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JOHN R. D'ANTONIO, Jr.
SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 15, 2002

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: COMMENTS ON THE ANNUAL MODIFICATION OF THE WIPP FACILITY WORK PLAN FOR SOLID WASTE MANAGEMENT UNITS AND AREAS OF CONCERN, FEBRUARY 22, 2002 WIPP HAZARDOUS WASTE FACILITY PERMIT EPA I.D. NUMBER NM4890139088

Dear Dr. Triay and Mr. Lee:

The New Mexico Environment Department (NMED) has reviewed for technical adequacy the February 22, 2002 document entitled "Annual Modification of the WIPP Facility Work Plan for Solid Waste Managements Units and Areas of Concern," which NMED received on February 25, 2002. The Department of Energy Carlsbad Field Office and Westinghouse TRU Solutions LLC (Permittees) submitted this modification report in compliance with Permit Condition VII.M.1 of the WIPP Hazardous Waste Facility Permit.

The document appears to contain all required information including the necessary updates from recent field investigations (e.g., soil sampling activities conducted in August 2001). An NMED representative was on site to observe some of the August 2001 soil sampling activities at two of the Solid Waste Management Units (SWMUs). Attached are NMED's comments on this annual modification report. NMED has found a few relatively minor mistakes that need to be addressed by the Permittees. Please submit your response to these comments within thirty (30) calendar days from the date you receive this letter. NMED may consider a petition for a deadline extension, provided that a written justification and the expected submittal date are given.

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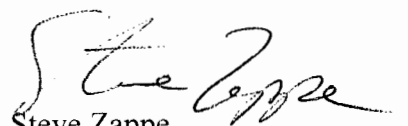


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NMED records do not show official regulatory approval of certain previously submitted documents associated with the investigation of the SWMUs and Areas of Concern (AOCs) at WIPP. Specifically, no NMED approval exists for the original Facility Work Plan (submitted in February 2000), the Sampling and Analysis Plan (SAP, submitted in May 2000) and the first annual modification to the Facility Work Plan (submitted in February 2001). Although NMED submitted comments to the original work plan and the SAP on December 4, 2000, the Permittees' response to NMED comments (submitted on January 3, 2001) were unsatisfactory and as a result NMED could not approve these documents at the time. However, a conference call between the Permittees and NMED took place on July 24, 2001, during which the parties agreed on a path forward to future field activities and eventual closure of the SWMUs at WIPP. The conference call was followed by a letter from the Permittees (dated August 10, 2001) summarizing the contents of the conference call, seeking approval of modifications to the SAP, and an approval to initiate field sampling activities for late August 2001. NMED responded to the request in a letter dated August 17, 2001. Therefore, it is by way of this letter that the record will now reflect the approval of proposed investigations as described in the Facility Work Plan (February 2000), the SAP (May 2000), the conference call of July 2001, and the August 10 and 17, 2001 correspondence between the Permittees and NMED. The first annual modification to the Facility Work Plan (submitted in February 2001) is hereby also deemed adequate to meet the regulatory requirements of Permit Condition VII.M.1 of the HWFP.

Should you have any questions or require additional explanation on any of the items discussed in this letter, please contact William Fetner of my staff at (505) 428-2520 or me at 428-2517.

Sincerely,



Steve Zappe
Permits Management Program

Attachment

cc: James Bearzi, Chief, HWB
John Kieling, Manager, Permits Management Program, HWB
William Fetner, HWB
Chuck Noble, NMED OGC
Laurie King, EPA Region 6
Connie Walker, TechLaw, Inc.

[REDACTED]

**NMED Comments on the Annual Modification of the WIPP Facility Work
Plan for SWMUs and AOC, dated February 22, 2002**

1. **Table of Contents, Page i, Section 3.2** - The Table of Contents is missing Section 3.2.2 titled "Number of Sampling and Field Measurement Sites". The section is included in the body of the report (see page 11).
2. **Section 2.1.1, Page 4, 3rd Paragraph, 4th Sentence** – The text incorrectly states that Site 001p was sampled in August 2001. The site should be 001x (WIPP -13) instead of 001p.
3. **Section 3.2.6, Page 11, 4th Sentence** – Based on NMED's observation of field activities on August 20 – 22, 2001, the samples were indeed collected by direct push methodology (Prosonic Corp. was the subcontractor) but acetate liners were observed being used instead of Teflon[®] liners. Please confirm the type of liner used. Note that regardless of the liner composition, the soil samples were only analyzed for metals and, therefore, they would not have been compromised if acetate liners were used.
4. **Section 3.2.9, Page 12, 2nd through 5th Sentences** – 2nd and 4th sentences - same comment as above regarding the use of Teflon[®] liners. 3rd and 5th sentences - based on NMED's observation of field activities on August 20 – 22, 2001, the following sampling procedures were used in the field: immediately upon collection, soil samples were removed from the sampler liners into a plastic bucket where they were thoroughly mixed before being transferred to laboratory-supplied sample jars. Then, following proper documentation and packaging procedures, the samples were shipped to the laboratory. In other words, the NMED representative did not observe the sample collection techniques depicted in this section (3.2.9) on August 20 – 22, at Sites 001l and 001x. Please confirm if the techniques stated in the report were used for activities not observed by NMED (i.e., Sites 001q and 004a). Also, please confirm if the laboratory homogenized the samples upon receipt.