



State of New Mexico
ENVIRONMENT DEPARTMENT



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August 24, 2018

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

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

**RE: RETRACTION OF NOTICE OF VIOLATION
WASTE ISOLATION PILOT PLANT
EPA ID# NM4890139088**

Dear Messrs. Shrader and Covert:

In a letter dated August 1, 2018, our Hazardous Waste Bureau notified you of a "Notice of Violation and Resolution." The letter explained that during an inspection conducted on May 1, 2018:

"NMED observed the following violation:

- Failure to maintain records of the job title for each position at the facility related to hazardous waste management and the name of the employee filling each job, which is a violation of PC 2.8.3, incorporating 40 CFR § 264.16(d)(1). This record was not available for NMED to review at the time of inspection."

It has come to my attention that the issue cited above was noted during the 2018 triennial review, which was underway prior to our inspection. Paragraph 34 of the Settlement Agreement and Stipulated Final Order (No. HWB-14-21 (CO)) states in part:

- “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... .”

While we have not yet formally received the 2018 Triennial Review Report, it does not go towards the purpose and spirit of the Settlement Agreement and Stipulated Final Order to issue an NOV for a violation that was noted and remedied based upon the Triennial Review results at the same time the inspection was occurring. Because the issue was corrected in a timely manner, and based on the provisions of the Settlement Agreement, I hereby retract the August 1, 2018, Notice of Violation and Resolution. For future triennial review cycles, NMED commits to ensure that any routine NMED inspections at the WIPP site will be conducted at times that comport with the intent of the Settlement Agreement.

Sincerely,



Butch Tongate
Secretary, New Mexico Environment Department

Cc: J.C. Borrego, Deputy Secretary, NMED
Jennifer Hower, General Counsel, NMED
John Kieling, Chief, NMED Hazardous Waste Bureau (HWB)
Janine Kraemer, HWB, NMED
Ricardo Maestas, HWB, NMED