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September 14, 2022

Reinhard Knerr, Manager
Department of Energy - Carlsbad Field Office
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Sean Dunagan, President and Project Manager
Nuclear Waste Partnership, LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-2078

**Re: Request for Information Concerning Recent Shipments
Waste Isolation Pilot Plant
EPA I.D. Number NM4890139088**

Dear Messrs. Knerr and Dunagan,

Pursuant to Section 74-4-4.3.A of the New Mexico Hazardous Waste Act (HWA), NMSA 1978, section 74-4-1 et seq. and the Waste Isolation Pilot Plant (WIPP) Hazardous Waste Facility Permit (Permit) Part 1, Section 1.7.8, the New Mexico Environment Department (NMED) hereby requests that the U.S. Department of Energy and Nuclear Waste Partnership (together the Permittees) provide NMED the below listed information concerning recent shipments to the WIPP facility.

Section 74-4-4.3.A of the HWA provides that "[f]or the purposes of developing or assisting in the development of any rules, conducting any study, taking any corrective action or enforcing the provisions of the Hazardous Waste Act, upon request of the secretary or his authorized representative, any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall furnish information relating to such hazardous wastes ... " Permit Part 1, Section 1.7.8. Duty to Provide Information, provides that "The Permittees shall furnish to the Secretary, within a reasonable time frame as specified by the Secretary, any relevant information which the Secretary may request to determine whether cause exists for modifying, suspending, or revoking this Permit, or to determine compliance with this Permit. The Permittees shall also furnish to the Secretary, upon request, copies of records required to be kept by this Permit. Information and records requested by the Secretary pursuant to this condition shall be provided in a paper or an electronic format acceptable to the Secretary. [20.4.1.500 and .900 NMAC (incorporating 40 CFR §§264.74(a) and 270.30(h)).]"

So far in calendar year 2022, WIPP has had three separate incidents involving waste shipments from the Idaho National Laboratory (INL) and one shipment from the Los Alamos National Laboratory (LANL).

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Hazardous Waste Bureau - 2905 Rodeo Park Drive East, Building 1 Santa Fe, New Mexico 87505-6313
Telephone (505) 476-6000 - www.env.nm.gov

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A brief summary of the incidents and TRUPacts involved follows:

- April 9, INL TRUPact-148, RCRA Contingency Plan was implemented and NMED was notified;
- August 2, INL TRUPact-180, RCRA Contingency Plan was not implemented, NMED was notified on August 16;
- August 9, LANL TRUPact-206, RCRA Contingency Plan was implemented and NMED was notified;
- August 23, TRUPact-186, RCRA Contingency Plan was implemented and NMED was notified.

To effectively protect human health and the environment, NMED needs to better understand the situation and details surrounding these incidents. Therefore, NMED requests the following information be summarized in one submittal:

1. For each of the above three shipments from Idaho, please provide the date of receipt, date incident took place, summary of the actions that followed, and the waste stream identification number.
2. Please provide the root cause analysis conducted for each of the above incidents. If the analysis is not yet complete, please provide the current status and estimated time for completion. If no root cause analysis was conducted, please indicate the reason.
3. Please provide the status and location of the individual INL waste containers that were shipped in TRUPacts 148, 180, 186.
4. Please summarize any lessons learned or changes to established procedures that have taken place or are planned to prevent recurrent issues.
5. Please specify the reason for not implementing the RCRA Contingency Plan for the incident involving TRUPact-180 on August 2, 2022.
6. On September 6, 2022, NMED received a media alert via email from the Exchange Monitor with the headline "Contaminated container identified during WIPP maintenance". The alert went on to state: "Discovery of radioactive contamination on a transuranic waste transportation container in August prompted the Department of Energy to pause certain work at the Waste Isolation Pilot Plant near Carlsbad, N.M., a spokesperson said Friday." To better understand the facts, NMED is requesting information on this incident to determine whether this incident is related to the previously mentioned incidents.

Pursuant to the New Mexico Hazardous Waste Act, New Mexico Statutes Annotated 1978, §74-4-13, in accordance with the New Mexico Hazardous Waste Management Regulations, 20.4.1 New Mexico Administrative Code as cited in Permit Part 1, Section 1.1, NMED is directing the Permittees to not receive waste shipments from INL until a response is received by NMED. NMED requests a response within 30 days of this letter, by October 14, 2022.

Per Permit Part 1, Section 1.9 and as specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.11), the Permittees, together as responsible parties, must sign and certify all responses submitted to NMED affirming the responses contain true, accurate, and complete information.

Messrs. Knerr and Dunagan
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If you have any questions regarding this correspondence, please contact Ricardo Maestas of the Hazardous Waste Bureau at (505) 690-6148.

Sincerely,

Rick Shean

Digitally signed by Rick Shean
Date: 2022.09.14 15:54:47
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Rick Shean
Chief
Hazardous Waste Bureau

cc: J. Kenney, NMED OOTS
C. Catechis, NMED RPD
R. Maestas, NMED HWB
D. Biswell, NMED HWB
M. McLean, NMED HWB
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File: WIPP '22