



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544

 ENTERED



MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

May 15, 1998

Dear Concerned Citizen:

Enclosed is a fact sheet regarding the New Mexico Environment Department's intent to issue a hazardous waste storage and disposal facility permit to the U.S. Department of Energy and Westinghouse Waste Isolation Division for the Waste Isolation Pilot Plant (WIPP), located 26 miles east of Carlsbad, New Mexico.

The proposed draft Permit will authorize WIPP to store and dispose transuranic mixed waste. The fact sheet provides additional information regarding descriptions of the permitted units, issues which may be of public concern, locations where the draft Permit can be reviewed, and procedures for submitting comments and requesting a public hearing. The public comment period is from May 15 through August 14, 1998. Comments and requests for a public hearing must be received no later than 5:00 PM August 14, 1998.

If you have any questions or comments, or if there are any corrections necessary to your address, please contact Mr. Steve Zappe of my staff at 827-1561.

Sincerely,

Robert S. (Stu) Dinwiddie, Manager
RCRA Permits Management Program
Hazardous and Radioactive Materials Bureau

Enclosure

180914.37J



LEGAL NOTICE NO. 98-02

NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS AND RADIOACTIVE MATERIALS BUREAU
SANTA FE, NM 87502

MAY 15, 1998

NOTICE OF INTENT TO PERMIT A
HAZARDOUS WASTE STORAGE AND DISPOSAL FACILITY
WASTE ISOLATION PILOT PLANT
EPA NO. NM4890139088

The State of New Mexico was authorized in 1986 to operate a hazardous waste management program in lieu of the Federal program for those portions of the Resource Conservation and Recovery Act (RCRA) in effect prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA). In 1996, the State was authorized to operate a hazardous waste management program for parts of HSWA. HSWA imposes additional Corrective Action requirements on hazardous waste management facilities for releases to the environment.

Under authority of the New Mexico Hazardous Waste Act (Section 74-4-1 *et seq.*, NMSA 1978, as amended, 1992) and the New Mexico Hazardous Waste Management Regulations (20 NMAC 4.1), the New Mexico Environment Department (NMED) can approve or deny hazardous waste permits and closure plans, permit modifications, and amendments.

Under this authority, NMED intends to approve a permit, pending public input into this decision, for the U.S. Department of Energy (DOE) (Box 3090, Carlsbad, NM 88221) and Westinghouse Electric Company Waste Isolation Division (WID) (Box 2078, Carlsbad NM 88221) for storage and disposal of transuranic mixed waste at the Waste Isolation Pilot Plant (WIPP) (30 Miles East of Carlsbad on Jal Highway, Carlsbad, NM 88220), EPA No. NM4890139088. NMED received a permit application submitted by DOE and WID on May 26, 1995. NMED received revisions to the application between April 12, 1996 and December 2, 1997.

The administrative record for this proposed action consists of this legal notice, a fact sheet, the Permit application, a Technical Support Document for Corrective Action, and related correspondence and documents. The draft Permit and administrative

record may be reviewed during normal business hours at:

NMED Hazardous and Radioactive Materials
Bureau
P.O. Box 26110
2044-A Galisteo Street
Santa Fe, NM 87502
Ph (505) 827-1561
Attn: Mr. Steve Zappe

The fact sheet, draft Permit, and Technical Support Document may also be reviewed at the locations listed below:

Santa Fe

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NMED Library, Harold Runnels Building
1190 St. Francis Drive
Santa Fe, NM 87502
(505) 827-2633

Ms. Jeannie Robinson
Santa Fe Community College Library
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Las Cruces

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(505) 524-6300

Please contact the location of your choice for hours when these documents are available for public review.

To obtain any portion of the administrative record, at 35 cents per page, or for further information, please contact Mr. Steve Zappe of NMED at the Galisteo Street address above. Any person who wishes to comment on the draft Permit or to request a public hearing should submit written comments/requests, along with the commenter's/requestor's name and address, to Dr. Robert Dinwiddie at the above address. Requests for a public hearing shall state the nature of the issues proposed to be raised in a hearing. Only written comments/requests received **between May 15 and close of business August 14, 1998** will be considered. NMED will provide at least a thirty (30) day notice of a public hearing, if scheduled.

