

STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT



**IN THE MATTER OF THE RENEWED)
HAZARDOUS WASTE FACILITY)
PERMIT FOR THE WASTE ISOLATION)
PILOT PLANT)**

HWB 10-26(P)

STIPULATION ON PERMIT LANGUAGE

WHEREAS, on May 27, 2009, the Department of Energy (“DOE”), a department of the United States of America, and Washington TRU Solutions LLC, a contractor to the DOE (collectively, the “Applicants”), submitted to the New Mexico Environment Department (“Department”) a timely application for a renewed permit to store and dispose of hazardous waste at the Waste Isolation Pilot Plant located in Eddy County, New Mexico (the “Facility”)(AR 090532).

WHEREAS, after Applicants submitted the initial application for a renewed permit, Applicants and the Department began a series of discussions regarding the content of the application, and the Department requested additional information, which Applicants submitted.

WHEREAS, on September 24, 2009, the Applicants submitted to the Department information and an amended permit application for a renewed permit to store and dispose of hazardous waste at the Facility (AR 090937).

WHEREAS, on November 25, 2009, the Secretary of the Department determined the amended renewal application to be administratively complete and to constitute a timely and complete application under the regulations (AR 091136).

WHEREAS, on April 27, 2010, in accordance with section 20.4.1.901.A(1) and (2) NMAC, the Department issued a draft permit, which it sent to the Applicants by certified mail (AR



100452.1), On the same day, in accordance with section 20.4.1.901.A(3) NMAC, the Department issued a public notice (No. 10-02) stating that the draft permit was available for review and comment by the public; that the Department would accept comment from the public on the draft permit for a period of sixty days, until June 28, 2010; and that members of the public could request a hearing on the draft permit (AR 100454). Notice No. 10-02 was posted on the Department's website and published in the *Albuquerque Journal* (AR 100455), *Santa Fe New Mexican* (AR 100456), *Carlsbad Current-Argus* (AR 100457) and *Hobbs News-Sun* (AR 100458) newspapers.

WHEREAS, on May 12, 2010, in accordance with 20.4.1.901.A.5(c) NMAC, the Secretary of the Department entered an Order directing that a public hearing should be scheduled, beginning on August 9, 2010 (AR 100521).

WHEREAS, on June 4, 2010, in accordance with 20.4.1.901.A.3, 20.4.1.901.C.3, and 20.4.1.901.C.4 NMAC, the Department issued a public notice (No. 10-03) stating that the draft permit was available for review and comment by the public, that the Department would hold a public hearing on the draft permit beginning on August 9, 2010, that the Department would accept written comment from the public on the draft permit for a period ending at the close of the public hearing, and specifying procedures for presentation of technical testimony and oral public comments at the scheduled hearing (AR 100611). Notice No. 10-03 was posted on the Department's website and published in the *Albuquerque Journal* (AR 100612), *Santa Fe New Mexican* (AR 100613), *Carlsbad Current-Argus* (AR 100614) and *Hobbs News-Sun* (AR 100615) newspapers.

WHEREAS, between April 27, 2010 and June 29, 2010 the following persons submitted comments to the Department on the draft permit: the Applicants (AR 100538); Southwest Research and Information Center (AR 100536); Nuclear Watch New Mexico (AR 100537); Concerned

Citizens for Nuclear Safety (AR 100647); John Tyson (AR 100619); John Tanner (AR 100466); and Judy Pedersen-Campbell (AR 100526).

WHEREAS, during the period beginning on June 1, 2010 and continuing through June 29, 2010, the Department met periodically with Southwest Research and Information Center, Nuclear Watch New Mexico, Concerned Citizens for Nuclear Safety, Honor Our Pueblo Existence, and Citizens for Alternatives to Radioactive Dumping (collectively, the "Interested Parties"), and the Applicants, in an attempt to resolve the issues raised in the comments and reach an agreement on the draft permit, as provided by 20.4.1.901.A.4 NMAC.

WHEREAS, as a result of these discussions, as of June 29, 2010, the Department, the Applicants, and the undersigned Interested Parties have reached a partial agreement on the terms of a revised Hazardous Waste Permit for the Facility ("draft permit as changed") and entered into a Stipulation on Permit Language.

THEREFORE, the undersigned Parties to this Stipulation, the Department, the Applicants, and the undersigned Interested Parties hereby AGREE as follows:

- 1. Except as provided in Paragraph 2 below, the Applicants and the undersigned Interested Parties agree to the terms of the draft permit as changed attached hereto as Exhibit 1.**
- 2. The Applicants and the undersigned Interested Parties do not agree to those terms of the proposed permit to which they individually and specifically object as set forth in Exhibit 2 through Exhibit 8.**
- 3. Except as provided in Paragraph 5 below, if the Department proposes the draft permit as changed with substantive terms identical to those in Exhibit 1 at the hearing beginning on August 9, 2010, the Applicants and the undersigned Interested Parties will not oppose issuance of the**

proposed permit, or the conditions therein, during the hearing or in the pre-hearing or post-hearing proceedings.

4. Except as provided in Paragraph 5 below, if the Department Secretary approves the draft permit as changed with substantive terms identical to those in Exhibit 1, the Applicants and the undersigned Interested Parties will not appeal the final permit pursuant to NMSA 1978, § 74-4-14, NMSA 1978, § 39-3-1.1, or any other applicable provision of law.

5. The Applicants and the undersigned Interested Parties individually reserve the right to provide comments, to request a hearing, to provide testimony and otherwise to contest such terms or support alternative terms at a hearing or as otherwise appropriate, and to appeal or challenge the terms of the draft permit as changed specifically listed in Exhibits 2 through 8.

