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
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