



Department of Energy
Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221
December 14, 2018

Mr. John E. Kieling, Chief
Hazardous Waste Bureau
New Mexico Environment Department
2905 Rodeo Park Drive East, Building 1
Santa Fe, NM 87508-6303

Subject: Request for Closeout of Administrative Order 2 and Administrative Order 3,
Waste Isolation Pilot Plant, EPA I.D. Number NM4890139088

- References:**
- 1) New Mexico Environment Department correspondence from Ryan Flynn, Secretary of Environment, Administrative Order under the New Mexico Hazardous Waste Act § 74-4-13, Waste Isolation Pilot Plant, Hazardous Waste Facility Permit Number: NM4890139088-TSDF, dated May 12, 2014
 - 2) New Mexico Environment Department correspondence from Ryan Flynn, Secretary of Environment, Administrative Order under the New Mexico Hazardous Waste Act § 74-4-13, Waste Isolation Pilot Plant, Hazardous Waste Facility Permit Number: NM4890139088-TSDF, dated May 20, 2014
 - 3) New Mexico Environment Department correspondence from Kathryn Roberts, Director, Resource Protection Division, to Todd A. Shrader, CBFO and Philip J. Breidenbach, NWP, subject: NMED Inspection, Waste Isolation Pilot Plant, EPA I.D. Number NM4890139088, dated December 16, 2016
 - 4) Permittees' Letter from Todd Shrader, U.S. Department of Energy Carlsbad Field Office, and Philip J. Breidenbach, Nuclear Waste Partnership LLC, to John E. Kieling, Bureau Chief, Hazardous Waste Bureau, subject: Withdrawal of Temporary Authorization Request, dated February 13, 2017
 - 5) New Mexico Environment Department correspondence from Ryan Flynn, Secretary of Environment, to Jose R. Franco, CBFO and Robert L. McQuinn, NWP, subject: WIPP Nitrate Salt Bearing Waste Container Isolation Plan, Revision 1, Waste Isolation Pilot Plant, EPA I.D. Number NM4890139088, dated March 20, 2015
 - 6) New Mexico Environment Department correspondence from Butch Tongate, Secretary of Environment, to Todd Shrader, CBFO and Bruce C. Covert, NWP, subject: Final Determination, Class 3 Permit Modification Decision, Waste Isolation Pilot Plant, EPA I.D. Number NM 4890139088, dated September 7, 2018

Dear Mr. Kieling:

The purpose of this letter is to request the closeout of Administrative Order (AO2) (Reference 1) and AO3 (Reference 2). The Permittees have completed the requirements of these AOs and

therefore are requesting to close AO2 and AO3. This is pursuant to the direction given in the NMED correspondence dated December 16, 2016 (Reference 3).

Regarding closure of these AOs, provisions in the NMED December 16, 2016 letter stated (emphasis added):

*4. The provisions of AO2, and all associated reporting requirements, shall remain in effect until such time that NMED has approved the November 10, 2016 Request for Temporary Authorization (TA) (or as updated, if appropriate). This paragraph hereby amends AO2 and supersedes paragraphs 25 and 27 of AO2. **NMED will address the closeout of AO2 under separate correspondence when appropriate to do so.** The monitoring of trichloroethylene (TCE) also found in paragraph 25 of AO2 was included in the Permit through a January 2016 Permit modification.*

5. The provisions of AO3 shall remain in effect until NMED has taken final action on the Panel Closure Class 3 Permit Modification that will address the final closure of all Panels.

The Permittees transmitted the Withdrawal of Temporary Authorization Request (Reference 4) associated with the Class 3 Permit Modification Request (PMR), Modifications to the WIPP Panel Closure Plan, on February 13, 2017. This withdrawal stated:

4. Taking protective measures to limit worker access to the southern portion of the mine and to block ventilation to the area does not preclude implementing the WIPP Panel Closure Class 3 Permit Modification Request after it is adjudicated nor does it presume the outcome of the permitting process. Based on this evaluation, the Permittees believe that the requested TA and AO2 are duplicative measures that can be used to accomplish the same goal of protecting workers by closing the far south end of the repository, and therefore since AO2 remains in effect the TA is no longer needed.

The NMED stated in the March 30, 2015 letter, regarding the WIPP Nitrate Salt Bearing Waste Container Isolation Plan (Reference 5), the following (emphasis added):

*NMED previously approved the expedited initial closure of Panel 6 as mentioned above. **The approval process for permanent, final closure of all panels, including Panel 6, will be subject to public participation requirements in accordance with 40 CFR §270.42 and 20.4.1.901 NMAC.** NMED and the Permittees will continue discussions with regard to final closure of all panels, ultimately resulting in the submittal of a modification request to the WIPP Hazardous Waste Permit, which will include an opportunity for public comment. NMED reserves the right to submit additional questions on the Plan as provided in Paragraph 22.b of the Order.*

Because the final closure plan has been approved (Reference 6), AO2 is complete. With regard to AO3, the required actions, including the closure of Room 7 of Panel 7 and the initial closure of Panel 6 pursuant to the Nitrate Salt Bearing Waste Container Isolation Plan and approval of the final closure for Panel 6 are complete.

Note that updates to the Nitrate Salt Bearing Waste Container Isolation Plan have been provided in the correspondence listed below:

- Submittal of the Waste isolation Pilot Plant Nitrate Salt Bearing Waste Container Isolation Plan, Revision 2, dated May 29, 2015
- Written Notice Regarding Final Application of Environmental Protection Agency Hazardous Waste Numbers D001 and D002 to Waste Containers Disposed at the Waste Isolation Pilot Plant, dated July 29, 2016
- Update to Information Provided in Sections 3.2.2 and 3.3.2 of the Waste Isolation Pilot Plant Nitrate Salt Bearing Waste Container Isolation Plan, Revision 2, Concerning Radiological Monitoring Equipment, dated January 31, 2017
- Update to Information Provided in Sections 3.2.2 and 3.3.2 of the Waste Isolation Pilot Plant Nitrate Salt Bearing Waste Container Isolation Plan, Revision 2, Concerning Radiological Monitoring Equipment, dated April 28, 2017

The permanent Panel 6 closure will be installed pursuant to the approved Permit. Therefore, the Permittees are requesting the formal closeout of the AOs.

We certify under penalty of law that this document and all attachments were prepared under our direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on our inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of our knowledge and belief, true, accurate, and complete. We are aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

If you have any questions, please contact Mr. Michael R. Brown at (575) 234-7476.

Sincerely,

Signatures on File

Todd Shrader, Manager
Carlsbad Field Office

Bruce C. Covert, Project Manager
Nuclear Waste Partnership LLC

cc:

B. Tongate, NMED	*ED
R. Maestas, NMED	ED
D. Biswell, NMED	ED
M. McLean, NMED	ED
H. Tellez, NMED	ED
CBFO M&RC	

*ED denotes electronic distribution