



Savannah River Site

CITIZENS ADVISORY BOARD

A U.S. Department of Energy Site-Specific Advisory Board

Chairperson

Jean Sulc
24 Harbor River Circle
St. Helena Island, S.C. 2992

Vice Chairperson

Melyvn Galin
108 Johnson Street
Savannah, Ga. 31405

Members

Meryl Alalof
Donna Antonucci
Jennifer Barrington
Leon Chavous
Ann Dalton
Gerald Devitt
Mary Drye
Melyvn Galin
Perry Holcomb
William Lawless
William Lawrence
Wendell Lyon
Darryl Nettles
Harold Rahn
Dorene Richardson
Murray Riley
William Voegel
Carolyn Williams
Gloria Williams-Way
William Willoughby

Ex-Officio Members

DOE
Alice Doswell
Charlie Anderson
EPA
Robert Pope
Dawn Taylor
SCDHEC
Keith Collinsworth
Myra Reece
State of Georgia
James Sanders

January 28, 2004

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



RE: Comments on the Proposal by the New Mexico Environment Department (NMED) to Approve an Agency-Initiated Modification to the Hazardous Waste Facility Permit ("Permit") for the Waste Isolation Pilot Plant (WIPP)

Dear Mr. Zappe:

The SRS Citizens Advisory Board adopted the attached recommendation during their business meeting Tuesday, January 27, 2004. It is submitted as public comments on the proposal by the NMED to approve an Agency-Initiated Modification to the Hazardous Waste Facility Permit for WIPP.

We look forward to your response to our written comments.

Sincerely,

Jean Sulc
Chair

cc: Jeff Allison, DOE-SR
Paul Detwiler, DOE-Carlsbad Field Office Acting Manager
Robert King, SCDHEC
J.I. Palmer, Jr., EPA-Region IV

040151



Savannah River Site

Citizens Advisory Board

Recommendation 182

WIPP Permit New Mexico Environment Department-Initiated Modification

Background

On October 27, 1999, the New Mexico Environment Department (NMED) issued a final decision to grant a Hazardous Waste Facility Permit to Waste Isolation Pilot Plant (WIPP) for the storage and disposal of transuranic (TRU) mixed waste. The WIPP site is located deep within underground salt deposits near Carlsbad, NM. Since then, the permit holders (DOE and Washington TRU Solutions) have submitted over fifty separate permit modifications and requests to NMED as allowed by the regulations. The regulations also allow NMED to modify the Permit if the agency determines there is cause for modification. On November 26, 2003, NMED issued a public notice of their intent to approve an agency-initiated modification to the Permit with written public comment and request for public hearing by January 30, 2004.

NMED has determined, based on new information, that there is cause to modify the permit to limit the waste eligible for disposal to the inventory that was identified when the permit was originally issued. NMED used the Transuranic Waste Baseline Inventory Report (TWBIR) Revision 6 as the basis for developing the permit governing mixed waste storage and disposal activities at WIPP and waste characterization activities at generator/storage sites that would send TRU mixed wastes to WIPP. (Ref.1)

The proposed modification limits the amount and type of waste eligible for disposal at WIPP to the amount and type identified in the original TWBIR. This action has major implications for the Savannah River Site (SRS). SRS has received 300 cubic meters of TRU mixed waste from Mound which is destined for disposal at WIPP and which was not included in the original SRS TWBIR. In addition, new missions such as the mixed-oxide (MOX) facility will generate TRU mixed waste that needs to be disposed of at WIPP. This future waste stream was not included in the original SRS TWBIR (Ref. 2). Adopting the proposed modification will preclude TRU mixed wastes from any other new missions as well.

Comment

The SRS Citizens Advisory Board (CAB) does not agree with New Mexico Environment Department's proposed modification. The SRS CAB finds it to be arbitrary, capricious and without technical merit. The original TWBIR projected an inventory at SRS of 9,648 cubic meters, although the current projected inventory is at 15,423 cubic meters. The 5,775 cubic meter difference between current and projected inventory comes from: 1) recent receipt of 300 cubic meters of Mound TRU waste, 2) SRS generated TRU waste between 1995-2003, and 3) TRU waste that was originally planned to be vitrified before disposal to reduce its volume. This means that about 5,775 cubic meters that could meet the WIPP Waste Acceptance Criteria

(WAC) would not be eligible for disposal at WIPP if the permit modification is approved. Other means of disposal would have to be found at considerable cost to the taxpayer.

