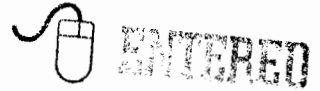


John McCall, Attorney
 405 D Cornell SE
 Albuquerque, New Mexico 87106
 (505) 256-1998
 Fax: (505) 255-7266



FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: (505) 428-2567

To: Steve Zappe
 Of: NMED HWB
 From: John McCall, Attorney
 Client/Matter: CARD v. DOE, Westinghouse and CAST CIV 99-0321
 Date: January 28, 2004

DOCUMENTS	NUMBER OF PAGES
Prvt Defendants Initial Disclosures - you listed as witness	3
Our Subpoena and Notice of Deposition	4

COMMENTS:

Mr. Zappe:

Here are the documents you requested along with a fax of the Subpoena and Notice. Thank you for your kind attention to these matters.

Sincerely,

John McCall
 Attorney for CARD

The information contained in this facsimile message is information protected by attorney-client and/or the attorney/work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via U.S. Postal Service.

*NOT COUNTING COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE US IMMEDIATELY AT (505) 256-1998.

040147



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**CITIZENS FOR ALTERNATIVES
TO RADIOACTIVE DUMPING, et al.,**

Plaintiffs,

v.

CIV. No. 99-321 MCA/ACT

**SPENCER ABRAHAM, United States
Secretary of Energy, et al.,**

Defendants.

PRIVATE DEFENDANTS' INITIAL DISCLOSURES

Pursuant to Fed. Civ. P. Rule 26(a)((1), Private Defendants, Westinghouse and CAST, hereby submit Initial Disclosures in the above referenced matter.

As a preliminary matter, however, please note that Plaintiffs seek a Permanent Injunction to close a properly authorized public project, the United States Department of Energy's Waste Isolation Pilot Plant (WIPP), Carlsbad, New Mexico. Plaintiffs have undertaken a fishing expedition, making baseless allegations that Westinghouse and CAST, contractors for the DOE, are not in compliance with all lawful authority and thus have contributed to the creation and maintenance of a public nuisance.

Numerous scientific studies and reports support various agency decisions authorizing WIPP to operate and authorizing shipment of waste to WIPP for disposal. As such, numerous documents are publicly available regarding the WIPP facility. Plaintiffs' allegations against Westinghouse and CAST are quite broad, making it difficult to grasp the specific types of documents desired. The WIPP project, being a federal project, is

basically an open book. Reports, scientific and engineering studies, background information, compliance orders and/or settlement documents, documents resolving various issues, judicial decisions addressing the legality of WIPP, and facility monitoring data are publicly available. Private Defendants hereby set forth the following information, pursuant to Fed. Civ. P. Rule 26(a)((1):

(1) NAMES AND ADDRESSES, IF KNOWN, AND TELEPHONE NUMBERS OF EACH INDIVIDUAL LIKELY TO HAVE WIPP RELATED INFORMATION

Mr. Steve Zappe
New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Phone: (505) 428-2500
Fax: (505) 428-2567

Mr. Jay Lees
WIPP Document Center
Waste Isolation Pilot Plant
P.O. Box 2078
Carlsbad, New Mexico 88221
505-234-8100

(2) DESCRIPTION BY CATEGORY AND LOCATION, OF ALL DOCUMENTS, DATA COMPILATIONS, AND TANGIBLE THINGS

Attached hereto are various sources of publicly available documents related to Plaintiffs' claims. These documents fall within various categories, including the:

Hazardous Waste Related Documents;

WIPP Facility Permit Related Documents;

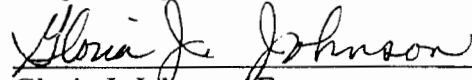
Radioactive Waste Related Documents; and

Transportation Related Documents.

The attached documents constitute references to publicly available WIPP related documents regarding many of Plaintiffs' claims. Internet site addresses are also noted throughout the attachments. These attached documents are as follows:

- | | |
|--------------|---|
| Attachment 1 | WIPP Document Center References |
| Attachment 2 | U.S. Environmental Protection Agency
WIPP Docket Information |
| Attachment 3 | New Mexico Environment Department (NMED)
WIPP Information Page |
| Attachment 4 | Western Governors' Association Radioactive
Waste Program Information |
| Attachment 5 | U.S. Nuclear regulatory Commission (NRC)
WIPP Related Information |
| Attachment 6 | U.S. Department of Labor Mine Safety and Health
Administration (MSHA) WIPP Related Information |

Respectfully submitted,




Gloria J. Johnson, Esq.
Counsel for Defendant Westinghouse
P.O. Box 2078
Carlsbad, New Mexico 88221
505-234-7377

Telephonically Approved (8/13/03)

Earl Potter, Esq.
Counsel for Defendant CAST
325 Paseo de Peralta
Santa Fe, New Mexico 87501
505-988-8019

CERTIFICATION

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record this 13th day of August 2003.


