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February 14, 2000

Secretary Pete Maggiore
New Mexico Environment Department
PO Box 26110
Santa Fe, NM 87502-6110

VIA FAX and U.S. MAIL

Dear Secretary Maggiore:

SRIC has been informed by Steve Zappe that comments submitted by today regarding the Rocky Flats Environmental Technology Site (RFETS) Final Audit Report (A-00-08) ("Audit Report") would be reviewed and considered before any decision is made to approve the report. We request full consideration of the following comments and a response from NMED regarding how these comments were considered by no later than the time any decision to approve the Audit Report is issued.

SRIC requests that you immediately address two issues: (1) disposal of mixed waste in Panel 1 and (2) rejecting the audit report or allowing additional time for SRIC and other members of the public to comment.

SRIC requests that you inform the Permittees that under the conditions of the Permit, no mixed wastes can be shipped to WIPP even if the Audit Report is approved, until Panel 2 is ready to receive wastes for disposal.

Permit Condition IV.B.2.b. states:

Specific prohibition - After this permit becomes effective, (1) the Permittees shall not dispose non-mixed TRU waste in any underground HWDU unless such waste is characterized in accordance with the requirements of the WAP specified in Permit Condition II.C.1, and (2) The permittees shall not dispose TRU mixed waste in any underground HWDU if the underground HWDU contains non-mixed TRU waste not characterized in accordance with the requirements of the WAP.

It is uncontroverted that underground HWDU Panel 1 contains waste not characterized in accordance with the WAP. The Final Order issuing the permit so states (page 3), and that fact was clearly supported by the record. Thus, no mixed waste can be disposed in Panel 1 and all wastes -- mixed and non-mixed -- disposed at WIPP must meet the requirements of the WAP.

Therefore, SRIC believes that allowing DOE to dispose of mixed waste in Panel 1 is directly contradictory to the requirements of the Hazardous Waste Act (HWA) permit. We fail to

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understand how NMED could allow mixed waste disposal in Panel 1. SRIC requests that you either provide an explicit explanation of how such disposal is not prohibited by the permit or clearly inform DOE that no mixed waste disposal will be allowed in Panel 1.

SRIC requests that NMED reject the Audit Report and require that RFETS and any other site have used at least one hazardous waste stream for any audit.

The waste stream used for the audit is "Metal (TRU) and Heavy Metal (non-SS/TRU)." This is a nonhazardous waste stream, a fact that is not mentioned in the Audit Report and is stated only once in the 141-page Attachment B6 checklist (page 4, Table B6-1 #6 comment). Given that the permit is a hazardous waste permit, it is totally inappropriate to approve a site as meeting the requirements of the Waste Analysis Plan (WAP) if it cannot demonstrate in the audit and surveillance process that it can adequately characterize and has used adequate procedures on at least one hazardous waste stream. The Permittees should be informed that the RFETS audit must be redone using at least one hazardous waste stream and that any other generator site must provide at least one hazardous waste stream to fulfill the minimum audit and surveillance process.

It makes no more sense to approve RFETS for hazardous waste procedures for debris waste (S5000), as the Carlsbad Area Office (CAO) requests with the Audit Report, than to approve the site for homogeneous solids (S3000) or soils/gravels (S4000). In no case has RFETS demonstrated that it has met the requirements of the WAP for "TRU mixed waste" as defined in Permit Definition I.D.6, since CAO says that the waste stream subject to the audit does not contain TRU mixed waste.

SRIC requests additional time for public comment.

If you do not reject the Audit Report and proceed with review the report, SRIC requests two weeks of additional time to carry out a more complete review of the large amount of documentation submitted with the audit report and to submit additional comments. Given that this is the first audit report done under the WIPP Hazardous Waste Act (HWA) permit, NMED should have a complete audit and surveillance program and provide sufficient time for public comments prior to making a decision to approve the Audit Report. The fact that DOE submitted the Audit Report more than a month later than its original date of the week of December 20 is an indication that there is no legitimate schedule that requires NMED to take precipitous action to approve the audit. Moreover, since SRIC only received the Audit Report and Checklists on February 3, we have had less than two weeks to review it. To make meaningful the HWA permit requirement that "NMED will make the final audit report available for public review and comment" (Page B6-5) requires a longer process than the 11 days that NMED is providing SRIC.

The Audit Report is incomplete.

