

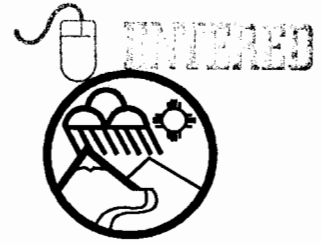


GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
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Fax (505) 428-2567

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PETER MAGGIORE
SECRETARY

PAUL R. RITZMA
DEPUTY SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 7, 2001

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: WAGS ASSAYED INEEL WASTE STORED AT WIPP
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Dr. Triay and Mr. Lee:

The New Mexico Environment Department (NMED) acknowledges receipt of your August 2, 2001 letter submitted in response to NMED's July 27, 2001 letter regarding anticipated non-compliance at the Waste Isolation Pilot Plant (WIPP). This situation was precipitated by the suspension of disposal activities at WIPP for waste from the Idaho National Engineering and Environmental Laboratory (INEEL) that had been radioassayed by the Waste Analysis Gamma Spectrometer (WAGS). In your letter, the Department of Energy Carlsbad Field Office and Westinghouse TRU Solutions LLC (the Permittees) withdrew a previous request contained in a July 18, 2001 letter to NMED for a temporary storage time increase for the Waste Handling Building (WHB) Unit and storage on facility pallets at the TRUDOCKS. NMED will therefore no longer consider this request.

Your August 2, 2001 letter identified the actions the Permittees will take in the event that the US Environmental Protection Agency has not provided a "positive response" on the status of the WAGS system in a timely matter. While neither NMED nor the permit prescribe a course of action to avoid permit violations in these circumstances, it appears that the Permittees have determined that the preferred course of action involves returning

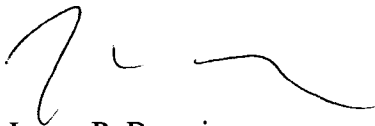


Dr. Inés Triay
Mr. John Lee
August 7, 2001
Page 2

the affected waste containers to the generator site to avoid exceeding the sixty-day storage limit in the WHB Unit. NMED takes no affirmative position on this course of action, but believes that such an action would not necessarily result in a permit violation.

If you have any questions regarding this matter, please contact Steve Zappe at (505) 428-2517.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

cc: Paul Ritzma, NMED
Greg Lewis, NMED WWMD
James Bearzi, NMED HWB
John Kieling, NMED HWB
Steve Zappe, NMED HWB
Susan McMichael, NMED OGC
Scott Monroe, EPA ORIA
David Neleigh, EPA Region 6
Connie Walker, TechLaw
File: Red WIPP '01