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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 7, 2001

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

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

RE: NMED APPROVAL OF RFETS FINAL AUDIT REPORT, AUDIT A-00-12
WASTE ISOLATION PILOT PLANT
EPA I.D. NUMBER NM4890139088

Dear Dr. Triay and Mr. Herrera:

On November 28, 2000, NMED received the Final Audit Report of the Rocky Flats Environmental Technology Site (**RFETS**), Audit Number A-00-12 (**Audit Report**), from the Department of Energy's Carlsbad Field Office (**CBFO**). CBFO and Westinghouse (**the Permittees**) submitted this Audit Report under the Waste Isolation Pilot Plant (**WIPP**) Hazardous Waste Facility Permit as specified in Permit Condition II.C.2.c. Although the original scope of this audit intended to evaluate the adequacy, implementation, and effectiveness of the RFETS waste characterization processes for homogeneous waste relative to the requirements of the WIPP Permit, the Audit Report narrowed the scope to repackaged debris waste.

The Audit Report documentation submitted to NMED consisted of the following items:

- a narrative report



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- completed copies of relevant Permit Attachment B6 checklists
- objective evidence examined during the audit
 - general information
 - visual examination
- final RFETS standard operating procedures

NMED and its contractors observed the initial RFETS audit on September 18 - 22, 2000 and the follow-up audit on November 1 - 2, 2000, and has examined the Audit Report for evidence of compliance with the requirements of Permit Conditions II.C.2 (Audit and Surveillance Program) and II.C.1 (Waste Analysis Plan). Attached are NMED's general comments based upon observation of the RFETS audits and review of the submitted information.

NMED concludes that the Audit Report adequately demonstrates that the applicable characterization requirements of the WAP have been implemented at RFETS for retrievably stored repackaged debris waste. Therefore, NMED approves the Permittees' Final Audit Report for RFETS Audit A-00-12, and amends the previous Audit Report approval for Audit A-00-08 issued on March 9, 2000 to include procedures for retrievably stored repackaged debris waste.

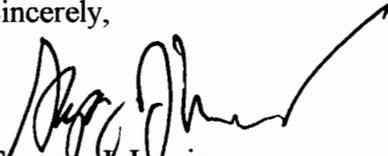
Despite our approval, NMED has concerns about the independence of the audit program within CBFO. During the RFETS A-00-12 audit, NMED and EEG observers witnessed an obvious attempt by CBFO management to pressure the audit team to alter their interpretation of a permit requirement and to discourage them from finding that RFETS had failed to implement that requirement. NMED believes that while it may be legitimate for the audit team to seek guidance from CBFO management regarding uncertainties about the interpretation of a particular permit requirement, it is highly inappropriate for CBFO management to initiate contact with the audit team and provide unsolicited advice or direction regarding audit activities or potential findings. This type of situation violates the basic tenet of audit independence, intimidates auditors, and generally casts doubt over the legitimacy of the entire audit process, all of which are key elements upon which NMED approval of the Audit Report is based.

As a potential remedy, it is my understanding that agreement was reached in the February 5, 2001 meeting between NMED, CBFO, and the Carlsbad Technical Assistance Contractor (CTAC) regarding development of governing protocols for communication between various parties during the audit process. NMED is confident that implementation of the envisaged protocols will prevent this type of situation from occurring during future audits.

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If you have any questions regarding this matter, please contact me at (505) 827-1758.

Sincerely,



Gregory J. Lewis
Director
Water and Waste Management Division

GJL:soz

Attachment

cc: James Bearzi, NMED HWB
John Kieling, NMED HWB
Steve Zappe, NMED HWB
Susan McMichael, NMED OGC
Howard Roitman, CDPHE HMWMD
David Neleigh, EPA Region 6
Mary Kruger, EPA ORIA
Robert Laney, DOE/AL IG
Connie Walker, TechLaw
Don Hancock, SRIC
Joni Arends, CCNS
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**GENERAL COMMENTS ON THE
FINAL AUDIT REPORT OF THE
ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE AUDIT A-00-12**

1. The audit scope is not entirely clear from the Audit Report. Some sections of the report imply that the audit applies to all newly generated debris waste, while other sections suggest that it applies only to retrievably stored waste that is repackaged. For example, Section 5.1 states that the “audit was performed to assess the ability of RFETS to characterize newly generated waste from Summary Category Group S5000...” However, previous sections of the Audit Report indicate that newly generated debris waste is not within the scope of the audit approval request, and explicitly limit the audit scope to retrievably stored repackaged waste. Contrary to Section 5.1, while the AK checklist includes a few elements specific to newly generated waste, the report also indicates that the AK checklist for retrievably stored waste was reviewed and approved during Audit A-00-08 and further implies that only retrievably stored waste that has been repackaged is covered under this audit. All Audit Reports must clearly and unambiguously state the audit scope. Based on the bulk of the information included in the Audit Report and observations made during audit oversight, NMED concluded that the Audit Report applied only to retrievably stored repackaged debris waste. NMED’s interpretation of the definitions of “retrievably stored” and “newly generated waste” is based upon Permit Attachment B, page B-2, which states:

“Retrievably stored waste is defined as TRU mixed waste generated after 1970 and before NMED notifies the Permittees, by approval of the final audit report, that the characterization requirements of the WAP at a generator/storage site have been implemented. Newly generated waste is defined as TRU mixed waste generated after NMED approves the final audit report for a generator/storage site.”

Although a site may undergo several audits of varying scope (such as has been the case for RFETS), it is NMED’s approval of the first “final audit report,” regardless of scope, which determines when waste would be considered to be newly generated.

2. The site used “revised” checklists to verify visual examination technique compliance, but did not justify the omission of several checklist elements because only those portions of the checklists determined to be applicable to the audit scope are included. For example, aspects of General Checklist B6-1 elements 8, 11, 14-16, 30, 41, 49-56, etc., and Visual Examination Checklist B6-6 elements 297, 299-302, 305, etc., could also be considered relevant depending on the reviewer’s perspective, and exclusion of checklist elements should have been justified. Also, checklist element 29 states that required HSG elements are not applicable, but it would have been more accurate to state that HSG is still applicable and required elements were addressed during previous audits. In future reports, NMED recommends that entire relevant checklists be included with a discussion of checklist element relevancy (or need to reassess) discussed; in this case,

relevancy of checklist elements could be presented where the “Audit A-00-12” discussion is shown for each element to facilitate future NMED review. Care should be taken when using the phrase “not applicable,” as the impression is given that characterization elements are not required when, instead, they are still relevant but not addressed because the characterization requirement is met following requirements that were previously audited and approved.

3. The report does not clearly address whether radiography will be used in conjunction with visual verification of repackaged waste, and implies the use of radiography. That is, clarify whether the visual examination technique is being used in lieu of or in conjunction with radiography, as the criteria associated with visual examination are different for these uses. NMED assumes that repackaged waste shall not undergo radiography, but the Audit Report should be clear on this.

4. The B6 checklist was sometimes not completed or used by auditors during the audit. Page B6-4 states “Audits shall be performed using approved audit checklists that include the checklists in Tables B6-1 to B6-6.” This means that while auditors may use additional checklists, the B6 checklists must be used in the audit. If auditors cross reference B6 checklist elements with those on their own checklists, this approach may be appropriate so long as every B6 checklist item is addressed. The auditors should use the B6 checklist directly in future audits.