could occur from increased development and growth. These potential impacts could be combined with ongoing and planned activities on the ORR and with the planned expansion of the state highway by TDOT. The main transportation impacts of commercial and industrial development would be an increase in average daily traffic volumes.

Associated with increases in traffic is the potential for an increased number of accidents, additional noise and air pollution, and accelerated road deterioration and damage. The increase in average daily traffic volumes could result in inconveniences for other vehicles (personal and commercial) on affected routes and connecting roads. Increased pavement deterioration and damage could increase costs associated with maintaining or resurfacing roads and highways. Although noise associated with increases in traffic is normally not harmful to hearing, increased traffic noise is considered by the public to be a nuisance. Increased accidents put an additional strain on local emergency response personnel. Increased vehicular traffic also has the greatest potential to increase air pollution in the local area because emissions from motor vehicles are poorly regulated. The improvements to State Route 95/58 from the west end of Oak Ridge to the intersection with Interstate 40 should help to reduce local traffic flow.

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APPENDIX A

FEDERAL REGISTER NOTICE OF RULE

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
*	*	* * *
I–129W	12–22–99	H–1B Data Collection and Filing Fee Exemption.
*	*	* * *

7. Section 299.5 is amended in the table by revising the entry for Form "129W" to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB Control No.
*	*	* * *
I–129W	H–1B Data Collection and Filing Exemption	1115–0225
*	*	* * *

Dated: February 24, 2000.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 00–4766 Filed 2–28–00; 8:45 am]

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DEPARTMENT OF ENERGY

[Docket No. FM–RM–99–RPROP]

10 CFR PART 770

RIN 1901–AA82

Transfer of Real Property at Defense Nuclear Facilities for Economic Development

AGENCY: Department of Energy.

ACTION: Interim final rule and opportunity for public comment.

SUMMARY: The Department of Energy (DOE) is establishing a process for disposing of unneeded real property at DOE's defense nuclear facilities for economic development. Section 3158 of Public Law 105–85, the National Defense Authorization Act for Fiscal Year 1998, directs DOE to prescribe regulations which describe procedures for the transfer by sale or lease of real property at such defense nuclear facilities. Transfers of real property under these regulations are intended to offset negative impacts on communities caused by unemployment from related DOE downsizing, facility closeouts and work force restructuring at these facilities. Section 3158 also provides discretionary authority to the Secretary to indemnify transferees of real property at DOE defense nuclear facilities. This regulation sets forth the indemnification procedures.

EFFECTIVE DATE: This rule is effective February 29, 2000. Comments on the interim final rule should be submitted by April 14, 2000. Those comments received after this date will be considered to the extent practicable.

ADDRESSES: Send comments (3 copies) to James M. Cayce, U.S. Department of Energy, Office of Management and Administration, MA–53, 1000 Independence Avenue, SW, Washington, D.C. 20585. The comments will be included in Docket No. FM–RM–99–PROP and they may be examined between 9:00 a.m. and 4:00 p.m. at the U.S. Department of Energy Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–6020.

FOR FURTHER INFORMATION CONTACT: James M. Cayce, U.S. Department of Energy, MA–53, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–0072.

SUPPLEMENTARY INFORMATION:

I. Background

DOE's real property consists of about 2.4 million acres and over 21,000 buildings, trailers, and other structures and facilities. In the eight years since the end of the Cold War, DOE has been engaged in a two-part process in which DOE reexamines its mission need for real property holdings, and then works to clean up the land and facilities that have been contaminated with hazardous chemicals and nuclear materials. The end result will be the availability, over time and to widely varying degree at DOE sites, of real property for transfer. DOE may sell or lease real property under a number of statutory authorities. The primary authorities are section 161g of the Atomic Energy Act (42 U.S.C. 2201(g)) and sections 646(c)–(f) (also known as the "Hall Amendment") and 649 of the Department of Energy Orgauization Act, as amended (42 U.S.C. 7256(c)–(f) and 7259). Section 161g of the Atomic Energy Act broadly authorizes DOE to transfer real property by sale or lease to another party. Section 649 applies to leasing of underutilized real property. Section 646(c)–(f) applies to specific facilities that are to be closed or reconfigured. In addition, DOE may declare real property as "excess, underutilized or temporarily underutilized," and dispose of such real property under provisions of the Federal Property and Administrative Services Act, 40 U.S.C. 472 *et seq.* With the exception of sections 646(c)–(f) of the DOE Organization Act, these anthorities do not deal specifically with transfer of real property for economic development.

In section 3158 of the National Defense Authorization Act for Fiscal Year 1998 ("Act"), Congress directed DOE to prescribe regulations specifically for the transfer by sale or lease of real property at DOE defense nuclear facilities for the purpose of permitting economic development (42 U.S.C. 7274q(a)(1)). Section 3158 also provides that DOE may hold harmless and indemnify a person or entity to whom real property is transferred against any claim for injury to person or property that results from the release or threatened release of a hazardous substance, pollutant or contaminant as a result of DOE (or predecessor agency) activities at the defense nuclear facility (42 U.S.C. 7274q(b)). The indemnification provision in section 3158 is similar to provisions enacted for the Department of Defense Base Realignment and Closure program under Section 330 of the Defense Authorization Act for Fiscal Year 1993, Public Law 102–484.

The indemnification provisions in section 3158 aid these transfers for economic development because, even at sites that have been remediated in accordance with applicable regulatory requirements, uncertainty and risk to capital may be presented by the possibility of as-yet undiscovered contamination remaining on the property. Potential buyers and lessees of real property at defense nuclear facilities have sometimes expressed a need to be indemnified as part of the transfer. Furthermore, indemnification often is requested by lending or underwriting institutions which finance the purchase, redevelopment, or future private operations on the transferred property to protect their innocent interests in the property. Indemnification may be granted under this rule when it is deemed essential for facilitating local reuse or redevelopment as authorized under 42 U.S.C. 7274q.

This rule is not intended to affect implementation of the Joint Interim Policy that DOE and the Environmental Protection Agency (EPA) entered into on June 21, 1998, to implement the consultation provisions of the Hall Amendment (42 U.S.C. 7256(e)). The Joint Interim Policy provides specific direction for instances in which Hall Amendment authority is used by DOE to enter into leases at DOE sites which are on the EPA's National Priorities List. As

stated in the scope of the joint policy, at National Priorities List sites, EPA was given the authority to concur in the DOE determination that the terms and conditions of a lease agreement are "consistent with safety and protection of public health and the environment."

II. Section-by-Section Discussion

The following discussion presents information related to some of the provisions in today's interim final rule, and explains DOE's rationale for those provisions.

1. Section 770.2 (Coverage)

Generally, real property covered by these regulations includes land and facilities at DOE defense nuclear facilities offered for sale or lease for the purpose of permitting the economic development of the property. Leases of improvements to real property that has been withdrawn from the public domain are covered, but not the withdrawn land. If any of these improvements are removable, they can be transferred under this part.

2. Section 770.4 (Definitions)

DOE has included a definition of "Community Reuse Organization" (CRO) in this rule. CROs are established and funded by DOE to implement community transition activities under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h). Membership in a CRO is composed of a broad representation of persons and entities from the affected communities. The CRO coordinates local community transition planning efforts with the DOE's Federal Advisory Committees, "Site Specific Advisory Boards," and others to counter adverse impacts from DOE work force restructuring. CROs may act as agent or broker for parties interested in undertaking economic development actions, and they can assure a broad range of participation in community transition activities.

Section 3158 defines "defense nuclear facility" by cross-reference to the definition in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286(g)). These facilities are atomic energy defense facilities involved in production or utilization of special nuclear material; nuclear waste storage or disposal facilities; testing and assembly facilities; and atomic weapons research facilities, which are under the control or jurisdiction of the Secretary of Energy. DOE has identified the facilities receiving funding for atomic energy defense activities (with the exception of activities under Office of Naval Reactors) which are covered by the definition. A list of these defense nuclear facilities is included at the end of this section-by-section discussion for the convenience of the interested public.

"Excess real property" is DOE property that, after screening at all levels of DOE, is found to be unneeded for any of the DOE's missions.

The term "underutilized real property or temporarily underutilized real property" means an entire parcel of real property, or a portion of such property, that is used at irregular intervals or for which the mission need can be satisfied with only a portion of the property. These designations are reviewed on an annual basis by the certified real property specialist at each Field Office.

3. Sections 770.5 and 770.6 (Identification of Real Property for Transfer)

DOE annually conducts surveys of its real property to determine if the property is being fully utilized. In a related process, DOE annually reviews its real property to identify property that is no longer needed for DOE missions. Real property covered by this part will be initially identified by these two processes. Under this part, Field Office Managers will provide the established CRO, and other interested persons and entities with a list of the real property that may be transferred under these regulations. Field Office Managers may make this list available by mail to known entities, or other means (such as posting on DOE Internet sites), or upon request. DOE will provide existing information on listed property, including its policies under the relevant transfer authority, information on the physical condition of the property, environmental reports, safety reports, known use restrictions, leasing term limitations and other pertinent information. Section 770.6 provides that a CRO or other person or entity may request that the Field Office Manager make available specific real property for possible transfer in support of economic development.

4. Section 770.7 (Transfer Process)

To initiate the transfer process, the potential purchaser or lessee must prepare and provide to the Field Office Manager a proposal for the transfer of real property at a defense nuclear facility for economic development. The proposal must contain enough detail for DOE to make an informed determination that the transfer, by sale or lease, would be in the best interest of the Government. Every proposal must include the information specified in section 770.7(a)(1) relating to the scope and economic development impact of the proposed transfer. A proposal must include: a description of the real property proposed to be transferred; the intended use and duration of use of the real property; a description of the economic development that would be furthered by the transfer (*e.g.*, jobs to be created or retained, improvements to be made); information supporting the economic viability of the proposed development; and the consideration offered and any financial requirements. A proposal also should explicitly state if indemnification against claims is or is not being requested, and, if requested, the specific reasons for the request and a certification that the requesting party has not caused contamination on the property. This requirement stems from section 3158(b) of the Act, which requires DOE to include in any agreement for the sale or lease of real property provisions stating whether indemnification is or is not provided (42 U.S.C. 7274q(b)).

Paragraph 770.7(b) provides that DOE will review a proposal and within 90 days notify the person or entity submitting the proposal of its decision on whether the transfer is in the best interest of the Government and DOE's intent to proceed with development of a transfer agreement. DOE may consider a variety of factors in making its decision, such as the adverse economic impacts of DOE downsizing and realignment on the region, the public policy objectives of the laws governing the downsizing of DOE's production complex, the extent of state and local investment in any proposed projects, the potential for short- and long-term job generation, the financial responsibility of the proposer, current market conditions, and potential benefits to the federal government from the transfer. Since many defense nuclear facilities have ongoing missions, particular transfers may be subject to use restrictions that are made necessary by specific security, safety, and environmental requirements of the DOE facility. If DOE does not find the transfer is in the best interest of the Government and will not pursue a transfer agreement, it will, by letter, inform the person or entity that submitted it of DOE's decision and reasons. Agreement by DOE to pursue development of a transfer agreement does not commit DOE to the project or constitute a final decision regarding the transfer of the property.

Section 3158 of the Act prohibits DOE from transferring real property for economic development until 30 days have elapsed following the date on which DOE notifies the defense

committees of Congress of the proposed transfer of real property. Therefore, if DOE determines that a proposal would be in the best interest of the Government, it then will notify the congressional defense committees of the proposed transfer. In particular instances, it is possible that this notification requirement may delay the development of the transfer agreement.

Before a proposed transfer agreement is finalized, the Field Office Manager must ensure that DOE's National Environmental Policy Act (NEPA) environmental review process is completed. Depending on the transfer authority used and the condition of the real property, other agencies may need to review or concur with the terms of the agreement. For example, for Hall Amendment leases at National Priorities List sites, EPA was given the authority to concur in the DOE determination that the terms and conditions of a lease agreement are consistent with safety and the protection of public health and the environment. The DOE will also comply with any other applicable land transfer statutes.

DOE has established policy that requires public participation in the land and facility planning, management, and disposition decision process (under DOE O 403.1A, Life Cycle Asset Management). Generally, because the proposals are likely to be generated by or in coordination with a CRO, a separate public involvement process should not be necessary. However, there may be instances in which a specific authority requires separate or additional procedures (*e.g.*, commitments in agreements signed with tribal, state, or local governments).

