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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 10, 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: AUGUST 29, 2001 MODIFICATION SUBMITTAL
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 recent submittals on August 29, 2001:

- Permit Modification Requests Employing the Class 2 Process
- Temporary Authorization Request

The transmittal letter for these submittals, as well as the submittals themselves and the subsequent public notice and fact sheets, included statements suggesting that these documents were in response to "recent questions" from the NMED. Because there is no correspondence in the administrative record between the Department of Energy Carlsbad Field Office and Westinghouse TRU Solutions LLC (**the Permittees**) and NMED indicating what those questions might have been, NMED believes it is appropriate to summarize for the record the events leading up to these submittals.

During the week of July 30, 2001, NMED observers participated in an audit at the Idaho National Engineering and Environmental Laboratory (INEEL) conducted by the Permittees in accordance with requirements of the Permit. Although the Permittees had implemented two Class 1 modifications (July 20, 2000, Item 14 and November 1, 2000, Item 2) related to headspace gas

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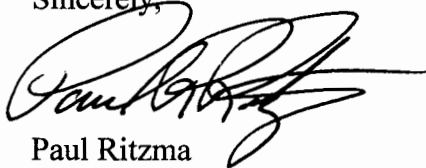
sample compositing in the Permit, NMED had not issued an administrative completeness determination on them and believed there were some unresolved technical issues regarding their implementation. The audit team reported these concerns to the Permittees.

On August 8, 2001, at the request of the Permittees, NMED met to further discuss NMED's concerns regarding the classification of permit modifications previously submitted by the Permittees. At the conclusion of the meeting, the Permittees requested an opportunity to explore several regulatory options potentially available to them with respect to the modifications as submitted.

On August 24, 2001, again at the request of the Permittees, a meeting was held to discuss the various proposed options of the Permittees with respect to the previously submitted Class 1 modifications. NMED provided regulatory interpretations based on the various proposals discussed by the Permittees and answered process related questions.

NMED is currently reviewing the temporary authorization request, as well as public comment received regarding the request. If you have any questions regarding this matter, please contact me at (505) 827-2855.

Sincerely,



Paul Ritzma
General Counsel

cc: James Bearzi, NMED HWB
John Kieling, NMED HWB
Steve Zappe, NMED HWB
Susan McMichael, NMED OGC
David Neleigh, EPA Region 6
Connie Walker, TechLaw
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