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DAVE MARTIN  
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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 7, 2011

Ed Ziemianski, Acting Manager  
Carlsbad Field Office  
Department of Energy  
P.O. Box 3090  
Carlsbad, New Mexico 88221-3090

Farok Sharif  
Washington TRU Solutions LLC  
P.O. Box 2078  
Carlsbad, New Mexico 88221-5608

**RE: APPROVAL OF REQUEST FOR TEMPORARY AUTHORIZATION OF CLASS 2 PERMIT  
MODIFICATION REQUEST  
WIPP HAZARDOUS WASTE FACILITY PERMIT  
EPA I.D. NUMBER NM4890139088**

Dear Messrs. Ziemianski and Sharif:

On October 3, 2011, the New Mexico Environment Department (**NMED**) received a letter in which the U.S. Department of Energy Carlsbad Field Office and Washington TRU Solutions LLC (**the Permittees**) of the Waste Isolation Pilot Plant (**WIPP**) request Temporary Authorization (**TA**) "to allow personnel to enter an active remote-handled transuranic (**RH TRU**) mixed waste disposal room to adjust ventilation regulators when the ventilation rate in the RH TRU mixed waste disposal room is less than 35,000 standard cubic feet per minute (**scfm**)."

The Permittees simultaneously submitted a Class 2 Permit Modification Request (**PMR**) to change mine ventilation requirements in the WIPP Hazardous Waste Facility Permit (**Permit**) Parts 1 and 4 and Attachments A2 and O. The TA only requests allowing personnel to enter an active RH TRU mixed waste disposal room that has less than 35,000 scfm.

The regulations governing TAs are specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(e)), which state in pertinent part at §270.42(e)(2)(i), "The permittee may request a temporary authorization for [a]ny Class 2 modification meeting the criteria in paragraph (e)(3)(ii) of this section..." The Permittees state that "[t]his TA is needed to facilitate protection of

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underground personnel at the WIPP as provided by 40 CFR 270.42 (e)(3)(ii)(E) by minimizing potential exposure to emissions from the disposed waste.”

The required elements of a TA request are specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(e)(2)(ii)). A TA request must include:

- A description of the activities to be conducted under the TA;
- An explanation of why the TA is necessary; and
- Sufficient information to ensure compliance with 40 CFR Part 264 standards.

The TA request describes the activity to be conducted as allowing “the Permittees to enter an active RH TRU mixed waste room when ventilation in that room is less than 35,000 scfm to access the ventilation system control bulkhead to make needed operational adjustments.” The Permittees state that “[t]hese adjustments are need to assure there is 35,000 scfm in the active CH TRU mixed waste room before personnel enter” and that the TA will protect workers from exposure to emissions from the disposed waste “by reducing the time the workers must be present in the exhaust air of panels to adjust ventilation regulators.” The Permittees cite Permit Attachment A4, Section A4-4, which states, “[t]he exhaust drift in the waste disposal area will normally not be used for personnel access.” Together, the TA request and Class 2 PMR provide information to demonstrate compliance with 40 CFR Part 264, specifically the environmental performance standards of 40 CFR §264 Subpart X.

The regulations governing approval or denial of temporary authorization requests are specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(e)(3)) and require that two independent criteria must be met:

- The authorized activities must be in compliance with the standards of 20.4.1.500 NMAC (incorporating 40 CFR §264); and
- The temporary authorization must be necessary to achieve one of five listed objectives before action is likely to be taken on the modification request.

The Permittees provided a discussion and figures in the PMR regarding potential worker exposure to hazardous waste constituents in active RH TRU mixed waste disposal rooms. The PMR states, “because RH TRU mixed waste rooms are upstream from CH TRU mixed waste rooms, the RH TRU mixed waste worker in an RH TRU mixed waste room is never in the CH TRU mixed waste room ventilation stream, and therefore would not be subject to the consequences of the roof-fall scenario.” The PMR also states that allowing workers to enter the RH TRU mixed waste room to adjust ventilation louvers instead of entering the exhaust drift minimizes the amount of time workers must be down-wind from the waste, therefore minimizing the workers’ exposure to hazardous constituents. This discussion adequately demonstrates no adverse effects on human health or the environment due to migration of hazardous waste constituents in the air, as specified in Permit Part 4 and 20.4.1.500 NMAC (incorporating 40 CFR §264.601(c)). Further, the TA request meets the objective identified in CFR §270.42(e)(3)(ii)(E): *To facilitate other changes to protect human health and the environment.*

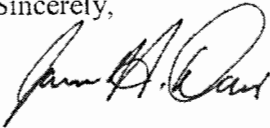
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NMED hereby approves the request for temporary authorization to immediately allow personnel to enter an active RH TRU mixed waste disposal room to adjust ventilation regulators when the ventilation rate in the RH TRU mixed waste disposal room is less than 35,000 scfm. The TA is effective only until NMED completes the administrative process for the Class 2 PMR, or 180 days, whichever is shortest.

This TA is effective immediately. However, the authorization is temporary, and does not constitute a final agency action on the pending PMR, nor does it prejudice final action on the PMR. If NMED denies the PMR, the Permittees must reinstate the requirement that 35,000 scfm is achieved in active RH TRU mixed waste disposal rooms before personnel are allowed to enter. The Permittees must comply with the public notice requirements of §270.42(e)(2)(iii) within seven days of submission of the temporary authorization request.

If you have any questions regarding this matter, please contact John Kieling of my staff at (505) 476-6035.

Sincerely,



James H. Davis, Ph.D.  
Director, Resource Protection Division

JD:th

cc B. Tongate, NMED Deputy Secretary  
J. Kieling, NMED HWB  
T. Hall, NMED HWB  
R. Flynn, NMED OGC  
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