



BILL RICHARDSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
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RON CURRY
SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 25, 2006

Dr. David Moody, Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Mr. Richard D. Raaz, General Manager
Washington TRU Solutions LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

**RE: FINAL ORDER, CLASS 3 MODIFICATION REQUEST
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Dr. Moody and Mr. Raaz:

On October 16, 2006, New Mexico Environment Department (NMED) Secretary Ron Curry signed the Final Order approving in its entirety the WIPP Hazardous Waste Facility "Draft Permit as Changed" of May 25, 2006. This Draft Permit as Changed was based upon the following documents submitted to the NMED Hazardous Waste Bureau:

- Consolidated Response to NOD, Class 3 Permit Modifications (Section 311, RH, etc.), Letter Dated 4/29/05, Rec'd 4/29/05
- Comments on Consolidated Response to NOD, Class 3 Permit Modifications (Section 311, RH, etc.), Letter Dated 6/9/05, Rec'd 6/10/05
- Response to September 1, 2005 NOD, Letter Dated 9/22/05, Rec'd 9/23/05

The Draft Permit as Changed was also based upon agreements reached during meetings held pursuant to 20.4.1.901A(4) NMAC that involved NMED; the Department of Energy Carlsbad Field Office and Washington TRU Solutions LLC (**the Permittees**); Southwest Research and Information Center (**SRIC**); Concerned Citizens for Nuclear Safety (**CCNS**); Citizens for Alternatives to Radioactive Dumping (**CARD**); the New Mexico Attorney General's Office (**AGO**); and other individuals who participated by telephone.

NMED issued a Draft Permit based upon the three submittals identified above on November 23, 2005 for a 60-day public comment period, which was subsequently extended an additional 30

days until February 22, 2006. During this initial public comment period, NMED received written specific comments from a total of 32 individuals and organizations. A public hearing on the Draft Permit was held in two sessions: one in Carlsbad from May 31 through June 6, 2006, and the second in Santa Fe from June 7 through June 9, 2006. The hearing afforded interested members of the public multiple opportunities to present non-technical oral comment. Approximately 194 persons offered public comment during the hearing – 160 during the Carlsbad component of the hearing, and 34 in Santa Fe. Because the initial public comment period was automatically extended to the close of the public hearing, NMED received additional written specific comments from 36 individuals and organizations. NMED provided full response to all public comments on the Draft Permit on October 17, 2006.

As stated above, NMED approved the Draft Permit as Changed in its entirety with no further modifications. Enclosed is a CD-ROM containing the Draft Permit as Changed in WordPerfect 12 redline/strikeout format, the approved Permit in WordPerfect format with markings and comments removed, and the approved Permit in Adobe Reader PDF format. A WordPerfect version of the approved Permit has also been publicly posted on the NMED WIPP Information Page at <<http://www.nmenv.state.nm.us/wipp/download.html>>. Because the approved Permit is based entirely upon the Draft Permit as Changed, which itself was part of the hearing record, NMED is not attaching individual redline/strikeout pages as has been our practice in prior approval letters.

20.4.1.901A(11) NMAC states, “A final permit decision shall become effective thirty (30) days after notice of the decision has been served on the applicant...”. Because notice of the decision was served on the Permittees by the hearing clerk on October 17, 2006, the effective date of the approved Permit is November 16, 2006. A conformed copy of the Secretary’s Final Order as served by the hearing clerk is attached to this letter. For purposes of version control, please note that NMED has established the date of the approved Permit to coincide with the Secretary’s decision on October 16, 2006, and this date appears in the header of all revised Permit module and attachment pages.

Due to the extensive changes to the waste analysis plan (**WAP**), the effort required to implement those changes at each generator/storage site, and the fact that the WAP requirements in the previous version of the Permit were generally more stringent than the approved Permit, NMED is granting the Permittees one hundred twenty (120) calendar days from the effective date of the Permit to complete the transition to implement generator/storage site WAP requirements. All WAP-related generator/storage site quality assurance project plans and standard operating procedures must be fully implemented and certified by the Department of Energy Carlsbad Field Office no later than March 16, 2007. During this time, the Permittees may continue to receive waste for storage and disposal that has been characterized under existing audited and certified programs. When a generator/storage site completes the transition to implementing the WAP requirements in the effective Permit, the Permittees shall document their approval of the transition by updating the site certification letter (including attachments) and providing a copy to NMED

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All waste shipped on or after the effective date of the Permit will be subject to the Permittees' confirmation program specified in Permit Attachments B and B7, regardless of whether such waste was characterized under the previous or revised WAP. Waste in transit on the effective date that was shipped prior to the effective date will be exempt from the Permittees' confirmation program.

If you have any questions regarding this matter, please contact me at (505) 428-2512, or Steve Zappe of my staff at (505) 428-2517.

Sincerely,

Original signed by

James P. Bearzi

Chief

Hazardous Waste Bureau

JPB/soz

Attachment and enclosure

cc: John Kieling, NMED HWB
Steve Zappe, NMED HWB
Chuck Noble, NMED OGC
Tom Klein, NMED DOE-OB
Laurie King, EPA Region 6
Sharon White, EPA ORIA
Connie Walker, Trinity Engineering
File: Red WIPP '06

Attachment
Secretary's Final Order Approving Permit