



July 13, 2001

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

VIA FAX - 827-2836 and U.S. MAIL

Dear Secretary Maggiore:

We request that NMED take immediate action to ensure that the waste storage limits of the Hazardous Waste Act permit for the Waste Isolation Pilot Plant (WIPP) are not violated and that waste characterization requirements of the WIPP permit are not being violated. We believe that NMED is justified to have the Carlsbad Field Office (CBFO) suspend shipments from the Idaho National Engineering and Environmental Laboratory (INEEL) to WIPP while an investigation is undertaken.

As you know, on June 20, CBFO suspended shipments from INEEL for a day, then allowed shipments to resume even though INEEL was continuing to use waste characterization procedures that had not been certified by the Environmental Protection Agency (EPA). On July 27, EPA verbally instructed CBFO to suspend shipments from INEEL until EPA could perform an inspection and determine what remedial action was required.

In its letter of July 9 to CBFO, EPA stated that approximately 800 drums that "were not properly certified have been disposed of" or were stored at WIPP. EPA required DOE to hold those drums that were on the surface at WIPP and to suspend any further shipments from INEEL that are characterized with the Waste Assay Gamma Spectrometer System until EPA issues a determination. We understand from EPA that there are 87 drums that must remain on the surface at WIPP and that EPA will not make its determination until after a 30-day public comment period that has not yet begun.

Since the WIPP permit allows a maximum of 280 drums to be stored in the Waste Handling Building, more than 30% of the storage capacity will be dedicated to those 87 drums for weeks. That means that there is room in the WHB for less than 14 TRUPACT-II loads at a time that DOE is trying to ship more than twice that many TRUPACTs to WIPP every week. Such circumstances create a situation in which the storage limits in Module III of the WIPP permit could be violated. We believe that NMED should remind CBFO that any violation of those storage limits would result in enforcement action.

Furthermore, the uncertified waste characterization procedures at INEEL went on for several months, involving more than 25 shipments to WIPP, before EPA was notified. We believe that there is a high likelihood that some of the waste characterization procedures under the WIPP permit may also not be followed since they are more complex and numerous than those associated with EPA's requirements. A systemic problem at INEEL is that the site is rushing to ship waste to WIPP and that in such a circumstance regulatory requirements are being ignored or "shortcut."

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At a minimum, we believe CBFO should conduct a comprehensive investigation of all INEEL waste characterization practices to ensure their compliance with the WIPP permit and that NMED should observe such an investigation and review all related reports. During the time of such an investigation, NMED should request that CBFO voluntarily suspend shipments from INEEL or NMED should take other action to require suspension of the shipments and require CBFO to provide a full accounting of INEEL's noncompliance with its EPA certification requirements and to ensure that the WIPP permit's requirements are being fully complied with at INEEL.

Thank you for your prompt attention to this matter of high public concern and risk to public health and the environment.

Sincerely,

Jay Coghlan & Geoffrey Petrie
Nuclear Watch of New Mexico
551 W. Cordova Rd., #808
Santa Fe, NM 87501
505/989-7342
fax: 505/989-7352

Don Hancock
SRIC
PO Box 4524
Albuquerque, NM 87106
505/262-1862
fax: 505/262-1864

cc: Dr. Inés Triay