



**Department of Energy**  
 Carlsbad Field Office  
 P. O. Box 3090  
 Carlsbad, New Mexico 88221  
 June 10, 2010



Mr. James Bearzi, Chief  
 Hazardous Waste Bureau  
 New Mexico Environment Department  
 2905 Rodeo Park Drive East, Building 1  
 Santa Fe, New Mexico 87505-6303

Subject: Response to Stipulated Final Order Number HWB 09-31 (CO) (LANL)

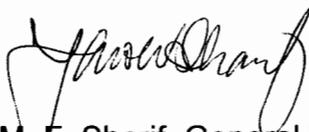
Dear Mr. Bearzi:

The purpose of this letter is to transmit the list of known existing and future transuranic mixed waste streams from all generator/storage sites that have the potential to de-water similar to waste stream LA-MIN03-NC.001 pursuant to Paragraph III.B.12 of the Stipulated Final Order (SFO) HWB 09-31 (CO) (LANL) dated May 12, 2010.

The above referenced list and a copy of the SFO are enclosed. If you have any questions, please contact George T. Basabilvazo at (575) 234-7488.

Sincerely,

  
 David C. Moody, Manager  
 Carlsbad Field Office

  
 M. F. Sharif, General Manager  
 Washington TRU Solutions LLC

Enclosure(s)

cc: w/enclosures  
 S. Zappe, NMED \*ED  
 J. Kieling, NMED ED  
 C. Walker, Trinity Engineering ED  
 CBFO M&RC  
 \*ED denotes electronic distribution



## Attachment

### List of known and existing WSPF's with potential to dewater

- LA-MIN02-V.001
- LA-TA-03-30
- LA-TA-21-13
- SR-W026-221F-HOM

STATE OF NEW MEXICO  
ENVIRONMENT DEPARTMENT



NEW MEXICO ENVIRONMENT )  
DEPARTMENT, )  
Complainant, )  
v. ) No. HWB 09-31 (CO)  
UNITED STATES DEPARTMENT ) (LANL)  
OF ENERGY and WASHINGTON )  
TRU SOLUTIONS LLC, )  
Respondents. )

**STIPULATED FINAL ORDER**

The New Mexico Environment Department ("NMED" or "Department") and Respondents the United States Department of Energy ("DOE") and Washington TRU Solutions LLC ("WTS"), pursuant to 20.1.5.600.B(2) NMAC, stipulate to resolve the Administrative Compliance Order issued to Respondents on July 24, 2009 ("Administrative Compliance Order") on the terms and conditions specified in the Partial Stipulated Final Order issued on December 21, 2009 and in this Stipulated Final Order ("Order"). Paragraph 68 of the Administrative Compliance Order, which was unresolved in the Partial Stipulated Final Order is hereby resolved by this Order.

**I. BACKGROUND**

1. The Department is authorized to administer and enforce the New Mexico Hazardous Waste Act, ("HWA") NMSA 1978, §§74-4-14, and the Hazardous Waste Management Regulations ("HWMR"), 20.4.1 NMAC, including assessing civil penalties for violations thereof.
2. Respondents are DOE, who is a department of the United States government and the owner and operator of the Waste Isolation Pilot Plant ("WIPP") and WTS, who is a co-operator of WIPP, a mixed waste storage and disposal facility located 26 miles

of container LAS817174 without following the written WAP. Respondents failed to comply with the requirements of Permit Attachment B3, Section B3-13, as follows:

- A. "The Permittees shall require the status of work and the WAP activities at participating generator/storage sites to be monitored and controlled by the Site Project Manager. This monitoring and control shall include nonconformance identification, documentation, and reporting." Respondents, while acting as the generator/storage site's SPM, did not adequately monitor and control the status of work and WAP activities, including the NCR process, performed by CCP with respect to container LAS817174.
  - B. "The Site Project Manager is also responsible for notifying project personnel of the nonconformance and verifying completion of the corrective action for nonconformances." Respondents, while acting as the generator/storage site's SPM, did not verify completion of the corrective action for container LAS817174 prior to the container being selected and certified for shipment to WIPP and subsequently accepted and disposed of at WIPP.
  - C. "The Permittees shall require participating sites reconcile and correct nonconforming items as appropriate in accordance with the Permittees' Quality Assurance Program Description (QAPD)." Respondents, while acting as the generator/storage site's SPM, did not reconcile and correct the nonconformance for container LAS817174 prior to shipment to WIPP.
7. Respondents violated the requirement in Permit Condition II.C.3. Treatment, Storage, and Disposal Facility Waste Acceptance Criteria (TSDF-WAC), which states, "The Permittees shall not accept TRU mixed wastes at WIPP for storage, management, or

disposal which fail to meet the treatment, storage, and disposal facility waste acceptance criteria as presented in Permit Conditions II.C.3.a through II.C.3.j of this Permit,” because container LAS817174, and by extension SWB LASB00411, contained liquid that did not satisfy the liquid waste prohibition as specified in Permit Condition II.C.3.a and Permit Attachment B, Section B-1c, which state in part, “[w]aste shall contain as little residual liquid as is reasonably achievable by pouring, pumping and/or aspirating...” Respondents accepted SWB LASB00411 for storage, management, and disposal at WIPP, which included container LAS817174, that did not meet the criterion that residual liquid be as little as reasonably achievable.