5. Section 770.8 (Transfer for Less Than Fair Market Value)

The House Conference Report for the Act (105–340) noted that DOE should address in this part, when it is appropriate for DOE to transfer or lease real property below fair market value or at fair market value. DOE will generally pursue fair market value for real property transferred for economic development. DOE may, however, agree to sell or lease such property for less than fair market value if the statutory transfer authority used imposes no market value restriction and the real property reqnires considerable infrastructure improvements to make it economically viable, or if in DOE's judgment a conveyance at less than market value would further the public policy objectives of the laws governing the downsizing of defense nuclear facilities. DOE has the authority to transfer real and personal property at less than fair market value (or without consideration) in order to help local communities recover from the effects of downsizing of defense nuclear facilities.

6. Sections 770.9–770.11 (Indemnification)

DOE real property often is viewed by the public as a potential liability even if it has been cleaned to specific regulatory requirements. To improve the marketability of previously contaminated land and facilities, DOE may indemnify a person or entity to whom real property is transferred for economic development against any claim for injury to persons or property that results from the release or threatened release of a hazardous substance, pollutant or contaminant attributable to DOE (or predecessor agencies).[1] DOE will enter into an indemnification agreement under this rule if a person or entity requests it, and indemnification is deemed essential for the purposes of facilitating reuse or redevelopment. A claim for injury to person or property will be indemnified only if an indemnification provision is included in the agreement for sale or lease and in subsequent deeds or leases.

This general DOE indemnification policy is subject to the conditions in section 770.9 of this part. As provided by section 3158(c)(1) of the Act (42 U.S.C. 7274q(c)(1)), a person or entity who requests indemnification under a transfer agreement must notify DOE (the Field Office Manager) in writing within two years after the claim accrues.

Section 770.9 contains several other requirements and conditions that are taken from section 3158(c)(1) of the Act. The person or entity requesting indemnification for a particular claim must furnish the Field Office Manager pertinent papers regarding the claim received by the person or entity, and any evidence or proof of the claim; and must permit access to records and personnel for purposes of defending or settling the claim.

DOE also is prohibited by section 3158(b)(3) from indemnifying a person or entity for a claim "to the extent the persons and entities * * * contributed to any such release or threatened release" (42 U.S.C. 7274q(b)(3)). This limitation on DOE's ability to indemnify potentially liable parties is included in the rule in paragraph 770.9(b).

One additional statutory limitation on indemnification is that DOE may not indemnify a transferee for a claim, even if an indemnification agreement exists, if the person requesting indemnification does not allow DOE to settle or defend the claim. This limitation is in paragraph 770.9(c), and it is required by section 3158(d)(2) of the Act (42 U.S.C. 7274q(d)(2)).

Section 770.10 provides, as stipulated in the Act, that if an indemnification claim is denied by DOE, the person or entity must be informed through a notice of final denial of a claim by certified or registered mail. If the person or entity wishes to contest the denial, then that person or entity must begin legal action within six months after the date of mailing of a notice of final denial of a claim by DOE. (42 U.S.C. 7274q(c)(1)).

Section 770.11 incorporates the Act's provision that a claim "accrues" on the date on which the person asserting the claim knew (or reasonably should have known) that the injury to person or property was caused or contributed to by the release or threatened release of a hazardous substance, pollutant, or contaminant as a result of DOE activities at the defense nuclear facility on which the real property is located. (42 U.S.C. 7274q(c)(2)). DOE may not waive this timeliness requirement.

Appendix to Preamble of 10 CFR Part 770

List of Defense Nuclear Facilities: This list is consists of the defense nuclear facilities noted as covered facilities in House Report 105–137, and is not meant to be inclusive.

Argonne National Laboratory
Brookhaven National Laboratory
Fernald Environmental Management Project Site
Hanford Site
Idaho National Engineering and Environmental Laboratory
Kansas City Plant
K–25 Plant (East Tennessee Technology Park)
Lawrence Livermore National Laboratory
Los Alamos National Laboratory
Mound Facility
Nevada Test Site
Oak Ridge Reservation
Oak Ridge National Laboratory
Paducah Gaseous Diffusion Plant
Pantex Plant
Pinellas Plant
Portsmouth Gaseons Diffusion Plant
Rocky Flats Environmental Technology Site

[1] Regardless of the existence of an indemnification agreement, DOE would be responsible for the release, or threatened release of a hazardous substance or pollutant or contaminant resulting from the activities of DOE or its predecessor agencies, if the property was not remediated to required standards. This would also apply to early transfers, by sale or lease, of contaminated real property under Section 120(h)(3)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9620(h)(3)(C).

Sandia National Laboratory
Savannah River Site
Waste Isolation Pilot Project
Y–12 Plant

III. Public Comment

The interim final rule published today relates to public property and, therefore, is exempt from the notice and comment rulemaking requirements in the Administrative Procedure Act, 5 U.S.C. 553. Nonetheless, DOE is providing an opportunity for interested persons to submit written comments on the interim final rule. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this rule. All comments received will be available for public inspectiou in the Department of Energy Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 9 a.m. and 4 p.m., Monday through Friday, except federal holidays. All written comments received on or before the date specified in the beginning of this rule will be considered by DOE. Comments received after that date will be considered to the extent that time allows.

Any person submitting information or data that is believed to be confidential, and exempt by law from public disclosure, should submit one complete copy of the document and two additional copies from which the information believed to be confidential has been deleted. DOE will makes its own determination with regard to the confidential status of the information and treat it as provided in 10 CFR 1004.11.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be "a significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Today's interim final rule concerning the sale or lease of real property at defense nuclear facilities is not subject to the Regulatory Flexibility Act because neither the Administrative Procedure Act (5 U.S.C. 553(a)(2)), nor any other law requires DOE to propose the rule for public comment.

C. Review Under the Paperwork Reduction Act

No new collection of information is imposed by this interim final rule. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act

Under the Council ou Environmental Quality regulations (40 CFR Parts 1500–1508), DOE has established guidelines for its compliance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). This interim final rule establishes procedures for real property transfers for economic development. Because the rule is procedural, it is covered by the Categorical Exclusion in paragraph A6 of Appendix A to Subpart D, 10 CFR Part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required. As paragraph 770.3(b) of the rule notes, individual proposals for the transfer of property are subject to appropriate NEPA review.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on states, on the relationship between the federal government and the states, or in the distribution of power and responsibilities among the various levels of government. DOE has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132, and has determined that this rule will not have a substantial direct effect on states, the established relationship between the states and the federal government or the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) Clearly specifies any effect on existing federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that this interim final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4) requires each federal agency to prepare a written assessment of the effects of any federal mandate in a proposed or final rule that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year. The Act also requires a federal agency to develop an effective process to permit timely input by elected officers of state, local, and tribal governments on a proposed "significant intergovernmental mandate," and it requires an agency to develop a plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirement that might significantly or uniquely affect small governments. The interim final rule published today does not contain any federal mandate, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires federal agencies to issue a Family Policymaking Assessment for any

proposed rule or policy that may affect family well-being. Today's proposal would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's interim final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

List of Subjects in Part 770

Federal buildings and facilities, Government property, Government property management, Hazardous substances.

Issued in Washington, on January 21, 2000.

Edward R. Simpson,

Acting Director of Procurement and Assistance Management.

For the reasons set forth in the preamble, Title 10, Chapter III, of the Code of Federal Regulations is amended by adding a new part 770 as set forth below:

PART 770—TRANSFER OF REAL PROPERTY AT DEFENSE NUCLEAR FACILITIES FOR ECONOMIC DEVELOPMENT

Sec.

Authority: 42 U.S.C. 7274q.

§ 770.1 What is the purpose of this part?

(a) This part establishes how DOE will transfer by sale or lease real property at defense nuclear facilities for economic development.

(b) This part also contains the procedures for a person or entity to request indemnification for any claim that results from the release or threatened release of a hazardous substance or pollutant or contaminant as a result of DOE activities at the defense nuclear facility.

§ 770.2 What real property does this part cover?

(a) DOE may transfer DOE-owned real property by sale or lease at defense nuclear facilities, for the purpose of permitting economic development.

(b) DOE may transfer, by lease only, improvements at defense nuclear facilities on land withdrawn from the public domain, that are excess, temporarily underutilized, or underutilized, for the purpose of permitting economic development.

§ 770.3 What general limitations apply to this part?

(a) Nothing in this part affects or modifies in any way section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(b) Individual proposals for transfers of property are subject to NEPA review as implemented by 10 CFR Part 1021.

(c) Any indemnification agreed to by the DOE is subject to the availability of funds.

§ 770.4 What definitions are used in this part?

Community Reuse Organization or CRO means a governmental or non-governmental organization that represents a community adversely affected by DOE work force restructuring at a defense nuclear facility and that has the authority to enter into and fulfill the obligations of a DOE financial assistance agreement.

Claim means a request for reimbursement of monetary damages.

Defense Nuclear Facility means "Department of Energy defense nuclear facility" within the meaning of section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

DOE means the United States Department of Energy.

DOE Field Office means any of DOE's officially established organizations and components located outside the Washington, D.C., metropolitan area. (See Field Office Manager.)

Economic Development means the use of transferred DOE real property in a way that enhances the production, distribution, or consumption of goods and services in the surrounding region(s) and furthers the public policy objectives of the laws governing the downsizing of DOE's defense nuclear facilities.

Excess Real Property means any property under DOE control that the Field Office, cognizant program, or the Secretary of Energy have determined, according to applicable procedures, to be no longer needed.

Field Office Manager means the head of the DOE Operations Offices or Field Offices associated with the management and control of defense nuclear facilities.

Hazardous Substance means a substance within the definition of "hazardous substances" in subchapter I of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601(14)).

Indemnification means the responsibility for reimbursement of payment for any suit, claim, demand or action, liability, judgment, cost, or other fee arising out of any claim for personal injury or property damage, including business losses consistent with generally accepted accounting practices, which involve the covered real property transfers. Indemnification payments are subject to the availability of appropriated funds.

Person or Entity means any state, any political subdivision of a state or any individual person that acquires ownership or control of real property at a defense nuclear facility.

Pollutant or Contaminant means a substance identified within the definition of "pollutant or contaminant" in section 101(33) of CERCLA (42 U.S.C. 9601(33)).

Reol Property means all interest in land, together with the improvements, structures, and fixtures located on the land (usually including prefabricated or movable structures), and associated appurtenances under the control of any federal agency.

Release means a "release" as defined in subchapter I of CERCLA (42 U.S.C. 9601(22)).

Underutilized Real Property or Temporarily Underutilized Real Property means the entire property or a portion of the real property (with or without improvements) that is used only at irregular intervals, or which is used by current DOE missions that can be satisfied with only a portion of the real property.

§ 770.5 How does DOE notify persons and entities that defense nuclear facility real property is available for transfer for economic development?

(a) Field Office Managers annually make available to Community Reuse Organizations and other persons and entities a list of real property at defense nuclear facilities that DOE has identified as appropriate for transfer for economic development. Field Office Managers may use any effective means of publicity to notify potentially-interested persons or entities of the availability of the list.

(b) Upon request, Field Office Managers provide to interested persons and entities relevant information about listed real property, including information about a property's physical condition, environmental, safety and health matters, and any restrictions or terms of transfer.

§ 770.6 May interested persons and entities request that real property at defense nuclear facilities be transferred for economic development?

Any person or entity may request that specific real property be made available for transfer for economic development pursuant to procedures in § 770.7. A person or entity must submit such a request in writing to the Field Office Manager who is responsible for the real property.

§ 770.7 What procedures are to be used to transfer real property at defense nuclear facilities for economic development?

(a) *Proposal.* The transfer process starts when a potential purchaser or lessee submits to the Field Office Manager a proposal for the transfer of real property that DOE has included on a list of available real property, as provided in § 770.5 of this part.

(1) A proposal must include (but is not limited to):

(i) A description of the real property proposed to be transferred;

(ii) The intended use and duration of use of the real property;

(iii) A description of the economic development that would be furthered by the transfer (*e.g.*, jobs to be created or retained, improvements to be made);

(iv) Information supporting the economic viability of the proposed development; and

(v) The consideration offered and any financial requirements.

