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ENVIRONMENT DEPARTMENT

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JOHN R. D'ANTONIO, Jr
SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 25, 2002

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

Mr. John Lee, General Manager
Westinghouse TRU Solutions LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

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

Dear Dr. Triay and Mr. Lee:

The New Mexico Environment Department (**NMED**) hereby approves, with changes, certain Class 2 permit modification requests to the WIPP Hazardous Waste Facility Permit as submitted to the Hazardous Waste Bureau (**HWB**) in the following documents:

- Request for Class Determination and Permit Modification (Data Management), Letter Dated 6/27/02, Rec'd 6/28/02
- Request for Class Determination and Permit Modification (Waste Containers), Letter Dated 6/27/02, Rec'd 6/28/02
- Request for Class 2 Permit Modification (Waste Characterization Update), Letter Dated 6/27/02, Rec'd 6/28/02

The following items were included in these three submittals:

1. Improving Data Management to Streamline the Disposal of Transuranic Waste
2. Characterizing Repackaged Homogenous Solids as Retrievably Stored Waste
3. Use of Radiography for Newly Generated Waste

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4. Addition of HalfPACT Shipping Container
5. Addition of a New Hazardous Waste Number
6. Record Keeping and Auditing for Classified Information
7. Addition of New Waste Containers

In these submittals, the Permittees requested class determinations for Items 1 and 7. On July 22, 2002, NMED issued a Notice of Class Determination, identifying Item 1 as a Class 3 modification and Item 7 as a Class 2 modification. While all Items were subject to the same public comment period, NMED is only issuing a determination today on Items 2 through 7. The Class 3 modification will be addressed under a separate administrative action at a later date.

The remaining Class 2 modifications were processed by NMED in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(b)). These Class 2 modifications were subject to an initial sixty (60) day public comment period, which ran from July 3 through September 3, 2002. On August 8, 2002, NMED extended the public comment period by thirty (30) days until October 3, 2002. NMED received written comments from forty individuals and organizations during this time.

NMED hereby approves Items 2 through 7 with changes based upon consideration of all public comment. The approved modifications are incorporated in the following attachment:

- Attachment 1 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**. Due to the extensive nature of the modifications requested by the Permittees, 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. An electronic version of the modified permit with markings removed is available for download from 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 November 25, 2002. The effective date of the permit modification approval is your date of receipt of this letter.

NMED will provide 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 at (505) 428-2517.

Sincerely,

Gregory J. Lewis
Director
Water and Waste Management Division

GJL/soz

Attachment 1 – redline/strikeout pages

cc w/o Attachment:

Paul Ritzma, NMED
James Bearzi, NMED HWB
John Kieling, NMED HWB
Steve Zappe, NMED HWB
Laurie King, EPA Region 6
Betsy Forinash, EPA ORIA

cc w/ Attachment

Chuck Noble, NMED OGC
Connie Walker, Trinity Engineering
File: Red WIPP '02