6. The Applicants and each undersigned Interested Party reserve their right to take any action, including administrative or judicial action, to contest or challenge their excepted items specifically listed in Exhibits 2 through 8.

7. Nothing herein prohibits the Applicants or undersigned Interested Parties from supporting terms to which they agree.

8. If the Department substantially changes the draft permit as changed attached hereto as Exhibit 1, the Applicants and undersigned Interested Parties may revise their exceptions.

EXHIBIT 2

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STIPULATION ON PERMIT LANGUAGE

For the NEW MEXICO ENVIRONMENT DEPARTMENT:

**By: )
JAMES P. BEARZI
NEW MEXICO ENVIRONMENT DEPARTMENT**

Date: 6/29/2010

EXHIBIT 3

**STATE OF NEW MEXICO
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The Applicants' Exception to revised Hazardous Waste Permit for the Facility ("proposed permit").

Exception:

Applicants have pending before the Department a Permit Modification Request (PMR) to modify the concentration of concern for several volatile organic compounds. The Applicants raise this exception, since the Department has not yet issued its decision on the PMR, nor modified the proposed permit.

The Applicants

For the U.S. DEPARTMENT OF ENERGY:

By:

George T. Berabillago

Date:

6-29-10

For WASHINGTON TRU SOLUTIONS LLC:

By:

Russell Cook
M. Fark Sharif

Date:

06/29/10

EXHIBIT 4

STATE OF NEW MEXICO
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For CONCERNED CITIZENS FOR NUCLEAR SAFETY:

By: 
JONI ARENDS

Date: 6/29/2010

Please see attached Exceptions.

EXHIBIT 4 (page 2)

Concerned Citizens for Nuclear Safety (CCNS) objects to the following terms of the revised draft permit as changed:

Permit Section 1.10.2

Permit Section 3.1.1.3 - Use of CH Bay Surge Storage

Permit Table 3.1.1. – CH Bay Surge Storage Area

Permit Section 3.1.2.3 – Use of Parking Area Surge Storage

Permit Table 3.1.2 – Parking Area Surge Storage

Permit Attachment A1, Section A1-1c(1) – CH Bay Surge Storage Area

Permit Attachment A1, Section A1-1c(2) - Parking Area Surge Storage Area

Permit Attachment A1-1f(1) - CH Bay Surge Storage Area

Permit Figure A1-1 – CH Bay Surge Storage Area

Permit Figure A1-2 – Parking Area Surge Storage Area

CCNS also reserves the right to object to:

Permit Table 4.6.2.3

EXHIBIT 5

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For NUCLEAR WATCH NEW MEXICO:

By: 
SCOTT KOVAC

Date: 6/29/10

Nuclear Watch New Mexico submits these exceptions in the matter of the renewed Hazardous Waste Facility Permit For The Waste Isolation Pilot Plant (Exhibit 5).

Specific sections and parts with which we have exceptions -

4.4. VOLATILE ORGANIC COMPOUND LIMITS – we have submitted comments to the VOC permit modification request reserve the right to object to the final Permit language.

EXHIBIT 6

**STATE OF NEW MEXICO
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For SOUTHWEST RESEARCH AND INFORMATION CENTER:

By: 
DON HANCOCK

Date: 5/29/2016

Southwest Research and Information Center (SRIC) objects to the following terms of the revised draft permit as changed:

Permit Section 3.1.1.3 - Use of CH Bay Surge Storage

Permit Table 3.1.1. – CH Bay Surge Storage Area

Permit Section 3.1.2.3 – Use of Parking Area Surge Storage

Permit Table 3.1.2 – Parking Area Surge Storage

Permit Attachment A1, Section A1-1c(1) – CH Bay Surge Storage Area

Permit Attachment A1, Section A1-1c(2) - Parking Area Surge Storage Area

Permit Attachment A1-1f(1) - CH Bay Surge Storage Area

Permit Figure A1-1 – CH Bay Surge Storage Area

Permit Figure A1-2 – Parking Area Surge Storage Area

SRIC also reserves the right to object to:

Permit Table 4.6.2.3

EXHIBIT 7

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

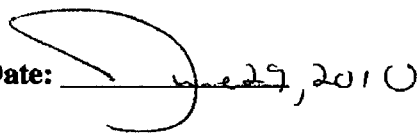
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STIPULATION ON PERMIT LANGUAGE

For CITIZENS FOR ALTERNATIVES TO RADIOACTIVE DUMPING

By: 
JANET GREENWALD

Date: 
June 29, 2010

Citizens for Alternatives to Radioactive Dumping (CARD) objects to the following terms of the revised draft permit as changed:

Permit Section 3.1.1.3 - Use of CH Bay Surge Storage

Permit Table 3.1.1. - CH Bay Surge Storage Area

Permit Section 3.1.2.3 - Use of Parking Area Surge Storage

Permit Table 3.1.2 - Parking Area Surge Storage

Permit Attachment A1, Section A1-1c(1) - CH Bay Surge Storage Area

Permit Attachment A1, Section A1-1c(2) - Parking Area Surge Storage Area

Permit Attachment A1-1f(1) - CH Bay Surge Storage Area

Permit Figure A1-1 - CH Bay Surge Storage Area

Permit Figure A1-2 - Parking Area Surge Storage Area

CARD also reserves the right to object to:

Permit Table 4.6.2.3

EXHIBIT 8

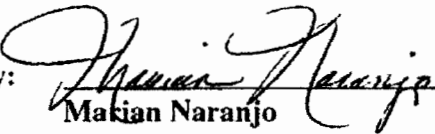
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STIPULATION ON PERMIT LANGUAGE

For HONOR OUR PUEBLO EXISTENCE

By: 
Makian Naranjo

Date: 6/29/2010