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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 9, 2017

Todd A. Shrader, Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3090
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Phillip J. Breidenbach, Project Manager
Nuclear Waste Partnership, LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-2078

RE: NMED APPROVAL OF THE OAK RIDGE NATIONAL LABORATORY/CENTRAL CHARACTERIZATION PROGRAM (ORNL/CCP) FINAL AUDIT REPORTS, AUDIT A-15-09 AND AUDIT A-16-15 WASTE ISOLATION PILOT PLANT EPA I.D. NUMBER NM4890139088

Dear Messrs. Shrader and Breidenbach:

On December 16, 2014 and March 5, 2015, the New Mexico Environment Department (NMED) notified the Department of Energy's Carlsbad Field Office (CBFO) and Nuclear Waste Partnership LLC (NWP) (collectively the Permittees) of its decision to suspend the review and approval of final audit reports that had been submitted to NMED, and memorialized that all future final audit report reviews would be suspended until such time that there was compliance with, or resolution of, ACO 14-21. On February 28, 2017, NMED notified the Permittees that review of final audit reports would once again commence as a result of NMED's review of corrective actions that were taken by the Permittees in accordance with the January 22, 2016 Stipulated Final Order and Settlement Agreement associated with ACO 14-21. This letter addresses the final audit reports from the Oak Ridge National Laboratory/Central Characterization Program (ORNL/CCP).

NMED received the Final Audit Report for the ORNL/CCP Audit A-15-09 on July 7, 2015 in a letter dated July 6, 2015, and the Final Audit Report for Audit A-16-15 on July 29, 2016 in a letter dated July 26, 2016. The Permittees were required to submit the Audit Reports under the



Waste Isolation Pilot Plant (WIPP) Hazardous Waste Facility Permit (Permit), as specified in Permit Section 2.3.2.3. The intended scope of Audits A-15-09 and A-16-15 were to ensure the continued adequacy, implementation, and effectiveness of the ORNL/CCP waste characterization for contact-handled (CH) Summary Category Groups (SCG) S3000 homogeneous solids, S4000 soils/gravel, SCG S5000 debris wastes, and remote-handled (RH) SCG S5000 debris wastes relative to the requirements of the WIPP Permit. NMED representatives observed Audit A-15-09 on March 31 - April 2, 2015 and Audit A-16-15 on April 19 - 21, 2016, and have examined the Audit Reports for evidence of compliance with the requirements of Permit Sections 2.3.1 (Waste Analysis Plan [WAP]) and 2.3.2 (Audit and Surveillance Program).

ORNL/CCP Audit A-15-09

According to Final Audit Report A-15-09, the audit team verified that the ORNL/CCP program for characterization and certification activities continues to be adequate, satisfactorily implemented, and effective, and noted that CH waste Visual Examination (VE) operations resumed since the last recertification audit. The audit team evaluated the enhanced ORNL/CCP Interface program which includes the interfaces, roles, responsibilities and program requirements applicable to both organizations in support of CCP waste characterization activities at ORNL with no concerns identified. The audit team did identify one WAP-related condition adverse to quality resulting in a corrective action report (CAR) and one WAP-related observation as listed below. NMED will check on the status of these concerns during the next ORNL/CCP Audit.

- CAR 15-033: There were two instances of waste items being recorded in the Waste Description field on Attachment 1, VE Data Form, after RH waste VE operations had been performed. In both instances, the operator did not record all of the waste items in the Waste Description field. Instance 1: an initial VE was performed on container #ORRH00687, dated 1/8/14. Additional waste items were recorded in the Waste Description field on Attachment 1 on 2/11/14. Instance 2: an initial VE was performed on container #ORRH00691, dated 1/27/14. Additional waste items were recorded in the Waste Description field on Attachment 1 on 2/11/14. Further, no Non-Conformance Reports (NCRs) were initiated to support the recording of the additional waste items in the Waste Description field on Attachment 1. CAR 15-033 closure documentation was evaluated and closure of the CAR was completed on June 11, 2015.
- Observation 1: The "draft" Waste Stream Profile Form (WSPF) and attachments for waste stream OR-NFS-CHHOM-A contain information that should be changed. In the Reconciliation of Data Quality Objectives, question 6 is answered inaccurately regarding listed wastes. In addition, the listing of discrepancy resolutions in the Summation of Aspects of Acceptable Knowledge (AK) Summary Report: OR-NFS-CH-HOM-A should be reviewed for accuracy. If left uncorrected, this could lead to a condition adverse to quality in the approved version of the WSPF.

