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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 15, 2004

Mr. R. Paul Detwiler, Acting Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Dr. Steven Warren, President
Washington TRU Solutions, LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

**RE: FINAL DETERMINATION, CLASS 1* AND CLASS 2 MODIFICATION REQUESTS
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Mr. Detwiler and Dr. Warren:

The New Mexico Environment Department (NMED) hereby approves with changes the permit modification requests (PMRs) to the WIPP Hazardous Waste Facility Permit as submitted to the Hazardous Waste Bureau in the following documents:

- Request for Class 1* Permit Modification (Change in Operations), Letter Dated 2/27/03, Rec'd 2/28/03
- Request for Class 2 Permit Modification (LANL Sealed Sources), Letter Dated 11/13/03, Rec'd 11/14/03

The following items were included in these two submittals:

1. Change in Operation
2. LANL Seals Sources Waste Streams Headspace Gas Sampling and Analysis Requirements

The Class 1* PMR was processed by NMED in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(a)) and was not subject to a formal comment period. The Class 2 PMR was processed in accordance with the requirements specified in

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20.4.1.900 NMAC (incorporating 40 CFR §270.42(b)). The Class 2 PMR was subject to a sixty (60) day public comment period running from November 16, 2003 through January 15, 2004, during which NMED received written comments from nine individuals and organizations.

NMED hereby approves these modifications with changes as noted. Changes imposed in the Class 1* Change of Operations PMR are primarily editorial in Permit Attachment A, Section A-6, reflecting more emphasis on the history of the change of operational control by different legal entities and less emphasis on the history of specific submittals. Changes imposed in the Class 2 LANL Sealed Sources PMR establish specific editions of non-RCRA citations in the Code of Federal Regulations (**CFRs**), as well as imposing additional acceptable knowledge documentation requirements necessary to identify hazardous constituents associated with sealed sources. Finally, many of the remaining changes are unrelated to either PMR but reflect correction of a persistently misspelled word and of one regulatory citation.

The approved modifications are incorporated in the following attachments:

- Attachment 1 contains excerpts from the non-RCRA regulatory citations included in the revised permit. NMED specified current editions of CFRs referenced in Permit Attachment B, Section B-3a(1)(iii), Permit Attachment B4, Section B4-2c, and Permit Attachment B6, Table B6-3, Item 145a. Future revisions to these CFRs that directly affect the permitted activities or definitions incorporated by reference will require a permit modification to update the cited edition.
- Attachment 2 contains the redline/strikeout pages of the modified permit to help the reader rapidly identify each modification. Language deleted from the permit is ~~stricken out~~. Language added to the permit is **highlighted in redline**. Specific language changes imposed by NMED are not distinguished from language changes proposed in the modification request.

Also enclosed is a CD-ROM containing the modified files in WordPerfect 8 redline/strikeout format as well as files with markings and comments removed. An electronic version of the modified permit with markings removed will be publicly posted on the NMED WIPP Information Page at <<http://www.nmenv.state.nm.us/wipp/download.html>>.

For purposes of version control, please note that NMED has established the date of these modified pages and attachments as March 15, 2004. The effective date of the permit modification approval is your date of receipt of this letter.

NMED is providing full response to all public comments under separate cover.

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If you have any questions regarding this matter, please contact Steve Zappe of my staff at (505) 428-2517.

Sincerely,

Charles Lundstrom

Director

Water and Waste Management Division

CL/soz

Attachment 1 – non-RCRA regulatory citations incorporated in revised permit

Attachment 2 – redline/strikeout pages

cc w/o Attachment 2:

Sandra Martin, NMED HWB

John Kieling, NMED HWB

Steve Zappe, NMED HWB

Laurie King, EPA Region 6

Betsy Forinash, EPA ORIA

cc w/ Attachments

Chuck Noble, NMED OGC

Connie Walker, Trinity Engineering

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