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BUTCH TONGATE
Cabinet Secretary - Designate

J. C. BORREGO
Deputy Secretary

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

February 3, 2017

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

Philip J. Breidenbach, Project Manager
Nuclear Waste Partnership, LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-2078

**RE: TRIENNIAL REVIEW SCOPE OF WORK AND GUIDELINES
SETTLEMENT AGREEMENT AND STIPULATED FINAL ORDER NO. HWB-14-21
SUPPLEMENTAL ENVIRONMENTAL PROJECTS PARAGRAPH 34(A)
WASTE ISOLATION PILOT PLANT
EPA I.D. # NM4890139088**

Dear Messrs. Shrader and Breidenbach:

The New Mexico Environment Department (“NMED”) has received the United States Department of Energy (“DOE”) and Nuclear Waste Partnership, LLC (“NWP”) (collectively the “Respondents”) *Triennial Review Scope of Work and Guidelines for Settlement Agreement and Stipulated Final Order HWB-14-21 Supplemental Environmental Projects Paragraph 34(a)*, dated January 20, 2017. The Scope of Work and Guidelines were developed pursuant to Paragraph 34(a) of the Settlement Agreement and Stipulated Final Order (“Agreement”) signed by NMED and the Respondents on January 22, 2016 to resolve NMED Compliance Order HWB-14-21 issued to the Respondents on December 6, 2014.

Paragraph 34 of the Agreement states: *“DOE will fund independent, external triennial reviews of environmental regulatory compliance and operations at WIPP to ensure that any regulatory deficiencies are identified. Each member of the triennial review team shall meet all applicable WIPP facility security, access, environmental, safety, and health protocols and training requirements associated with access to the WIPP site and WIPP records. The results of the triennial reviews shall be made available to the Respondents, NMED and the public. The Respondents, their constituent agencies, contractors and affiliates agree to address any potential regulatory violations, or operational deficiencies, that could lead to potential environmental*

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regulatory violations, identified in the triennial reviews. NMED agrees to refrain from taking any enforcement action against the Respondents, their constituent agencies, contractors and affiliates for any potential regulatory violations, or operational deficiencies, that could lead to potential environmental regulatory violations, identified in the triennial reviews so long as the Respondents and their facility operators correct any deficiencies identified in the course of such reviews within sixty (60) calendar days of the finalization of each triennial review report, or for good cause shown, within another period of time beyond sixty (60) calendar days, if approved by NMED. DOE and NMED shall agree on a mechanism to procure and select a third party to perform the independent triennial reviews."

Paragraph 34(a) of the Agreement states: *"DOE shall submit to NMED a proposed WIPP Triennial Review Scope of Work and Guidelines, within one (1) calendar year of the effective date of this Settlement Agreement for comment and final approval by NMED. Should DOE amend any provision contained in an approved WIPP Triennial Review Scope of Work and Guidelines prior to any subsequent triennial review, DOE shall resubmit the amended WIPP Triennial Review Scope of Work and Guidelines to NMED for approval."*

The Scope of Work and Guidelines was developed through a project core team that included designees from NMED, DOE, and NWP, and describes the purpose, requirements, schedule, selection, activities and guidelines of the review. The Scope of Work and Guidelines also includes examples of the Review Plan, Review Checklist, and Documentation of Findings.

NMED has reviewed and hereby Approves the WIPP Triennial Scope of Work and Guidelines. NMED may attend all future triennial reviews, including but not limited to status meetings, close-out meeting, or other activities during a triennial review. Prior notification (to support logistics, planning, etc.) will be provided to the Respondents by NMED to support this activity. Should you have any questions regarding this matter, please contact Ricardo Maestas, at (505) 476-6050.

Sincerely,



John E. Kielling
Chief

Hazardous Waste Bureau

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