

**Steve Zappe**

**From:** Penny McMullen [pmsl@osogrande.com]  
**Sent:** Sunday, January 25, 2004 2:09 PM  
**To:** Steve Zappe  
**Cc:** Joni Arends; Don Hancock; Coila Ash; Geoff Petrie  
**Subject:** NMED's WIPP Permit Modification



NMED's PERMIT MOD

January 26, 2004

Steve Zappe  
NMED  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, NM 87505

Dear Mr. Zappe:

The Loretto Community wholeheartedly supports the New Mexico Environment Department (NMED)'s permit modification to limit waste eligible for disposal at WIPP to the inventory identified when the permit was originally issued, and we urge NMED to incorporate this modification into the permit.

The WIPP Land Withdrawal Act specifies that the land and facility must be used exclusively for transuranic (TRU) waste from nuclear weapons production (see Public Law 102-579, Section 2(19)). So, according to law, WIPP cannot be used for either low-level or high-level waste disposal. Any PMR (permit modification request) from DOE to allow either low-level or high-level waste would be contrary to federal law.

DOE has made known its intention to dispose of high-level waste at WIPP. Section 12 of the above mentioned law specifically states "The Secretary [of Energy] shall not transport high-level radioactive waste or spent nuclear fuel to WIPP or emplace ... such waste or fuel at WIPP."

Neither should the law be changed to accommodate DOE's wishes, because WIPP is not designed to handle the additional kinds of waste. Simply changing the name of waste materials (aka "reclassifying") does not change the fact that the particular wastes in question were not included in the original permit.

In addition, Section 7 limits even the amount and types of TRU waste allowed at WIPP, so these limitations should not be changed, either.

NMED issued the final permit in October 1999 to open WIPP based on the assumption that all information contained in DOE's application was accurate., including the TWBIR (Transuranic Waste Baseline Inventory Report) that DOE compiled. It is possible that if the inventory had been different, New Mexico might not have approved of the permit.

DOE has submitted hundreds of permit modification requests, forcing NMED to spend valuable time responding, cutting into their time to do other important environmental work for the State, and forcing the public to attend meetings and write comments over and over and over again, cutting into our time for jobs and family.

Such a continuous process is not only a waste of taxpayer funds, it is also outrageously disrespectful of our time and energy and limited



funds, and it feels downright cruel.

DOE needs to accept the permit as it was originally issued and stop continuously abusing the public and State agencies for DOE's inadequacies in preparing for the original permit.

It is perfectly within NMED's rights to issue this permit modification, since the WIPP Act specifically protects the State of New Mexico's legal authority over WIPP.

If DOE tries to bring waste to WIPP that is not included in the TWBIR, we urge NMED to revoke the WIPP permit, as allowed by state law (see section 74-4-4.2.D. NMSA 1978).

We thank NMED and Governor Richardson for taking this initiative to stop DOE's attempts to circumvent the law. This permit modification is an important step in the right direction to protect the Land of Enchantment and its citizens for future generations.

Sincerely and gratefully,

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