All written comments received by the above date and testimony presented at a public hearing, if held, will become part of the administrative record and will be considered in formulating the final decision. NMED may approve, modify and approve, or deny the Permit based on the comments received. NMED will notify DOE, WID, and each person who submitted a written comment during the public comment period (May 15 through August 14, 1998), or any party at a public hearing, of the final decision, including any approved change to the draft Permit, and a detailed written statement of reasons for any such change.

FACT SHEET

Intent to Issue a Permit for the Operation of A Hazardous Waste Storage and Disposal Facility under the New Mexico Hazardous Waste Act

Waste Isolation Pilot Plant
Carlsbad, New Mexico

Facility Name: Waste Isolation Pilot Plant (WIPP)

EPA ID Number: NM4890139088

Location: The facility is located north of Jal Highway (State Highway 128) in Eddy County, New Mexico. The facility consists of 16 sections of Federal land in Township 22 South, Range 31 East. The WIPP site is located approximately 20 miles east of Loving, and 26 miles east of Carlsbad.

Owner: U.S. Department of Energy

Operators: U.S. Department of Energy
Westinghouse Electric Company, Waste Isolation Division

Introduction of Facility and Purpose of Permit

Permit Application

The U.S. Department of Energy (DOE) and the Waste Isolation Division (WID) of Westinghouse Electric Company (Permittees) have requested a permit from the New Mexico Environment Department (NMED) to store and dispose transuranic (TRU) mixed waste at the Waste Isolation Pilot Plant (WIPP). The permit application requested permission to operate two TRU mixed waste container storage units on the surface, and to operate three TRU mixed waste disposal units within a portion of the subsurface excavated areas. TRU mixed waste contains both transuranic radioactive and a hazardous waste component(s), and the hazardous waste is regulated under the New Mexico Hazardous Waste Act (NMHWA) and the New Mexico Hazardous Waste Regulations (20 NMAC 4.1).

Facility Description

WIPP is located in southeastern New Mexico, approximately 26 miles east of the city of Carlsbad. In 1980, Congress authorized WIPP for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive waste resulting from the defense activities and programs of the United States. The WIPP facility consists of surface buildings and structures, an underground network of subsurface excavated openings, and vertical shafts which connect the surface and subsurface areas.

Proposed Permit

NMED has reviewed the permit application and determined that the application, as modified by the conditions of the Permit, adequately addresses the requirements of NMHWA and 20 NMAC 4.1. NMED proposes to issue a Permit for the hazardous waste management units requested by the Permittees. A Permit is required for any area of WIPP where TRU mixed waste will be stored or disposed. Note that although this fact sheet describes WIPP as a "hazardous waste facility," this Permit will authorize TRU mixed waste only. Non-mixed hazardous waste (waste not containing a TRU component) is prohibited by this Permit.

Waste will be transported to WIPP from DOE facilities within the United States. The Permit provides that the Permittees may only receive TRU mixed waste from those sites approved by NMED through a subsequent modification to the Permit. In other words, this Permit initially allows no off-site TRU mixed waste to be accepted at WIPP until NMED approves a Permit modification request submitted by the Permittees which demonstrates that a particular generator/storage site complies with, and fully implements, the requirements of the Permit and the approved waste analysis plan (WAP).

The Permit will allow the Permittees to store TRU mixed waste within designated portions of the Waste Handling Building (WHB) and the parking area south of the WHB, under specific conditions cited within the Permit. The Permit will also allow the Permittees to dispose TRU

mixed waste in underground hazardous waste disposal units (HWDUs) designated as Panel 1, Panel 2, and Panel 3. To date, only Panel 1 has been excavated, while Panels 2 and 3 will be excavated during the term of the Permit. The term of the Permit will be 10 years. The Permit will only allow the Permittees to receive, manage, store, and dispose contact handled (CH) TRU mixed waste. The Permit prohibits remote-handled (RH) TRU mixed waste at WIPP.