(2) The person or entity should state in the proposal whether it is or is not requesting indemnification against claims based on the release or threatened release of a hazardous substance or pollutant or contaminant resulting from DOE activities.

(3) If a proposal for transfer does not contain a statement regarding indemnification, the Field Office Manager will notify the person or entity by letter of the potential availability of indemnification under this part, and will request that the person or entity either modify the proposal to include a request for indemnification or submit a statement that it is not seeking indemnification.

(b) *Decision to transfer real property.* Within 90 days after receipt of a proposal, DOE will notify, by letter, the person or entity that submitted the proposal of DOE's decision whether or not a transfer of the real property by sale or lease is in the best interest of the Government. If DOE determines the transfer is in the Government's best interest, then the Field Office Manger will begin development of a transfer agreement.

(c) *Congressional committee notification.* DOE may not transfer real property under this part until 30 days have elapsed after the date DOE notifies congressional defense committees of the proposed transfer. The Field Office Manager will notify congressional defense committees through the Secretary of Energy.

(d) *Transfer.* After the congressional committee notification period has elapsed, the Field Office Manager:

(1) Finalizes negotiations of a transfer agreement, which must include a provision stating whether indemnification is or is not provided;

(2) Ensures that any required environmental reviews have been completed; and

(3) Executes the documents required for the transfer of property to the buyer or lessee.

§ 770.8 May DOE transfer real property at defense nuclear facilities for economic development at less than fair market value?

DOE generally attempts to obtain fair market value for real property transferred for economic development, but DOE may agree to sell or lease such property for less than fair market value if the statutory transfer authority nsed imposes no market value restriction, and:

(a) The real property requires considerable infrastructure improvements to make it economically viable, or

(b) A conveyance at less than market value would, in the DOE's judgment, further the public policy objectives of the laws governing the downsizing of defense nuclear facilities.

§ 770.9 What conditions apply to DOE indemnification of claims against a person or entity based on the release or threatened release of a hazardous substance or pollutant or contaminant attributable to DOE?

(a) If an agreement for the transfer of real property for economic development contains an indemnification provision, the person or entity requesting indemnification for a particular claim must:

(1) Notify the Field Office Manager in writing within two years after such claim accrues under § 770.11 of this part;

(2) Furnish the Field Office Manager, or such other DOE official as the Field Office Manager designates, with evidence or proof of the claim;

(3) Furnish the Field Office Manager, or such other DOE official as the Field Office Manager designates, with copies of pertinent papers (*e.g.*, legal documents) received by the person or entity;

(4) If requested by DOE, provide access to records and personnel of the person or entity for purposes of defending or settling the claim; and

(5) Provide certification that the person or entity making the claim did not contribute to any such release or threatened release.

(b) DOE will enter into an indemnification agreement if DOE determines that indemnification is essential for the purpose of facilitating reuse or redevelopment.

(c) DOE may not indemnify any person or entity for a claim if the person or entity contributed to the release or threatened release of a hazardous substance or pollutant or contaminant that is the basis of the claim.

(d) DOE may not indemnify a person or entity for a claim made under an indemnification agreement if the person or entity refuses to allow DOE to settle or defend the claim.

§ 770.10 When must a person or entity, who wishes to contest a DOE denial of request for indemnification of a claim, begin legal action?

If DOE denies the claim, DOE must provide the person or entity with a notice of final denial of the claim by DOE by certified or registered mail. The person or entity must begin legal action within six months after the date of mailing.

§ 770.11 When does a claim "accrue" for purposes of notifying ths Field Office Manager under § 770.9(a) of this part?

For purposes of § 770.9(a) of this part, a claim "accrues" on the date on which the person asserting the claim knew, or reasonably should have known, that the

injury to person or property was caused or contributed to by the release or threatened release of a hazardous substance, pollutant, or contaminant as a result of DOE activities at the defense nuclear facility on which the real property is located.

[FR Doc. 00–4787 Filed 2–24–00; 4:07 pm]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–262–AD; Amendment 39–11602; AD 2000–04–19]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Dassault Model Mystere-Falcon 50 series airplanes, that currently requires a revision to the Limitations section of the FAA-approved Airplane Flight Manual (AFM) to include procedures to use certain values to correctly gauge the minimum allowable N1 speed of the operative engines during operation in icing conditions. This amendment adds a new requirement for operators to adjust the thrust reverser handle stop, install new wiring, and modify the Digital Electronic Engine Control (DEEC) software, which terminates the AFM revision. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent flightcrew use of erroneous N1 thrust setting information displayed on the Engine Indication Electronic Display (EIED), which could result in in-flight shutdown of engine(s).

DATES: Effective April 4, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 4, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–21–16, amendment 39–10202 (62 FR 60773, November 13, 1997), which is applicable to certain Dassault Model Mystere-Falcon 50 series airplanes, was published in the **Federal Register** on November 3, 1999 (64 FR 59685). The action proposed to retain the requirement to revise the Limitations section of the FAA-approved Airplane Flight Manual (AFM) to include procedures to use certain values to correctly gauge the minimum allowable N1 speed of the operative engines during operation in icing conditions, and add a new requirement for adjustment of the thrust reverser handle stop, installation of new wiring, and modification of the Digital Electronic Engine Control (DEEC) software, which would terminate the need for the AFM revision.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Revise Applicability

One commenter, the manufacturer, suggests that the applicability be revised to exclude airplanes on which Dassault Factory Modification M2193 has been accomplished. The commenter notes that this modification is equivalent to Dassault Service Bulletin F50–276, dated June 24, 1998 (which was cited in the AD as the appropriate source of service information). The FAA concurs. The actions described in the referenced Dassault service bulletin constitute terminating action for the requirements of this AD; therefore, airplanes on which the service bulletin has been accomplished are excluded in the applicability of the AD. Since Dassault Modification M2193 is equivalent to that service bulletin, the FAA has revised the final rule to also exclude airplanes having this production modification.

The same commenter also requests that the applicability of the proposed AD be revised in regard to the listing of affected airplanes. The commenter notes that the proposed AD applies to "serial numbers 251, 253, and subsequent, equipped with Allied-Signal TFE731–40 engines * * *." The commenter suggests that the applicability be expanded to include any Falcon 50 series airplane retrofitted with Dassault Service Bulletin F50–280 or Dassault Factory Modification 2518, since this service bulletin describes procedures for installation of Allied-Signal TFE731–40 engines on any Model Mystere-Falcon 50 series airplane, including serial numbers prior to 251.

The FAA does not concur. The FAA acknowledges that all airplanes equipped with the referenced engine type should also be subject to the requirements of this AD, if all actions required by this AD have not been accomplished. However, after further discussions with the manufacturer, the FAA has been advised that Dassault Service Bulletin F50–280 is in the process of review, but has not been released, nor has the equivalent Dassault Modification 2518 been approved. The FAA does not consider it appropriate to delay issuance of this final rule while awaiting such approval; therefore, no change is made to the applicability of the AD in this regard. If the engine retrofit service information is approved, the FAA will consider further rulemaking, if necessary, to apply the requirements of this AD to additional airplanes.

Request To Revise Number of Affected Airplanes

The same commenter states that the estimate of 7 affected airplanes is incorrect in the cost impact information of the proposed AD, since other airplanes may have the Allied-Signal TFE731–40 engines installed as a retrofit, as discussed in the previous comment. The FAA infers that the commenter is requesting that the number of affected airplanes be increased. However, since the previously described engine retrofit service information has not been approved, no airplanes on the U.S. Register should have had such a modification at this time. No change to the AD is necessary in this regard.

Request To Revise Cost Estimate

The same commenter states that the estimate of 2 work hours is conservative in that it does not include hours necessary to gain access, remove and replace the unit, and perform engine ground runs and/or flight tests. The

APPENDIX B

ADDITIONAL INFORMATION ON THE EAST TENNESSEE TECHNOLOGY PARK LAND AND FACILITIES PROPOSED FOR TITLE TRANSFER

I. FACILITIES

K-1007

K-1007 is a two-story, concrete-framed building built in 1960 with over 113,000 ft^2 of floor space. It has been used as an office area and system support for ETTP.

K-1330

Built in 1990, K-1330 is an office building that has 14,400-ft^2 (7200 ft^2 on each of the two floors). It is a two-story masonry structure.

K-1580

K-1580 is a three-story structure constructed of reinforced concrete with pre-cast concrete siding. It was built in 1980 as an office building and has 38,211-ft^2 (12,737 ft^2 on each of the three floors).

K-1225

K-1225 was built in 1980 as an office building. It is a two-story structure constructed primarily of reinforced pre-cast concrete on a concrete slab with a total floor area of 23,500 ft^2.

K-1400

K-1400 building is a 13,000 ft^2, "L"-shaped, two-story masonry structure that was built in 1953 as an office building.

K-1035

K-1035 Building is a 47,000-ft^2 one-story, rectangular structure constructed of steel frame and concrete block with a concrete foundation and corrugated asbestos/concrete roofing. It was built in 1945 as a maintenance general storage warehouse. In the 1960s it was converted to Maintenance Division offices and shops. Activities have included an instrument shop, metal cabinet fabrication shop, photo electroplating, printed circuit board facility, acid cleaning area, glass shop, and pneumatic repair shop. A standards laboratory was also located in the northwest corner of the building. In 1998 maintenance personnel vacated the building and it was leased to CROET.

K-1036

K-1036 Building is an 80,000-ft^2 one-story rectangular structure constructed of steel frame and concrete block with a concrete foundation and corrugated asbestos/concrete roofing. It was built in 1945 as a warehouse. In 1948 it became the Main Spare Parts Stores Warehouse. In 1955, Shipping and Receiving was moved from the K-1212 and K-1213 Buildings to K-1036. It continued as the main site stores until 1998 when it was leased to CROET.

K-33

K-33 was placed in operation in 1954 for uranium enrichment. It has 2.8 million ft^2 of floor area on two levels (approximately 32 acres per level). The first floor was the operating floor and contained the control room, offices, and maintenance shops. The first floor also contained auxiliary equipment such as process control and instrument consoles, circulating pumps, lubrication oil drain tanks, coolers and filters, coolant

storage tanks, switchgear, air intake filter rooms and ventilation fans and ducts. The cell floor (second floor) contained the process equipment. After shutdown of these operations, portions of the building were used for hazardous waste storage. K-33 is being cleaned up as part of the ETTP Three-Building Decontamination and Decommissioning and Recycle Project.

K-1515 Group

The K-1515 Group furnishes sanitary water to the ETTP and the nearby Bear Creek Industrial Park. It consists of the K-1515 Water Treatment Plant, K-1513 Raw Water Pumping Station, K-1514 Raw Water Storage Tank, K-1515-H Chlorine Storage Bldg., K-1515-E Production Support Bldg., K-1515-F Lagoon, K-1529 and K-1530 Water Storage Tanks.

The K-1515 Building is a four-story (two-stories above ground and two-stories below ground) concrete and wooden structure built in 1944. It is approximately 100-ft long by 60-ft wide. The below ground areas contain clear water basins, clearwell pumps, and filter backwash pumps. The above ground floors consist of filters, control room, laboratory, chemical storage and feed bins. The K-1513 pump house was constructed in 1945 and is a single story concrete structure with an open concrete lower level. Raw water is pumped from the Clinch River to the K-1514 storage tank. This tank is an open-topped, steel tank with a capacity of 156,000 gallons. The flocculator/settling basins are located immediately to the north of K-1515. The filter backwash and water from the settling basins are routed through the K-1515-F Lagoon. It was built in 1995 as a settling basin for the water plant discharges prior to discharge to the Clinch River. The treated sanitary water is pumped to two storage tanks, K-1529 and K-1530, atop Pine Ridge. These tanks have capacities of 1.5 and 2.5 million gallons.

The water distribution system consists of approximately 10,000 feet of underground water lines of varying diameter. The lines are primarily constructed of steel but some are iron.

K-1039 and K-1039-1

K-1039 and K-1039-1 are concrete reinforced structures with brick exterior walls. K-1039 was built in 1946 to house telephone communications equipment for ETTP. In 1995-1996, the Fiber Optic Network was placed in K-1039 and the phone equipment was moved to K-1039-1, which was constructed in 1996 immediately to the southeast of K-1039.

