



State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous Waste Bureau



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CERTIFIED MAIL – RETURN RECEIPT REQUESTED

December 21, 2018

Todd Shrader, Manager
Carlsbad Field Office
Department of Energy
PO Box 3090
Carlsbad, NM 88221-3090

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

**RE: APPROVAL
FINAL DECISION, CLASS 3 PERMIT MODIFICATION
WASTE ISOLATION PILOT PLANT
EPA I.D. NUMBER NM4890139088**

Dear Messrs. Shrader and Covert:

On December 21, 2018, the New Mexico Environment Department (“NMED”) Secretary signed a Final Order approving a draft Permit, including stipulated language, as a final Permit. On January 31, 2018, the Department of Energy and Nuclear Waste Partnership, LLC (collectively, the “Permittees”) submitted to NMED a Class 2 Permit Modification Request to the Waste Isolation Pilot Plant (“WIPP”) Hazardous Waste Facility Permit (“Permit”). The modification was entitled “*Clarification of TRU Mixed Waste Disposal Volume Reporting*”.

The modification was evaluated and processed in accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(b)). On February 2, 2018, the Permittees published a public notice that commenced a 60-day public comment period, which ended on April 3, 2018. On June 1, 2018, NMED determined that it was appropriate to process the Class 2 modification as a Class 3 modification due to significant public interest and the complex nature of the proposed change. On August 6, 2018, NMED issued a draft Permit based on the Class 2 modification, public comments, and additional information requested by NMED, commencing a

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45-day public comment period. Due to opposition to the draft Permit and several requests from the public requesting a public hearing, on September 22, 2018, NMED issued a notice announcing a public hearing to commence on October 23, 2018. In accordance with the New Mexico Hazardous Waste Management Regulations ("HWMR") at 20.4.1.901.A(4) NMAC, NMED, in conjunction with the Permittees, met with those who had submitted public comments and requests for hearing in an attempt to resolve issues contained within the public comments. The meetings took place September 24-25, 2018. As a result of these meetings, the parties stipulated to changes to *Shielded Container* language found in Permit Part 3 and Attachment A1, but requests for a hearing were not withdrawn. In accordance with the requirements specified in 20.4.1.900 NMAC (incorporating 40 CFR §270.42(c)), the hearing was held in Carlsbad, the community substantially affected by the proceedings.

Attached is a disc containing the revised Permit Parts and Attachments in redline strikeout and clean final versions of the Permit. Please note the highlighting in Permit Part 3 and Attachment A1 indicating stipulated language that differs from the draft Permit based on the September 24-25, 2018 meetings referenced above. Red font with yellow highlighting indicates new stipulated language. Redline strikeout with yellow highlighting indicates current Permit language that was deleted. Redline strikeout with blue highlighting indicates draft Permit language that was deleted.

The New Mexico Hazardous Waste Management Regulations ("HWMR") at 20.4.1.901.A(10) NMAC state, "A final permit decision shall become effective thirty (30) days after the notice of the decision has been served on the applicant..." therefore, the effective date of the Permit shall be January 20, 2019. The Secretary's decision may be appealed under the provisions of HWMR, 20.4.1.901(H) NMAC, and Section 74-4-14 of the New Mexico Hazardous Waste Act.

NMED notes that the column entitled "Final LWA [Land Withdrawal Act] TRU Waste Volume" in Permit Part 4, Table 4.1.1 is blank in the final Permit issued today. The Permittees shall submit a Class 1 modification to report the Final LWA TRU Waste Volume for filled Panels 1 through 6, 90 days of the effective date of the permit (April 22, 2019).

Further information on this administrative action, including the Final Order, NMED's response to comments and the final Permit, may be found on the NMED WIPP Information Page at <https://www.env.nm.gov/hazardous-waste/wipp/>.

If you have any questions regarding this correspondence, please contact Ricardo Maestas of the Hazardous Waste Bureau at (505) 476-6050.

Sincerely,



Ricardo Maestas
WIPP Staff Manager
Hazardous Waste Bureau

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cc: J. Hower, NMED OGC
J. Kieling, NMED HWB
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File: WIPP '18