



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*

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*www.nmenv.state.nm.us*



RON CURRY  
SECRETARY

DERRITH WATCHMAN-MOORE  
DEPUTY SECRETARY

September 17, 2004

Dear Concerned Citizen:

Enclosed is the public notice from the New Mexico Environment Department (NMED) announcing its intent to approve a Class 3 modification to the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). This modification would allow the construction and use of additional underground panels for disposal of transuranic waste. The public notice announces the availability of the WIPP draft permit for public comment. In addition, it states that NMED will consider any requests for public hearing and determine whether a public hearing will be held to consider further public comment.

All written public comment on the revised draft permit must be received no later than 5:00 PM November 1, 2004. Please refer to the public notice for procedures for submittal of written public comment and requests for a 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 or my staff at (505) 428-2517.

Sincerely,

A handwritten signature in black ink that reads "John E. Kieling".

John E. Kieling  
Manager  
Permits Management Program

Enclosure

040928





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**PUBLIC NOTICE NO. 04-14**

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

SEPTEMBER 17, 2004

**NOTICE OF PUBLIC COMMENT PERIOD**

**CONCERNING INTENT TO APPROVE A CLASS 3 PERMIT 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 a Class 3 permit 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) and the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC). This modification would allow the construction and use of additional underground Hazardous Waste Disposal Units (HWDUs), or panels, for transuranic (TRU) mixed waste. The WIPP facility is owned and operated by the US Department of Energy (DOE) and co-operated by Washington TRU Solutions LLC (collectively, **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 the availability of the WIPP draft permit for public comment. In addition,

NMED will consider any requests for public hearing and determine whether a public hearing will be held to consider further public comment. NMED also announces the availability of a fact sheet that sets out in detail the principle basis for NMED's proposal to approve the permit modification request, and the significant factual, legal and policy questions considered in preparing the draft permit.

**PUBLIC REVIEW OF THE DRAFT PERMIT**

A copy of the WIPP draft permit, public notice, and fact sheet may be reviewed during the public comment period 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 WIPP 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 office at above address.

### **PUBLIC COMMENT**

Any person, including the Permittees, who wishes to comment on the draft permit or request a public hearing should submit written or electronic mail (e-mail) comment(s) with the commenter's name and address to the address below. The comment period begins on **September 17, 2004** and ends on **November 1, 2004**. Only comments and/or requests received on or before **5:00 p.m. November 1, 2004** will be considered.

Mr. Steve Zappe  
NMED Hazardous Waste Bureau  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, New Mexico, 87505  
Fax: 505-428-2567

E-mail: [steve\\_zappe@nmenv.state.nm.us](mailto:steve_zappe@nmenv.state.nm.us)

Written comments must be based on all reasonably available information and include, to the extent practicable, all referenced factual materials. Documents in the administrative record need not be re-submitted if expressly referenced by the commenter. 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. NMED will provide a thirty (30) day notice of a public hearing, if granted.

### **PROCEDURE OF ISSUANCE OF FINAL PERMIT DECISION**

NMED must ensure that the approved final permit is consistent with the New Mexico Hazardous Waste Management Regulations (20.4.1 NMAC). All written comments submitted on the draft permit will be considered in formulating a final decision and may cause the draft permit to be modified.

NMED will respond in writing to all public comments. NMED's response will specify which provision, if any, of the draft permit have been changed in the final permit decision, the reasons for the change, and briefly describe and respond to all public comments on the draft permit or the permit modification request raised during this and prior public comment periods. All persons presenting written comments or who requested notification in writing will be notified of NMED's decision by mail. This response will also be posted on the NMED WIPP website.

After consideration of all the written public comments received, NMED will issue, or modify and issue the permit. If NMED modifies and issues the permit, the applicant shall be provided by mail a copy of the modified permit and a detailed written statement of reasons for the modifications.

The NMED Secretary of the will make the final permit decision publicly available and shall notify the applicant by certified mail. The Secretary's decision shall constitute a final agency decision and may be appealed as provided by the Hazardous Waste, NMSA 1978 §§ 74-4-1 et seq. (Repl. Pamp. 2000).

### **ARRANGEMENTS FOR PERSONS WITH DISABILITIES**

Any person with a disability requiring assistance or auxiliary aid to participate in this process should contact Judy Bentley 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 Ms. Bentley's number via the New Mexico Relay Network. Albuquerque users may access Ms. Bentley'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 or portions of the administrative record at 25 cents a page for the first 99 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.