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November 9, 2004

Mr. Pete V. Domenici, Jr.
Dolan & Domenici, PC
6100 Seagull St., NE Suite 205
Albuquerque, NM 87109



RE: WQCC 04-07(A) (SALT STORAGE)

Dear Mr. Domenici:

Thank you and your clients for meeting with us on October 19, 2004 in Santa Fe regarding the Discharge Permit Modification Required for DP-831. This letter is subject to NMRA 2004, 11-408 and cannot be used by the Department of Energy or Washington TRU Solutions. LLC, in any proceeding. The presentation and information presented by Shawn White on October 19, 2004 was useful and contained a lot of information that the Department did not have. Of course, the Department did have some of the information, but it had not been presented to the Ground Water Quality Bureau.

We understand your position that the SPDV Salt Pile is properly closed and was not included in DP-831, because it was unlikely to be discharging. However, there is simply not enough information to make this determination. During the presentation, several references were made to PZ-8 as a demonstration that there has been no seepage from the SPDV Salt Pile. PZ-8 is located off-gradient of the salt pile and was installed with the purpose of detecting seepage from the salt storage area located north of the WIPP facility. In addition, Document #4 provided at the presentation provides evidence from soil sampling that leaching of salt into the subsurface has occurred immediately adjacent to the SPDV Salt Pile. At a minimum, we will require the installation of piezometers down-gradient to determine if subsurface seepage has occurred. We are not requesting any change in the closure of the salt pile at this time. However, the SPDV Salt Pile must be included in DP-831 and its threat to groundwater considered.

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Regarding the Solid Waste Management Units (SWMUs), the Groundwater Quality Bureau will review the information submitted to the RCRA program to determine if there is any potential impact to groundwater. However, as part of the discharge plan modification, a summary of the contents of the existing SWMUs at the WIPP Site will be required. If impacts to groundwater cannot be ascertained from this information, we may require additional information.

Though we understand your position that the WIPP Site has been subject to extensive permitting processes that have included site closure, DP-831 must contain a closure plan that specifically addresses closure of the facility components covered by this permit. NMED will need a specific closure plan for the salt piles that addresses groundwater protection. This closure plan can be modified at anytime and can include options for removal or closure in place as your future decision path becomes clearer.

We stand by our original determination that DP-831 will need to be modified. We hope this exchange of information has been useful and you will withdraw your appeal. We are committed to assisting you and providing guidance as to using existing documents or portions of documents that you have created for other regulatory processes to meet the requirements of the permit modification.

Sincerely,



Tracy Hughes
General Counsel

Cc: Bill Olson
James Bearzi
Mary Ann Menetrey
Clint Marshall