



BRUCE KING  
GOVERNOR

State of New Mexico  
ENVIRONMENT DEPARTMENT  
Harold Runnels Building  
1190 St. Francis Drive, P.O. Box 26110  
Santa Fe, New Mexico 87502  
(505) 827-2850

Entered

JUDITH M. ESPINOSA  
SECRETARY  
RON CURRY  
DEPUTY SECRETARY

November 8, 1994

Larry D. Kirkman  
Acting Area Manager  
Department of Energy  
Field Office, Albuquerque  
Los Alamos Area Office  
Los Alamos, New Mexico 87554

Dear Mr. Kirkman:

This letter responds to the submittal of the Draft Site Treatment Plan (DSTP) submitted by Los Alamos National Laboratories (LANL) to the New Mexico Environment Department (NMED) as required by the Federal Facility Compliance Act (FFCA).

After reviewing the DSTP, NMED would like to acknowledge the U.S. Department of Energy (DOE) commitment to the "bottoms up" approach to the development of the DSTP and the continued efforts in the plan to consider on-site treatment as the primary treatment option for mixed wastes at LANL.

The NMED considers the DSTP to be unacceptable for various reasons. The milestone and target date concepts are acceptable as concepts; but in the plan as proposed, they do not provide definite time lines which would be acceptable from the regulatory stand point. NMED needs to have definite time-lines for the processes related to specific treatment technologies development and alternatives to those technologies should the proposed technologies prove inadequate. Additionally, there is no specific language addressing the required permitting functions and the impact to proposed schedules for proposed treatment technologies and methodologies.

Also, the adoption of the DOE wide-strategy for managing mixed waste (MTRU) re: characterization, storage and treatment conflicts with the FFCA and; in addition, is unrealistic. Schedules for storage options and alternatives for the proper management of MTRU, in the event WIPP continues to experience lengthy delays, must be addressed. In general, discrepancies exist in the DSTP, as



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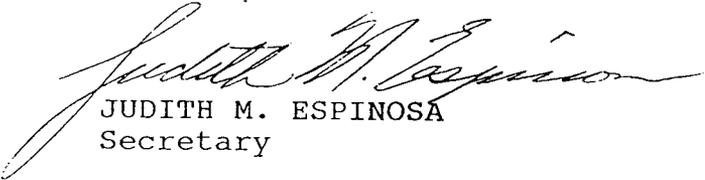
Larry D. Kirkman  
Page 2  
November 8, 1994

submitted, which preempts NMED's approval of the plans' acceptability. The following specific areas are offered as examples:

1. The concept of target dates/milestones shown in the DSTP is not enforceable by NMED. Definite time-lines must be set in place for each treatment technology development process and each preferred treatment option. NMED has a regulatory right to determine the protocol for any changes to time-lines set forth in the DSTP and the acceptability of those changes.
2. NMED feels that there are too many uncertainties regarding the use of the CAI as a preferred treatment option. NMED will require clarification of all of the issues affecting the use of the CAI as a treatment option. The Environmental Impact Statement for the CAI has not been completed and no permit modification request for mixed wastes is indicated in the treatment plan.
3. Numerous provisions in the implementation section describe procedures and issues entirely within the state's authority. Dispute resolution, modifications and extensions are all issues which the state has legal authority to approve or disapprove.
4. NMED will issue a Compliance Order to implement the Final Site Treatment Plan and disapprove any such plan, if it is not acceptable. A Consent Agreement is not contemplated at this time.

The New Mexico Environment Department is committed to providing feedback on your DSTP on an ongoing basis. Please have your staff contact Benito Garcia or Jim Seubert of my staff at (505) 827-4308 for further information, interaction or clarification on this issue.

Sincerely,



JUDITH M. ESPINOSA  
Secretary

cc: M. Williams, DOE/AL