Gloria J. Johnson, Esq.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**CITIZENS FOR ALTERNATIVES
TO RADIOACTIVE DUMPING et al.,**

Plaintiffs,

CIV No. 99-321 ACT/MCA

vs.

**UNITED STATES DEPARTMENT OF ENERGY,
SPENCER ABRAHAM, et al.,**

Defendants.

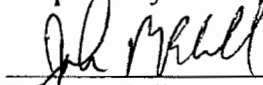
NOTICE OF ORAL DEPOSITION

**TO: Steve Zappe, NMED
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building I
Santa Fe, New Mexico 87505-6303**

PLEASE TAKE NOTICE that Plaintiffs, by and through their attorney, John McCall, will take the Deposition of Steve Zappe upon oral interrogatories before a certified court reporter, Elizabeth Hurst-Waist pursuant to the provisions of F.R.C.P. 26, 30, 32, 34, at the offices of Independent Court Reporters, 500 Oak Street NE Albuquerque, New Mexico on February 10th 2004 commencing at 1:00 p.m. and continuing until 5:00 p.m.

Furthermore, this deposition may be used for all purposes consistent with the applicable rules of Civil Procedure in these proceedings and at trial as set forth in F.R.C.P. 32.

Respectfully Submitted,



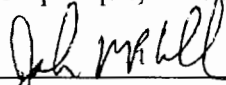
John McCall
Attorney for Plaintiffs
405 D Cornell SE
Albuquerque, NM 87106

I hereby certify that a true and correct copy of the foregoing was sent by First Class Mail to Gloria Johnson, counsel for Washington TRU Solutions and mailed to the following, this 28th day of January, 2004:

Raymond Hamilton, AUSA
US Attorney's Office
P.O. Box 607
201 3rd St. NW #900
Albuquerque, New Mexico 87103-0607
(505) 346-7274

Earl Potter, Esq.
Potter & Mills, P.A.
P.O. Box 1208
Santa Fe, NM 87504-1208
(505) 988-8019

Elizabeth Hurst-Waitz
Independent Court Reporters
500 Oak St. NE, Ste. 102
Albuquerque, NM 87106-4738



John McCall
Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**CITIZENS FOR ALTERNATIVES
TO RADIOACTIVE DUMPING et al.,**

Plaintiffs,

CIV No. 99-321 ACT/MCA

vs.

**UNITED STATES DEPARTMENT OF ENERGY,
SPENCER ABRAHAM, et al.,**

Defendants.

SUBPOENA FOR ORAL DEPOSITION

**TO: STEVE ZAPPE, NMED
Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
505-428-2567**

**YOU ARE HEREBY COMMANDED TO APPEAR AND TESTIFY AT ORAL
DEPOSITION** Regarding your knowledge of the Waste Isolation Pilot Plant in Carlsbad, New Mexico.

You are commanded to appear as follows:

PLACE: Independent Court Reporters
500 Oak St. NE
Albuquerque, NM 87106-4738

DATE: February 10th 2004 **TIME:** 1:00 p.m. to: 5:00 p.m.

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

_____, January 28, 2004.

Judge, Clerk or Attorney

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the _____ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena, a witness fee in the amount of _____ and mileage in the amount of \$ _____.

Deputy sheriff

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the _____ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena, the \$75.00 witness fee and mileage as provided by law in the amount of \$ _____.

Person making service

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____ (date).

Judge, notary or other officer authorized to administer oaths

THIS SUBPOENA issued by or at request of:

JOHN MCCALL, ATTORNEY FOR C.A.R.D.

Name of attorney of party

405 D Cornell SE ALBUQUERQUE NM 87106

Address

(505) 256-1998

Telephone

CERTIFICATE OF SERVICE BY ATTORNEY

I certify that I caused a copy of this subpoena to be served on the following persons or entities by (delivery) (mail) on this 28th day of January, 2004:

(1) Steve Zappe

(Name of party)

2905 Rodeo Park Drive East, Building I, Santa Fe, NM 87505-6303

(Address)

(2) _____

(Name of party)

(Address)

John McCall

Attorney

John McCall 1-28-04

Signature and Date of Signature