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Steve  
To E...  
MARK E. WEIDLER  
SECRETARY

EDGAR T. THORNTON, III  
DEPUTY SECRETARY

VIA CERTIFIED MAIL

July 8, 1997

Mr. George Dials, Manager  
Carlsbad Area Office  
Department of Energy  
PO Box 3090  
Carlsbad, NM 88221

Mr. Joe Epstein  
General Manager  
Westinghouse Electric Corp.  
P.O. Box 2078  
Carlsbad, NM 88220



Dear Messrs. Dials and Epstein:

**RE: Revised RCRA Permit Fees for WIPP**

On September 21, 1994, the New Mexico Environment Department (NMED) sent you a letter requesting that the Department of Energy (DOE) submit RCRA permit fees based upon a "preliminary estimate" for processing the revised permit application for WIPP under the New Mexico Hazardous Waste Act. Since that letter, we have reevaluated the permit fee, and determined that the original estimate inadequately calculated permit fees associated with the legal and technical work associated with the RCRA permit. As you are aware, the WIPP permit is extremely complex and requires extensive time commitments for proper legal and technical review. The revised cost estimate takes into consideration the amount of time needed for two staff attorneys to undertake this review, as well as technical review work directly associated with the public hearing.

In addition, we have determined that it may be necessary to contract a hearing officer to conduct the public hearing and to submit a recommended decision to the Secretary. A decision to contract a hearing officer has been made due to the Department's resource constraints and the intensive time demands anticipated for the hearing on the WIPP permit. The original cost estimate for a hearing officer underestimated the costs associated with the hearing, and has been revised accordingly.



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Please advise me as to the acceptability of this proposal. We would like to collect this fee as soon as possible to enable the Department to continue the WIPP permitting process. If you need further information or wish to discuss this issue any further, please contact Benito Garcia of my staff at (505) 827-0127.

Sincerely,



Ed Kelley, Director  
Water & Waste Management Division

Enclosure(s)

cc: Susan McMichael

REVISED RCRA PERMIT FEE FOR WIPP

<u>POSITION</u>	<u>TASK</u>	<u>HOURLY RATE</u>	<u>TIME</u>	<u>COSTS</u>
1. Legal Counsel	Permit appl. review	65.0		
	Draft <sup>1</sup>		240 hrs	15,600
	Final <sup>2</sup>		640 hrs (320 x 2)	41,600
	Public Hearing <sup>3</sup>		80 hrs (40 x 2)	5,200
	Travel per diem <sup>4</sup>	65/day	8 days (4 x 2)	520 \$64,020
	Site visit		80 hrs.	5200
<b>TOTAL COST FOR ITEM NO.1</b>				<b>\$68,120</b>

<sup>1</sup>. The original time estimate for "draft" review was 320 hours. The revised estimate includes additional time of 240 hours for two attorneys.

<sup>2</sup>. The original time estimate for "final" review was 320 hours. This estimate included the time needed to review and respond to public comment regarding the draft permit, prepare for the public hearing, draft proposed findings of fact and conclusions of law, and propose a recommended final permit. The revised cost estimate reflects the time needed to complete these tasks.

<sup>3</sup>. The original time estimate for a public hearing was 120 hours (3 weeks). However, NMED believes that the estimated time for a public hearing is 30 to 45 days. The revised estimate is based upon a public hearing of 30 days and accounts for the time of two attorneys.

<sup>4</sup>. The original estimate was 16 days. The revised estimate accounts for a 30 day public hearing (20 working days).

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<u>POSITION</u>	<u>TASK</u>	<u>HOURLY RATE</u>	<u>TIME</u>	<u>COSTS</u>
2. Legal Assistant <sup>5</sup>	Final Permit	50.0 hr	480 hrs.	\$24,000
	Public Hearing		160 hrs.	8,000
	Travel per diem	65/day	20 days	1,300
	Car	130/trip	15 trips	1,950
	Site visit	80 hrs.		4,000
	<b>TOTAL ITEM NO. 2</b>			<b>\$39,250.00</b>
3. Hearing Officer <sup>6</sup>	Pre-Hearing Activities	Reg. \$100 hr.	40 hrs	4,000
	Travel per diem	65/day	4 days (20-16)	260
	Post-Hearing Recommended Decision		160 hrs. (20x8)	16,000
	<b>TOTAL ITEM NO. 3</b>			<b>\$20,260.00</b>

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<sup>5.</sup> The original estimate did not include a legal assistant position. The revised estimate includes the time for a legal assistant to perform duties associated with the draft and final permit and possible hearing.

<sup>6.</sup> The revised estimate includes time needed for pre-hearing and post-hearing work, including review of motions conferring with the Secretary, the parties' proposed findings of facts and conclusion of law, preparation of a final recommended decision and travel based upon a 30 day hearing.

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<u>POSITION</u>	<u>TASK</u>	<u>HOURLY RATE</u>	<u>TIME</u>	<u>COSTS</u>
4. Clerk <sup>7</sup>	Travel	65/day per diem	4 days	\$260
<b>TOTAL ITEM NO. 4</b>				<b>\$260</b>
5. Contractor Technical Support	Pre-Hearing work <sup>8</sup>	95.00	640 hrs. (40 days for 2 people)	\$60,800
	Travel		3 trips for 2 people approx. 10 days total & 6 overnight stays <sup>9</sup>	\$7,330
	Public Hearing	95.00	400 hrs. (20 days for 2.5 people)	38,000
	Travel		12 trips to Carlsbad from Denver, 2 trips from D.C. to Carlsbad w/ 20 overnight stays for 2.5 people <sup>10</sup>	\$21,100

<sup>7</sup>. The original estimate was 16 days. The revised estimate accounts for a 30 day public hearing.

<sup>8</sup>. Pre-hearing work includes preparation of technical testimony and review of technical comments.

<sup>9</sup>. Approximately \$5100 airfare, \$600 car, \$420 meals, \$1210 hotel.

<sup>10</sup>. Approximately \$12,600+\$3600=\$16200 air, \$1200 car, \$2500 hotel, \$1200 meals.

<u>POSITION</u>	<u>TASK</u>	<u>HOURLY</u>	<u>TIME</u>	<u>COSTS</u>
	Post-Hearing work <sup>11</sup>		160 hours (10 days x 2 people)	\$15,000
	Clerical	250/day	30 days	\$7,500
<b>SUBTOTAL ITEM NO. 5</b>				<b>149,730</b> <b>4,500</b>
<b>ESTIMATED ODC.:</b>				<b>154,230</b>
<b>ESTIMATED GRT:</b>				<b>9,170</b>
<b>TOTAL ITEM NO. 5</b>				<b>\$163,400</b>
 <b>SUPPORTING COSTS FOR RCRA PERMIT<sup>12</sup></b>				
	Maintenance/Repairs/Supplies			\$13,800
	Operating Costs			43,850
	Capital Outlay			12,000
<b>TOTAL ITEM NO. 6</b>				<b>\$69,650</b>
<b>TOTAL REVISED FEE</b>				<b>\$360,940</b>
	Less Capital Outlay			(12,000)
	Indirecto Cost Base			348,940
	Indirecto Costs @ 19.1%			66,646
	Add back Capital Outlay			12,000
<b>TOTAL REVISED WIPP PERMIT FEE</b>				<b>\$427,588</b>

<sup>11</sup>. Post-hearing work includes preparation of response to technical comments and post-hearing submittals.

<sup>12</sup>. See Attachment A. These costs have not been included in the hourly rate for the positions described above.