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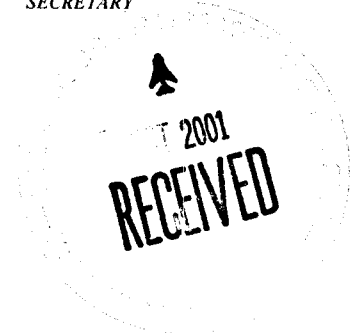
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PETER MAGGIORE
SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 11, 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: REJECTION OF RECENT FINAL AUDIT REPORTS FOR THE HANFORD SITE AND THE
ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Dr. Triay and Mr. Lee:

NMED recently received Final Audit Reports from the Department of Energy Carlsbad Field Office (CBFO) for the following two generator/storage sites:

- Hanford Audit A-01-16, received July 16, 2001
- Rocky Flats Environmental Technology Site (RFETS) Audit A-01-07, received September 10, 2001

CBFO and Westinghouse (**the Permittees**) were required to submit these Audit Reports under the Waste Isolation Pilot Plant (WIPP) Hazardous Waste Facility Permit as specified in Permit Condition II.C.2.c. The scope of these two annual recertification audits was to evaluate the adequacy, implementation, and effectiveness of the waste characterization processes for retrievably stored contact-handled waste relative to the requirements of the WIPP Permit.

NMED has examined these Audit Reports for compliance with the requirements of Permit Conditions II.C.2 (Audit and Surveillance Program) and II.C.1 (Waste Analysis Plan or WAP). In light of NMED's September 24, 2001 rejection of several Class 1 modifications that the Permittees allowed the generator/storage sites to put into effect, NMED has determined that these

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Audit Reports fail to demonstrate that the Permittees have required the generator/storage sites to implement applicable requirements of the WAP as specified in Permit Condition II.C.1.a. Specifically, the Audit Reports include the following procedures demonstrating noncompliance with Permit requirements:

- Hanford Procedure DO-080-009, Rev/Change H-0, (Obtain Headspace Gas Samples of TRU Waste Containers)
Sampling through the vent: Section 6.4 (Collection of Headspace Gas Sample Through MSDP [Modified Sampling Drum Port]), subsections 6.4.1, 6.4.17, and 6.4.18.
- RFETS Procedure L-4146-M-41, December 11, 2000, (Headspace Gas Sampling of Waste Containers)
Composite sampling: Section 6.3 (Attaching SUMMA Canisters to Sampling Manifold), subsection 6.3.4.
Sampling through the vent: Sections 6.14 (Collecting Sample from Pipe Overpack Components), subsection 6.14.3.

Based upon observation of Audit A-01-14 conducted the week of July 30, 2001, NMED also has evidence that the Permittees have failed to require the Idaho National Engineering and Environmental Laboratory (INEEL) to implement applicable requirements of the WAP. Although a final Audit Report for INEEL has not yet been submitted to NMED, the following procedure demonstrates noncompliance with Permit requirements:

- INEEL Procedure TRP-1728, Rev. 38, (Manual Drum Gas Sampling)
Composite sampling: Section 4.3 (Pre-Filter Sample Collection-Direct Method), subsection 4.3.5.

The Permit is very clear that it is the Permittees' responsibility to ensure the requirements of the WAP are fully implemented at generator/storage sites prior to receipt of waste from that site. The Introduction to the WAP plainly states: "Before the Permittees manage, store, or dispose transuranic (TRU) mixed waste from a generator/storage site (**site**), the Permittees shall require that site to implement the applicable requirements of this WAP." The Permit (Attachment B3, Section B3-13) also requires "... the status of work and the WAP activities at participating generator/storage sites to be monitored and controlled by the Site Project Manager and Site Project QA Officer. This monitoring and control shall include nonconformance identification, documentation, and reporting."

If the Permittees or sites identify any "uncontrolled and unapproved deviations" from approved WAP requirements (such as characterizing waste in a manner not in compliance with the approved WAP), the Permit requires reconciliation and correction of such occurrences through

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the nonconformance reporting process. NMED requests copies of any nonconformance reports associated with the sites' implementation of these unapproved waste characterization activities.

In light of these findings, NMED rejects the Permittees' Final Audit Reports for Hanford Audit A-01-16 and RFETS Audit A-01-07. Furthermore, until the Permittees submit evidence to NMED that demonstrates both full implementation of WAP requirements at Hanford, RFETS, and INEEL and compliance with the requirements governing the receipt of off-site wastes specified in Permit Condition II.B.1, the Permittees may only receive TRU mixed waste from Hanford, RFETS, and INEEL that has been characterized in compliance with the WAP or that are covered by the Schedule for Completion cited in NMED's September 24, 2001 Notice of Violation.

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

cc: James Bearzi, NMED HWB
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