K-1000

The K-1000 Visitor Control Center was built in 1968 as an unclassified conference room for the K-1001 area. It is a one-story masonry building with 1500 ft^2 of floor space. It is currently used for office space and visitor control.

K-31

K-31 has 1.66 million ft^2 of floor area. It is a steel frame structure with cement/asbestos siding. It began operation in 1951 for gaseous diffusion uranium enrichment. Operations were shutdown in 1985. The first floor was the operating floor and contained the control room, maintenance shops, and auxiliary equipment such as process control and instrument consoles, circulating pumps, lubrication oil drain tanks, coolers and filters, coolant storage tanks, switchgear, air intake filter rooms and ventilation fans and ducts. The cell floor (second floor) contained the process equipment. After shutdown of these operations, portions of the building were used for hazardous waste storage. K-31 is being cleaned up as part of the ETTP Three-Building Decontamination and Decommissioning and Recycle Project.

Railroad System

The railroad consists of a 7-mile spur from Blair, Tennessee, on Highway 61 (known as the Blair Spur), to the ETTP and approximately 9.4 miles of track within ETTP. The railroad system was originally built to support the construction and operation of the Oak Ridge Gaseous Diffusion Plant. Construction was completed in 1943. The railroad was leased to CROET in 2002.

K-1652

K-1652 is a two-story, steel-frame structure with brick veneer. This facility was built in 1983 as the Plant Protection Headquarters and Fire Station. It presently houses the Fire Department, including a garage for emergency response equipment, and offices for Protective Services and Security. It has 23,200 ft^2 of floor area.

K-1037

K-1037 is a steel-framed structure with concrete reinforced floors and has 163,000 ft^2 of floor area. Portions of the building have a basement and portions have a second floor. Transite siding covers the exterior walls on the east end and metal siding covers the exterior walls of the wet end. It is a complex comprised of a series of buildings and additions that were constructed at separate times over a 50-year period and joined under one roof. The original section was completed in 1945 and was used as a warehouse. Currently the facility contains offices, non-contaminated equipment storage, and a portion is leased to CROET.

K-791-B

The K-791-B facility is a single story addition that was added to the south end of K-791-S in 1978. It was used as an electrical shop to maintain electrical components found throughout the facilities and switchyards, including those at Y-12 and X-10. These operations were moved to Y-12 in 1999 and K-791-B is now an office area for personnel involved with the ETTP Three-Building Decontamination and Decommissioning and Recycle Project. It is has a floor area of 4,020 ft^2.

K-29

K-29 has 484,587 ft^2 of floor space on two levels. It is a steel frame structure with cement/asbestos siding. It began operation in 1951 for uranium enrichment. Operations were shutdown in 1985. The process equipment was located on the upper level with the lower level or basement containing the control room and support equipment including circulating pumps, lubrication oil drain tanks, coolers and filters, coolant drain tanks and transfer pumps, electrical transformers and switchgear, air intake filter rooms and ventilation fans and ducts. K-29 is being cleaned up as part of the ETTP Three-Building Decontamination and Decommissioning and Recycle Project.

K-1065 Group

The K-1065 Group consists of the K-1065-A through E Drum Storage Facilities that were built in the early 1990s. These are steel-framed metal-sided buildings on concrete pads. K-1065-A has approximately 30,000 ft^2 of floor space, while K-1065-B through E each have approximately 46,000 ft^2 of floor space. These facilities are climate controlled and have been used for long-term storage of mixed waste.

K-1650

The K-1650 Central Control Facility was built in 1981 to house the Site Emergency Control Center, Plant Shift Superintendent's office, and Power and Utilities Shift Operations office. It is a two-level, cast concrete structure with 21,120 ft^2 of floor area.

K-1547

The K-1547 Overlook was constructed in the mid-1970s. It is of wood and metal construction with viewing windows and an observation deck on the side facing ETTP. It has approximately 300 ft^2 of floor space.

K-708-E

The K-708-E Scale House is located in the former Powerhouse Area along the railroad track and is used to weigh rail cars. It was built in 1944. It is a small, wood-framed structure with vinyl siding. Below the superstructure is a concrete pit that extends under the rail line and houses the balance mechanism. This pit is posted as a confined space. Inside the building is the scale's digital readout and printing equipment.

K-709

The K-709 Storage Yard is located in the former Powerhouse Area and operated from 1944 to 1974 as an electrical switchyard. It was also known as the K-25 Switchyard and served as the main switchyard for the K-700 Powerhouse Area and K-25 Cascade. After it was shutdown, it was used as a storage yard for surplus electrical equipment and confiscated vehicles of local law enforcement agencies. The area was leased to CROET in 1997. It is approximately 2.3 acres.

II. LAND

Parcel ED-4

This approximately 70-acre parcel is located along the Oak Ridge Turnpike between Blair Road on the east and Boulevard Road to the west. Topography on the parcel is rolling with several developable areas having a slope less than 15%. A 6-inch gas line runs north/south near the center of the area. There are some existing gravel roads and part of the area was previously cleared. Part of the previously cleared area has been replanted in pine and dead pines are present on other portions of the parcel that have been recently impacted by the Southern pine beetle. Smaller areas of mixed hardwoods are also present. There are also two drainages with intermittent flow and some associated wetlands that are located on the parcel.

Parcel ED-5

Formerly referred to as Parcel 3, this area is split into two parts: Parcel ED-5 East and Parcel ED-5 West. With a total size of about 45 acres, Parcel ED-5 is located outside the ETTP fenced security area in the southwest portion of ETTP between Avenue J and Poplar Creek. Parcel ED-5 East is separated from Parcel ED-5 West by Avenue M and Contractors Road. The parcel is cleared and has relatively flat topography. In addition to the existing roads, a rail line runs across the parcel as well as overhead electrical lines. A new gas and sewer line extension is being constructed to provide additional utility service. In addition, water service is located nearby and the area could be connected into the existing fiber optic telecommunications system.

Remediated Land Parcels (To Be Determined)

APPENDIX C

CORRESPONDENCE

TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

February 4, 2003

Mr. David R. Allen
USDOE/Oak Ridge Operations
Post Office Box 2001
Oak Ridge, Tennessee, 37831-8739

RE: DOE, ETTP TITLE TRANSFER, OAK RIDGE, ANDERSON COUNTY

Dear Mr. Allen:

In response to your request, received on Thursday, January 30, 2003, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process. You may also find additional information concerning the Section 106 process and the Tennessee SHPO's documentation requirements at www.state.tn.us/environment/hist/sect106.htm.

Based on available information, we concur that the project as currently proposed will NOT ADVERSELY AFFECT ANY NATIONAL REGISTER OF HISTORIC PLACES-LISTED PROPERTY SO LONG AS THE FOLLOWING CONDITION (S) ARE MET:

All conditions enumerated within the Addendum environmental document are implemented as parcels are scheduled for transfer including the attachment of preservation covenant language to the deed of transfer document.

Unless project plans change, and so long as the condition is met, this office has no objection to the implementation of this project. Should project plans change, please contact this office to determine what additional action, if any, is necessary. Questions and comments may be directed to Joe Garrison (615) 532-1550-103. Your cooperation is appreciated.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jyg

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File Code

United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

February 13, 2003

Mr. James L. Elmore, Ph.D.
U.S. Department of Energy
Oak Ridge Operations Office
P.O. Box 2001
Oak Ridge, Tennessee 37831

Re: FWS #03-0744

Dear Dr. Elmore:

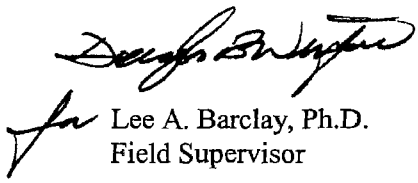
Thank you for your letter and enclosure of January 21, 2003, transmitting the Biological Assessment (BA) for the proposed transfer of additional land and facilities within and adjacent to the East Tennessee Technology Park (ETTP) in Roane County, Tennessee. The BA includes an evaluation of potential effects to the Federally endangered gray bat (*Myotis grisescens*) and Indiana bat (*Myotis sodalis*), and the Federally threatened spotfin chub (*Cyprinella monacha*). U.S. Fish and Wildlife Service (Service) personnel have reviewed the BA and offer the following comments for consideration.

The BA is adequate and supports the conclusion of not likely to adversely affect, with which we concur. In view of this, we believe that the requirements of Section 7 of the Endangered Species Act (Act) have been fulfilled and that no further consultation is needed at this time. However, obligations under Section 7 of the Act must be reconsidered if: (1) new information reveals that the proposed action may affect listed species in a manner or to an extent not previously considered, (2) the proposed action is subsequently modified to include activities which were not considered in this biological assessment, or (3) new species are listed or critical habitat designated that might be affected by the proposed action.

Our previous comments of November 20, 2002, regarding the Environmental Assessment (EA) addendum for this project remain valid. We would appreciate receiving a copy of the final EA addendum.

These constitute the comments of the U.S. Department of the Interior in accordance with provisions of the Endangered Species Act (87 Stat. 884, as amended: 16 U.S.C. 1531 et seq.). We appreciate the opportunity to comment. Should you have any questions or need further assistance, please contact Steve Alexander of my staff at 931/528-6481, ext. 210, or via e-mail at *steven_alexander@fws.gov*.

Sincerely,



Lee A. Barclay, Ph.D.
Field Supervisor

xc: David Harbin, TDEC, Oak Ridge
Dave McKinney, TWRA, Nashville

APPENDIX D

BIOLOGICAL ASSESSMENT

Endangered Species Act

BIOLOGICAL ASSESSMENT

Proposed Title Transfer of ETTP Land and Facilities

Prepared by
Michael D. Deacon
Eric D. Romaniszyn
Science Applications International Corporation

U. S. Department of Energy
Oak Ridge Operations Office
Oak Ridge, Tennessee 37831

January 2003

CONTENTS

ACRONYMS

DOE	U. S. Department of Energy
EA	Environmental Assessment
EFPC	East Fork Poplar Creek
ETTP	East Tennessee Technology Park
OMI	Operations Management International
ORR	Oak Ridge Reservation

BIOLOGICAL ASSESSMENT FOR THREATENED AND ENDANGERED SPECIES UNDER SECTION 7 OF THE ENDANGERED SPECIES ACT FOR THE PROPOSED TITLE TRANSFER OF ETTP LAND AND FACILITIES

SUMMARY

This Biological Assessment (BA) assesses the potential for adverse effects on three federally listed animal species that could result from the title transfer of land and facilities located within, and adjacent to, the East Tennessee Technology Park (ETTP) in Roane County, Tennessee. The species discussed in this BA are those mentioned in a letter from the U. S. Fish and Wildlife Service (FWS) to the U. S. Department of Energy (DOE), dated November 20, 2002, regarding the preparation of an Environmental Assessment Addendum for the proposed title transfer of ETTP land and facilities (FWS 2002). The FWS determined that the gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and spotfin chub (*Cyprinella monacha*) may, or are known to, occur within the ETTP project area. Both bat species are federally listed as endangered and the spotfin chub is listed as threatened.

Based on the information presented in this BA, DOE concludes that the proposed title transfer is not likely to adversely affect any of the listed species. None of the species appears likely to be present within, or in, the immediate vicinity of ETTP, and proposed or designated critical habitats for the species are not present on, or near, the project area. No caves or other suitable hibernacula or roosting habitat for gray bats are present at ETTP. However, caves that could provide potential roosting habitat for the gray bat are present within 3 miles of ETTP. Although the ultimate use of some of the areas being considered for title transfer may eventually require removal of trees, potential summer roosting habitat at the site is at best marginal for Indiana bats. Also, there are adequate numbers of suitable and potentially suitable roost trees available immediately adjacent to ETTP. Poplar Creek, within ETTP and the adjacent Clinch River, may provide suitable foraging habitat for gray or Indiana bats. However, because of the industrialized nature of the ETTP area and the increased human activity, the species would likely utilize better quality habitat located further upstream and downstream on the Clinch River and Poplar Creek. Suitable habitat or populations of the spotfin chub are not known to exist in Poplar Creek within the vicinity of ETTP or the Clinch River downstream of the project area.

