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March 12, 2004

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



Dear Mr. Zappe:

The US Department of Energy and Washington TRU Solutions (the Permittees) submitted a Class 3 PMR for **Container Management Improvements** to the New Mexico Environment Department (NMED) in January 2004.

Environmental Evaluation Group (EEG) staff members have performed an independent, technical review of this PMR and our comments are enclosed. Please feel free to contact me if you have any questions about our comments.

Sincerely,

Matthew K. Silva
Director

MS:SW:pf
Attachment

cc: Paul Detwiler, DOE/CBFO
Steven Warren, WTS



EEG Comments on the WIPP Class 3 Permit Modification Request for Container Management Improvements

The US Department of Energy and Washington TRU Solutions LLC, together known as the Permittees, have submitted a permit modification request (PMR) for the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). This PMR seeks to increase the allowed hazardous material storage capacity at the site, to generalize shipping and storage container types, and to make modifications in preparation for rail shipments for the purpose on improving operational efficiency. The EEG has reviewed the PMR and will provide general comments at this time, but we are continuing to analyze the potential effects of the proposed changes on related health and safety concerns such as accidents and radiation dose to workers from modified waste handling operations and increased storage capacity of waste. We intend to participate further in the Class 3 process for this PMR as it proceeds.

Comment 1. EEG recognizes the Permittees desire to increase the operational flexibility afforded by additional above ground storage of hazardous waste. However, we are concerned that the Permittees have not prepared an adequate plan for the additional waste for off-normal conditions. Section M1-1c(2) states that *Any off-normal event which results in the need to store a waste container in the Parking Area Unit for a period of time approaching fifty-nine (59) days shall be handled in accordance with Section M1-1e(2) of this Permit Attachment.* Section M1-1e(2), which is not being changed by the current PMR, states that

*If the reason for retaining the TRU mixed waste containers is due to an equipment malfunction that prevents the timely movement of the waste containers into the underground, the waste containers will be kept in the Contact Handled Package until day 30 (after receipt at the WIPP) or the expiration of the 60 day limit, whichever comes sooner. At that time the Contact Handled Package will be moved into the WHB and the TRU mixed waste containers removed and placed in one of the permitted storage areas in the WHB Unit. **If there is no additional space within the permitted storage areas of the WHB Unit, the DOE will discuss an emergency permit with the NMED for the purposes of storing the waste elsewhere in the WHB Unit.** [Emphasis added]*

Our concern is that all of the available, adequate space in the WHB may be permitted under the current PMR and occupied by waste - thereby reducing the emergency storage capacity of the building. Also, with additional storage capacity in the Parking Area Unit proposed under the current PMR, the problem of emergency capacity inside the WHB becomes worse. NMED, therefore, may want the Permittees to develop an emergency storage plan for the permit instead of relying on an emergency permit.

Comment 2. The Permittees seek to remove specific container types listed in the permit and state one reason as, *The NMED implemented the requirement to use containers*

based on DOT standards without specifically listing the containers in other issued/drafted permits within the State of New Mexico. EEG believes that this reason is not adequate because hazardous waste permits should be based on an individual set of environmental and operational considerations. While we understand that a consistent application of the regulations is important, we urge the NMED to consider PMRs based on activities of the WIPP Program. EEG also believes that the permit should continue to include specific containers types allowed at the WIPP.