NMED has based the Permit on Revision 6 of the RCRA Part B permit application submitted by the Permittees, including revisions identified as Revision 6.1, 6.3, 6.4, and 6.5, as well as other clarifying information submitted by the Permittees. In addition to NMHWA and 20 NMAC 4.1, the Permittees must meet additional requirements of a number of other agencies and statutes which have jurisdiction or regulatory authority over operations at the WIPP facility. The Permittees have, and will continue to generate, plans and procedures in response to requirements of these other agencies or statutes. Many of these documents will discuss issues related both directly and indirectly to topics, etc., addressed within the Permit. However, the conditions of the Permit issued to the Permittees by NMED will supersede all other documents with regard to storage and management of TRU mixed waste. For example, if the Permittees desire to add a generator/storage site, add to the types of TRU mixed waste, modify the design of subsurface rooms used for disposal, or modify the number or type of containers used to manage TRU mixed waste beyond that set forth in the Permit, then the Permittees must submit a request for Permit modification to NMED. Any TRU mixed waste management activity described in a document that is not reflected in the Permit shall not be allowed unless NMED approves a Permit modification. The Permit modification shall be subject to public notice and hearing requirements of 20 NMAC 4.1.

There are a number of operational and waste handling activity issues concerning WIPP which are not within the purview of the Permit or that NMED does not have statutory or regulatory authority under NMHWA or 20 NMAC 4.1. Examples of these issues include: transportation of waste to WIPP; disposal of non-mixed TRU waste under 40 CFR §191 and §194; and compliance with regulations enforced by other agencies, such as the Mine Safety and Health Administration.

Description of the Permit:

NMED proposes to issue a hazardous waste storage and disposal facility Permit. The waste management portion of the Permit, found in Permit modules I through VI, implements the requirements imposed by NMHWA, as codified in 20 NMAC 4.1. This portion of the Permit describes the structures, equipment, and procedures the Permittees are required to comply with in order to store and dispose TRU mixed waste. TRU mixed waste will be

stored in a variety of containers at two locations above ground, and disposed in up to three locations underground (panels). These locations are further described in the remainder of the fact sheet.

The corrective action portion of the Permit, found in Permit module VII, implements the requirements imposed by NMHWA, such as waste minimization, land disposal restrictions, and corrective action to investigate possible releases from Solid Waste Management Units (SWMUs).

Waste to be Managed:

The types of waste to be managed under the Permit will be limited to contact handled, or CH, TRU mixed waste. The TRU mixed waste designation refers to waste which contains both a transuranic radioactive and a hazardous waste component. Contact handled waste is defined as TRU waste whose external surface (container) dose rate does not exceed 200 mrem per hour. A more complete description of the waste may be found in Permit Attachment B, the Waste Analysis Plan. The Permit also allows the storage and disposal of derived wastes, which are mixed wastes that may be generated from on-site management of TRU mixed waste.

Units to be Permitted:

The Permittees have requested a hazardous waste Permit from the State to operate five hazardous waste management units at the WIPP site. The first unit is a TRU mixed waste container storage area which will be located above ground within a portion of the Waste Handling Building (WHB Unit). The second unit is also a TRU mixed waste container storage area located in the parking area south of the Waste Handling Building (Parking Area Unit). The third, fourth, and fifth units are underground hazardous waste disposal units (Underground HWDUs), which consist of Panels 1 through 3 of the underground excavated openings. To date, only Panel 1 has been excavated.

WHB Unit

The WHB consists of a totally enclosed area of approximately 84,000 square feet. The permitted WHB Unit comprises approximately 33,000 square feet within the WHB CH Bay, which is further divided into four distinct areas where the Permittees may manage and store TRU mixed waste. The areas are: (1) the TRUDOCK Storage Area, approximately 4,700 square feet; (2) the NE Storage Area, approximately 2,900 square feet; (3) the SE (Shielded) Storage Area, approximately 300 square feet; and (4) the Derived Waste Storage Area, approximately 50 square feet. The Permittees will use these areas to temporarily store TRU mixed waste received from off-site generator/storage sites, and "derived" wastes which may be generated during disposal activities and during closure. The

maximum TRU mixed waste capacity of the WHB Unit is 2718 cubic feet at any time, which is equivalent to 41 Standard Waste Boxes (SWBs), 287 55-gallon drums, or any other combination of approved containers of TRU mixed waste which does not exceed 2718 cubic feet.

