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ENCLOSED



RON CURRY
SECRETARY

DERRITH WATCHMAN-MOORE
DEPUTY SECRETARY

September 9, 2003

The Honorable Jeff Bingaman
703 Hart Senate Office Building
United States Senate
Washington, D.C 20510

Dear Senator Bingaman:

It has come to my attention that language introduced by Senator Pete Domenici to the Energy and Water Appropriations bill, S. 1424, section 310, would significantly weaken waste analysis requirements at the Waste Isolation Pilot Plant (WIPP) located near Carlsbad. Through this letter I wish to share the state Environment Department's position on this issue and to offer any support you need in its opposition.

The State of New Mexico, through New Mexico Environment Department (NMED), opposes this attempt to change WIPP's current Waste Analysis Plan (WAP) to allow for the testing of a statistical sample of hazardous and radioactive waste drums, rather than the waste verification and sampling of every drum that is now required.

If this measure passed Congress and a small portion of the drums in a waste stream checked out, then all would be approved for internment at WIPP. This would severely limit the state's ability to verify what is in drums of radioactive and hazardous waste that will be transported across and stored in New Mexico in perpetuity.

We believe that the waste already interned at WIPP are the drums that were easy for the Department of Energy (DOE) to get to and easy to find documentation on. This will change in the coming years. Once this "low hanging fruit" is gone, waste to be sent to WIPP will be far more problematic, with less documentation and less knowledge of what is in the drums. Characterization will therefore become more important, not less, in the future in order to ensure that what is sent to WIPP is safely disposed.

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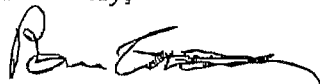
I also take issue with the manner in which DOE is pursuing this regulatory change. By using a piece of federal legislation to modify their state permit, the DOE is circumventing what should be a process with public comment and involvement. WIPP could and NMED would be happy to review a permit modification application covering these changes. This would be a public process with hearings. NMED supports public involvement in its decisions.

The State of New Mexico has taken a tough and consistent stand when it comes to the Department of Energy. We believe that the people of New Mexico deserve strong state oversight of these DOE facilities. By lessening verification requirements, DOE would in essence be saying, "trust us" to the state of New Mexico. That is something that we cannot afford to do.

For these reasons, the New Mexico Environment Department opposes this proposal.

Members of my staff have provided Bernie Toon and Jonathan Epstein of your staff with background on this issue at their request. We would be happy to provide any more information that is required.

Sincerely,



Ron Curry
Secretary

New Mexico Environment Department

cc: Sandra Martin, Acting NMED Hazardous Waste Bureau Chief