The SRS CAB believes that any TRU waste (mixed and non-mixed) that meets the WIPP WAC should be accepted for disposal at WIPP.

Recommendation

The SRS Citizens Advisory Board (CAB) provides the following additional public comments and recommendations concerning the proposed permit modification:

1. The SRS CAB requests a public hearing on the proposed permit modification proposed by NMED based upon the information supplied above. The SRS CAB is a non-partisan group of individuals providing informed and timely recommendations on waste management, environmental restoration, and other activities affecting SRS. The objections to the permit modification and the issues that will be raised at the public hearing are inherent in the above discussion.
2. The SRS CAB requests that NMED increase the SRS WIPP waste inventory to include the additional 5,775 cubic meters of TRU waste (mixed and non-mixed) at SRS.
3. The SRS CAB requests that NMED provide a method for future TRU waste capacity at WIPP to include TRU waste inventory from new DOE missions such as the proposed SRS MOX facility as long as the TRU waste meets the WIPP WAC.
4. The SRS CAB recommends that SRS and SCDHEC develop long term storage and if possible, disposal alternatives for the 5,775 cubic meters of TRU waste (mixed and non-mixed) that will remain at SRS if the permit modification by NMED is approved.
5. The SRS CAB recommends that DOE-SR recalculate its baseline inventory report for transuranic waste and submit to DOE-Carlsbad and NMED.

References

1. "Notice of Intent to Approve an Agency-Initiated Modification to the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant", Fact Sheet, November 26, 2003.
2. "WIPP Permit Modifications", presentation to the WM Committee by Sonny Goldston, January 6, 2004.

**WIPP Permit Modification
New Mexico Environment Department
Intent to Approve an Agency-Initiated Modification**

Modification limits waste eligible for disposal at WIPP to inventory identified when permit originally issued.

1995 DOE Baseline Inventory Report was basis for original WIPP Permit issued 10/27/99.

**Public comments due January 30, 2004
(including request for public hearings, April 6, 2004 if held)**

Potential impacts to SRS

Mound Facility (300m³) TRU waste received by SRS not included in SRS input to 1995 Baseline Inventory Report.

New mission TRU waste from MOX Facility not included in SRS input to 1995 Baseline Inventory Report.



BILL RICHARDSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Telephone (505) 428-2500
Fax (505) 428-2567

www.nmenv.state.nm.us



RON CURRY
SECRETARY

DERRITH WATCHMAN-MOORE
DEPUTY SECRETARY

November 26, 2003

Dear Concerned Citizen:

Enclosed is the public notice from the New Mexico Environment Department (NMED) announcing its intent to approve an agency-initiated modification to the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). This modification would limit waste eligible for disposal at WIPP to the inventory identified when the permit was originally issued. The public notice announces both the availability of the WIPP draft permit for public comment, and a public hearing, if requested, to consider public comment prior to issuance of a final permit incorporating the modification.

All written public comment on the revised draft Permit must be received no later than 5:00 PM January 30, 2004. The public hearing, if held, would begin April 6, 2004 in Santa Fe. Please refer to the public notice for procedures for submittal of written public comment and public participation at the public hearing.

NMED has also developed a fact sheet that sets forth the significant factual, legal, and policy questions considered in developing the draft Permit. This fact sheet is available on the NMED WIPP Information Page at <http://www.nmenv.state.nm.us/wipp/>; or may be obtained by writing to Mr. Steve Zappe at the address listed in the letterhead above, or calling Mr. Zappe at (505) 428-2517.

If you have any questions, or if there are any corrections necessary to your address, please contact Mr. Zappe of my staff at (505) 428-2517.

Sincerely,

Handwritten signature of John E. Kleling in black ink.