SRIC believes that the Audit Report is incomplete and that additional information should be required of RFETS and the Carlsbad Area Office (CAO) if the Audit Report is not rejected for not including at least one hazardous waste stream. For example:

1. No results of previous audits are included. Permit Attachment B6, page B6-3 requires that "announced and unannounced audits will address...Results of previous audits." CAO has conducted previous audits at RFETS in conjunction with approving shipments of waste already made to WIPP. While those audits were not done under the HWA permit, they are directly relevant to the current audit since similar personnel were involved and similar procedures were used, including acceptable knowledge, radiography, headspace gas sampling¹, and visual examination.
2. No results of self-audits were included. Permit Attachment B6, page B6-5, states that "RCRA-related CARs [Corrective Action Reports] identified by the site during self-audits will be evaluated during the Permittees' audit and surveillance program and tracked in the Permittee's tracking system." There is no mention in the Audit Report of such self-audits, including when they were done, their results, and why they are not included in the Audit Report.
3. The history of RFETS procedural violations related to WIPP wastes is not included. On November 10, 1999, RFETS Occurrence Report Number RFO-KHLL-WSTMGTOPS-1999-0021 was issued regarding procedural violations related to WIPP shipments, specifically that forms were being checked off as being completed prior to completion of the applicable operations. This problem was serious enough that it caused DOE to cancel 11 shipments from RFETS that were supposed to go to WIPP in November 1999. The Audit Report includes no mention of that problem, which has significant implications for adequately complying with HWA procedures. It also indicates substantial quality assurance (QA) deficiencies that are relevant to matters that were included in the Audit Report.
4. No indication of the number of containers included in the S5000 debris waste group is included. The Audit Report states that this is the only audit for debris waste group S5000 that CAO intends to do this year. Thus, RFETS and CAO intend to use this audit approval to allow an unknown number of containers to be sent to WIPP for the next year. No determination of the adequacy of the audit can be done without knowing whether the few dozen containers from one waste stream that were available for the audit is representative of the debris wastes designated for WIPP during the next year.
5. The Attachment B6 checklist, Table B6-5, #260, comment, page 124) states: "No RTR operators have been disqualified." Such a statement must be clarified and supported with actual data. Presumably, the statement means that no RTR operator has been disqualified since December 1999 when they were qualified. However, RFETS has been doing RTR for years, so to support such a statement RFETS should be required to submit a comprehensive list of all RTR operators that the site has had and show that none of those individuals has been disqualified. In addition, NMED should make clear that radiography done prior to December 1999 is

¹SRIC is aware that RFETS conducted headspace gas sampling only for the 26 drums of RF003.01 waste, not on the 574 drums of RF005.01 waste, that were shipped to WIPP in 1999.

unacceptable under the permit.

6. No certified Waste Stream Profile Form is included. The Audit Report (page 4 of 21) states that "Metal (TRU) and Heavy Metal (non-SS)/TRU" waste stream was the only waste stream available during the audit and page 6 of 21 states that no Waste Stream Profile Form (WSPF) has been done for that waste stream. HWA permit condition II.C.3.k. requires a certified Waste Stream Profile Form before any waste container from that waste stream may be accepted at WIPP. The Audit Report does not include such a certified Waste Stream Profile Form for that waste stream, or any waste stream. The Audit Report states that a WSPF will be sent to CAO prior to a waste stream being shipped and disposed at WIPP and that the draft WSPF RF002.01 is sufficient to demonstrate the RFETS can generate such a form. On the contrary, anyone can generate the form and fill in the blanks, but that does not mean that the result is accurate, which should be demonstrated as part of the audit.

Sloppiness of the Audit Report

The numerous errors and omissions of the Audit Report undermine its credibility. For example, the list of RFETS personnel contacted regarding acceptable knowledge (AK) lists 19 names (page 9 of 21), but there are four discrepancies (or more than 20% of the total) when compared with other parts of the Audit Report. Karen Gilbreath is listed in the narrative, but is not included in Attachment 1 list of personnel contacted in either audit phase 1 or 2 (a Chris Gilbreath is listed). Three other listed names have typos: Linda L. (or C.) Smith, Mark Catagneri (or Castagneri), and R.D. Gillispie (or Doyle Gillespie). Similarly, regarding personnel contacted related to headspace gas sampling, there are typos in three of the 13 names listed: Mark Castagneri (or Catagneri), John Liefer (or Leifer), and Tim Echeland (or Echelard).

Thank you for your careful consideration of these comments.

Sincerely,



Don Hancock

cc: Steve Zappe