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MARK E. WEIDLER
SECRETARY

September 26, 1997

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

Mr. Joe Epstein, General Manger
Westinghouse Electric Corporation
P.O. Box 2078
Carlsbad, NM 88220

RE: Completeness Determination

Dear Messrs. Dials and Epstein:

As you know, the Hazardous and Radioactive Materials Bureau (HRMB) determined that the WIPP Part B permit application was complete on June 27, 1996. Since that date, however, the Department of Energy (DOE) and the Westinghouse Waste Isolation Division (WID) submitted to HRMB additional information in three separate revisions to the application: HRMB received a revised groundwater monitoring plan on March 21, 1997 (Permit Revision No. 6.2); HRMB received additional information and revisions to the application on May 16, 1997, June 13, 1997 and July 21, 1997 (Permit Revision No. 6.3); HRMB received additional information regarding the groundwater monitoring plan on July 21, 1997 (Permit Revision No. 6.4). In addition, on July 11, 1997, HRMB received financial disclosure information from WID as part of the application as required under the New Mexico Hazardous Waste Act.

This letter is to inform you that based upon HRMB's review of this new information and revisions to the application, it must rescind its prior completeness determination of ^{June} ~~July~~ 27, 1996. The New Mexico Hazardous Waste Management Regulations, 20 NMAC 4.1.1103 (incorporating 40 CFR 270.10(c)) provide that the Director "shall not issue a permit" before receiving a "complete application and supplemental information which are completed to his satisfaction." Further, 40 CFR 124.3(c) also provides that for "EPA-issued permits," after the application is completed, the [Regional Administrator] may request additional information from an applicant but only when necessary to "clarify, modify or supplement previously submitted material." 40 CFR 124.3(c).

As stated above, HRMB received substantial additional revisions and material from DOE/WID to its application. Some of these revisions were not supplied to HRMB at it's request (e.g. Permit Revision No.6.3); other revisions were new and not simply to "modify, clarify or supplement previously submitted materials." For example, the financial disclosure information received by

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HRMB in July of 1997 was required information to be submitted "at the same time the applicant files the *application*" under Section 74-4-4.7 of the HWA. WID did not previously submit this material with the application and therefore, it is clearly new information. This is also true for the groundwater monitoring plan (Appendix D18), which contains significant amounts of new information such as monitoring frequencies, analytical parameters and sampling documentation. HRMB cannot defend at a public hearing the submittal of this type of additional and new material on the ground requested by DOE/WID.

Further, HRMB would also like to clarify that its "completeness determination" is not the equivalent to a determination that any such information is technically adequate. The "completeness determination" relates solely to whether DOE/WID supplied NMED with all necessary information and data to satisfy the appropriate information requirements set forth in the HWA and regulations. The draft permit, on the other hand, will address technical adequacy. After HRMB receives from WID the requested information set forth in 20 NMAC 4.1.1103(incorporating 40 CFR 270.14(b)(15)(16)(17)), it will review all information and promptly inform DOE/WID whether the application is "complete" as required under 40 CFR 270.10(c).

If you have any questions, do not hesitate to call Susan McMichael at (505) 827-0127.

Sincerely,



Ed Kelley

cc: Benito Garcia
Susan McMichael
Cooper Wayman
Gloria Barnes