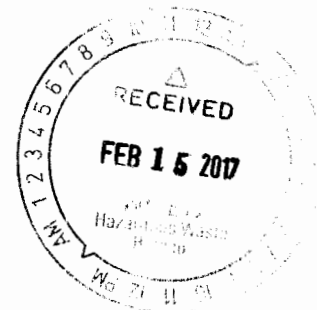




Department of Energy
Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221
FEB 13 2017

 **ENTERED**



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

Subject: Withdrawal of Temporary Authorization Request

Ref 1: Permittees' Letter from Todd Shrader, U. S. Department of Energy Carlsbad Field Office, and Philip J. Breidenbach, Nuclear Waste Partnership LLC, to John E. Kieling, Chief, Hazardous Waste Bureau, dated November 10, 2016, Request for a Temporary Authorization for the Referenced Revised Class 3 Permit Modification to the Waste Isolation Pilot Plant Hazardous Waste Facility Permit, Permit Number: NM4890139088-TSDF

Ref 2: New Mexico Environment Department correspondence from Ryan Flynn, Secretary of Environment, Administrative Order under the New Mexico Hazardous Waste Act § 74-4-13, Waste Isolation Pilot Plant, Hazardous Waste Facility Permit Number: NM4890139088-TSDF dated May 12, 2014

Ref 3: New Mexico Environment Department correspondence from Kathryn Roberts, Director, Resource Protection Division, to Todd A. Shrader, CBFO and Philip J. Breidenbach, NWP, dated, December 16, 2016, subject: NMED Inspection, Waste Isolation Pilot Plant, EPA I.D. Number NM4890139088 to Todd Shrader/CBFO and Phillip J. Breidenbach/NWP dated December 16, 2016

Dear Mr. Kieling:

The purpose of this letter is to withdraw the Temporary Authorization (TA) request submitted to the NMED on November 10, 2016 (Ref 1). The Permittees have determined that this TA is not needed in order to proceed with isolating the far south end of the underground repository (Panels 3 through 6). The Permittees submitted the TA request in anticipation that the NMED would close Administrative Order 2 (AO2) (Ref 2) as part of the authorization to resume normal operations at the WIPP facility. Paragraph 17 of AO2 enables the Permittees to defer certain underground compliance activities for the duration of the order to ensure continued protection of human health and the environment. Such activities for which compliance is deferred include Hydrogen/Methane Monitoring and Ongoing Disposal Room Monitoring for volatile organic compounds in filled panels and inspections of existing closure components (bulkheads and explosion isolation walls), which are addressed in Items 2 and 3 of the TA request. In the letter authorizing the resumption of normal operating status (Ref 3), the NMED states in condition 4:



4. The provisions of AO2, and all associated reporting requirements, shall remain in effect until such time that NMED has approved the November 10, 2016 Request for Temporary Authorization (TA) (or as updated, if appropriate). This paragraph hereby amends AO2 and supersedes paragraphs 25 and 27 of AO2. NMED will address the closeout of AO2 under separate correspondence when appropriate to do so. The monitoring of trichloroethylene (TCE) also found in paragraph 25 of AO2 was included in the Permit through a January 2016 Permit modification.

The Permittees are withdrawing the TA request based on the following factors:

1. Paragraph 13(c), (d), and (f) of AO2 specifically covers the monitoring and inspection activities proposed for suspension in the TA request.
2. Paragraph 17(a) of AO2 required the Permittees to submit an Underground Compliance Plan providing information regarding the activities that cannot be performed and a schedule for returning to compliance. The paragraph also states that adherence to the Underground Compliance Plan is to continue until the facility is in full compliance with the Permit. Regarding Permit-required activities being performed in the far south end of the repository, full compliance with the Permit is anticipated to be achieved after the WIPP Panel Closure Class 3 Permit Modification is adjudicated.
3. Attachment A2 of the Permit allows the Permittees to take measures necessary to protect workers in the underground to "...conform to Federal mine safety codes" as stated in Attachment A2, Section A2-2a(3). This includes erecting ventilation barriers or bulkheads to close off portions of the mine. For example, Section A2-5b(2)(b) states, "*The assessment and evaluation of the condition of WIPP excavations is an interactive, continuous process using the data from the monitoring programs. Criteria for corrective action are continually reevaluated and reassessed based on total performance to date. Actions taken are based on these analyses and planned utilization of the excavation. Because WIPP excavations are in a natural geologic medium, there is inherent variability from point to point. The principle adopted is to anticipate potential ground control requirements and implement them in a timely manner rather than to wait until a need arises.*"

4. Taking protective measures to limit worker access to the southern portion of the mine and to block ventilation to the area does not preclude implementing the WIPP Panel Closure Class 3 Permit Modification Request after it is adjudicated nor does it presume the outcome of the permitting process. Based on this evaluation, the Permittees believe that the requested TA and AO2 are duplicative measures that can be used to accomplish the same goal of protecting workers by closing the far south end of the repository, and therefore, since AO2 remains in effect, the TA is no longer needed.

We certify under penalty of law that this document and all attachments were prepared under our direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on our inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of our knowledge and belief, true, accurate, and complete. We are aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

If you have any questions, please contact Mr. George T. Basabilvazo at (575) 234-7488.

Sincerely,



Todd Shrader, Manager
Carlsbad Field Office



Philip J. Breidenbach, Project Manager
Nuclear Waste Partnership LLC

cc:

R. Maestas, NMED *ED

D. Biswell, NMED ED

CBFO M&RC

*ED denotes electronic distribution