



Office of Environmental Management
U.S. Department of Energy

Categorical Exclusion Determination Form

Proposed Action Title:

Program or Field Office:

Location(s) (City/County/State):

Proposed Action Description:

Categorical Exclusion(s) Applied:

For the complete DOE National Environmental Policy Act regulations regarding categorical exclusions, including the full text of each categorical exclusion, see Subpart D of [10 CFR Part 1021](#). Regulatory Requirements in 10 CFR 1021.410(b): (See full text in regulation)

The proposal fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D.

The classes of actions listed below include the following conditions as integral elements of the classes of actions. To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal.

The proposal has not been segmented to meet the definition of a categorical exclusion. This proposal is not connected to other actions with potentially significant impacts, is not related to other actions with individually insignificant but cumulatively significant impacts, and is not precluded by limitations on actions during preparation of an environmental impact statement.

Based on my review of the proposed action, I have determined that the proposed action fits within the specified class(es) of action, the other regulatory requirements set forth above are met, and the proposed action is hereby categorically excluded from further NEPA review.

NEPA Compliance Officer:

Date Determined:

CATEGORICAL EXCLUSION ANALYSIS

This analysis demonstrates that the Proposed Action does not have the potential to cause significant impacts to environmentally sensitive resources and meets the other integral elements of Categorical Exclusion B1.24 Property Transfers.

Proposed Action: DOE intends to transfer Tracts 1A and 1B of the SSP-2 parcel illustrated on Fig. 1.1, which is approximately 627 acres, to The Industrial Development Board of the City of Oak Ridge (ORIDB) for economic development. Although the exact methods of development are unknown at this time, potential future uses would be determined by the ORIDB, in coordination with the DOE and other federal agencies, as required by law, and may include subsequent property transfer to another entity for a nuclear development project or other industrial purposes.

Project Site Description: The SSP-2 transfer parcel is an approximate 627-acre parcel of federal property, which is primarily forested land and not currently used or needed for DOE mission. The original SSP-2 parcel was approximately 875 acres and included land that has been excised from the transfer footprint. Existing features and characteristics of the 875-acre property include on-site road and utility infrastructure, cultural features (cemeteries), wetlands and streams, an area of old-growth forest, and a former scrap yard known as the White Wing Scrap Yard (WWSY). Additionally, portions of SSP-2 excised from this Proposed Action may require remediation pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Due to these concerns, which require separate analysis before transfer, the property has been subdivided into tracts, including areas to be permanently retained by DOE or deferred for transfer following environmental action. The property designated for immediate transfer is Tracts 1A and 1B, with an approximate total of 627 acres which does not include cemeteries, old-growth forest, or the WWSY.

Application of Categorical Exclusion Elements:

The Proposed Action meets DOE's general requirements for all categorical exclusions as well as the specific requirements of categorical exclusion B1.24.

General Categorical Exclusion Requirements:

10 C.F.R. § 1021.410 provides that for DOE to find a proposed action is categorically excluded under NEPA, DOE shall determine the following:

1. There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal.

The Proposed Action involves no extraordinary circumstances that may impact the significance of the environmental effect of the proposed property transfer.

Extraordinary circumstances are unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources. 10 C.F.R. § 1021.410(b)(2). This property transfer presents none of the foregoing concerns.

2. The proposal has not been segmented to meet the definition of a categorical exclusion.

The proposed action has not been segmented to meet the definition of a categorical exclusion. Although the SSP-2 parcel has been partitioned, this division is necessary because of the differences between the two parcels. The parcel that is the subject of this property transfer is a clean parcel pursuant to CERCLA Section 120(h)(4), meaning that the United States Environmental Protection Agency (EPA) has designated as “uncontaminated” and therefore “there is no indication that the release or disposal of hazardous substances or petroleum products has resulted in an environmental condition that poses a threat to human health or the environment.” See EPA’s 1997 Guidance on EPA Concurrence in the Identification of Uncontaminated Parcels under CERCLA §120(h)(4), EPA (March 27, 1997). In contrast, DOE has agreed with EPA and the Tennessee Department of Environmental Conservation that the remaining parcel of SSP-2 may require cleanup under CERCLA and may be subject to different transfer restrictions arising out of that remediation. Further, parcels that may require cleanup under CERCLA cannot be transferred using the same legal transfer mechanism as clean parcels. Therefore, to the extent DOE intends to transfer the remainder of the SSP-2 property after remediation, it cannot be transferred with the clean portion and must be transferred separately. Transfer of the clean parcel of SSP-2 to the ORIDB at this time furthers the public policy objectives of the laws governing downsizing at defense nuclear facilities and supports the reindustrialization end-state goal for former DOE properties.