John E. Kleling
Manager
Permits Management Program

Enclosure



BILL RICHARDSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT

Hazardous Waste Bureau
2905 Rodeo Park Drive East, Building 1
Santa Fe, New Mexico 87505-6303
Telephone (505) 428-2500
Fax (505) 428-2567
www.nmenv.state.nm.us



RON CURRY
SECRETARY

DERRITH WATCHMAN-MOORE
DEPUTY SECRETARY

PUBLIC NOTICE NO. 03-12

**NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
SANTA FE, NM 87505**

NOVEMBER 26, 2003

NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING

**CONCERNING INTENT TO APPROVE AN AGENCY-INITIATED MODIFICATION
TO THE
HAZARDOUS WASTE FACILITY PERMIT
FOR THE
WASTE ISOLATION PILOT PLANT
CARLSBAD, NEW MEXICO
EPA ID NO. NM4890139088**

The New Mexico Environment Department (NMED) proposes to approve an agency-initiated modification to the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP) pursuant to the New Mexico Hazardous Waste Act, NMSA 1978 §§ 74-4-1 et seq. (Repl. Pamph. 2000). This modification would limit waste eligible for disposal at WIPP to the inventory identified when the permit was originally issued. The WIPP facility is owned and operated by the US Department of Energy (DOE) and co-operated by Washington TRU Solutions LLC (the Permittees). WIPP is located north of the Jal Highway (State Highway 128) in Eddy County, New Mexico, approximately 26 miles east of Carlsbad.

NMED announces both the availability of the WIPP draft permit for public comment and a public hearing, if requested, to consider public comment prior to issuance of a final permit incorporating the modification. NMED also

announces the availability of a fact sheet that sets out in detail the principle basis for NMED's decision to approve the permit modification request, and the significant factual, legal and policy questions considered in preparing the draft permit.

When the Permittees were preparing the RCRA permit application for disposal activities at WIPP during 1995 and 1996, they developed a "baseline inventory report" required by Congress in the WIPP Land Withdrawal Act. The Permittees relied upon this inventory for waste stream descriptions to help satisfy, in part, the waste characterization requirements of RCRA. The Permittees also used information presented in this baseline inventory to perform a waste compatibility analysis for the anticipated disposal inventory. NMED's issuance of the final permit on October 27, 1999 was based on the assumption that all information contained in the permit application and the administrative record was accurate, including the representation

that the baseline inventory reflected the total DOE TRU waste inventory. Although the Permittees have not released a revised baseline inventory since that time, DOE has made it clear in other venues that it intends to dispose of waste at WIPP that was not included in the original baseline inventory. The New Mexico Hazardous Waste Regulations provide a mechanism for NMED to modify an existing RCRA permit for cause upon the receipt of information that was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance. This modification would limit waste eligible for disposal at WIPP to the inventory identified when the permit was originally issued.

PUBLIC REVIEW OF THE DRAFT PERMIT

A copy of the WIPP draft permit and the fact sheet may be reviewed at: New Mexico Environment Department, Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico, 87505, (505) 428-2517, Attn: Mr. Steve Zappe; and on the NMED web site (<http://www.nmenv.state.nm.us/wipp>). The entire administrative record for this administrative action may be reviewed at the Hazardous Waste Bureau at above address.

PUBLIC HEARING

NMED will conduct a public hearing only if, prior to January 30, 2004, it receives a timely request for public hearing as set forth below. If the Secretary of the NMED does not receive a request for public hearing, then the Secretary will cancel the public hearing and directly notify the public of that decision no later than February 16, 2004, in the following manner: (1) NMED will provide written notice to all persons submitting written comment or who request to be notified of the cancellation of the hearing; and (2) NMED will publish a notice of cancellation of the public hearing in a newspaper of general circulation.

If NMED holds a public hearing, it will be to accept additional public comment on the draft permit. The hearing will begin Tuesday, April 6, 2004 at 9:00 a.m., and be located at the Harold Runnels Building Auditorium, 1190 S. St. Francis Drive, Santa Fe, NM. The public hearing will provide interested persons a reasonable opportunity to present data, views, and arguments, as well as to examine witnesses.