INTRODUCTION AND PROJECT DESCRIPTION

The proposed action being evaluated in the Environmental Assessment (EA) Addendum is the proposal to transfer title of land and facilities within the East Tennessee Technology Park (ETTP) under a modified Reindustrialization approach, consistent with the Oak Ridge Performance Management Plan (DOE 2002). This proposed action was not considered in the EA and Finding of No Significant Impact prepared by DOE in 1997 for the proposed expansion of the U. S. Department of Energy's (DOE's) Reindustrialization Program, whereby land and facilities at ETTP would be leased for industrial and business uses (DOE 1997). The alternative of title transfer was discussed in the original EA, but was not fully evaluated. The EA Addendum also addresses additional areas that were inadvertently not included in the 1997 EA. These areas, shown in Fig. 1, primarily consist of roads, grounds, and other infrastructure that have been leased for maintenance purposes (e.g., mowing) and the operation of utilities. These areas are described in more detail under the

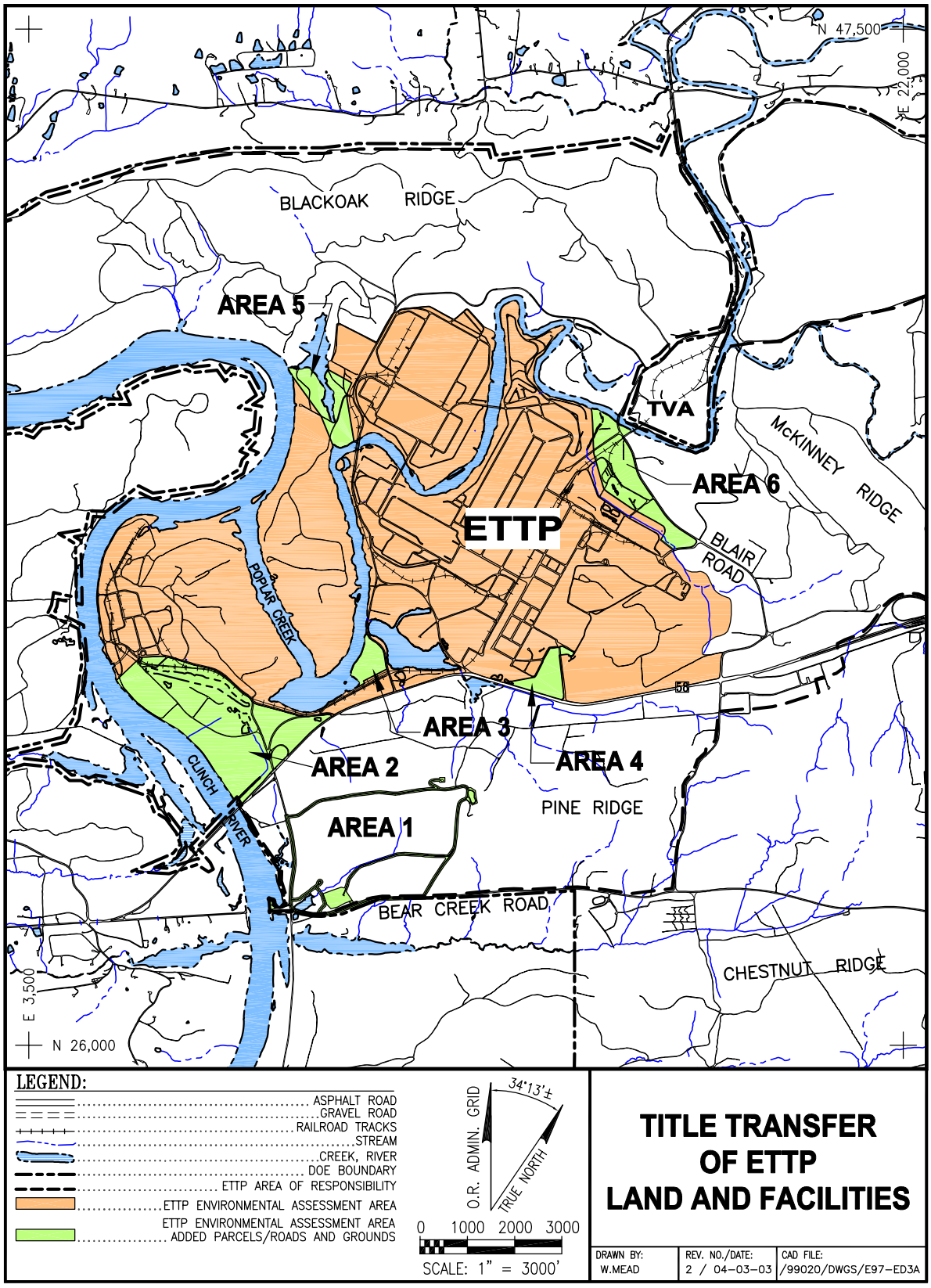


Fig. 1. ETTP title transfer area.

ecological description of the site. The land and facilities being considered for title transfer are located within an area of about 1700 acres (approximately 1400 acres considered in the 1997 EA plus about 300 acres for the additional areas). The purpose of the proposed DOE action is to help support the accelerated cleanup of ETTP, and to continue to support economic development in the region. DOE's action is needed to help reduce the eventual cost for building demolition, and reduce or eliminate ETTP landlord costs. DOE also recognizes that transferring unneeded property can help offset economic losses resulting from continued DOE downsizing, facility closures, and workforce restructuring.

This proposed action does not differ substantially from the proposed action described in the 1997 EA. The major difference is that ownership of the property would be transferred. Reindustrialization efforts would focus on transferring title of up to 26 ETTP facilities and land parcels. These land parcels and facilities are shown in Fig. 2 and are listed in Table 1 by the year of anticipated transfer. The types of buildings to be transferred may include offices, warehouse/storage buildings, former process buildings, utilities (e.g., the water treatment facility, telephone buildings, and the railroad), site support facilities (e.g., the visitor control center and the fire hall), and miscellaneous facilities like the ETTP Visitor Overlook. ETTP land parcels include Parcel 3, Parcel 4, and other remediated land parcels. The transferred land and facilities would still be used for various industrial and business purposes. Industrial uses would be limited to those analyzed in the 1997 EA and would be required to conform to the City of Oak Ridge Zoning Ordinance (Chap. 7, Sect. 6-713 IND-2, Industrial Districts). Appropriate restrictions would be included in the Quitclaim Deed to provide for environmental protection and to ensure that activities by the new owner(s) do not adversely affect any sensitive resources (e.g., TCE species, wetlands, and cultural resources).

Table 1. ETTP land and facilities proposed for title transfer

FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
K-1007	K-33	K-31	K-29	Remediated land
K-1330	K-1515 group	Railroad system	K-1065 group	
K-1580	K-1039 & K-1039-1	K-1652	K-1650	
K-1225	K-1000	K-1037	K-1547	
K-1400	Parcel 4	K-791-B	K-708-E	
K-1035			K-709	
K-1036			Parcel 3 (West)	
Parcel 3 (East)			Remediated land	

ETTP = East Tennessee Technology Park.
FY = Fiscal Year.

ECOLOGICAL DESCRIPTION OF THE SITE

A detailed description of the ecological resources of the ETTP project area is found within the EA prepared for leasing land and facilities at ETTP (DOE 1997). Brief descriptions of the six additional areas of ETTP that were inadvertently not included in the 1997 EA, but included in the new proposed action, are as follows. Although these areas would most likely continue to be leased, it is possible that portions of Areas 1, 3, 4, and 6 could be transferred in the future. Areas with extensive contamination, located within a floodplain, or containing wetlands or other sensitive resources would be excluded from title transfer.

Area 1 Approximately 56 acres of roads and grounds are associated with the K-1515 Water Treatment Plant area including Water Tank Road on Pine Ridge. The K-1515 area is located near the west end of Bear Creek Road. Water Tank Road is a loop road that runs from Bear Creek Road (near K-1515) to the water tanks on Pine Ridge and back down to South First Avenue. The grounds are located within a fenced

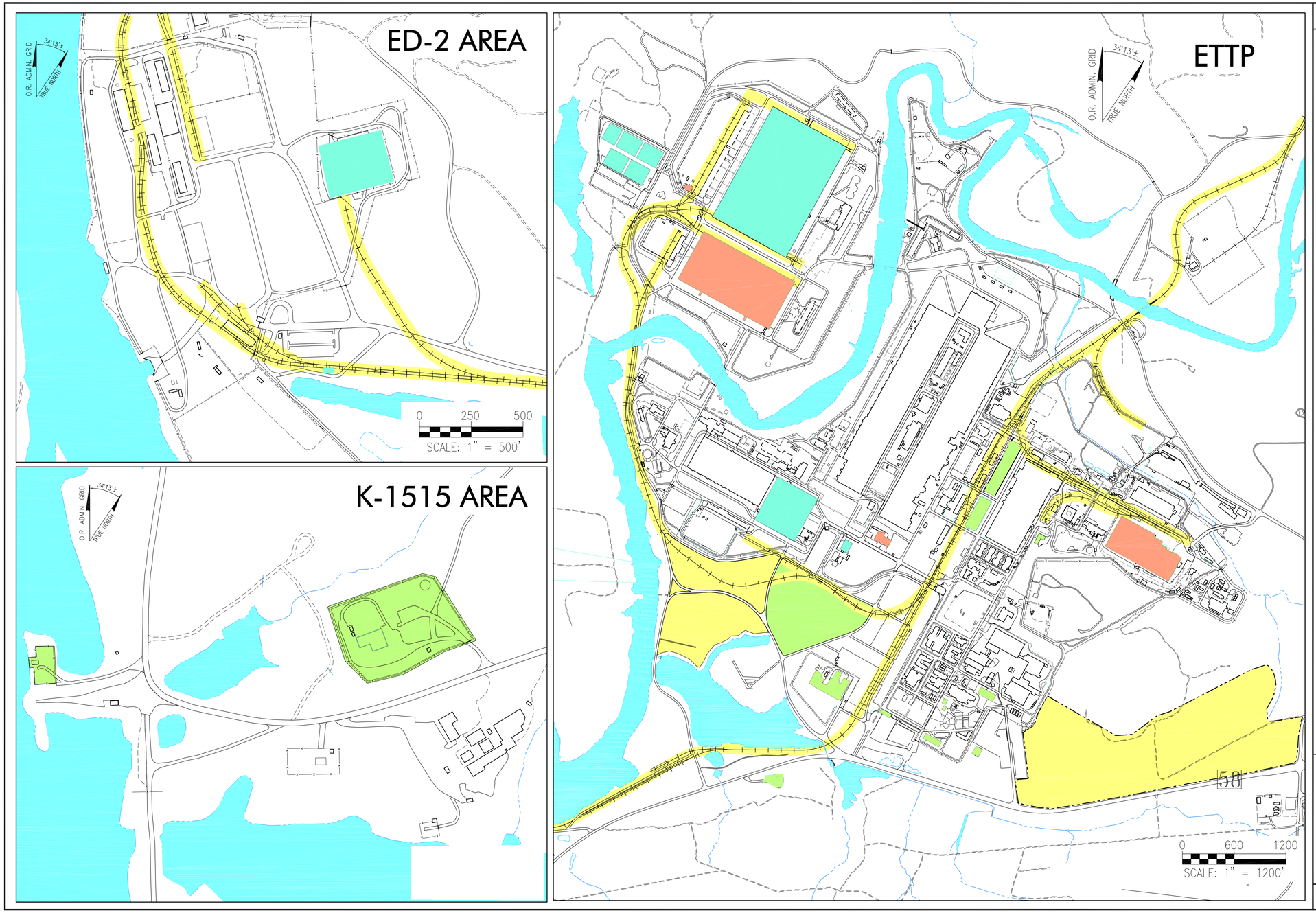


Fig. 2. ETTP land and facilities proposed for title transfer.

area surrounding the K-1515 Water Treatment Plant and are mostly mowed lawn areas. This area has been leased to CROET. Operations Management International (OMI) has a contract with CROET to maintain this area and to operate the water treatment plant.

Area 2 A 134-acre area is located south of the old Powerhouse Area and bordered by the Clinch River, State Route 58, and the railroad along Powerhouse Road. Historically, portions of the area were used for coal storage. In addition, a material yard, and the K-720 fly ash disposal area were in this location. This area is no longer used and no structures remain. The area currently contains old roads and power line right-of-ways. Habitat within the area includes a backwater area of Poplar Creek, wetlands, open areas of fields, and small areas of pines and hardwoods. Much of the area is also located within the floodplain of the Clinch River. This area is leased to CROET whose contractor OMI maintains portions of it (e.g., mowing).