Parking Area Unit

The Parking Area Unit is an asphalt and concrete surface of approximately 115,000 square feet extending from the fence north of the rail siding to the WHB, within the designated Radiological Control Area, and is totally enclosed by a chain-link fence. The Permittees may store and manage TRU mixed waste containers anywhere within the Parking Area Unit, as long as the containers remain within sealed TRUPACT-II shipping containers. The maximum capacity of the Parking Area Unit is 1591 cubic feet, which is equivalent to 12 TRUPACT-II shipping containers.

Underground HWDUs

The Underground HWDUs will be located in Panels 1 through 3 of the subsurface (only Panel 1 has been excavated to date). The Underground HWDUs are classified as miscellaneous hazardous waste management units under 20 NMAC 4.1.500 (incorporating 40 CFR §264 Subpart X), since geologic repositories such as WIPP do not have specific technical standards prescribed by regulation. The Underground HWDUs are located within the bedded salt of the Salado Formation, approximately 2150 feet below the surface. An Underground HWDU is a single excavated panel, consisting of seven rooms and two access drifts, designated for disposal of TRU mixed waste. Each room has nominal dimensions of 13 feet high, 33 feet wide and 300 feet long, and the entire panel has an approximate floor area of 124,150 square feet. The Permittees will dispose of TRU mixed waste in approved containers within the Underground HWDUs. The maximum capacity of an Underground HWDU is 636,000 cubic feet, which is equivalent to approximately 86,500 55-gallon drums of TRU mixed waste.

The Permit requires the Permittees to limit releases to the air of volatile organic compounds (VOCs) to levels which are protective of human health and the environment. VOC concentrations are specified in the Permit as room-based concentration limits, which allow individual containers to exceed these VOC concentration limits as long as the average concentration of all containers in a room remain below the room-based limits. These limits are verified by performing VOC monitoring in the underground and by using VOC headspace gas sampling data as reported in the WIPP Waste Information System (WWIS) database.

Organization of the Permit:

The WIPP Permit follows the format specified by NMED used for other New Mexico hazardous waste facility permits. The Permit also generally incorporates the format specified in the EPA guidance entitled the "Model RCRA Permit for Hazardous Waste Management Facilities," Office of Solid Waste, U.S. Environmental Protection Agency, September, 1988. However, since WIPP is proposed to be the first permitted geologic repository for disposal in the United States, there was no "model" guidance or format to follow for the development of permit conditions for the Underground HWDUs.

The WIPP Permit is divided into seven modules, each which will be briefly described in this fact sheet. The first two modules, Modules I and II, are entitled "General Permit Conditions" and "General Facility Conditions," respectively, and are generally applicable to all RCRA permits. Module I addresses such issues as permit expiration date, and the NMED's authorization to inspect and obtain samples. Module II establishes permit conditions for such issues as waste sources, waste analysis, security, inspections, and training. Module II also addresses preparedness and prevention, emergency procedures (contingency plan), general closure requirements, and cost estimates and financial assurance for closure and post-closure activities.

Module III addresses the design and operations of the above ground TRU mixed waste container storage areas referred to as the WHB Unit and the Parking Area Unit. For example, this module describes the design requirements for the building, the secondary containment system, and the containers used to manage waste. The module also specifies the maximum number of waste containers which can be managed in the units and how the containers will be managed, stored and inspected to minimize the potential for release of hazardous constituents to the environment. Module IV specifies the requirements for disposal in the Underground HWDUs. Module V addresses the groundwater monitoring program requirements for the WIPP facility. Module VI contains requirements which become effective after WIPP operations cease and the facility enters what is referred to as the "post-closure care" period. Module VII contains permit conditions pertaining to corrective action at SWMUs required by the NMHWA.

Permit Issues:

This section of the fact sheet addresses conditions within the permit which may be of widespread public interest or that may raise issues of concern. In order to facilitate public review, issues and conditions are discussed by permit module.