The hearing will continue daily with morning, afternoon, and evening sessions as appropriate, until all persons have been afforded an adequate opportunity to present comment. The hearing will be conducted in accordance with the Hazardous Waste Management Regulations, 20.4.1.901.F NMAC, and the following sections of the Environment Department Permit Procedures, 20.1.4 NMAC:

20.1.4.1 - .8	20.1.4.200.D
20.1.4.100	20.1.4.300
20.1.4.200.A(1) & (2)	20.1.4.400.B & C
20.1.4.200.B	20.4.1.500.A - C
20.1.4.200.C(3)	

PUBLIC COMMENT

Any person, including the Permittees, wishing to submit written public comment or present oral public comment at the public hearing for NMED's consideration, shall do so according to the procedures set forth below. The public comment period commences on the date of this notice and continues through the public hearing.

A. WRITTEN PUBLIC COMMENT AND REQUESTS FOR PUBLIC HEARING

NMED will accept written public comment and requests for public hearing on or before January 30, 2004. Written comments shall be based on all reasonably available information and include, to the extent practicable, all referenced factual materials. All requests for public hearing shall provide: (1) a clear and concise factual statement of the nature and scope of the interest of the person requesting the hearing; (2) the name and address of all persons whom the requester represents; (3) a statement of any objections to the permit modification, including specific references; and (4) a statement of the issues which such persons proposes to raise for consideration at the hearing. Documents in the administrative record need not be re-submitted if expressly referenced by the commentator. Written comment and requests for public hearing must be filed with Mr. Steve Zappe on or before January 30, 2004 at NMED Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico, 87505.

B. ORAL PUBLIC COMMENT

At the public hearing, NMED will accept technical and non-technical oral comment. The Hearing Officer will set reasonable limits upon the time allowed for oral comment. Oral comment on the draft permit shall be accepted at the public hearing as set forth below:

1. **Non-Technical:** Any person may present non-technical oral public comment at the hearing. The Hearing Officer will reserve time for non-technical oral comment at 11:30 AM each day of the public hearing, and at 6:00 PM on the first and second days of the hearing. Any person may file non-technical written comment in lieu of oral comment on or before the date of the hearing with the Hearing Clerk at NMED, Room N-4071, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico.
2. **Technical:** Any persons, including the Permittees, who wish to present technical oral comment shall file a *Notice of Intent to Present Technical Testimony* on or before March 8, 2004 with the Hearing Clerk at the address provided above. Technical testimony is defined as scientific, engineering, economic or other specialized testimony, and can be in either written or oral form. Technical testimony does not include legal argument, general comments, or statements of policy concerning matters at issue in the hearing. To promote efficiency, fairness and avoid prejudice and surprise, technical oral comment will be restricted to points and factual information raised in written comment with the exception of rebuttal, as appropriate. The *Notice* shall contain the following information:
 - A. **Person/Entity:** Identify the person or entity filing the *Notice*;
 - B. **Position:** State whether the person or entity filing the *Notice* supports or opposes the revised draft permit;

- C. **Witnesses:** Identify each witness, including name, address, affiliation(s), and educational and work background;
 - D. **Length of Testimony:** Estimate the length of the direct testimony of each witness;
 - E. **Exhibits:** Identify all exhibits; for all exhibits that are not part of the Record Proper, attach a copy;
 - F. **Technical Materials:** Identify all technical materials relied upon by each witness in making a statement of technical fact or opinion contained in the direct testimony; Attach a copy of such technical materials for the Record Proper; submit a copy of such technical materials to the Hearing Clerk concurrently with the filing of the notice;
 - G. **Direct Testimony:** Attach a summary of direct testimony of each witness, stating any facts or opinion(s) to be offered by such witness and explaining the basis for such facts or opinion(s); summaries of testimony shall be comprehensive, substantive and provide sufficient detail to avoid surprise, prejudice and allow for effective cross-examination. Any summary that does not meet this requirement shall be excluded. Oral public comment shall be limited to written public comment as provided above.
3. The failure to file a timely *Notice of Intent to Present Technical Testimony* meeting the requirements above shall preclude a person from presenting technical oral comment, but shall not preclude a person from presenting non-technical oral comment.
 4. The requirements for presenting oral comment shall not apply to NMED. NMED will not present written or oral comment on the draft permit, but reserves the right to file a *Notice of*

Intent to Present Technical Testimony so that it may present testimony at the public hearing.

(b) briefly describe and respond to all public comments on the draft permit or the permit application raised during the public comment period or public hearing.