Area 3 This is a10-acre area is bordered by Burchfield Road, Poplar Creek, and the railroad and was used from 1943 to 1958 by the Southern Railway Company as a maintenance area for locomotives and a storage yard for railroad equipment and materials. All the buildings in this area have been removed and only a few concrete pads remain. Old rails, ties, and associated hardware (metal plates, rail spikes, bolts, etc.) are present in weed-covered gravel areas in the vicinity of the old rail spur. A small wooded hill covered with a mix of small hardwood trees and pines is located north of the rail yard. A portion of this area is currently being subleased by the Southern Appalachia Railway Museum and East Tennessee Rail Car for railroad related activities.

Area 4 Approximately 14 acres of land are located along State Route 58 and bordered by the fence located along the South East Patrol Road and Boulevard Road. The area surrounds the K-1330 facility and includes mowed lawn and the K-1240 parking lot. The K-1007-P5 Pond is located in the southwest corner of the area. OMI has a contract with CROET to maintain these grounds.

Area 5 Approximately 23 acres of land are located south of the K-901-A Pond. The majority of the area is part of the K-901-Waste Disposal Area. The area also contains a portion of Gilliam Road and the Patrol Road to the Duct Island area. Poplar Creek bounds the area on the south and the railroad bounds the area to the east. A large power line right-of-way runs through the western portion of the area. OMI, under contract with CROET maintains much of the area through periodic mowing but some hardwoods and pines are also present.

Area 6 A 43-acre area of land is located on the south side of Blair Road (State Route 327). The main portion of the area is located across from the entrance to the Blair Road Quarry and adjacent to Ellis Cemetery. A small area also runs along the road south to the road leading into Portal 6. The larger portion consists of areas that are periodically mowed and of pine trees that are affected by the Southern pine beetle infestation. The smaller portion consists mainly of mowed right-of-way along Blair Road. OMI mows the area under contract to CROET.

ECOLOGICAL DESCRIPTION AND POTENTIAL IMPACTS OF THE PROJECT ON LISTED SPECIES

The general ecology of the gray bat, Indiana bat, spotfin chub, and any potential adverse effects on the species from the proposed action are summarized below. Unless otherwise noted, general biological information on the species is derived from the published literature, reports, and Internet resources listed under each species heading.

GRAY BAT (*Myotis grisescens*)

Unless otherwise noted or referenced, the following general biological information on the gray bat is derived from FWS (1999a), Harvey (1992), and Kentucky Bat Working Group (KBWG) (2000). The core range of the endangered gray bat encompasses the cave regions of Alabama, northern Arkansas, Kentucky, Missouri, and Tennessee, but a few occur in northwestern Florida, western Georgia, southwestern Kansas, south Indiana, south and southwestern Illinois, northeastern Oklahoma, northeastern Mississippi, western Virginia, and possibly western North Carolina. Gray bats are restricted to caves or cave-like habitats, and few caves meet their specific roost requirements. These restrictions result in about 95% of the population's hibernating in only eight or nine caves. For hibernation, the roost site must have an average temperature of 42°F to 52°F. Most of the caves used by gray bats for hibernation have deep vertical passages with large rooms that function as cold air traps. Summer caves must be warm, between 57°F and 77°F, or have small rooms or domes that can trap the body heat of roosting bats. Summer caves are normally located close to rivers or lakes where the bats feed. Gray bats have been known to fly as far as 12 miles or more from their colony to feed.

Gray bats roost, breed, rear young, and hibernate in caves year round. They migrate between summer and winter caves and will use transient or stopover caves along the way. One-way migrating distance between winter and summer caves may vary from as little as 10 miles to well over 200 miles. Mating occurs as bats return to winter caves in September and October. By November, most gray bats are hibernating. Adult females begin to emerge in late March, followed by juveniles and adult males. Females store sperm over the winter and become pregnant the following spring. A few hundred to many thousands of pregnant females congregate to form maternity colonies. Males and non-reproductive females gather in smaller groups to form what are known as bachelor colonies. A single pup is born in late May or early June. The young begin to fly 20 to 25 days after birth. Gray bats primarily feed on flying insects over lakes, rivers, and streams. Aquatic insects, particularly mayflies, make up most of their diet.

Information about the occurrence of gray bats on the Oak Ridge Reservation (ORR) is limited. In November 1994, a single, dead gray bat was found in a display cabinet in Building 9204-3 at the Oak Ridge Y-12 Plant. The bat was probably an isolated individual juvenile that became lost, disoriented, and trapped. A live bat was found in a building at the Y-12 National Security Complex in August 1995, but it was most likely not a gray bat (Webb 2001).

Mist netting for bats was conducted on the lower East Fork Poplar Creek (EFPC) and its tributaries in May 1992 and again in May through June 1997 (Harvey 1997). The 1997 survey included portions of lower Bear Creek near its confluence with lower EFPC. The creeks in this area provided good gray bat foraging habitat at the time of the surveys. No gray bats were recorded among the six species captured. More than 20 caves have been identified on the ORR. Mitchell et al. (1996) surveyed seven of the caves (Copper Ridge, Flashlight Heaven, Walker Branch, Big Turtle, Little Turtle, Pinnacle, and Bull Bluff), but no gray bats were found. There is an unverified report of ten gray bats roosting in Little Turtle Cave in September 1996. These bats were observed roosting and were not further disturbed; therefore, a definite, in-the-hand identification was not made (Webb 1996). Examination of photographs taken of the roosting bats indicate that they appeared to be *Myotis* and more than likely were gray bats, but the species could not be positively determined (Major 2000 and Henry 2000). If they were gray bats, they may have been entering hibernation in that cave, but were most likely single males traveling to a hibernation site (Webb 2001).

There are no known caves in the immediate vicinity of ETTP, and caves within 3 miles from the site are not known to harbor gray bats (Webb 2001). However, no caves have been completely and systematically surveyed for bats, except for the limited surveys reported in Mitchell et al. (1996) and the 1996 report of *Myotis* roosting in Little Turtle Cave. The caves within the vicinity of the project area may not provide adequate hibernacula for gray bats, but they could provide transient or stopover roosting habitat for

migrating gray bats, and it is still possible that bats could forage within the project area. Suitable foraging habitat for gray bats around ETTP includes the Clinch River, Poplar Creek, and East Poplar Creek. Activities associated with the proposed action and other activities occurring at ETTP (e.g., remediation and decontamination and decommissioning activities) could potentially disrupt some of these foraging areas, but there are abundant suitable foraging locations in the area.

Although gray bats may forage over Poplar Creek, they are not expected to use the facilities proposed for title transfer as roosting habitat (Webb 2001). Gray bats rarely use structures for roosting (e.g., mines, cisterns, bridges, or buildings) other than caves. The facilities do not have suitable gray bat habitat because of no flowing water; the presence of equipment and piping, artificial and natural lighting, and human activities. Future uses of the facilities would increase human presence, noise, and other factors that would further decrease the buildings' suitability for bats. There have been eight dead bats collected within the K-25 and K-27 buildings, but none have been positively identified as gray bat (Webb 2001). No colony of live bats has been found in either building, and any bats found in the buildings are most likely transient individuals. Activities associated with the transferred facilities and construction and operation of any new facilities would primarily occur during the day and would not be expected to disrupt any gray bats that might forage near the site. In addition, the industrial or commercial operations that are likely to occur would not produce significant emissions or effluents that could directly impact foraging gray bats or indirectly affect aquatic insect fauna on which the gray bats would prey. Thus, the proposed transfer is unlikely to adversely affect the gray bat or its habitat.

INDIANA BAT (*Myotis sodalis*)

Unless otherwise noted or referenced, the following general biological information on the Indiana bat is derived from FWS (1999a, 1999b, 1999c, 2000), Harvey (1992), and KBWG (1997, 2000). The Indiana bat is a migratory species found throughout much of the eastern half of the United States from Oklahoma, Iowa, and Wisconsin east to Vermont and south to northwestern Florida. For hibernation, Indiana bats prefer limestone caves with stable temperatures of 38°F to 43°F and high relative humidity. As with the gray bat, few caves meet the specific roost requirements of the species. Subsequently, more than 85% of the population hibernates in only nine known sites. However, Indiana bats have been found hibernating in a few abandoned mines, a tunnel, and a hydroelectric dam. The bats hibernate from October to April, depending on climatic conditions. Density in tightly packed clusters is usually estimated at 300 bats per ft^2, although as many as 480 per ft^2 have been reported.

Female Indiana bats depart hibernation caves before males and arrive at summer maternity roosts in mid-May. A single offspring is born between late June and early July. The young bats can fly within a month of birth. Early researchers considered floodplain and riparian forest to be the primary roosting and foraging habitats used during the summer by the Indiana bat, and these forest types unquestionably are important. More recently, upland forest has been shown to be used by Indiana bats for roosting. Within the range of the species, the existence of Indiana bats in a particular area may be governed by the availability of natural roost structures, primarily standing dead trees with loose bark. The suitability of any tree as a roost site is determined by: (1) its condition (dead or alive), (2) the quantity of loose bark, (3) the tree's solar exposure and location in relation to other trees, and (4) the tree's spatial relationship to water sources and foraging areas. The most important characteristic of roost trees is probably not species but structure (i.e., exfoliating bark with space for bats to roost between the bark and the bole of the tree). To a limited extent, tree cavities and crevices are also used for roosting. Maternity colonies use multiple primary roost trees, which are used by a majority of the bats most of the summer, and a number of "secondary" roosts, which are used intermittently and by fewer bats, especially during periods of precipitation or extreme temperatures. The summer roost of adult males is often near maternity roosts, but where most spend the day is unknown. Others remain near the hibernaculum, and a few males are found in other caves during summer. Researchers

have found that primary roosts are generally in openings or at the edge of forest stands, while alternate roosts can be either in the open or in the interior of the forest stands. Indiana bats use roosts in the spring and fall similar to those selected during the summer. During the fall, when Indiana bats swarm and mate at their hibernacula, male bats roost in trees nearby during the day and fly to the cave during the night.

Indiana bats forage in, and around, the tree canopy of floodplain, riparian, and upland forest. In riparian areas, Indiana bats primarily forage around, and near, riparian and floodplain trees (e.g., sycamore, cottonwood, black walnut, black willow, and oaks), and solitary trees and forest edge on the floodplain. Streams, associated floodplain forests, and impounded bodies of water (e.g., ponds, wetlands, and reservoirs) are preferred foraging habitat for pregnant and lactating Indiana bats, some of which may fly up to 1.5 miles from upland roosts. Indiana bats also forage within the canopy of upland forests, over clearings with early successional vegetation (e.g., old fields), along the borders of croplands, along wooded fencerows, and over farm ponds in pastures. Indiana bats return nightly to their foraging areas. Indiana bats feed strictly on flying insects, and their selection of prey items reflects the environment in which they forage. Both aquatic and terrestrial insects are consumed. Moths, caddisflies, flies, mosquitoes, and midges are major prey items. Other prey includes bees, wasps, flying ants, beetles, leafhoppers, and treehoppers. During September, the bats depart for hibernation caves.

Information about the occurrence of Indiana bats on the ORR is limited. The only record of Indiana bats on the ORR is from a single specimen in the 1950s (Webb 2001). Mist netting for bats was conducted on lower EFPC and its tributaries in May 1992 and again in May through June 1997 (Harvey 1997). The 1997 survey included portions of lower Bear Creek near its confluence with lower EFPC. The creeks in this area provided Indiana bat summer roosting and foraging habitat at the time of the surveys. No Indiana bats were recorded among the six species captured.

In Tennessee, the nearest hibernating population of Indiana bats exists in White Oak Blowhole Cave, located in Blount County in the western end of the Great Smoky Mountains National Park. This cave has been designated as critical habitat for this species. A few Indiana bats also hibernate in Bull Cave, also located in Blount County. No maternity roosts have been located on the ORR, or as yet in Tennessee. However, in July 1999, a small colony of Indiana bats was discovered roosting in a dead hemlock tree on the Cheoah Ranger District of the Nantahala National Forest in Graham County, North Carolina. This discovery represents the first record of a reproductive female Indiana bat being found south of Kentucky. Recent collections of individual Indiana bats have also been recorded from the Cherokee National Forest near Tellico Lake in Monroe County, Tennessee. These reports indicate that summer colonies of the species may be present in east Tennessee. The habitat from which these individuals were collected is similar to suitable habitat found on the ORR.

