



Department of Energy
Carlsbad Field Office
P. O. Box 3090
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May 26, 2009

Mr. James Bearzi
Hazardous Waste Bureau
New Mexico Environment Department
2905 E. Rodeo Park Drive, Building 1
Santa Fe, NM 87502

Subject: Request to Invoke Dispute Resolution Related to Final Audit Report A-09-08 of the Idaho National Laboratory/Central Characterization Project

Reference: Letter From Mr. James Bearzi to Dr. Dave Moody and Mr. Farok Sharif dated May 18, 2009

Dear Mr. Bearzi:

This letter is to request that the provisions of the WIPP Permit, Module I, Section I.L, *Dispute Resolution*, be invoked regarding the New Mexico Environment Department (NMED) action related to the Final Audit Report for Audit A-09-08 of the Idaho National Laboratory/Central Characterization Project (INL/CCP).

We disagree with the NMED conclusion that the INL/CCP failed to demonstrate compliance with the Waste Analysis Plan (WAP) requirements for visual examination of records. Specifically, we disagree with the following NMED positions:

- That the WAP requires that visual examination (VE) of records provide evidence that additional waste items were not added to unattended containers.
- That the WAP requires that the video/audio media provide verification that access to the container was controlled.
- That the WAP requires that the INL/CCP must reject any container for which the Nevada Test Site Waste Examination Expert did not state that access to the container was controlled and no additional items were placed into the container when the camera was off.
- That the WAP requires that the video/audio media show that the container was empty prior to being loaded.
- That the WAP requires that CCP Procedure CCP-TP-113, *Standard Contact-Handled Waste Visual Examination*, must be revised to address these additional requirements.

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We agree with NMED that Permit Attachment B1, Section B1-4 states in part that, "The video/audio media shall record the waste packaging event in sufficient detail such that **all waste items placed into the container** are recorded in sufficient detail..." (emphasis added). But, we believe the nature of NMED's comments is that the video/audio media must show all waste items that were **not** placed into the container. This notion is contrary to the written requirements of the Permit related to visual examination.

We look forward to making all reasonable good faith efforts to informally resolve this dispute as described in Module I, Section I.L.3 of the WIPP Permit. We are available to meet or teleconference to discuss this issue at your convenience.

If you have any questions, please contact me at (575) 234-7300.

Sincerely,

David C. Moody
Manager

cc:

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