



State of New Mexico
ENVIRONMENT DEPARTMENT



Office of the Secretary

SUSANA MARTINEZ
Governor

Harold Runnels Building
1190 Saint Francis Drive, PO Box 5469

BUTCH TONGATE
Cabinet Secretary

JOHN A. SANCHEZ
Lieutenant Governor

Santa Fe, NM 87502-5469
Telephone (505) 827-2855 Fax (505) 827-1628

J.C. BORRIGO
Deputy Secretary

www.env.nm.gov

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 16, 2017

Todd Shrader, Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Bruce C. Covert, Project Manager
Nuclear Waste Partnership, LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-2078

**RE: CERTIFICATION OF COMPLETION FOR SETTLEMENT AGREEMENT AND
STIPULATED FINAL ORDER NO. HWB-14-21
SUPPLEMENTAL ENVIRONMENTAL PROJECTS PARAGRAPH 33
WASTE ISOLATION PILOT PLANT
EPA I.D. NUMBER NM4890139088**

Dear Messrs. Shrader and Covert:

On January 22, 2016, Settlement Agreement and Stipulated Final Order ("Agreement") No. HWB-14-21 between the New Mexico Environment Department ("NMED"), the United States Department of Energy ("DOE"), and Nuclear Waste Partnership, LLC ("NWP") (collectively the "Respondents") became final and resolved Compliance Order No. HWB-14-21, issued to the Respondents on December 6, 2014. Section B, paragraphs 32 through 36 of the Agreement, contains required Supplemental Environmental Projects ("SEPs") which include the funding for, and timelines to complete, the following respectively:

- 1.) Paragraph 33, Waste Isolation Pilot Plant ("WIPP") designated route repairs;
- 2.) Paragraph 34; Triennial Reviews of environmental compliance and operations;
- 3.) Paragraph 35, enhanced training and capabilities for local emergency responders; and
- 4.) Paragraph 36, the construction of and equipment for an emergency operations center near the WIPP facility.

Paragraph 32 of the Agreement states in part:

“Upon completion of each SEP, Respondents shall submit a signed and sworn Certification of Completion, executed by their authorized representatives, including the pertinent attachments and data related to the final implementation of each SEP, to NMED for approval within thirty (30) calendar days after the completion of each SEP. Following completion of a SEP and submittal of a Certification of Completion, NMED will review and provide Respondents with written approval certifying satisfactory completion of each SEP, or alternatively, written correspondence identifying the specific reason(s) why the SEP or Certification of Completion is deficient. The Respondents shall have an opportunity to correct any deficiencies and/or supplement the Certification of Completion before resubmitting to NMED for approval.”

On September 27, 2017, NMED received the Certification of Completion with pertinent attachments and data related to the final implementation for the SEP in Paragraph 33 of the Agreement.

Paragraph 33 of the Agreement states the following:

DOE shall pay to the New Mexico Department of Transportation (“NMDOT”) \$34 million to fund necessary repairs to New Mexico roads used for the transportation of DOE shipments of transuranic waste to WIPP (“WIPP designated routes”), as specified at 18.20.9 NMAC, in the southeastern portion of New Mexico.

- a) Monies will be used first to repave/repair the WIPP North Access Road, an approximately 13-mile stretch of road between Highway 62-180 and the WIPP site.*
- b) After providing for improvements of the WIPP North Access Road, NMDOT will prioritize such WIPP-designated routes for improvements to maximize safety, pavement condition and available funding. NMDOT will provide a list of prioritized projects, including estimated total cost and schedule for completion to DOE prior to commencement of construction.*
- c) DOE and NMED agree that NMDOT will act as project manager and fiscal agent for all projects contemplated in this paragraph, including planning, designing and obtaining rights-of-way for each project and securing all environmental clearances and approvals as required for federally-funded highway projects.*
- d) DOE shall remit funds to NMDOT provided that NMDOT: strictly accounts for all invoices and disbursements for the projects funded pursuant to this paragraph; provides detailed reports within ninety days of the completion of each project;*

Messrs. Shrader and Covert
October 16, 2017
Page 3

maintains all records relative to the projects for a period of six (6) years; and, makes records reasonably available for inspection or audit by DOE at NMDOT offices in New Mexico.

e) DOE shall remit at least \$7.2 million of the funds in this paragraph to NMDOT by the end of federal fiscal year 2016; and shall remit the remainder of the funds to NMDOT by the end of federal fiscal year 2017. In no event shall DOE extend the time for providing all funding identified in paragraph 33 past the end of federal fiscal year 2017.

f) DOE shall complete all funding obligations contained in this paragraph by the end of federal fiscal year 2017 and submit a Certification of Completion following NMDOT's receipt of all the funds.

NMED has reviewed the submitted information, and has confirmed receipt of the money with the NMDOT, and hereby notifies the Respondents that the SEP in paragraph 33 of the Agreement has been satisfactorily completed. If you have any questions regarding this matter, please contact Ricardo Maestas, at (505) 476-6050, or John Kieling, at (505) 476-6035.

Sincerely,



J.C. Borrego
Deputy Secretary
NM Environment Department

cc: J. Hower, NMED General Counsel
J. Kieling, NMED HWB
R. Maestas, NMED HWB
D. Biswell, NMED HWB
S. Lucas-Kamat, NMED DOEOB
L. King, EPA Region 6
T. Peake, EPA ORIA
Reading and File: WIPP 2017