

Subject: update on WIPP

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Good Afternoon!

It has been several months since you've heard from me, so I'd like to catch you up on what we've been working on. I had hoped that we would be able to come to New Mexico this fall to meet with you, but it looks as though the trip will be delayed until early 2002.



First, I'm sure you already know this, but Mary Kruger was recently promoted to Deputy Director of the Office of Radiation and Indoor Air. A new director for the Center for Federal Regulations, which encompasses the WIPP team, has yet to be named. I will let you know once it's announced.

When we last met in February 2001, you asked questions about recertification, especially what EPA was instructing DOE to do. As you know, we sent guidance about recertification to DOE in December 2000. Almost a year has passed and some progress has been made. We've had two technical meetings with DOE this year, in March and July. The March meeting addressed DOE's approach to RH-TRU characterization (which I'll get to a bit later) and the July meeting addressed a number of topics, including recertification. DOE is making a concerted effort to prepare for recertification. Here are the major points we've agreed to so far (keep in mind that some things could change depending on circumstances):

- The Land Withdrawal Act requires that documentation of continued compliance be submitted by DOE no later than five years from first receipt of waste (March 2004), and that EPA issue a determination of continued compliance six months later (September 2004). We have asked DOE to submit what we're calling the Compliance Recertification Application (CRA) in November 2003, which tracks with the annual reporting cycle for changes required by 40 CFR 194.4. Once we determine that the application is complete, we will start our six-month clock.
- DOE should design the CRA to look like the original CCA. DOE considered redesigning the application to track 40 CFR Part 194 section by section, but we thought that could complicate our review and lead to confusion among other people familiar with the CCA.
- DOE will have to initiate a "blackout" period during which no further changes will be made to the CRA while it goes through the process of internal DOE review. DOE should report changes occurring after the



start of the blackout period in a fifth-year change report, which could serve as an addendum to the CRA if both are submitted in November 2003.

- The emphasis of the CRA is on (1) elements of the program described in the CCA that have changed, and (2) new information. Among other things, the CRA must describe changes reviewed and approved by EPA over the preceding five-year period. We do not expect DOE to resubmit information that has not been substantially revised. To illustrate: Assuming DOE continues to monitor the parameters identified in Chapter 7, they would not have to resubmit the monitoring plan in full, but they would have to submit an analysis of monitoring data collected over the preceding period. DOE will sketch out a CRA chapter to show which info may or not may be included. DOE also will prepare a list of documents in the original CCA that DOE does not want to resubmit in CRA. No time frame was established for this.

- EPA does not intend to use the recertification application to approve significant changes to the CCA. Such changes would have to be approved through modification, and we will not modify the certification while our recertification review is in progress. So DOE would have to propose anything that EPA might consider significant well in advance of the CRA submission, so that it can be reviewed and resolved in advance and either (1) included in the CRA or fifth year change report, or (2) delayed pending the outcome of recertification.

You will recall that in June we suspended shipments from INEEL, in response to learning that the site was shipping waste characterized using an assay system that was not authorized by DOE/Carlsbad or EPA. We inspected INEEL three times in July, and we will most likely conduct a fourth inspection before the end of the year. As a result of this summer's inspections, we determined that INEEL's error was attributable to a combination of misunderstanding of EPA requirements by some key personnel and a confusing document control process that allowed the error to continue for several months. Since EPA became involved, INEEL undertook actions to identify root causes of failure and prevent recurrence. They were able to show us that the assay system functioned effectively. Also, DOE/Carlsbad completed surveillances of document control processes at all other approved sites to see if similar conditions existed that could cause problems. EPA took issue with DOE/Carlsbad's initial response to the INEEL compliance condition. DOE management has assured us that we will be given more timely notice of any compliance problems at sites and DOE's response to them, should they occur in future.

This is already a long message. We are working on a new issue of the WIPP bulletin, which will give you a summary of recent developments. We hope to get the bulletin to you before the holiday season.

There is one other topic that I would like to raise here: RH-TRU characterization. DOE will soon seek approval from EPA and NMED for

their approach to RH-TRU, because they are planning to fill Panel 1 and move to Panel 2 in 2002. We have not received any formal proposals from DOE. However, DOE has presented two peer review panels (including a National Academy of Sciences committee) with an RH-TRU plan. One peer review panel has issued its report, and an interim NAS report is expected this month. DOE may submit a proposal to us as soon as next month. If any of you has been following the RH-TRU peer reviews and has opinions about the materials prepared by DOE, I would appreciate hearing from you.

We are planning another technical meeting with DOE in Washington, but that may not come off because of recent issues with travel and security. The main focus of this meeting, if it happens, will be DOE's monitoring of certain important processes, particularly water level changes in the Culebra formation and drilling rates/practices in the vicinity of WIPP. We will also talk more about DOE's going recertification preparation, although I'm unsure what questions DOE has at this point. If you want to know more about what transpires at this meeting, let me know and I'll get in touch.

If you have any questions as a result of this message, please call me at (202) 564-9712. I will be on travel for most of the period November 7-26 but will check voice mail.

Sincerely,
Scott Monroe
EPA Radiation Protection Division