3. 10 C.F.R. 1021 App. B (1–5) mandates that “[t]o fit within the classes of actions listed below, a proposal must be one that would not:”
 - a. Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health:

The Proposed Action threatens no violations of applicable statutory, regulatory, or permit requirements for environment, safety, and health. The transferee will comply with all applicable land use restrictions in the deed, including those specific to land transferred pursuant to CERCLA Section 120(h)(4).

- b. Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities:

The Proposed Action is a real property transfer and does not require any waste management construction.

- c. Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases:

See answer to (a) above.

- d. Have the potential to cause significant impacts on environmentally sensitive resources? Environmentally sensitive resources include, but are not limited to:

- i. Property (such as sites, buildings, structures, and objects) of historic, archeological, or architectural significance designated by a Federal, state, or local government, Federally recognized Indian tribe, or Native Hawaiian organization, or property determined to be eligible for listing on the National Register of Historic Places:

Such properties exist on the parcel adjacent to the SSP-2 Clean Parcel. The transfer of the SSP-2 Clean Parcel to the ORIDB would not impact these properties, and any future development of SSP-2 (or transfer of the remaining parcel) would require analysis of impacts to historically and culturally sensitive resources pursuant to applicable environmental laws and regulations.

- ii. Federally-listed threatened or endangered species or their habitat (including critical habitat) or Federally-proposed or candidate species or their habitat (Endangered Species Act); state-listed or state-proposed endangered or threatened species or their habitat; Federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise Federally-protected species (such as the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act):

The transfer of SSP-2 itself will not impact federally-listed or endangered species or any other otherwise protected species or habitat. In the event development occurs on the parcel, the

developer(s) will be obligated by law to comply with relevant laws regarding endangered species and their habitat.

- iii. Floodplains and wetlands (as defined in 10 CFR 1022.4, “Compliance with Floodplain and Wetland Environmental Review Requirements: Definitions,” or its successor):

Wetlands exist adjacent to SSP-2. The transfer of SSP-2 to the ORIDB would not impact these wetlands, and any future development of SSP-2 would require analysis of wetland impacts and potential mitigation pursuant to applicable environmental laws and regulations.

- iv. Areas having a special designation such as Federally- and state-designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries:

No such areas exist in or around SSP-2, therefore there will be no significant impacts to these resources.

- v. Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), “Farmland Protection Policy Act: Definitions,” or its successor:

No farmland defined in 7 CFR 658.2(a) exists in or around SSP-2, therefore there will be no significant impacts to these resources.

- vi. Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region):

No such sources exist in or around SSP-2, therefore there will be no significant impacts to these resources.

- vii. Tundra, coral reefs, or rain forests:

No such biomes exist in or around SSP-2, therefore there will be no significant impacts to these resources.

- e. Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in

accordance with applicable requirements, such as those of the Department of Agriculture, the Environmental Protection Agency, and the National Institutes of Health:

The proposed action does not involve the use of genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species.

