

**AGREEMENT BETWEEN
NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
AND
WASTE ISOLATION PILOT PLANT PERMITTEES
REGARDING A TIME EXTENSION FOR
DISPUTE RESOLUTION RELATED TO FINAL AUDIT REPORT A-09-08
OF THE IDAHO NATIONAL LABORATORY/CENTRAL CHARACTERIZATION
PROJECT**

BACKGROUND

1. In a letter dated May 18, 2009, the Hazardous Waste Bureau of the New Mexico Environment Department (NMED) provided comments on the Idaho National Laboratory/Central Characterization Project (INL/CCP) Audit Report A-09-08 to the Waste Isolation Pilot Plant (WIPP) permittees, the Department of Energy and Washington TRU Solutions, LLC (Permittees). The Permittees received the comment letter informally via e-mail on May 18, 2009, and formally by registered mail on May 21, 2009. The comments contained the conclusion that the video/audio records generated at the Nevada Test Site and accepted by INL/CCP generally do not meet the minimum requirements for Visual Examination (VE) of records using video/audio media, and that procedure CCP-TP-113 does not meet the permit requirements for VE of records and must be revised. As a result, NMED withheld approval of the Audit Report until the Permittees submit additional identified information demonstrating full implementation of all relevant permit requirements.

2. In a letter dated May 26, 2009, the Permittees notified NMED that they were invoking the Dispute Resolution provisions of the WIPP Permit, Permit Condition I.L.2, *Dispute Resolution - Notice to NMED*. NMED received the letter informally via e-mail on May 26, 2009, and formally by FedEx delivery on May 29, 2009. The Permittees set forth the specific matters

in dispute by indicating their disagreement with NMED's conclusion that INL/CCP failed to demonstrate compliance with the Waste Analysis Plan requirements for VE of records.

3. On June 2, 2009, NMED acknowledged receipt of the Notification of Dispute Resolution as specified in Permit Condition I.L.2, and requested further information.

4. On or before June 15, 2009, NMED and the Permittees conferred by teleconference to commence negotiations to resolve the dispute. NMED and the Permittees were unable to resolve the dispute. NMED and the Permittees nonetheless believe that with further discussions, they may be able to resolve the dispute.

5. Permit Condition I.L.3, *Tier I - Informal Negotiations*, states that "The Permittees and NMED shall have thirty (30) calendar days from NMED's receipt of notice to resolve the dispute." Thirty calendar days from NMED's formal receipt of the notice is Sunday, June 28, 2009.

6. NMED's personnel are unable to schedule sufficient time to meet with the Permittees and resolve the dispute prior to August 14, 2009. Accordingly, NMED and the Permittees wish to enter into an agreement to extend the time in which the dispute may be resolved.

TERMS

7. NMED and the Permittees hereby agree to extend the date for Tier I resolution of the dispute until August 28, 2009.

8. NMED and the Permittees hereby agree that if an agreement is not reached by August 28, 2009, the Permittees may, as specified in Permit Condition I.L.4, submit a Tier II request for Final Decision of the Secretary within 7 calendar days after receipt of a notification from NMED that an agreement was not reached under the extended schedule.

9. A link to a copy of this agreement to extent the date for resolution of the dispute shall be placed on the WIPP Home Page, and a notification of the extension shall be e-mailed to the e-mail notification list consistent with Permit Condition I.L.6, *E-Mail Notifications*.

For the NEW MEXICO ENVIRONMENT DEPARTMENT

By: 
JAMES P. BEARZI
CHIEF
HAZARDOUS WASTE BUREAU

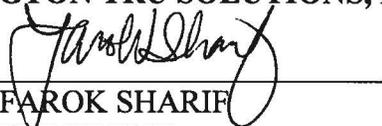
Date: 7/2/09

For the UNITED STATES DEPARTMENT OF ENERGY

By: 
DAVID MOODY
MANAGER
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DEPARTMENT OF ENERGY
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Date: 6/29/09

For WASHINGTON TRU SOLUTIONS, LLC

By: 
FAROK SHARIF
PRESIDENT
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Date: 6-29-09