



State of New Mexico
ENVIRONMENT DEPARTMENT

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GARY E. JOHNSON
GOVERNOR



PETER MAGGIORE
Secretary

December 30, 1998

Ms. Margeret Carde
Concerned Citizens for Nuclear Safety
107 Cienega
Santa Fe, NM 87501

RE: Response to November 23, 1998 letter.

Dear Ms. Carde:

The New Mexico Environment Department (NMED) has received the Concerned Citizens for Nuclear Safety's (CCNS) November 23, 1998 letter. Your November 23, 1998 letter raises two issues: the review and approval process for Waste Stream TA-55-43, Lot No. 1 and 'ex parte' communications.

As you are aware, NMED determined on December 2, 1998 that the Department of Energy adequately demonstrated that Waste Stream TA-55-43, Lot No. 01 contains no hazardous waste. The approval letter is enclosed for your information. The approval is limited to Lot No. 01 and is not applicable to the entire Waste Stream. NMED is confident that our final decision approving the results of the confirmatory SAP is technically supportable.

With regard to 'ex parte' communications, meetings between the Department of Energy and this Department are not 'ex parte' communications because they do not involve the decision-maker for the permitting process. See, e.g., 40 CFR §124.78(a)(3). NMED has met with many interested parties on the permitting process and on the SAP for Waste Stream Ta-55-43, Lot No. 01, including CCNS, and does not consider any of these meetings to be 'ex parte' communications.

If you have any questions or concerns, please do not hesitate to call me at (505)827-0127 or John McKay at (505)827-2985.

Sincerely,

Susan McMichael
WIPP Lead Counsel

cc: Steve Zappe, HRMB

