



Oregon

Theodore R. Kulongoski, Governor



ENTERED



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January 26, 2004

Mr. Steve Zappe
NMED Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505

Dear Mr. Zappe:

I am writing to express concern with the proposed modification to the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP), which would prohibit disposal of waste which had not been identified at the time the permit was originally issued.

The State of Oregon, through the Oregon Department of Energy, has long been involved with transportation safety planning for shipments to WIPP. We have not involved ourselves with issues related to WIPP site operations. We believe the State of New Mexico is best able to ensure the site is operated in compliance with the nation's environmental laws.

In this case, however, we believe this proposed permit modification will result in stranding waste that clearly meets the definition of transuranic waste and should legitimately be disposed at WIPP. If the permit modification goes forward as proposed, it will force the indefinite – perhaps permanent – storage of transuranic waste at sites such as Hanford, potentially putting the environment at risk.

Our concerns specifically are about certain waste streams at the Hanford Site. Nuclear operations at Hanford dating back to 1943 have left a tremendous legacy of contamination and waste. The soil and groundwater are extensively contaminated, and radioactive and chemically hazardous waste poses a severe, long-term threat to the Columbia River. As part of the cleanup program, transuranic waste at Hanford was intended to be disposed at WIPP. We appreciate the fact that New Mexico is the host state for the WIPP facility.

Recent efforts by the U.S. Department of Energy (DOE) to seek Congressional authority to reclassify high-level radioactive waste seems to have prompted – at least in part – this proposed permit modification. We understand that New Mexico needs to take action to ensure that DOE does not attempt to send high-level waste to WIPP – waste that was never intended to be disposed at WIPP.

As one of four states involved in the litigation with DOE over issues of waste reclassification, Oregon has been very clear that we do not support DOE's efforts to gain new authority from Congress. We do not believe Congressional action is necessary and we have repeatedly urged



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DOE to sit down with the states and plaintiffs and negotiate an acceptable procedure for waste reclassification – a procedure that includes treatment to remove the most highly radioactive constituents before reclassification can occur. Reclassification will then occur primarily so that waste can be disposed at the site of origin. New Mexico officials have participated in the states' planning calls, and I believe our two states share the same position on this issue.

The concern we have is that the proposed permit modification will do far more than prohibit DOE from reclassifying waste and sending it to WIPP. It will keep waste that clearly is transuranic from going to WIPP.

We believe DOE has made a strong technical case that waste in eight underground storage tanks at Hanford meets the definition of transuranic waste. While DOE previously managed this waste as high-level waste, that was for convenience and does not change the character or content of the waste. In this case, DOE is not attempting to reclassify high-level waste. We are not yet convinced that waste in other Hanford tanks is transuranic only, and if DOE decides to pursue that, the onus is on DOE to make a compelling technical case that the waste is transuranic.

In addition, many of the cleanup projects at Hanford are technically complex. Treatment and disposal plans have changed numerous times over the years, for a variety of reasons. It has only been in recent years that DOE has proposed that sludge from Hanford's K-Basins might be eligible and appropriate for disposal at WIPP. If DOE is able to make a strong technical case that this or other waste at Hanford meets the WIPP acceptance criteria, we would not want to see this waste prohibited from going to WIPP solely because DOE failed to fully anticipate potential disposal options, and consequently failed to list these wastes on the baseline inventory report at the time New Mexico issued the WIPP permit.

We are not asking New Mexico to weaken the standards for waste that is disposed at WIPP. We agree that DOE's arrogant refusal to negotiate a resolution to the waste classification issue – and instead, attempt backroom deals with Congress – raises serious questions about its credibility. New Mexico does need assurances that waste that is proposed to be brought to WIPP meets the definition of transuranic waste. However, this proposed permit modification simply goes too far. We urge the New Mexico Environment Department to reconsider its proposed permit modification.

If you have any questions please contact me at 503-378-4906 or ken.niles@state.or.us.

Sincerely,



Ken Niles
Assistant Director