

**Department of Energy**

Washington, DC 20585

June 19, 1998

Susan M. McMichael
Assistant General Counsel
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, New Mexico 87505

Dear Ms. McMichael:

The purpose of this letter is to confirm the agreement between the United States Department of Energy and the New Mexico Environment Department concerning the process by which NMED will review DOE's characterization of waste stream TA-55-43 at the Los Alamos National Laboratory that is destined for disposal at the Waste Isolation Pilot Plant at Carlsbad, New Mexico.

On June 17, DOE delivered to NMED, under cover of a letter from W. John Arthur, Assistant Manager of the DOE Albuquerque Operations Office, to Mr. Ed Kelley, Director of NMED's Water and Waste Management Division, additional information relating to the LANL's waste characterization process, as well as a description of the information previously provided on waste characterization, a list of key waste characterization documents, and a roadmap of the process for characterization and certification of the TA-55-43 waste stream. With that information, NMED has commenced its review of the additional waste characterization documentation on June 18 at LANL. DOE believes that the characterization documentation for purposes of RCRA and the Hazardous Waste Act is complete with one exception: DOE has only provided the certification statements for five waste boxes. It will provide certification statements for additional boxes as they are generated. Other than additional certification statements, DOE will not provide NMED any further documentation unless specifically requested. DOE understands that the submittal of further documentation, or the necessity of NMED to request further documentation, may result in NMED requiring additional time to reach a decision, as described below.

As NMED's review proceeds, DOE and LANL will be prepared, upon request from NMED, to provide explanatory or other back-up documentation for the information that has already been provided. DOE has also agreed to provide a demonstration in writing that the acceptable knowledge process for the TA-55-43 waste stream is equivalent to the conditions relating to the acceptable knowledge process in the draft permit NMED has issued. That demonstration will be provided to NMED within the next few days.

To facilitate NMED's review, DOE has agreed to provide NMED with office space at the LANL facility in which NMED staff can conduct confidential conversations. The office space will be equipped with a telephone, computer, printer, fax and other materials needed by



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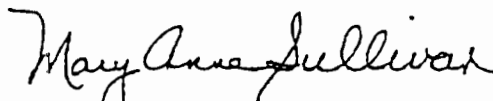
NMED staff to conduct its review. DOE and LANL staff will be available to NMED staff as needed to answer questions and otherwise facilitate NMED's review.

NMED expects that the review process will last approximately 10 working days and agrees that, on or before July 10, 1998, it will notify DOE whether, based upon the additional information it has received, it believes the waste stream in question has been adequately characterized as non-mixed waste. However, in the event NMED requests material additional documentation or DOE concludes, in response to questions posed by NMED, that additional documentation should be provided to assist NMED in its review and either party concludes that additional time is required to review that documentation, that party will promptly notify the other and the parties will agree on an extension of the July 10 date that is reasonably related to the time needed to review the additional documentation. DOE agrees that it will not issue a 14-day notice of its intent to ship waste to WIPP prior to July 10 or a later date agreed to by the parties, unless the DOE notice is expressly conditioned on DOE's receipt of a favorable determination from NMED. NMED will make a courtesy call to John Arthur advising him of NMED's determination prior to issuing its written determination.

If NMED concludes through the foregoing review process that DOE has adequately characterized waste stream TA-55-43 as non-mixed, DOE agrees that it will not use or cite any aspect of that determination as a basis for challenging any condition of the draft permit. DOE reserves the right to challenge any condition of the draft permit on any other basis.

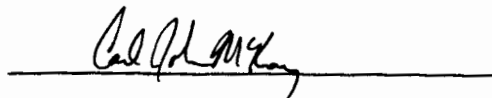
DOE appreciates NMED's willingness to work with DOE in the foregoing manner to ensure that all of NMED's questions concerning the waste characterization process at LANL can be fully answered. We look forward to a successful resolution of this review.

Sincerely,



Mary Anne Sullivan
Deputy General Counsel
Environment and Civilian and
Defense Nuclear Programs

AGREED:



Carl John McKay
Asst. General Counsel FOR

Susan McMichael
Asst. General Counsel
New Mexico Environment Department