C. PARTY STATUS

1. Any persons, including the Permittees, who wish to be a party for purposes of public participation at the hearing shall file either a timely *Notice of Intent to Present Technical Testimony* or a timely *Entry of Appearance* on or before March 8, 2004 to the Hearing Clerk at the address provided above. The *Entry of Appearance* shall include the following:
 - A. Person: The person or entity filing the entry and current address for written notification;
 - B. Position: State whether the person or entity supports or opposes the revised draft permit; and
 - C. Length of Testimony: Provide an estimate of the amount of time for oral comment, if any.
2. The failure to file a timely *Entry of Appearance* shall preclude a person from being a party in the proceeding, but shall not preclude a person from presenting non-technical oral public comment at the hearing.
3. The Department may file an *Entry of Appearance* to participate at the public hearing.

The Secretary will make the final permit decision publicly available and shall notify the Permittees by certified mail; all persons presenting written comment, who filed an *Entry of Appearance* or requested notification in writing shall be notified of the decision by first-class regular mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the Hazardous Waste Act.

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Cliff Hawley or Alex Mendiola by March 8, 2004, at the following address: New Mexico Environment Department, Room N-4030, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico 87502-6110, (505) 827-2844. TDD or TDY users please access Mr. Hawley's number via the New Mexico Relay Network. Albuquerque users may access Mr. Hawley's number at (505) 275-7333.

ADDITIONAL INFORMATION

Any person seeking additional information regarding this draft permit, or who would like to arrange for copies of the draft permit at 35 cents a page after the first 80 pages, may contact Mr. Steve Zappe at the Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505, (505) 428-2517.

PROCEDURE OF ISSUANCE OF FINAL PERMIT DECISION

NMED will respond in writing to public comments prior to proposing a final decision to the Secretary. The Secretary will issue a final permit decision and response to comments. This response shall:

(a) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

SRS Citizens Advisory Board
Waste Management Committee

Aiken Federal Building, Aiken, SC
January 6, 2004

The SRS Citizens Advisory Board (CAB) Waste Management Committee (WMC) met on January 6, 2004, 5:00, at the Federal Building, Aiken, SC. The purposes of the meeting were to discuss the WIR, WIPP Permit Modifications, Glass Waste Storage Building #2, and to receive public comment.

Attendance was as follows:

CAB Members

-Bill Willoughby
-Bill Lawless
Gerald Devitt
-Murray Riley
-Wade Waters

William Lawrence
Leon Chavous

Perry Holcomb

Stakeholders

Bill McDonell

Lee Poe
Karen Patterson
Kelly Hunter, Duke
Cogema
Mike French

DOE/Contractors

de'Lisa Bratcher, DOE
Ron Campbell, WSRC
Joe Carter, WSRC
Bert Crapse, DOE
Guy Girard, DOE

Sonny Goldston, BNFL-SW
Drew Grainger, DOE
Kim Hauer, DOE

Bob Hinds, WSRC
Larry Ling, DOE

Jim Moore, WSRC

Regulators

Jeff Newman, WSRC
Joe Ortaldo, WSRC
Julie Petersen, DOE-OEA
Kelly Way, WSRC

*CAB Technical Advisor
-WM committee members
+Facilitator
^Press

Bill Willoughby called the meeting to order at 5:00. He welcomed those in attendance and asked for introductions. He then introduced the first speaker.

**Environmental Impact Statement (EIS)- Updates-Drew Grainger
West Valley EIS**

Mr. Grainger updated the group on the Final West Valley Demonstration Project Waste Management EIS. It was approved on December 19, 2003, and distribution is scheduled for the week of January 12, 2004. Three alternatives were examined, with the preferred alternative being "offsite shipment of waste for disposal and ongoing management of Waste Storage Tanks". Historically, DOE has chosen the preferred alternative. Alternative B, which is not preferred, would involve SRS. In this alternative, the high level waste (HLW) would be shipped to Hanford or SRS for interim storage prior to disposal in a geologic repository. The SRS CAB submitted Recommendation number 169 to DOE-SR and West Valley as a comment on the Draft EIS. This recommendation has been answered by DOE-SR and will be answered by West Valley in the comment response section of the final EIS.