Eight dead bats have been recovered from the interior of the K-25 and K-27 buildings and none have been positively identified as an Indiana bat (Webb 2001). No colony of live bats has been found in either building, and any bats found in the buildings are most likely transient individuals. Although the buildings are large, they are unlikely to provide the proper temperature, humidity, and structural conditions used by the Indiana bat for winter hibernacula (Webb 2001). Activities associated with the transferred facilities and construction and operation of any new facilities would primarily occur during the day and would not be expected to disrupt any Indiana bats that might forage near the site. In addition, the industrial or commercial operations that are likely to occur would not produce significant emissions or effluents that could directly impact foraging Indiana bats or indirectly affect aquatic insect fauna on which the Indiana bats would prey. Any land-disturbance that would occur near Poplar Creek or the Clinch River is expected to be minor and any roosts in the riparian zone would not likely be disturbed. It is unlikely that Indiana bats are present on the site, and if present, it is unlikely they would be adversely affected by the proposed title transfer activities. Even with the poor to marginal quality of the habitat within ETTP, it would be recommended that no tree cutting would occur during the summer roosting season from May through September. This

should prevent the loss of any bats that otherwise might be using the trees for rearing young and should also eliminate the need for mist netting or detailed surveys.

SPOTFIN CHUB (*Cyprinella monacha*)

The general ecology of the federal threatened spotfin chub and any potential adverse effects on the species from the proposed action are summarized below. Unless otherwise noted, the following biological information is derived from Burkhead and Jenkins (1991), Etnier and Starnes (1993), *Federal Register* (1977), Jenkins (1975), and Jenkins and Burkhead (1984, 1994).

The spotfin chub historically occurred in 12 tributary systems of the Tennessee River drainage in Alabama, Georgia, North Carolina, Tennessee, and Virginia. It is currently restricted to the lower North Fork of the Holston River in Virginia and Tennessee, the Emory River System in Tennessee, and the upper Little Tennessee River in North Carolina. There have been attempts to transplant the species to Abrams Creek in Blount County, Tennessee, and the Tellico River in Monroe County, Tennessee (FWS 2001). There have been no quantitative estimates of its current population density, but it has generally been uncommon or rare wherever collected.

The spotfin chub can be found in moderate to large streams (average width of 45 ft to 250 ft) with moderate gradient, good current, clear water, and cool to warm temperatures. These streams typically have frequent pools alternating with riffles. This species has been collected from a variety of habitats, except heavily silted or sandy substrate (Lee et al. 1980), but seems to favor gravel to bedrock-type habitats. Critical habitat for this species has been identified in the Little Tennessee River, Macon and Swain Counties, North Carolina, from the backwaters of Fontana Lake upstream to the North Carolina-Georgia State Line; in Tennessee in the Emory and Obed Rivers upstream to U. S. Interstate Highway 40 in Morgan County, Clear Creek upstream to U. S. Interstate Highway 40 in Fentress and Morgan Counties, and Daddys Creek upstream to U. S. Highway 127 in Cumberland and Morgan Counties; in Tennessee in the North Fork Holston River upstream from the junction with the South Fork Holston River to the Tennessee-Virginia State Line in Hawkins and Sullivan Counties; and in Virginia in the North Fork Holston River from the Virginia-Tennessee State line upstream through Scott and Washington Counties.

Spotfin chub most likely spawn from late May to August when temperatures are approximately 79°F to 81°F. Females probably produce several egg clutches per season. Individuals mature in 2 years, although some may spawn at 1 year, and have a life expectancy of 3 years. Breeding sites occur in moderate current of shallow runs and unsilted areas scattered among rubble and boulders where eggs are laid in stone cracks, crevices, or the narrow space between two adjacent rocks. Spotfin chub feed predominantly on benthic macroinvertebrates. They prefer immature aquatic insects, largely small midges (Diptera, Chironomidae) and blackflies (Diptera, Simuliidae), plus some mayfly nymphs (Ephemeroptera) and caddisfly larvae (Trichoptera).

Information about the occurrence of spotfin chub on the ORR is limited. Biological surveys have been performed on EFPC since 1976, but no spotfin chubs have ever been collected until October 2002 when one individual was collected (Daniels 2002). The specimen was collected from large bedrock material left behind from the construction of a pipeline, which created suitable habitat. This collection represents a new distribution for the species. The nearest known population of spotfin chub occurs in the Emory River approximately 31 miles from the site.

According to Mike Ryon with the Oak Ridge National Laboratory Environmental Sciences Division, there is potential for suitable habitat in Poplar Creek upstream of the confluence with EFPC, but the presence of suitable habitat in Poplar Creek downstream of the confluence has not been well studied.

Suitable habitat is not likely to be present downstream of the confluence because of Watts Bar Dam, which creates impound habitat in the Clinch River and Poplar Creek even upstream of the confluence with EFPC. There are areas of heavy sedimentation and siltation in Poplar Creek, which are most likely a result of the impoundment. Suitable habitat or populations of the spotfin chub are not known to exist in Poplar Creek or the Clinch River downstream of the ETTP project area, and activities associated with the transferred facilities and construction and operation of any new facilities are unlikely to result in any direct or indirect impacts to the spotfin chub or suitable habitat.

REFERENCES

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APPENDIX E

COMMENT RESPONSE

Comment No.	Page/Section	Comment	Response
		Lawrence Young	
1.	General	The EA is a positive step forward in the transition of the former K-25 uranium processing facility to that of a private sector driven industrial park. Accelerated cleanup and the associated acceleration of property transfer should remain a top priority of the Department as the Department's and community's future depends upon it.	Comment noted.
		Norman A. Mulvenon, Chair, LOC Citizens' Advisory Panel	
2.	Page 2, Figure 1.1	The map of the ETTP title transfer area should show the location of Parcel ED-3, particularly the "revised footprint that is consistent with one of the alternatives evaluated as a part of the ORR Land Use Planning Process" that DOE is now evaluating (according to page 22).	The revised Parcel ED-3 footprint is shown on Fig. 5.1, which has been added to the Final EA Addendum.
3.	Page 6, Figure 1.2	The map should be labeled Figure 2.1, not 1.2. References to it in the text should be corrected as well. The boundaries of the Oak Ridge Reservation and the City of Oak Ridge should be shown on this map. This map shows outlines of buildings that have already been demolished (e.g., K-1001 Administration Building), increasing difficulty of evaluating the proposed action against current situation. The CAP again notes that security is not enhanced by removing building numbers from maps of ETTP, as they have already been identified in available documents issued over the years. For example, there is no reason that the list of properties in Table 2.1 should not be identified on the map on page 6, especially as DOE no longer needs them for any mission and is willing to allow them to be transferred to the private sector. If indeed there is a security concern with transferring these properties to the private sector, then that should be addressed in the EA. Removing labels from the map prevents stakeholders from efficiently evaluating the proposed action.	The figure caption and the text references have been corrected. The boundary of the ORR is shown on Fig. 1.1 and has been added to Fig. 2.1. The base map for Fig. 2.1 has been updated to reflect recent changes at ETTP (e.g., K-1001). Comment noted. However, due to the heightened security measures currently in place, DOE cannot provide the requested information.
4.	Page 7	The table and text on this page should continue after that on page 5, which is mostly blank.	Text formatting in this section has been corrected.
5.	Page 7, Table 2.1	It is not clear what the Parcels labeled in this table are meant to represent or where they are. "Parcels" apparently are different from the "Areas" of Figure 1.1 (page 2), which are described on pages 9 and 10. If any of the areas potentially available for transfer (as described in Sections 3.1 and 4.1) were originally part of ED-3, this should be so stated and the decision on these portions deferred until the ED-3 EA is finalized.	Parcels refer to Parcel ED-4, Parcel ED-5, and yet to be determined remediated areas of land within ETTP. None of the areas potentially available for transfer were part of the original Parcel ED-3 area.

Comment No.	Page/Section	Comment	Response
6.	Page 7, paragraphs 3 and 4	The mechanisms for transfer are unclear; the terminology used ranges from "Quitclaim Deed" to three options for "title transfer." These four legal mechanisms should be clarified and sample languages included in the final EA. Note that the Federal Register pages included in Appendix A does not mention the legal mechanism to be used. This may be dependent on local and state law. The transfer of property under CERCLA Section 120(h) has important implications for Oak Ridge's reindustrialization effort. The one paragraph of description on page 7 is inadequate for stakeholders to understand the requirements. The EA must provide more detail about each of the title transfer mechanisms and an evaluation of the impact of using each in Section 4.4 *Socioeconomics*. DOE must also make clear what requirements follow from Section 120(h) and what requirements are imposed by EM as part of the Accelerated Cleanup Plan. There may be significant damage to Oak Ridge's economic potential if facilities suitable for reuse are instead demolished, for example by diminishing the return on the large investment in running utilities to the West End.	The action is transfer of title (i.e., ownership). The Quitclaim Deed is the legal mechanism that DOE would use to transfer the land and facilities; this is separate and distinct from the three options for title transfer under CERCLA. The three options described in the CERCLA paragraph are not title transfer mechanisms but the different options that may be used when the federal government demonstrates that property has either been remediated or will be remediated. They are also used to satisfy the CERCLA 120(h) requirements to enable the title transfer process to proceed. These options do not have any socioeconomic impact. The requirements that follow from CERCLA 120(h) depend on which approach is used. Title transfer of the ETTP facilities would typically use the Covenant Deferral approach. Under this approach DOE must submit a schedule for future investigation/remediation and must commit to requesting the funds necessary to execute these activities. Currently the Performance Management Plan specifies that facilities that are not transferred by the deactivation date would roll into the D&D program. Discussions are underway to determine if this is still the correct approach.

Comment No.	Page/Section	Comment	Response
7.	Page 18, Sections 4.1, paragraph 2	Update the discussion of zoning and land uses. Since 1997, the City of Oak Ridge has done a thorough overhaul of its zoning ordinance and the information provided here is out of date. The appropriate zone for much, but not necessarily all, of this area would not be IND-3. Some existing or potential uses of the property may not be allowed under IND-2. Contact City Community Development department staff for details.	The text has been revised to reflect revisions to the City's zoning ordinance. It is now acknowledged that some of the uses evaluated in the 1997 EA would still conform to the IND-2 zone while others would likely be required to conform to the IND-3 zoning.
8.	Page 18, Section 4.1, paragraph 4	Discuss the expected future fate of the ETTP land and facilities that DOE is assuming would not be transferred. Does DOE expect that it might be transferred at some future time (beyond the period of about 5 years that is the focus of this EA)? If so, why not assess the impacts of its future transfer? Does DOE have different intentions for this land, for example, potential use for a new federal project?	Facilities not proposed for transfer would be demolished. For purposes of analysis, the EA Addendum assumes that the 26 facilities initially identified would be transferred, although it is possible that a smaller or larger number of facilities may be transferred. With regard to the land, it is assumed that approximately 1600 acres would eventually be transferred. The actual total amount of land that may be transferred is unknown at this time and could be more or less than 1600 acres. It is also likely that transfers may occur beyond 2008. Of the 1600 acres, about 30% or 500 acres is assumed to be suitable for development purposes (i.e., for construction of new facilities). The analysis also assumes that the remaining acreage would not be suitable for development because of various constraints (e.g., wetlands and floodplains, land with greater than 15% slope, utilities, etc.). DOE as part of our long-term stewardship responsibilities on the ORR will maintain property that is not transferred. At this time DOE does not expect that any remaining land would be needed for any new federal projects or missions.

