

**STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT**

IN THE MATTER OF:

UNITED STATES DEPARTMENT)	ADMINISTRATIVE ORDER
OF ENERGY AND NUCLEAR)	UNDER THE NEW MEXICO
WASTE PARTNERSHIP LLC)	HAZARDOUS WASTE
)	ACT § 74-4-13
)	
WASTE ISOLATION PILOT PLANT)	
EDDY COUNTY, NEW MEXICO)	

ADMINISTRATIVE ORDER

Pursuant to NMSA 1978, Section 74-4-13(A) of the Hazardous Waste Act (“HWA”), the New Mexico Environment Department (“Department”) hereby orders the Department of Energy, (“DOE”), and Nuclear Waste Partnership LLC (“NWP”), (collectively, “Permittees”) to comply with the terms and conditions of this Order relating to the Waste Isolation Pilot Plant (“WIPP” or “Facility”).

BACKGROUND

1. Pursuant to the Department of Environment Act, NMSA 1978, Sections 9-7A-1 to -15, the Department is an agency of the executive branch within the government of the State of New Mexico.
2. The Department, through the Hazardous Waste Bureau of the Environmental Health Division, is charged with administration and enforcement of the HWA and the Hazardous Waste Management Regulations (“HWMR”).

3. Permittees comprise a "person" within the meaning of section 74-9-3(I) of the HWA.
4. The Department of Energy and Nuclear Waste Partnership LLC, are co-Permittees for a Treatment, Disposal, and Storage Facility ("TDSF") permit, EPA I.D. NUMBER NM4890139088-TSDF ("Permit").
5. Permittees are engaged in the storage and disposal of defense transuranic ("TRU") mixed waste. The hazardous waste portion is subject to the federal Resource Conservation and Recovery Act ("RCRA"). The U.S. Environmental Protection Agency (EPA) has granted the State of New Mexico delegated authority to implement RCRA regulations. The HWMR at 20.4.1 NMAC incorporates portions of 40 CFR 260 through 40 CFR 270, 40 CFR 279 and related federal regulations by reference.
6. The DOE is a federal agency; NWP is a for-profit corporation.
7. On February 5, 2014, the Permittees reported a vehicle fire in the WIPP underground. The underground was temporarily closed for normal operations and waste shipments from generator sites were suspended.
8. On February 15, 2014, the Department was informed by the Permittees of a radiological incident that occurred within the underground repository at approximately 11:30 PM on February 14, 2014. The facility was still in stand down due to the February 5, 2014 fire during that time.
9. On February 19, 2014, the Department became aware that an off-site particulate air sample collected and analyzed by the Carlsbad Environmental Monitoring and Research Center ("CEMRC") indicated that there had been an airborne release of radioactive material.
10. It is believed by both the Department and the Permittees that the WIPP will be unable to resume normal activities for a protracted period of time.

11. This Order addresses a Schedule of Compliance for Permit-required actions involving, but not limited to, all above-ground Facility Permit requirements and related inspections, monitoring, recordkeeping, and reporting. The requirements of this Order shall ensure continued protection of human health and the environment.

ORDER

12. It is hereby ORDERED that to ensure continued protection of human health and the environment, the Permittees shall adhere to the following mandates:

- (a) The Permittees shall not accept shipments of any off-site generated waste until normal operating status of the Facility is resumed;
- (b) The requirement in Permit Attachment A1, Section A1-1e(2), Bullet Item 3, requiring Contact-Handled (“CH”) Packages to be moved from the Parking Area Container Storage Unit (“Parking Area Unit”) into the Waste Handling Building Unit (“WHB”) for unloading and storage on or before day 30 (after receipt at the WIPP) shall be extended to coincide with the Nuclear Regulatory Commission (“NRC”) venting date for waste currently in the Parking Area Unit. This extension of the 30 day requirement will make the 60-day venting period, required by the NRC, the prevailing requirement as described in Permit Attachment A1, Section A1-1e(2);
- (c) The 60-day storage time limit for CH TRU mixed waste in the WHB, Permit Part 3, Section 3.1.1.7., shall be extended an additional 45 days to 105 days;
- (d) The Permittees may implement Surge Storage in the WHB without having the Parking Area Unit filled, as required by Permit Attachment A1, Section A1-1c(1);

