NEW MEXICO ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau

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Governor

JOHN A. SANCHEZ
Lieutenant Governor

DAVE MARTIN
Secretary

RAJ SOLOMON, P.E.
Deputy Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 14, 2011

Edward Ziemianski, Acting Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Farok Sharif
Washington TRU Solutions LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

RE: NOTIFICATION OF CLASS 1 PERMIT MODIFICATION (EDITORIAL CORRECTIONS), LETTER DATED 7/11/11, REC'D 7/12/11
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088
HWB-WIPP-11-008

Dear Messrs. Ziemianski and Sharif:

On July 12, 2011, the New Mexico Environment Department (**NMED**) received a Notification of Class 1 Permit Modification from Department of Energy (**DOE**) Carlsbad Field Office (**CBFO**) and Washington TRU Solutions (**WTS**), collectively, the **Permittees**, for editorial changes to the Waste Isolation Pilot Plant (**WIPP**) hazardous waste permit. Item 3 of the permit modification request proposed the following change in Permit Attachment C4, Section C4-3e:

"...Sites shall assign the toxicity characteristic hazardous waste numbers consistent with RCRA requirements. If a toxicity characteristic ~~underlying~~ hazardous constituent is identified during AK, the potential assignment of a hazardous waste number must be evaluated and the results place in the AK record."

The term "underlying hazardous constituent" is specifically associated with Land Disposal Restriction (**LDR**) requirements presented in 40 CFR Part 268.40(e) that requires characteristic waste to meet the universal treatment standards in Section 286.48 for all underlying hazardous

constituents (**UHCs**) before waste is land disposed. The definition of UHC includes all constituents listed in Section 268.48.

However, Section 9(a)(1) of the WIPP Land Withdrawal Act specifically exempts waste designated for disposal at WIPP from the LDRs, as follows: "With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from treatment standards promulgated pursuant to section 3004(m) of the Solid Waste Disposal Act (42 U.S.C. 6924(m)) and shall not be subject to the land disposal prohibitions in section 3004(d), (e), (f), and (g) of the Solid Waste Disposal Act."

Therefore, NMED has determined that this PMR is a Class 1 Permit Modification, and therefore the modification was put into effect as requested by the Permittees under the conditions specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(a)(1)). NMED has incorporated this and other Class 1 modifications into the WIPP Permit.

If you have any questions regarding this matter, please contact me at (505) 476-6035 or Tim Hall at (505) 476-6049.

Sincerely,

John E. Kieling
Acting Bureau Chief
Hazardous Waste Bureau

JEK/th

cc: Tim Hall, NMED HWB
File: Red WIPP '11