



State of New Mexico
ENVIRONMENT DEPARTMENT

Office of the Secretary

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BUTCH TONGATE
Cabinet Secretary - Designate

J. C. BORREGO
Acting Deputy Secretary

November 30, 2016

Mr. Don Hancock
Southwest Research and Information Center
P.O. Box 4524
Albuquerque, NM 87505
[sricdon@earthlink.net]

Dear Mr. Hancock,

The New Mexico Environment Department ("NMED") is in receipt of your correspondence dated November 29, 2016. In your communication, you expressed concern that the recent Temporary Authorization request submitted to NMED on November 10, 2016 by the U.S. Department of Energy ("DOE") and Nuclear Waste Partnership, LLC ("NWP") (collectively, the "Permittees") had not been posted on the Waste Isolation Pilot Plant ("WIPP") Information Repository website. Additionally, you also requested a 30-day public comment period in which to comment on the aforementioned Temporary Authorization request. Each matter will be addressed in this response.

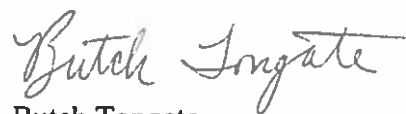
As you correctly cited, the WIPP hazardous waste permit states in Section 1.14.2.3 that the Information Repository must contain "[p]ermit modification notifications and requests associated with this Permit submitted pursuant to 20.4.1.900 NMAC (incorporating 40 CFR §270.42) and any associated responses from the Secretary." As Temporary Authorizations fall under 40 CFR §270.42(e), the Temporary Authorization request was required to be posted by the Permittees in the Information Repository. NMED has contacted the Permittees to remind them of the permit provision and require that they immediately post the Temporary Authorization. The Temporary Authorization has been posted on the "Submitted Modifications /Requests for Comments" page (http://www.wipp.energy.gov/rcradox/rfc/com_menu.htm). NMED will follow the communication with formal written correspondence. Thank you for bringing this matter to our attention.

In regards to your request for a 30-day comment period associated with the Temporary Authorization request, no public comment period is mandated for Temporary Authorizations. Pursuant to 40 CFR §270.42(e)(1), "[u]pon request of the permittee, the Director may, *without prior public notice and comment*, grant the permittee a temporary authorization in accordance

with this subsection. Temporary authorizations must have a term of not more than 180 days.” (emphasis added). Therefore, your request for a 30-day public comment period is denied. This does not impact your right to submit public comment on the associated Class 3 permit modification request.

If you have any questions, please feel free to contact Kathryn Roberts at 505-827-2855 or via email at Kathryn.roberts@state.nm.us.

Sincerely,

A handwritten signature in cursive script that reads "Butch Tongate".

Butch Tongate
Cabinet Secretary Designate
New Mexico Environment Department