Interim Audit Report A-15-09, issued by CBFO on April 29, 2014, identified three additional non WAP-related concerns during the audit consisting of one deficiency in project-level data

validation and verification, which was identified and corrected during the audit (CDA), and two recommendations were offered for management consideration related to the updating of AK summaries to provide further clarity.

NMED has reviewed the WAP-related CAR 15-033 closure documentation and concurs with CBFO on its closure. NMED concludes that Final Audit Report A-15-09 demonstrates that ORNL/CCP has implemented the applicable characterization requirements of the WAP during the applicable timeframe.

ORNL/CCP Audit A-16-15

According to Final Audit Report A-16-15, the audit team verified that the ORNL/CCP program for characterization and certification activities continues to be adequate, satisfactorily implemented, and effective. DOE and NWP continue to strengthen their programs to provide more oversight of TRU waste generator site process/treatment activities being applied to active waste streams prior to waste being transferred to CCP for characterization and certification. The audit team continues to evaluate process enhancements, including enhanced AK and the ORNL/CCP Interface program, with no concerns identified. No WAP-related conditions adverse to quality resulting in a corrective action report were identified during the audit. One WAP-related CDA was identified and is listed below.

- CDA1: The Site Project Manager (SPM) marked "N/A" on the SPM Checklist for question #12, which states, "Does observable liquid, if present, meet the criteria of the TSDF-WAC?" Observable liquid was identified by the Real-Time-Radiography (RTR) operator for container X 10C1300177A in BDR OR-RTR6-0723; therefore, the question should have been answered "Yes". During the audit, the auditor was provided with a corrected SPM Checklist for BDR OR-RTR6-0723, answering question #12 correctly. The concern was determined to be isolated in nature and evidence confirming the correction was presented to the audit team and verified prior to the conclusion of the audit.

The Interim Audit Report A-16-15, issued by CBFO on May 12, 2016, identified a non WAP-related concern regarding the departure from a requirement to apply a Tamper Indicating Device (TID) to a container when access to the container is uncontrolled. The concern resulted in the issuance of CAR 16-035.

NMED concludes that Final Audit Report A-16-15 demonstrates that ORNL/CCP has implemented the applicable characterization requirements of the WAP during the applicable timeframe.

Based on NMEDs reviews and conclusions mentioned above, NMED hereby approves ORNL/CCP Final Audit Report A-15-09, and ORNL/CCP Final Audit Report A-16-15. However, NMED will check on the status of WAP-related concerns during the next ORNL/CCP Audit.

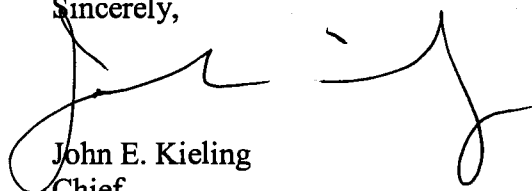
Messrs. Shrader and Breidenbach
ORNL/CCP A-15-09 and A-16-15
March 9, 2017
Page 4

NMED also amends the previous final audit report approvals for Final Audit Report A-14-03, issued by NMED on April 25, 2014, and Final Audit Report A-14-29, issued by NMED on October 10, 2014, to include only those waste forms and processes evaluated by these recertification audits.

The audit report approvals for Final Audit Report A-15-09 and Final Audit Report A-16-15 are approvals of the broad programmatic implementation of waste characterization requirements at ORNL/CCP, and do not constitute approval of individual waste characterization procedures, or inappropriate applications of those procedures. The approvals also do not relieve the Permittees of their obligation to comply with the requirements of the permit or other applicable laws and regulations.

If you have any questions regarding this matter, please contact Ricardo Maestas at (505) 476-6050.

Sincerely,



John E. Kieling
Chief
Hazardous Waste Bureau

cc: R. Maestas, NMED HWB
D. Biswell, NMED HWB
S. Lucas-Kamat, NMED DOE/OB
L. King, EPA Region 6
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File: WIPP '17