### **III. COMPROMISE AND SETTLEMENT**

#### **A. PENALTIES**

8. Penalties are addressed in the Partial Stipulated Final Order issued on December 21, 2009.

#### **B. SCHEDULE OF COMPLIANCE**

9. The Schedule of Compliance is addressed in the Partial Stipulated Final Order issued on December 21, 2009, except for items 10 through 12 below:
10. Shipments of containers from waste stream LA-MIN03-NC.001 are no longer suspended. All remaining containers from waste stream LA-MIN03-NC.001 shall be remediated in accordance with approved LANL procedures prior to shipment to WIPP.
11. Paragraph 16 of the Partial Stipulated Final Order issued on December 21, 2009 is modified as follows: Prior to shipment of remediated containers from waste stream

LA-MIN03-NC.001, Respondents shall submit to NMED the following information for each container:

- A. A list of remediated containers being shipped;
- B. Evidence that each container has been remediated in accordance with approved LANL procedures; and
- C. Evidence that NCRs written for prohibited liquid have been dispositioned appropriately by CCP.

12. Paragraph 68 of the Administrative Compliance Order is resolved by the following actions:

Within 30 days of the effective date of this Order, Respondents shall submit to NMED a list of known existing and future transuranic mixed waste streams from all generator/storage sites that have the potential to de-water similar to waste stream LA-MIN03-NC.001.

#### **IV. OTHER TERMS AND CONDITIONS**

##### **A. ENFORCEMENT**

13. The Department retains the right to pursue any relief authorized by the HWA and the HWMR for any violation not raised in the Administrative Compliance Order.

##### **B. COVENANTS NOT TO SUE**

14. The Department covenants not to sue or take any administrative or civil action against Respondents for the violations of the HWA, HWMR and the Permit alleged in the Administrative Compliance Order.

15. Respondents covenant not to sue the State of New Mexico for any claims arising from the Administrative Compliance Order.

**C. EFFECTIVE DATE**

16. This Order shall become effective on the date it is approved and signed by the Department Secretary.

**D. INTEGRATION**

17. This Order merges all prior written and oral communications between the Department and the Respondents concerning the subject matter of this Order and contains the entire agreement between the Department and the Respondents.

**E. BINDING EFFECT**

18. This Order shall be binding upon the Department and its successor agencies and shall be binding upon the Respondents and any employees, agents, subsidiaries, successors, assigns, trustees, heirs, or receivers of the Respondents.

**F. AUTHORITY OF SIGNATORIES**

19. The persons executing this Order represent that they have the requisite authority to bind either the Department or the Respondents, as appropriate, to this Order, and that their representation shall be legally sufficient evidence of actual or apparent authority to bind the Department or the Respondents to this Order.

**For the NEW MEXICO ENVIRONMENT DEPARTMENT**

By:

  
\_\_\_\_\_  
MARCY LEAVITT  
DIRECTOR  
WATER AND WASTE MANAGEMENT DIVISION

Date: 8/12/10

**For the UNITED STATES DEPARTMENT OF ENERGY**

By: David C. Moody Date: 5/3/10  
DAVID MOODY  
MANAGER  
CARLSBAD FIELD OFFICE  
DEPARTMENT OF ENERGY  
P.O. BOX 3090  
CARLSBAD, NEW MEXICO 88221-3090

**For WASHINGTON TRU SOLUTIONS, LLC**

By: Farok Sharif Date: 5/3/10  
FAROK SHARIF  
PRESIDENT  
WASHINGTON TRU SOLUTIONS LLC  
P.O. BOX 2078  
CARLSBAD, NEW MEXICO 88221-2078

**FINAL ORDER**

Pursuant to 20.1.5.600.B(2) NMAC, this Stipulated Final Order, agreed to by the Department and by Respondents, DOE and WTS, is hereby APPROVED as a FINAL ORDER.

  
\_\_\_\_\_  
RON CURRY  
SECRETARY OF ENVIRONMENT

Date: 5/12/10