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PETER MAGGIORE
Secretary

VIA FACSIMILE: (202) 586-4403

March 25, 1999

The Honorable Bill Richardson
Secretary of Energy
U.S. Department of Energy
Washington D.C. 20585

Dear Secretary Richardson:

The New Mexico Environment Department (NMED) has been informed that the U.S. Department of Energy (DOE) intends to ship TRU debris waste from the Idaho National Environmental and Engineering Laboratory (INEEL) and the Rocky Flats Environmental Technology Site (RFETS) to the Waste Isolation Pilot Plant (WIPP) within the next eight (8) weeks. As you know, the New Mexico Hazardous Waste Act (HWA), NMSA 1978 Sections 74-1-8, et seq., and the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Sections 6901, et seq., require the characterization of waste prior to transport, storage, or disposal to determine whether the waste contains hazardous constituents and meets applicable regulatory criteria. We urge the DOE to immediately provide documentation demonstrating the non-hazardous nature of the TRU debris waste at INEEL and RFETS. Depending on the waste stream, such documentation should include, as appropriate, acceptable knowledge and a confirmatory sampling and analysis plan, such as the NMED required for LANL Waste Stream TA 55-43-01. Prior storage or disposal at WIPP would constitute a violation of state and federal law, and subject the DOE (and Westinghouse) to enforcement action, including injunctive relief and civil penalties.

Disposal of TRU debris waste from INEEL and RFETS could affect the substance and timetable for issuance of the final HWA/RCRA permit. The NMED expressed these concerns at the public



hearing for the HWA/RCRA permit. The NMED assumes that you are aware that the proposed disposal of TRU debris waste from INEEL and RFETS in Panel 1 may preclude further use of that panel when the NMED issues a HWA/RCRA permit.

The HWA/RCRA permit is the only mechanism for comprehensive environmental regulatory protection during the WIPP operational period. DOE should not take any action which might jeopardize the efficacy of the HWA/RCRA permit.

The NMED urges the DOE to reconsider its decision to transport, store, and dispose TRU debris waste from INEEL and RFETS at WIPP prior to issuance of the HWA/RCRA permit. Alternatively, the NMED urges the DOE to immediately provide all information demonstrating the non-hazardous nature of this TRU debris waste and await the NMED's approval before shipping the waste.

Sincerely,

for Benito J. Garcia
Greg Lewis
Director, Water and Waste Management Division

cc: Governor Johnson
Attorney General Madrid
Secretary Salisbury, NMEMNRD
Senator Domenici
Senator Bingaman
Representative Skeen
Representative Udall
Representative Wilson
Keith Klein, CAO/DOE
Joseph Epstein, WID
Carol Browner, USEPA
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