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,

[Signature]

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
    Gregg Cooke, USEPA