

July 23, 2001



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

VIA FAX and U.S. MAIL

Dear Secretary Maggiore,

On July 18, 2001, Dr. Inés Triay, DOE's WIPP Manager, sent Steve Zappe of NMED a "90-day storage extension request" and asked for "written notification of your approval." Nuclear Watch of New Mexico and SRIC urge you not to approve this request.

The DOE request does, however, provide further basis for you to take some action to ensure compliance with the WIPP Permit -- such as what we suggested to you in our letter of July 13. We again request you to take action to suspend shipments from INEEL, to investigate the situation, and to carefully monitor DOE's storage practices at WIPP to ensure that provisions of the permit are not being violated.

The DOE request has several deficiencies. First, the letter provides no regulatory basis for requested action of extending the 60-day storage time limit, specified in Module III A.1.e of the WIPP permit. We know of no legal basis for NMED to approve a violation of the permit, let alone to do so a month before the noncompliance is to occur. Second, we do not believe that an extension of the limit is technically justified based on the letter, which discusses none of the other alternatives that DOE has, including ones that might not require any violation of the permit.

Third, the letter also requests "permission to store this waste on facility pallets at the TRUDOCKS." The term, "this waste," must refer to the 140 drums of waste from INEEL that is the subject of this letter. That waste should be stored in the NE Storage Area of the Waste Handling Building, as the Permit specifies. Thus, DOE's request is apparently to move those pallets out of the designated storage area and into the TRUDOCK area.

We strongly object to such a request on both health and safety and legal grounds. Moving the pallets provides an increased risk of an accident and release of hazardous (and radioactive) waste as compared with leaving the drums on the pallets in the NE Storage Area. Further, having waste stored in the TRUDOCK Area poses a higher risk than having such waste in the NE Storage Area because of the additional activity associated with waste shipments that continue to arrive at WIPP and be inspected and unloaded in the TRUDOCK Area. Consequently, the permit does not provide for such storage. The request further says that such storage "may be for as long as 3-days." Thus, the waste drums would presumably be moved into and out of the TRUDOCK Area every few days. Once again, such practices of additional handling and movement of containers increase the risks of accidents and releases, so they should not be approved.

010756



As a legal matter, we believe such a change would require a major permit modification, which must be noticed for public comment prior to any decisions. Such notice has not occurred, nor is the DOE letter a proper request for a permit modification. Again, SRIC and Nuclear Watch of New Mexico urge you to deny the DOE request.

The current situation does pose a high likelihood of violations of the WIPP Permit, if they have not already occurred. So the situation does require your action, but not that suggested by DOE. The actions we have requested are a much more appropriate response.

The current situation was created by DOE shipping drums of waste to WIPP that were not properly certified, in violation of the EPA certification of WIPP. That noncompliance with EPA's certification should not be rewarded by NMED allowing a violation of the storage time limit, storage capacity limit, or other provisions of the WIPP permit.

Nuclear Watch of New Mexico and SRIC are willing to participate in discussions regarding how to address the anticipated noncompliance with the WIPP Permit. We believe the situation should be addressed through a public process that could develop ways to protect public safety and the environment and ensure compliance with provisions of the permit.

Sincerely,

*15/ per Dd*

Jay Coghlan and 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*

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

cc: Steve Zappe  
Dr. Inés Triay