



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
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Office of the Regional Administrator

April 6, 2015

Mark Whitney, Acting Assistant Secretary
Office of Environmental Management (EM-1)
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Mr. Whitney:

On October 27, 2014, the U.S. Department of Energy submitted the Biennial Environmental Compliance Report (BECR) for the Waste Isolation Pilot Plant to the U.S. Environmental Protection Agency, as required under section 9(a)(2) of the WIPP Land Withdrawal Act (PL 102-579, as amended by PL 104-201). The 2014 BECR addresses DOE's continued compliance with applicable environmental statutes, regulations and permit requirements designated in section 9(a)(1) of the LWA. The EPA found that the 2014 BECR did not fully address potential compliance issues resulting from the February 14, 2014 radiological incident, and asked for supplemental information in a letter dated December 17, 2014. The DOE provided this supplement on January 27, 2015, and also provided Corrective Action Plans that set forth processes for responding to issues identified in its Accident Investigation Board reports. Consistent with the requirements of section 9(a)(3) of the LWA, I am writing on behalf of Administrator Gina McCarthy to update you on the EPA's review of the 2014 BECR and the BECR Supplement.

As documented in the BECR Supplement, the New Mexico Environment Department issued Compliance Order HWB-14-21 on December 6, 2014 for violations of the WIPP Hazardous Waste Facility Permit, and DOE has filed an Answer and Request for Hearing. The hearing on the status of WIPP's compliance with the New Mexico Hazardous Waste Act will not take place until the summer of 2015. Meanwhile, investigation of the accident is ongoing. At this time, the EPA is reviewing the report submitted by the DOE Technical Assessment Team addressing the physical cause of the release; however, an additional report by the DOE Accident Investigation Board addressing programmatic factors that may have contributed to the incident has not yet been released.

At this time, the EPA is unable to complete its review of the WIPP's compliance status for the reporting period of April 1, 2013 to March 31, 2014 because the EPA does not have complete documentation of continued compliance with the laws, regulations, and permit requirements described in section 9(a)(1) of the LWA. Reasons for this include that the second Accident Investigation Board report remains outstanding and the adjudication process for the NMED Compliance Order is ongoing. The EPA will review additional information as it becomes available. As required under section 9(a)(3) of the LWA, the EPA will complete its review and issue its final determination within six months from the date it receives complete information from DOE regarding its compliance with applicable laws, regulations, and permit requirements for this reporting period. This review is not related to, nor is it a part of, the

EPA's recertification decisions under section 8(f) of the LWA regarding whether the WIPP complies with the disposal standards for transuranic radioactive waste (40 CFR Part 191).

Thank you for your efforts to demonstrate the WIPP's compliance with applicable federal laws. We will continue to work cooperatively with DOE, the state of New Mexico and the public to ensure that the WIPP carries out its mission in a manner that protects human health and the environment.

Sincerely yours,



Ron Curry
Regional Administrator

cc: Joe Franco, DOE/CBFO
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