



Department of Energy
Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

May 20, 1997

VIA TELECOPY AND REGULAR MAIL

Susan McMichael
Assistant General Counsel
New Mexico Environment Department
P.O. Box 26110
Santa Fe, New Mexico 87501-6110

Re: April 28, 1997 Letter Regarding Permit Issuance Schedule

Dear Ms. McMichael:

Thank you for your April 28, 1997 letter regarding Minimum Procedural Requirements and Outstanding Technical Information Requests. We certainly look forward to the public notice of the draft amendments to the permitting regulations (20 NMAC 1.4) and an opportunity to participate in the finalization of those regulations. In addition, we are pleased with your observation that the proposed amendments will not impact the timeliness of final agency action on the WIPP permit.

With respect to the anticipated procedural steps associated with the public hearing process for the issuance of the WIPP RCRA Part B Permit, we appreciate your summary of our informal discussions on March 21, 1997. As I recall the meeting, we discussed some of the procedural steps and associated time periods contemplated in NMED's draft amendments to the Department's permitting procedures (20 NMAC 1.4), and then considered possible time periods in connection with the WIPP permit.

Based on our preliminary discussions regarding the general nature of the draft regulations, we then estimated that the time period between issuance of the WIPP draft permit and final agency action could possibly take between 373 and 450 days. We never agreed that this estimate is an appropriate time frame. Furthermore, we did not agree that the time period between issuance of a draft permit and final agency action is approximately 400 days. In fact, we remain optimistic that the period between the draft permit and final agency action will be substantially less than 400 days, while guaranteeing ample time for preparation and



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full public participation. DOE and Westinghouse are dedicating all available resources towards the timely opening of WTTP in May 1998.

In your letter, you also refer to several outstanding or anticipated requests for technical information which we have addressed below.

1. Groundwater Monitoring Plan.

As you state, DOE and Westinghouse are waiting for NMED's additional requests for clarification on the groundwater monitoring plan submitted to NMED on March 20, 1997.

2. SWMUs.

On May 2, 1997, DOE and Westinghouse submitted a response to NMED's letter dated April 12, 1997, requesting additional technical information on SWMUs.

3. 1996 Land Withdrawal Act Amendments.

We have received Mr. Garcia's letter dated April 29, 1997 requesting additional information in connection with 20 NMAC 4.1 Subpart V § 264.601. We submitted a response to the letter on May 12, 1997 and pursuant to our meeting on Friday, May 16, 1997, will respond accordingly within the next few days.

4. Unidentified Additional Information.

We submitted (via hand carry) at the May 16, 1997, meeting other information in the form of page changes to clarify, modify and/or supplement information currently available in the permit application on or before May 19, 1997.

We have noticed that your letter makes repeated references to our response time as the primary factor affecting the timeliness of issuing the draft permit. As you know, NMED issued its technical completeness letter on June 27, 1996. NMED made no requests for additional information until February 25, 1997, almost eight months after the completeness determination. We have worked diligently to respond promptly to each request from NMED which we have received in the last two months in connection with the permit application to avoid any unnecessary delay, and will continue to do so in the future. In turn, we expect that NMED will continue to dedicate the

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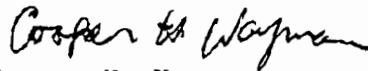
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appropriate resources necessary to complete a timely review of the permit application in accordance with NMSA 1978, § 74-4-4.2.c.

Sincerely,



Cooper H. Wayman
DOE Area Office Legal Counsel

cc: Gloria J. Barnes