

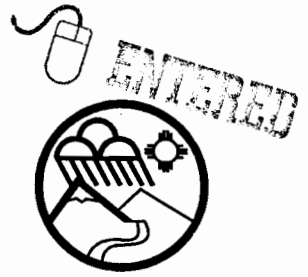


GARY E. JOHNSON
GOVERNOR

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ENVIRONMENT DEPARTMENT

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PETER MAGGIORE
SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 24, 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: SWMU/AOC INVESTIGATION REPORTING REQUIREMENTS
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Dr. Triay and Mr. Lee:

The New Mexico Environment Department (NMED) received an informal inquiry from the Department of Energy Carlsbad Field Office (CBFO) on September 14, 2001, regarding reporting requirements for corrective action investigations performed at the Waste Isolation Pilot Plant (WIPP). The corrective action investigations in question are associated with the Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs) contained in Module VII of the Hazardous Waste Facility Permit. NMED understands that CBFO and Westinghouse TRU Solutions LLC (**the Permittees**) are currently gathering pertinent information and data (both current and historical) to submit No Further Action (NFA) proposals for the SWMUs and AOCs listed in Tables 2 and 2A of Module VII of the Permit. As requested in a telephone conversation with Mr. Jody Plum of your staff on September 17, 2001, following is NMED's regulatory process specific to the Hazardous Waste Bureau to obtain NFA status at corrective action sites.

In general, the steps leading up to a NFA request are divided into three major phases:

- Phase 1 – Detailed work plan;



- Phase 2 – Comprehensive report with results of investigations and NFA proposals; and
- Phase 3 – NFA petition letter with a Class 3 permit modification request and statement of basis.

The Permit requires NMED review and approval of the deliverables at the end of Phases 1 and 2 before the next phase is initiated. Phases 2 and 3 are further explained in the following paragraphs. Note that Phase 1 does not need to be addressed because a Work Plan and a Sampling and Analysis Plan have already been submitted by the Permittees and have been found, upon some revisions requested by NMED, to be technically adequate by NMED.

Phase 2: The comprehensive report should take the form of a RCRA Facility Investigation (**RFI**) Report, as specified in Permit Condition VII.O. The report should describe the site, specify the operations and investigations (past and current), supply all data associated with investigations (field screening, sample analyses, risk assessments, etc.), summarize results, and present conclusions. The conclusion section(s) should include NFA proposals as appropriate, referencing Table 4, “Guidance for Evaluation of No Further Action Proposals,” from NMED’s Technical Support Document (**TSD**) issued with the final Permit, October 27, 1999. The report should follow the attached “RCRA Facility Investigation Report Outline,” which was presented to the regulated community in 1998 as part of the Hazardous and Radioactive Material Bureau’s Standard Operating Procedures – Guidance Documents, Section II.B.4.a(3), Pages 1 and 2. All elements in the RFI Report outline should be addressed. If a subsection does not appear applicable, a brief explanation at that point is still necessary. Note that each SWMU and AOC should be reported as individual sections within the report.

Phase 3: Upon NMED’s review and approval of the above submittal (Phase 2), the Permittees should then submit a Class 3 RCRA modification request and a NFA petition letter, as specified in Permit Condition VII.P. The NFA petition should be structured in a manner similar to a “statement of basis” that largely references the RFI Report (Phase 2). Again, each SWMU and AOC should be treated individually within the petition letter in a manner similar to NMED’s TSD. The Class 3 permit modification request will follow the procedures established in 40 CFR §270.42(c) allowing the public an opportunity to comment on the NFA petition, after which NMED will issue a draft permit for public comment before final agency action.

As previously recommended, it is in the best interest of the Permittees (and their contractors) to keep NMED staff informed with the results of recent field investigations conducted at selected SWMUs (performed the week of August 20, 2001) and with the progress of the RFI Report preparation.

Dr. Inés Triay
Mr. John Lee
September 24, 2001
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If you have any questions regarding this matter, please contact William Fetner of my staff at (505) 428-2520 or me at (505) 428-2517.

Sincerely,



Steve Zappe
WIPP Project Leader
Permits Management Program

Attachment

cc: James Bearzi, Chief, HWB
John Kieling, Manager, Permits Management Program, HWB
Susan McMichael, NMED OGC
Will Fetner, HWB
David Neleigh, EPA Region 6
Connie Walker, TechLaw, Inc.
WIPP File - Red '01

RCRA FACILITY INVESTIGATION REPORT OUTLINE

EXECUTIVE SUMMARY

1.0 INTRODUCTION

2.0 Solid Waste Management Unit/Area of Concern (SWMU/AOC) X

2.1 Summary

2.2 Description and Operational History

2.2.1 Site Description

2.2.2 Operational History

2.3 Investigatory Activities

2.3.1 Summary

2.3.2 Previous Investigations

2.3.3 Preliminary Conceptual Model

2.3.4 Field Investigation and Data Evaluation

2.3.4.1 Summary

2.3.4.2 Field Investigation

2.3.4.3 Data Review

(a) Inorganic Chemical Comparison with Background

(b) Radionuclide Comparison with Background/Fallout
Radionuclide Concentrations

(c) Evaluation of Organic Chemicals

(d) Other Applicable Data

2.3.5 Revised Site Conceptual Model

2.3.5.1 Nature and Extent of Contamination

2.3.5.2 Environmental Fate

2.4 Site Assessments

2.4.1 Summary

2.4.2 Screening Assessments

2.4.2.1 Human Health

(a) Scoping

(b) Screening Evaluation

(c) Uncertainty Analysis

(d) Interpretation

2.4.2.2 Ecological

(a) Scoping

(b) Screening Evaluation

(c) Uncertainty Analysis

(d) Interpretation

RCRA FACILITY INVESTIGATION REPORT OUTLINE

2.4.3 Risk Assessments

2.4.3.1 Human Health

- (a) Selection of Chemical(s) of Concern
- (b) Exposure Assessment
- (c) Toxicity Assessment
- (d) Risk and Dose Characterization
- (e) Uncertainty Analysis
- (f) Interpretation

2.4.3.2 Ecological Risk Assessment

- (a) Selection of Chemical(s) of Concern
- (b) Exposure Assessment
- (c) Toxicity Assessment
- (d) Risk and Dose Characterization
- (e) Uncertainty Analysis
- (f) Interpretation

2.4.4 Other Applicable Assessments

2.4.4.1 Surface Water

2.4.4.2 Ground Water

2.4.4.3 Underground Storage Tanks

2.4.4.4 Other

2.5 Conclusions and Recommendations

3.0 SWMU/AOC Y...