14 July 2003

Mr. Steve Zappe
New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive, Building E
Santa Fe, NM 87505

Re: WIPP Hazardous Waste Act permit; proposed modification
concerning addition of new hazardous waste numbers

Dear Mr. Zappe:

This letter submits comments by the Water, Environment, and Utilities Division
of the New Mexico Attorney General’s Office concerning a proposed modification to the
Hazardous Waste Act permit for the Waste Isolation Pilot Plant (WIPP). The proposed
modification concerns addition of new hazardous waste numbers.

The occasion for addition of the new waste codes is the identification at Rocky
Flats Environmental Technology Site (RFETS) of transuranic mixed waste carrying the
codes in issue. Our comments are as follows:

1. Permittees state that the proposed modification is classified as a Class 2
permit modification, pursuant to 20.4.1.900 NMAC, incorporating 40 CFR
270.42, Appendix I, Item F.3.b. Item F.3.b describes modifications involving
"storage of different wastes in containers." Since the current proposal
involves not only storage but also disposal, it would be appropriate also to cite
Item J.6.b, which describes landfill permit modifications involving different wastes that do not require additional or different management practices. To be sure, WIPP is a miscellaneous unit, not a landfill, and Subpart I is applicable through Subpart X, but it would seem appropriate also to rely upon a provision concerning changes in disposal practices in seeking a WIPP permit modification.

2. The application should explain why “no adverse impact from the acceptance of hexachlorobutadiene is anticipated” (at 4). Permittees should explain whether the original permit application Appendix C1 (Att. E to the proposal) considered the compatibility of hexachlorobutadiene (See Att. E at C1-2).

We request that in responding to the modification request these points be clarified by NMED and that the proposed modification not be granted until these questions are answered.

Very truly yours,

LINDSAY A. LOVEJOY, JR.
Assistant Attorney General

LALJr:laljr