Module I

Module I of the Permit contains standard language similar to all other hazardous waste facility permits. The term for the Permit is ten (10) years, but because WPP is a disposal facility, the regulations require NMED to review the Permit every five (5) years to ensure incorporation of any newly promulgated regulations. Other standard conditions provide NMED with inspection and entry rights to ensure the Permittees continue to comply with all requirements and conditions of the Permit, and requirements for the Permittees to report any noncompliance with the Permit which may endanger human health or the environment to NMED orally within twenty four hours of discovery, and follow up with a written notification within five (5) calendar days..

Module II

Module II addresses waste sources and waste analysis plan requirements, as well as facility security, general inspection requirements, personnel training, preparedness and prevention, the facility contingency plan, general closure and financial assurance requirements.

Relative to waste characterization, a number of issues may be of interest to the public. The Permit provides that the Permittees may only receive TRU mixed waste from those sites approved by NMED through a subsequent modification to the Permit. In other words, this Permit initially allows no off-site TRU mixed waste to be accepted at WPP until NMED approves a Permit modification request submitted by the Permittees which demonstrates that a particular generator/storage site complies with, and fully implements, the requirements of the Permit and the approved waste analysis plan (WAP).

The WAP itself is approved subject to numerous conditions specified in the Permit. The Permittees will require generator/storage sites to implement the WAP, use certain approved waste characterization sampling methods and analytical techniques, as well as use statistical methods for selecting containers for representative sampling. Sites shall comply with quality assurance objectives (QAOs) for waste characterization, and will notify the Permittees of any failure to meet QAOs.

Two classes of TRU mixed waste exist: "retrievably stored" refers to waste generated after 1970 and before a generator/storage site has been added to the Permit by modification, whereas "newly generated" refers to waste generated after a site has been added to the Permit. For both waste classes, the waste may be further categorized into three broad groups related to the final physical form of the waste: homogenous solids, soils/gravels, and heterogenous debris. Every retrievably stored waste container will undergo radiography to identify the physical form of the waste, and headspace gas analysis to

determine the presence of VOCs. In addition, a representative sample of homogenous solids and soil/gravel wastes will undergo coring and analysis to establish the total concentrations of VOCs, semi-VOCs, and metals for toxicity determinations.

The Permittees will use acceptable knowledge as part of the overall waste characterization process. Acceptable knowledge uses documentation of the waste generating process to delineate waste streams, identify wastes which may exhibit a toxicity characteristic, and identify "listed" wastes. Although all waste streams are required to have acceptable knowledge documentation, it is essential for retrievably stored heterogenous debris waste. If any required items of acceptable knowledge are absent, debris waste stream containers must be opened and repackaged as newly generated waste. The Permit requires that acceptable knowledge documentation be confirmed through sampling and analysis.

The Permittees will conduct audits of generator/storage sites to demonstrate implementation of and compliance with the WAP at each site. NMED will participate in such audits as necessary to independently validate implementation and compliance. The Permittees will immediately suspend waste acceptance from a site if certain deficiencies are identified as result of an audit, and waste shipments will not resume from the site until these deficiencies are resolved to NMED's satisfaction.

The Permittees will provide NMED with direct access to the WWIS, which contains extensive waste characterization data supplied by the generator/storage sites to the WPP facility. This access will allow NMED to evaluate all information and data related to the characterization, certification, shipment, and disposal of waste to WPP.

The Permit establishes specific waste acceptance criteria (WAC) for WPP. Some of the items prohibited for storage, management, or disposal at WPP include liquids, non-mixed hazardous wastes, ignitable, corrosive, or reactive wastes, and RH TRU mixed waste.

Finally, Module II of the Permit requires WID to demonstrate financial assurance for facility closure and post-closure. While DOE is exempt from financial assurance requirements due to its status as a Federal agency, WID as an operator and a private contractor is not exempt. The Permit includes the Permittees' estimate of costs to close the facility and provide for required post-closure care.

Module III

Module III of the Permit provides conditions for the design and operation of the WHB Unit and the Parking Area Unit. Several of the permit conditions may be of particular interest to the public. Storage time limits are imposed for

both units. Sealed TRUPACT-II shipping containers are prohibited from storage for longer than fifty-nine (59) days after the inner containment vessel of the TRUPACT-II was sealed at the generator/storage site, due to Nuclear Regulatory Commission restrictions. Sealed TRUPACT-II shipping containers provide secondary containment for storage in the Parking Area Unit, while placement of waste containers on facility pallets and an impermeable coating on the floor of the WHB provide secondary containment in the WHB Unit.