- (e) For this Order, Table 3.1.1 Maximum Capacities for the CH Bay Storage Area shall be based on the volume limit values and not the Container Equivalent value;
 - (f) The Permittees may use the remote handled (“RH”) Bay for the storage of derived waste from the recovery and cleanup activities associated with the events of February 5, 2014 and February 14, 2014. The Permittees may only accumulate up to 200 cubic meters of derived waste in the RH Bay. Waste shall be managed in accordance with the large quantity generator requirements identified in 40 CFR 262.34;
 - (g) If normal operations are not resumed by the end of the 105 days specified in 12(c), items (e) and (f) may continue until normal operations resume.
13. All Permit-required above ground inspections shall continue and all other applicable container storage requirements shall remain in effect.
14. No later than 15 days after the issuance of this Order, Permittees shall commence the submittal of a weekly report that includes and describes the following sub-sections. After the first submission, subsequent reports shall identify new information only.
- (a) All Permit-related inspection and monitoring actions taken by the Permittees since February 5, 2014;
 - (b) Actions taken with regard to TRU waste shipments that were en-route to the Facility at the time of the February 5, 2014 salt truck engine fire;
 - (c) A summary of waste shipping information and any other relevant records that document the site of origin, volumes and receipt dates of TRU waste that is currently located at the Facility WHB and Parking Area Unit;

- (d) Information specifying the deadlines for each individual waste assembly as it relates to this Order;
- (e) Records of inspection and maintenance of the ventilation and filtration systems of the Facility WHB after the February 5, 2014 salt truck engine fire and the radiological event of February 14, 2014;
- (f) Location of any environmental monitoring equipment, including identification of whether they are stationary, mobile, or permanent. This includes, but is not limited to, Volatile Organic Compound (VOC) monitoring stations, radiological monitoring stations, meteorological monitoring, surface water monitoring, vegetation sampling. The report shall include dates of deployment and sampling, and all data that has been produced by these monitoring stations since February 5, 2014;
- (g) The status of surface ventilation fans and timeline of operation since January 1, 2014;
- (h) Exhaust Filter Building HEPA filter differential pressure data beginning February 14, 2014; and
- (i) Derived waste origin and volume (total and per container), container type, specific locations (i.e. where it is being stored) and if mixed or non-mixed.

15. If the TRU mixed waste stored in the WHB cannot be placed in the WIPP underground by the expiration of the deadlines provided in paragraph 12(c), the Permittees shall submit a written proposal to the Department outlining alternative storage options ten days prior to the expiration of such deadlines. The written proposal shall address the following factors: potential

impact on human health and the environment; and, cost effectiveness. These factors are not exclusive, and the written proposal may include additional information about alternative storage options.

16. All terms and conditions of the Permit shall stay in effect unless specifically superseded by this Order.

17. Under no circumstances will the Permittees commence normal operating status without prior inspection and approval of the Department.

18. Upon approval of the Department to return the Facility to normal operating status the provisions of this Order shall cease.

19. The Permittees shall submit all requested information including the weekly report sent to the Department to the following addresses:

Bureau Chief
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87508-6303

and

Division Director
Environmental Health Division
Harold Runnels Building
1190 Saint Francis Drive, PO Box 5469
Santa Fe, New Mexico 87502-5469

It is so ORDERED.

for *Butch Jorgate* *2/27/14*
RYAN FLYNN DATE
SECRETARY OF ENVIRONMENT

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of February, 2014, a copy of the foregoing

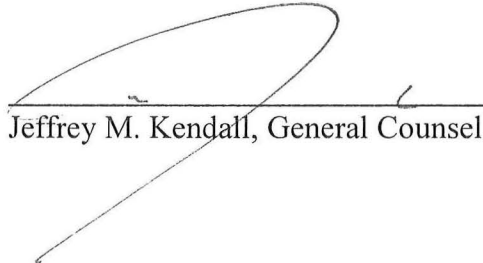
Administrative Order was mailed via certified mail return receipt requested to:

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

M. Farok Sharif, Project Manager
Nuclear Waste Partnership LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-2078

George W. Hellstrom, Legal Counsel
U.S. Department of Energy
Carlsbad Field Office
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Dennis N. Cook, General Counsel
Nuclear Waste Partnership LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-2078



Jeffrey M. Kendall, General Counsel