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BY TELEFAX AND CERTIFIED U.S. MAIL

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On July 13, 2000, President Clinton signed the "Military Construction Appropriations Act, 2001," Pub. L. No. 106-246, 114 Stat.511 (2000) which contains the following provision effecting the financial assurance requirements of the Waste Isolation Pilot Plant ("WIPP") hazardous waste permit (the "Permit") issued to the Department of Energy ("DOE") and Westinghouse Electric Company Waste Isolation Division ("Westinghouse") by the Secretary of the New Mexico Environment Department ("NMED") on October 27, 1999. Section 201 of Public Law 106-246 states:

"Funds appropriated in this or any other Act and hereafter may not be used to pay on behalf of the United States or a contractor or subcontractor of the United States for posting a bond or fulfilling any other financial responsibility requirement relating to closure or post-closure care and monitoring of the Waste Isolation Pilot Plant. The State of New Mexico or any other entity may not enforce against the United States or a contractor or subcontractor of the United States, in this or any other fiscal year, a requirement to post bond or any other financial responsibility requirement relating to closure or post-closure care and monitoring of the Waste Isolation Pilot Plant. Any financial responsibility requirement in a

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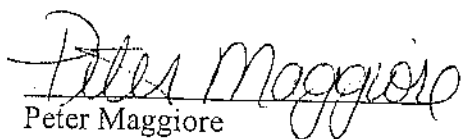
permit or license for the Waste Isolation Pilot Plant on the date of the enactment of this section may not be enforced against the United States or its contractors or subcontractors at the Plant." Pub. L. No. 106-246, 114 Stat. at 536.

A careful legal review of this new law, including a legal analysis from the New Mexico Attorney General, has convinced me that the standards and regulations upon which the Permit was based have changed and the State of New Mexico may no longer impose upon DOE's contractors the financial assurance requirements set forth in Modules II.N, II.O, II.P and II.Q of the Permit (*see also*: 40 C.F.R. §§ 264.143 and 264.145). Pursuant to 40 C.F.R. § 270.41, and in light of this clear change in the law, DOE's contractors are not required to satisfy the financial assurance requirements set forth in Modules II.N, II.O, II.P and II.Q of the Permit (*see also*: 40 C.F.R. §§ 264.143 and 264.145). Effective immediately, the financial assurance requirements set forth in Modules II.N, II.O, II.P and II.Q of the Permit (*see also*: 40 C.F.R. §§ 264.143 and 264.145) may not be enforced, are no longer effective, and are hereby withdrawn.

However, this change in the law does not effect or alter DOE's or any of its contractor's responsibility for closure, post-closure care and monitoring of the WIPP pursuant to the terms of the Permit. All other provisions of the Permit remain in full force and effect.

Respectfully,

Date 8/9/00



Peter Maggiore
Secretary

New Mexico Environment Department