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July 8, 2003



The Honorable Spencer Abraham
Secretary of Energy
U. S. Department of Energy
1000 Independence Avenue SW
Washington, DC 20001

Dear Secretary Abraham:

On July 10, 2003, the U.S. Department of Energy plans to initiate shipments of transuranic radioactive waste from the Nevada Test Site (NTS) to the Waste Isolation Pilot Plant (WIPP) over a 329-mile alternate route in California without having received California's concurrence to use the route. On behalf of the Western Governors' Association (WGA), we would ask DOE to reconsider its decision by postponing the NTS shipments so that negotiations with affected states may continue.

Under the routing protocols contained in DOE's and WGA's WIPP Program Implementation Guide, shipping transuranic waste on an alternate route must be done with the state's prior designation of the route or with the state's concurrence. WGA and DOE jointly drafted and agreed on these transport safety protocols, which WGA and DOE affirmed in Memoranda of Agreement executed in 1995 and February of this year.

As California has not concurred on the route selected and the state believes further negotiations are warranted, WGA urges DOE to work with them and other affected states to discuss whether additional or alternative routes are available. In all other route selection discussions, DOE and affected states have been able to work cooperatively to resolve their differences and to agree on each route used for transuranic waste shipments. Western Governors believe the success of the shipping campaign since WIPP opened in 1999 can be directly attributed to the cooperative relationship that has existed between western states and DOE. Preserving the cooperative relationship that has existed for more than a dozen years is important to states and should not be jeopardized over this or other routing issues.

In addition, by working with California and other affected states to obtain their concurrence, DOE would be in accord with the routing protocols DOE has agreed to follow for shipments to WIPP. These protocols state that DOE is committed to following the U.S. Department of Transportation's (DOT) Highway Route Controlled Quantities guidelines for WIPP shipments and that DOE "will consult with affected states for the use of an alternative



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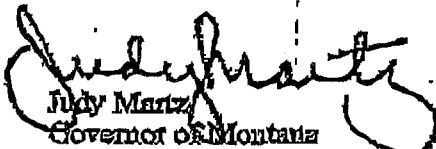
route that is not formally designated under the DOT regulations." Upon completion of the preferred route designation or negotiation process, states must "either file their routing designations with the DOT's Federal Motor Carrier Safety Administration or advise the DOE-CBFO of their concurrence with negotiated routes." Neither of these events has yet occurred for the proposed route in California.

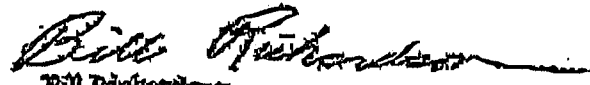
For the reasons stated above, we are extremely troubled by DOE's July 1, 2003, letter from Assistant Secretary Roberson to the California Energy Commission announcing DOE's intent to proceed with the referenced shipments on July 10, 2003. This letter does not acknowledge that DOE is obligated to follow the routing protocols it has agreed to under WGA's WIPP Program Implementation Guide. Rather, DOE's position appears to be that it is not bound by its agreement because it has unilaterally concluded that the route is safe at this time for these NTS shipments. Under the protocol, DOE should be working with the states to reach a concurrence on routes and that concurrence does not presently exist.

WGA believes that, if given the opportunity, DOE and the potentially affected states may be able to agree on a route or routes that would be acceptable to all parties. However, such an agreement may not be able to be reached in the next two days. Giving DOE and the states a reasonable period of time to try to find a mutually acceptable solution by postponing the shipments scheduled to be completed in the next several months is consistent with the transportation safety protocols described above. More importantly, using this approach, DOE will ensure the continuation of the cooperative relationship between itself and the states. This approach is further justified given that there does not appear to be a compelling safety or operation issue requiring the NTS shipments to commence immediately.

Thank you for your consideration of this request. We look forward to your timely response.

Sincerely,


Judy Martz
Governor of Montana
Chair


Bill Richardson
Governor of New Mexico
Vice Chair

cc: DOE Assistant Secretary Roberson
WGA Staff Council
WGA WIPP Transportation Technical Advisory Group