Scrap Metal Draft Programmatic EIS

DOE is currently preparing a programmatic EIS (PEIS) on the disposition of scrap metal. In January 2000, DOE imposed a moratorium on the release of volumetrically contaminated metals from any DOE location pending a Nuclear Regulatory Commission (NRC) approach for release. NRC is in the process of rulemaking regarding contaminated metals. DOE facilities are not licensed by NRC. If NRC doesn't make a rule on this, DOE could go forward with their own release criteria or wait for NRC. In February 2003, the NRC announced its decision to proceed with rulemaking on alternatives for controlling disposition of scrap metals, but no action has been taken.

In July 2000, DOE temporarily suspended unrestricted release for recycling of scrap metal from radiological areas. In 2001, DOE decided to begin a National Environmental Policy Act (NEPA) review in order to provide the public an opportunity to participate in decision making on scrap metal disposition. Scoping meetings were held in the summer and fall of 2001. The majority of public comments expressed opposition to the continued release of scrap metal materials.

The alternatives include a "No Action" which is a release to commerce in compliance with DOE Order 5400.5. Another alternative is a release to commerce in compliance with alternative standards. The last two alternatives include "restricted release" and "no release". No official definitions of these terms have been developed. The "No release" alternative is the one that has been in place for the last four years.

The current draft PEIS does not list a preferred alternative. Approval and distribution of this Draft PEIS is scheduled for January-February 2004.

Waste Incidental to Reprocessing (WIR) and Lawsuit Updates-Larry Ling.

Mr. Ling reminded the group of the activities that have transpired so far. The judge ruled against DOE in the Idaho Federal District Court in July 2003 and in favor of the Natural Resources Defense Council (NRDC). DOE has been preparing for the appeal process since that time. The DOE appeal brief will be filed in the Ninth Circuit Court of Appeals in San Francisco on January 23, 2004, with the NRDC brief scheduled to be filed on March 12, 2004. Four weeks later, the government's reply to the NRDC brief will be filed.

Mr. Lawless recalled that at the November CAB meeting in Charleston, SC, the Department of Health and Environmental Control (DHEC) stated that Senator Lindsey Graham was taking the lead regarding the legislative language to help resolve the issues regarding WIR and the classification of HLW. However, DHEC does not believe that additional legislation is necessary. They believe that the Judge's ruling provides sufficient latitude that would allow DOE to proceed. Mr. Ling stated that as far as he knew, this legislative initiative was still being pursued. The Senate comes back in session January 20, 2004. Ms.

Mr. Poe would like to see the situation attacked from a procedural process. He sees the issue as being a procedural one of an arbitrary and capricious nature in that a decision made in 1995 doesn't include any new programs that came up after that time. The committee decided to write a recommendation to be presented at the next CAB meeting January 26-27 in Hilton Head.

****Action:** Supply the Mound BIR information to the committee.

Glass Waste Storage Building #2-Guy Girard

Mr. Girard began by telling the committee his purposes for addressing them. He then moved to an outline of the project scope. The GWSB #2 project has been downgraded from Safety Class (PC-3) to Safety Significant (PC-2). When GWSB #1 was constructed and safety analyses were performed, the results for the whole of S-area were combined. GWSB #2 was designated a Safety Class design, which was not necessary. WSRC requested and DOE approved to down grade GWSB #1 to a safety significant (PC-2) structure through a revision to the facility Documented Safety Analysis (DSA). Based on the approval of the DSA for GWSB #1, a decision was made to downgrade GWSB #2 using the same technical basis to downgrade GWSB #1. This downgrade will result in a reduction in construction cost and schedule of GWSB #2. A review conducted recently with staff of the Defense Nuclear Facilities Safety Board (DNFSB) resulted in no issues of concern.

In addition, active ventilation and HEPA filtration have been eliminated. Mr. Girard explained that passive ventilation is adequate to cool the storage containers and maintain satisfactory vault temperatures. Based on calculations, with the facility fully loaded with an average of 623-watt containers, the temperature of the vault concrete would not exceed 147 degrees Fahrenheit in the passive ventilation mode. Code specifies a limit of 150 degrees Fahrenheit for the concrete. The new design uses a maximum of 1000 watts per can for accident analysis calculations.

