



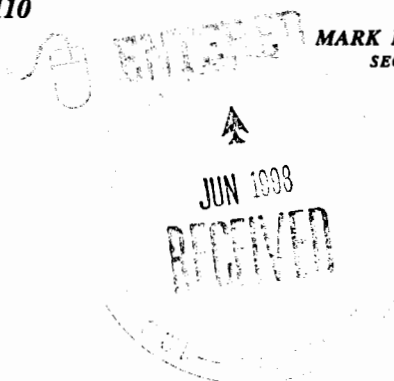
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I- my report to file Benito



MARK E. WEIDLER
SECRETARY



June 11, 1998

By Registered Mail,
Return Receipt Requested

The Honorable Federico Pena
Secretary of Energy
U.S. Department of Energy
Washington D.C. 20585

Mr. Joe Epstein
General Manager, Waste Isolation Division
Westinghouse Electric Company
PO Box 2078
Carlsbad, New Mexico 88220

Mr. Mike McFadden, Acting Manager
Carlsbad Area Office
Department of Energy
PO Box 3090
Carlsbad, New Mexico 88221

Dr. John Browne, Director
Los Alamos National Laboratory
PO Box 1663
MSK 490
Los Alamos, New Mexico 87545

Mr. Charles Tyler Przybylek, Acting Area Manager
US Department Of Energy
Los Alamos Area Office
Los Alamos, New Mexico 87544

Re: Notice of NMED Determination that LANL Waste Stream Has Been Inadequately Characterized

Dear Messrs. Pena, McFadden, Epstein, Brown and Przybylek:

On May 21, 1998, the New Mexico Environment Department (NMED) received notice from Secretary Pena that the Department of Energy (DOE) intends to dispose of transuranic waste



from the Los Alamos National Laboratory (LANL) to the Waste Isolation Pilot Plant (WIPP) prior to receipt of a State hazardous waste permit. On that same date, DOE provided NMED with characterization documentation regarding the proposed LANL waste stream for review as necessary for NMED to determine if this waste stream has been adequately characterized to contain no hazardous wastes in accordance of the requirements of the New Mexico Hazardous Waste Act (HWA). NMED staff has reviewed this characterization documentation and further, on May 28, 1998 and June 1, 1998 staff conducted inspections of the proposed LANL waste stream.

This letter is to inform you that NMED has determined that any disposal or storage of the LANL waste stream at WIPP would violate Section 74-4-10 of the HWA and the Resource Conservation and Recovery Act (RCRA). Based upon the information provided to this Department by DOE and NMED's inspection, NMED has determined that DOE failed to adequately characterize the LANL waste stream to demonstrate that this waste is not hazardous under the HWA and RCRA. The failure of DOE and Westinghouse, as owners and operators of WIPP, to obtain a State hazardous waste permit prior to disposal or storage of the proposed LANL waste stream at WIPP could subject you to a civil enforcement action, appropriate civil penalties and injunctive relief.

If you have any questions, please contact Benito Garcia at (505) 827-1558 or Susan M. McMichael at (505) 827-0127.

Sincerely,



Ed Kelley, Ph.D, Director
Water and Waste Management Division

cc: The Honorable Governor Johnson
The Honorable Senator Domenici
The Honorable Senator Bingaman
The Honorable Congressman Skeen
The Honorable Congressman Redmond
The Honorable Tom Udall, Attorney General, State of New Mexico
The Honorable Janet Reno, Attorney General of the United States,
U.S. Department of Justice
Carol Browner, Administrator, Environmental Protection Agency
Gregg Cooke, Regional Administrator, Environmental Protection Agency
Jennifer Salisbury, Secretary Of Energy, Mineral and Natural
Resources Department
Bruce Twining, Manager, Albuquerque Area Office
Benito Garcia, Bureau Chief, HRMB