

Creative Commotion

Voices for Social Change

325 E. Coronado Road #2
Santa Fe, New Mexico 87505

505-982-2609
coilaash@mindspring.com

March 20, 2004

Via email to: steve_zappe@nmed.state.nm.us
Hard copy follows via US post

Steve Zappe
New Mexico Environment Department
2905 Rodeo Park Drive, Building 1
Santa Fe, New Mexico 87505



Re: Class 3 Modification to WIPP Waste Analysis Plan

Dear Mr. Zappe:

The proposed class 3 modification should be denied because it does not protect public health and safety and is not consistent with state law and regulations.

The WIPP permit was developed through five years of public comment, 19 days of public hearings, and thousands of pages of documents. The modification request by the Department of Energy (DOE) and Washington TRU Solutions would change hundreds of provisions that were found to be necessary to protect public health and the environment by the Hearing Officer and the Secretary of the New Mexico Environment Department (NMED) in issuing the WIPP permit.

Changes proposed would eliminate many of the permit's sampling and analysis requirements to be carried out at generator sites that ensure that prohibited items are not shipped to WIPP. For Example:

- Headspace gas sampling requirements are eliminated;
- Homogeneous solids and soils and gravel sampling is eliminated;
- Sampling of every waste container is eliminated, in many waste streams only ten percent of the containers would be sampled;
- Much of the audit and surveillance program at each generator site would be eliminated; and
- The room-based emission rate limits for volatile organic compounds are eliminated.

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All of these changes would endanger public health and the environment and would substantially increase the likelihood that prohibited items would be shipped to WIPP.

Nonetheless, in the permit modification request, DOE does not even make the pretense of justifying the changes based on protecting public health and the environment. Instead, DOE states that the modification request is being submitted because Section 311 of Public Law 108-137 "directs the Secretary of Energy to file a permit modification to the WAP [Waste Analysis Plan] and associated provisions contained in the HWFP [Hazardous Waste Facility Permit]." Page 1.

While that explanation provides a reason for DOE to submit the modification request, it does not provide the basis for NMED to approve the changes. On the contrary, the New Mexico Waste Act requires that the permit "protect public health and the environment." Section 74-4-4. The changes included in the request would not protect public health and the environment, so NMED cannot approve the changes without violating state law. Instead NMED should deny the request as allowed by 40 CFR 270.42(c)(6).

Thank you for your consideration of our concerns and request.

Sincerely,

Coila Ash, Director

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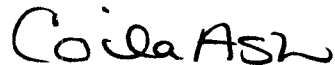
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A handwritten signature in black ink that reads "Coila Ash". The signature is written in a cursive, slightly slanted style.

Coila Ash, Director