Mr. Lawless asked for a baseline number of expected HLW at Yucca Mountain. His issue of a baseline with HLW is that a problem similar to NMED and TRU waste may occur with the state and Yucca Mountain. He believes that SRS should be certain that inventories established for SRS-vitrified HLW destined for Yucca is not compromised by future HLW inventories. Mr. Carter responded that the SRS base line is 7000. Mr. Girard noted that if plutonium were vitrified on site, the number of canisters would increase by approximately 200. It also appears that EM is intending for SRS to vitrify the waste that National Nuclear Security Administration (NNSA) leaves behind.

Mr. Girard continued with the project status. He informed the group that construction for site preparation is ongoing and forecast for completion by March 25, 2004. He handed out and discussed the full duration schedule. He added that GWSB #2 would fill in 2014.

He reviewed Recommendation number 13 with the committee and illustrated that all the recommendations, except for "review the design and the changes in operations with independent scientific peer review", had been met. Numerous questions arose on the design of the building.

Mr. Girard told that group that SR has empirical data in regard to construction of the first building.

Patterson asked if the government were to lose the appeal, would they then appeal to the Supreme Court. Mr. Ling stated that he didn't know, but that was certainly a possibility.

Mr. Willoughby emphasized that it appears to the public that no work is being done. The salt waste needs to be removed from the tanks. He added that the site is going to hit a point when the tanks are full, and there would be no way to get rid of radioactivity in them. DHEC has commented that issues between the state and Savannah River can be resolved. The WM Committee has the potential to assist in resolution.

Mr. Ling believes that DHEC's position is that if DOE were to determine this waste was not HLW, then DHEC would have no jurisdiction over that waste classification. DHEC's concern at this time is that the process DOE would employ to determine how to manage the waste is currently being challenged in court. Mr. Carter added that The Governor's Advisory Council, DOE, and DHEC met in Columbia in November. Progress was made in understanding the process and the policy issues. He added that work is being done at Savannah River to aid in resolution of the policy issue.

Mr. Ling told the group that there are both legal and policy issues to be resolved before DOE will authorize disposal of the Salt waste or closure of the waste tanks. These are being worked as independent issues, but both must be resolved.

The Tank Closure dates are specified in an agreement with the state and the Environmental Protection Agency (EPA) as documented in the Federal Facility Agreement (FFA). The FFA closure dates for Tanks 18 and 19 are June 30, 2004, and March 31, 2004, respectively. Mr. Ling and Mr. Carter told the committee that these dates would not be met as a result of the legal challenges.

Action-Mr. Ling will send Ms. Way a copy of the appeal once it is filed. She will send it to the committee.

WIPP Permit Modifications-Bert Crapse, TRU Waste program manager

Mr. Crapse brought the proposed WIPP Permit Modification by the New Mexico Environment Department (NMED) to the attention of the committee. This is the first time the state of New Mexico (permitter) has proposed changes. The proposed permit modification limits waste eligible for disposal at WIPP to inventory identified when the permit was originally issued in October 1999. The basis for the original permit inventory was the 1995 U.S. EPA Baseline Inventory Report (BIR).

All DOE sites with TRU waste have been tasked to put together the impacts of this modification. SRS will provide their response to DOE-Carlsbad, which will provide a consolidated list of comments to NMED during the public comment period. SR noted two areas of concern—(1.) TRU waste shipped from the Mound site that is now part of SRS TRU waste inventory and (2.) TRU waste that may be generated from future and/or new missions. These two areas were not in the 1995 baseline report (although the Mound waste is included in the Mound BIR). New missions, such as PIT and MOX, or the Mound Waste, weren't included in the original 1995 report.

Mr. Crapse continued. In 1995, the site's TRU waste volume was estimated at 9,300 cubic meters. Today the estimate is 15,000 cubic meters. There are other issues concerning legacy waste and defense vs. non-defense waste that need to be resolved, as well.

Mr. Holcomb stated that this modification has a distinct political undertone. New Mexico has arbitrarily decided that, even if the waste meets the Waste Acceptance Criteria (WAC), if it isn't on the baseline, they won't accept it.

Discussion ensued about recommendations versus letters. Different angles for a recommendation were discussed with one being a complaint about the methodology that the state of New Mexico is using. The argument could be that the NMED's decision making process is not right. Provisions for the Mound waste were also discussed. Mr. Goldston added that the comment period ends January 30, 2004.