Module IV

Module IV provides permit conditions for the design and operation of the Underground HWDUs (panels) within the subsurface. Disposal is authorized in three panels, while excavation is conditionally authorized for three additional panels during the term of the Permit. The Permit limits the average concentration of VOCs in any single room to specific levels, which are determined by VOC confirmatory monitoring and data contained in the WWIS. Besides imposing notification requirements for VOC exceedances, the Permit requires the Permittees to cease disposal operations in a room and install ventilation barriers if the annual average concentration for a VOC exceeds the specified limit. Likewise, if the annual average concentration for a VOC exceed the specified limit for six consecutive months, the Permittees will close the affected Underground HWDU.

The Permit also specifies operational requirements, such as the use of magnesium oxide backfill, minimum mine exhaust and active room ventilation rates, a ground control program to address repository maintenance requirements, and a geomechanical monitoring program to observe the creep and failure properties of the Salado in the Underground HWDUs. Finally, Module IV of the Permit specifies the standards for panel closure, repository closure, and repository post-closure care.

Module V

Module V requires the Permittees to implement a detection monitoring program (DMP) for ground water during the term of the Permit. Seven (7) detection monitoring wells (DMWs) will be sampled semiannually for sixty (60) parameters and constituents to detect statistically significant evidence of contamination in the Culebra Member of the Rustler Formation and the Dewey Lake Formation, both overlying the Underground HWDUs. Unlike the more common configuration of a landfill near the surface which may potentially contaminate the uppermost aquifer underlying the landfill by leaching, the most likely pathway for contaminant release from an Underground HWDU is upward following panel closure or final repository closure. If contamination is detected, the Permittees must notify NMED, immediately determine the concentrations of all constituents specified in 40 CFR §264 Appendix IX, and may be required to submit an

application for a Permit modification to establish a compliance monitoring program.

Module VI

Module VI addresses requirements for post-closure care. The post-closure care plan is implemented upon closure of the first Underground HWDU and continues until thirty (30) years after certification of final repository closure. Post-closure care includes requirements for routine inspection and maintenance of panel closure systems, and underground air monitoring. Active institutional controls implemented after final repository closure include fencing and warning signs, inspections, maintenance, continued monitoring of ground water, and control and cleanup of any releases.

Module VII

Module VII implements the corrective action requirements imposed by the NMHWA for releases of hazardous wastes and constituents from SWMUs. Conditions include requirements for waste minimization, land disposal restrictions, and corrective action to investigate possible releases from SWMUs.

SWMUs are waste units that contain hazardous waste constituents, such as barium, chromium, lead, thallium, etc. The facility must determine the full nature, rate, and extent of contamination for each SWMU identified in the Permit. Some SWMUs may require cleanup and/or remediation. In addition, the Permit requires the Permittees to notify NMED of newly identified SWMUs and newly identified releases from SWMUs at WIPP. Further information regarding NMED's decision to include or exclude specific SWMUs from Module VII are in the Technical Support Document which accompanies the draft Permit.

Availability of the Draft Permit

The administrative record for this proposed action consists of this fact sheet, a legal notice, the Permit application, a Technical Support Document for Corrective Action, and related correspondence and documents. The draft Permit and administrative record may be reviewed during normal business hours at:

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The text of the draft Permit is also available for downloading on the NMED Web Page at <http://www.nmenv.state.nm.us/wipp/>. An electronic version in WordPerfect 5.2 format for viewing on a personal computer is also available from NMED (specify Macintosh or PC format). Send one (1) HD floppy disk and a return mailer with sufficient postage to:

Mr. Steve Zappe
Hazardous and Radioactive Materials Bureau
2044-A Galisteo Street
Santa Fe, New Mexico 87505

Comment Period and Regulatory Contact

Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
P.O. Box 26110
Santa Fe, New Mexico 87502
Attention: Dr. Robert S. (Stu) Dinwiddie
(505) 827-1561

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Permit Decision:

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