Requirements for Categorical Exclusion B1.24

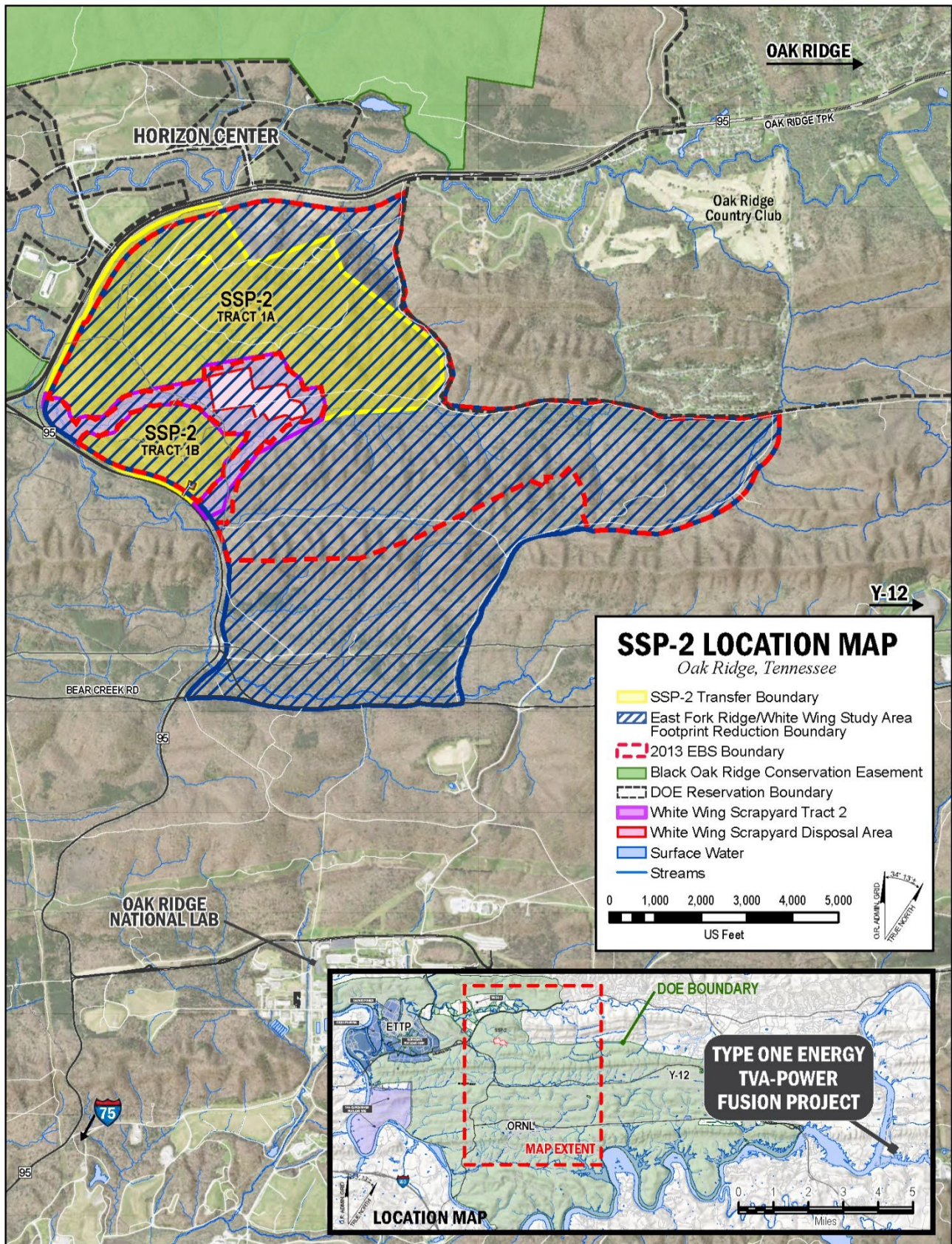
The Proposed Action meets the specific criteria for application of the B1.24 Property Transfers Categorical Exclusion. Categorical Exclusion B1.24 applies to:

Transfer, lease, disposition, or acquisition of interests in personal property (including, but not limited to, equipment and materials) or real property (including, but not limited to, permanent structures and land), provided that under reasonably foreseeable uses (1) there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment and (2) the covered actions would not have the potential to cause a significant change in impacts from before the transfer, lease, disposition, or acquisition of interests.

There is no reasonably foreseeable potential for a release of substances posing a threat to public health or the environment. As discussed above, DOE is transferring this portion of SSP-2 as a clean parcel under CERCLA 120(h)(4), which requires EPA approval that the transfer is safe and posed no threat to human health or the environment prior to transfer of the land to a third party. ORIDB and any subsequent owners would be required to comply with applicable land use restrictions on the property designed to avoid release of hazardous substances.

Further, the Proposed Action would not have the potential to cause a significant change in impacts from before the transfer, lease, disposition, or acquisition of interests under reasonably foreseeable uses. After DOE's property transfer action, the ORIDB may subsequently convey the property to another entity for economic development. As part of the DOE/ORIDB transfer requirements, any actions on the site are restricted to actions covered by pre-transfer allowable uses, as outlined in the deed. Although DOE understands that the transferee, ORIDB, is contemplating transferring SSP-2 to a private company for a nuclear development project at some point in the future, such a use is not reasonably foreseeable because DOE has restricted the use of the property and the developer must overcome other, non-DOE controlled hurdles to pursue such a use. To be reasonably foreseeable, there must be a reasonably close causal relationship between the Proposed Action and the potential change in impacts. First, the permitted uses in the deed do not include use of the property for nuclear development. DOE must consent to a deed

modification to permit this use. Further, when an agency has no authority over an action that must occur before any potential environmental impact, the agency cannot consider those potential impacts as “reasonably foreseeable” because this separate, intervening action breaks the causal chain. For the property to be used for nuclear development, a developer must obtain a license from the Nuclear Regulatory Commission (NRC) DOE does not control whether NRC grants a license. Other impediments to potential development for nuclear energy may exist, such as requests to move existing utility infrastructure and the developer obtaining additional land. Once future development alternatives are defined, DOE will determine the need for subsequent NEPA analysis and associated amendments to the land transfer, in consultation with appropriate jurisdictional agencies. Given these potential roadblocks, nuclear development on SSP-2 is not a reasonably foreseeable use.



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Fig. 1.1. Parcel SSP-2.