Comment No.	Page/Section	Comment	Response
9.	Page 19, Section 4.2, paragraph 1	Include the biological assessment (BA) in this EA addendum as an appendix.	The BA was not completed at the time that the Draft EA Addendum was released for public comment. It has since been completed and concurred on by the FWS. The BA is included as Appendix D in the Final EA Addendum.
10.	Page 19, Section 4.3	The first paragraph mentions potential adverse impacts on historical properties. These properties should be identified in the text and on the map on page 6.	After providing additional information to the Tennessee SHPO, it was determined that the project, as currently proposed, would not adversely affect any historical properties (See Appendix C). Sect. 4.3 has been revised accordingly.
11.	Section 5, *Cumulative Impacts*	The EA would benefit greatly from illustrating the 12 potentially cumulative actions listed in Section 5.1 on two land-use maps. One map should predate the development resulting from these actions, and the other should show the current development status and locations of proposed actions under this EA. In addition, Section 5 should address the decrease in the size of the National Environmental Research Park since its creation, a direct result of DOE's effort to lease or otherwise dispose of property. This will allow better analysis of the proposed actions for ETTP in the context of land-use changes of the entire Oak Ridge Reservation and surrounding areas.	Figure 5.1 has been added to the Final EA Addendum to show the locations of these actions and their relationship to ETTP. The current development status is addressed in the text. A few changes in the acreage of the NERP have occurred over the past 23 years. When designated in 1980 the NERP was about 13,590 acres. Some research land was lost with the sale of the former Boeing property and some other land areas. In 1998, the NERP designation was removed from the ETTP Area of Responsibility (AOR) and Parcel ED-1. Since then the NERP has been expanded to include most of the undeveloped area of the ORR and is currently about 20,000 acres. This information has been added to Sect. 5.2.1.

Comment No.	Page/Section	Comment	Response
12.	Section 5.1	Update the descriptions of Pine Ridge and Rarity Ridge to indicate that the leveling and filing of Pine Ridge is now complete and that initial construction in under way at Rarity Ridge. Include the USEC activities at ETTP in the discussion of other projections contributing to cumulative impacts. Cumulative impacts associated with this activity may not be limited to the resource areas discussed in Section 5.	The descriptions of Pine Ridge and Rarity Ridge have been updated as suggested. A description of the USEC activities at ETTP has been added to Sect. 5.1. The cumulative impacts associated with this activity were determined to have a negligible incremental impact when considered additively with the impacts of the other past, present, and reasonably foreseeable future actions described in Sect. 5.1.
		City of Oak Ridge	
13.	General	The City of Oak Ridge supports DOE's efforts to cleanup, reuse and convert the ETTP site to taxable property. However, the proposed action has potentially significant socioeconomic implications for the City that require resolution. For example, the proposed action appears to eliminate Payments-in-Lieu-of Taxes (PILT) on any property conveyed to CROET–a non-profit organization. According to the EA, tax revenue would not be realized until if, or when, CROET sells the property to a third party. The proposed action must be conditional on DOE or CROET agreeing to continue PILT payments to the City and County until the property is sold. This issue is of particular importance because, as stated on Page 20, "The total amount of land that CROET would be able to sell is unknown at this time. Nationwide experience with brownfield sites suggests that even after remediation, these sites are more difficult to market and develop that comparable sites with no history of contamination." Because of the stated uncertainty, the City needs some assurance that the proposed action will not be detrimental to city taxpayers by imposing an additional financial burden. Further, the document should also estimate the amount of PILT revenue loss to Roane County and use current city and county tax rates to develop the estimates on Page 20.	The PILT would be eliminated for property conveyed to CROET and tax revenue will be realized when improvements are made to the property or when the property is sold. The amount of property that would initially be transferred would be very small since only the facilities themselves would be transferred; transfer of land parcels generally would not begin until the 2006-2007 time frame. It should also be noted that title transfer of ETTP land and facilities is expected to stimulate economic development in this region and thus generate tax revenue. The estimated PILT revenue loss and tax revenue gain to Roane County has been added to Sect. 4.4.

Comment No.	Page/Section	Comment	Response
14.		The DOE should avoid stating that ETTP will "close" to avoid creating confusion among the public. For example, on Page 3, the EA states a major focus of the accelerated cleanup is "the closure of the ETTP," then states the site will be reindustrialized. A more accurate description for both the cleanup and reindustrialization programs would be to state *that DOE intends to reduce site risks and reutilize the brownfield site by conveying the property to the private sector through CROET.*	The text in Sect. 1.2 has been revised to remove the "closure" language and to incorporate the description provided by the City.
15.		At the beginning of the document, the EA should summarize Table 2.1 and Section 3 to provide a more thorough description of the property to be transferred. For example, the total of number of buildings comprising "x" square feet, the exact acreage of land, and a better description of utilities proposed for conveyance is needed. According to a statement on Page 20, for the "purposes of this analysis, it is assumed that about 30% of the 1700 acres (i.e. 500 acres) . . . would eventually be suitable for development and would be transferred to CROET." Pages 9 & 10 describe six areas of ETTP covered by the EA that total 280 acres. It is difficult to assess the costs and benefits of the proposed action without more precise numbers.	Additional information is presented in Appendix B on Parcel ED-4, Parcel ED-5, and the buildings that are listed in Table 2.1. The discussion on utilities is presented in Sect. 4.5 of the EA Addendum. At this time, DOE cannot provide an exact number of the total acres that may potentially be transferred. Sect. 4.1 has been revised to better describe the amount of property assumed to be transferred and developed for analysis purposes, which is approximately 1600 acres transferred of which about 500 was assumed to be suitable for reuse and new development. The actual amount of property ultimately transferred and subsequently reused and/or developed could be greater or less. However, the actual amount of property that is eventually transferred would not change the types of potential impacts analyzed and should only have a negligible effect on the degree of impact (e.g., minor changes in PILT).
16.	Sects. 4.5 and 5.1	The descriptions of City utilities throughout the document need to be updated and corrected, particularly the discussion of West End Utility Expansion on Page 23. The DOE ORO and the City completed the transfer of the DOE water plant and associated water infrastructure in May 2000. The City has received no other offers for infrastructure transfer or funding from either DOE ORO or CROET.	Text in Sect. 5.1 has been updated to incorporate new information provided on the West End Utility Expansion.

Comment No.	Page/Section	Comment	Response
		The City is currently designing a new wastewater treatment plant on the Rarity Ridge site, which will serve the Rarity development and could be configured to accommodate the DOE/CROET sites should they desire. The City's plant at Turtle Park is no longer expected to accept waste from the west end due to the need to construct the new plant at Rarity. The City is also constructing a new, elevated water tank and associated water infrastructure to serve the Rarity project from the neighboring public water supplies of the Cumberland Utility District and the City of Kingston. Any other infrastructure for the west end, in particular the DOE/CROET/TVA sites, will likely require direct financial participation from all entities.	
17.	General	With regard to environmental issues, the City applauds DOE's efforts to remove contaminated soil and restore groundwater, as it is in the City's best interests to minimize the need for deed restrictions on property made available for private use. However, it is unclear what potential liability the local jurisdictions might have if a contaminated property is transferred to a third party, which then goes out of business. Page 5 contains a statement that "Once the title is transferred, the eventual cost for building demolition would be the responsibility of the new owner instead of DOE." Transfer by DOE of property with environmental liabilities could become detrimental to the community in the future, and a legally binding agreement needs to be developed to limit the potential future burdens to the city. The specific source of concern is that at some point in the future the burden to a new owner from a property's environmental liabilities may exceed the value of the assets received, leading the new owner to abandon the property. DOE would retain ultimate responsibility for remediation of any residual contamination on transferred property, but this does not address the concern that transferred property abandoned by a new owner would no longer be generating employment or tax revenue, and (after termination of EM's mission) DOE likely would lack the resources to act in a timely manner to resolve the problems. Additional discussion between the City, DOE and CROET is needed to keep the City from incurring any liability as a result of the proposed action.	Comment noted. DOE would retain responsibility for addressing any legacy contamination that may be discovered. The structures that would be transferred would be released from radiological restrictions under DOE Order 5400.5. The eventual cost for building demolition after title transfer would be the responsibility of the new owner as it is for any private property. The proposed action does not involve title transfer of structures that exceed radiological restrictions under DOE Order 5400.5. With respect to property, indemnification would be provided and run with any property that is transferred and DOE would always retain responsibility for any legacy contamination. Once title to property is transferred, DOE would no longer have any responsibility (i.e., economic) outside of any indemnification issues for potential environmental liability. DOE would be happy to discuss this further with representatives of the City.

Comment No.	Page/Section	Comment	Response
		As noted in correspondence from the U.S. Fish and Wildlife Service found in Appendix B, "Neither the original EA or this request for continued informal Section 7 consultation specifically identifies new potential owners, or the proposed nature of industrial and business operations which would occur on the transferred parcels." The City encourages DOE and CROET to seek tenants from the range of target industries identified in the 2001 FLUOR Global Location Strategies report. Many brownfield sites appear to attract tenants in waste management and chemical industries; it is in the long-term best interests of the City to attract a diversity of industries to ETTP.	Comment noted. As a point of clarification it is CROET's responsibility to market the facilities and property. The types of industries identified in the FLUOR report are consistent with those analyzed in the original 1997 EA, and therefore would be appropriate target industries.
18.		Appendix B also contains correspondence from the Tennessee Historical Commission to DOE stating that the proposed action may adversely affect properties that are eligible for listing in the National Register of Historic Places. The City looks forward to participating in the discussions pursuant to Section 106 of the National Historic Preservation Act to help realize the dual goals of Historic Preservation and Economic Development.	See response provided to Comment No. 10.
		U.S. Fish and Wildlife Service	
19.	General	In an August 27, 1997, correspondence to the Service, DOE requested that an additional three parcels be considered for potential leases. Brief visual descriptions of the project areas were utilized to preclude the potential occurrence of protected species in these areas within and adjacent to the ETTP. Unspecified plant and waterfowl survey data from the Tennessee Wildlife Resources Agency (TWRA) were utilized by DOE to indicate that no protected species were present on these proposed additional parcels. These areas, encompassing approximately 348 acres, were included for consideration during the re-initiation of informal Section 7 consultation procedures. We have no record of responding to this latter request or receiving the EA and Finding of No Significant Impact (FONSI).	This issue has been satisfactorily addressed under separate cover.

Comment No.	Page/Section	Comment	Response
20.	General	The proposed additional transfer parcels are not geo-referenced or specifically identified in your October 2, 2002, correspondence. Although they are highlighted in a black and white figure attached to your letter, it is not clear what types of habitat or existing infrastructure features may be present. This type of information would enable us to provide site-specific information regarding the potential presence of protected species or significant habitat features. We would appreciate clarification on the exact location and size of all of the proposed transfer parcels, as well as specifically excluded areas, which may be near these parcels. Neither the original EA nor this request for continued informal Section 7 consultation specifically identifies new potential owners, or the proposed nature of industrial and business operations, which would occur on the transferred parcels. Information regarding the status of existing infrastructure or facilities, which may be proposed as a result of this action, would also be beneficial.	This information was included in the Draft EA Addendum and the Biological Assessment (BA).
21.	General	Qualified biologists should assess potential impacts and determine if the proposed project may affect the species. You should submit a copy of your assessment and finding to this office for review and concurrence. A finding of "may affect" could require the initiation of formal consultation procedures.	DOE completed the BA, concluded that the proposed title transfer is not likely to adversely affect any of the listed species, and submitted it to the FWS on January 21, 2003. Based on the conclusion in the BA that none of the species appears likely to be present within, or in, the immediate vicinity of ETTP, and proposed or designated critical habitats for the species are not present on, or near, the project area, the FWS on February 13, 2003 determined that the BA was adequate and supports the conclusion of "not likely to adversely affect."

Comment No.	Page/Section	Comment	Response
22.	General	The Oak Ridge Land Use Planning Focus Group strongly encouraged that, as soon as possible, the land use planning process be applied to the entire Oak Ridge Reservation (ORR). Although many of the parcels presented in the figure accompanying your current correspondence are in areas adjacent to, or designated by, the Focus Group under all potential land use scenarios as open space/industrial, it may be prudent to re-evaluate all of the parcels and previous decisions regarding future land uses at ETTP. We believe this is especially important due to the proximity of some of these parcels to Blackoak Ridge, an area presently under consideration for enhanced conservation measures by DOE, and the accumulation of more recent terrestrial and aquatic species occurrence data for this part of the ORR.	The comment about land use planning is beyond the scope of this EA Addendum. The area where the conservation easement is being pursued is adjacent to ETTP but outside of the boundaries covered in the original 1997 EA and this EA Addendum. The BA addresses the issue of more recent terrestrial and aquatic species occurrence data in the vicinity of ETTP.