

SOUTHWEST RESEARCH AND INFORMATION CENTER

P.O. Box 4524 Albuquerque, NM 87196 505-262-1862 FAX: 505-262-1864 www.sric.org

March 29, 2005

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

VIA FAX and U.S. MAIL

RE: WIPP Class 1* Permit Modification - Panel 2 Closure



Dear Steve,

Southwest Research and Information Center (SRIC) provides the following comments on the Class 1* permit modification that was submitted on February 24, 2005, according to the WIPP website.

1. SRIC continues to be concerned about inconsistent, and likely inaccurate, information in the permit regarding the "anticipated schedule" for panel closure. SRIC has raised this issue previously, including in our comments of November 1, 2004 regarding the class 3 modification for underground HWDUs, which is related to this class 1* modification.

In their Class 1* permit modification, the permittees provide some revised dates in Table I-1. They also change Note 1. However, the revised Note 1 is not consistent with the dates shown on Table I-1. Under the proposed revised Note 1, panels 1 through 7 "will be closed under the permit covered by this application." However, the dates on Table I-1 correspond to only panels 1-3 being closed during the term of the permit. Such inconsistent information cannot be incorporated into the permit.

Since 20.4.1.900 NMAC (incorporating 40 CFR 270.42(a)) does not specifically allow NMED to approve the class 1* modification request with changes, it appears that either NMED must reject the modification, pursuant to 40 CFR 270.42(a)(1)(iii), or the permittees must withdraw the modification and submit a new class 1* modification regarding panel 2 closure.

2. During the discussions on October 28, 2004 regarding the class 3 Underground HWDU permit modification, the permittees indicated that they were updating the *Mining and Waste Emplacement Timeline*. SRIC believes that the class 1* modification, and other modification requests, should be accompanied by the most current timeline. On page A-3, the class 1* modification states that the "Mine Long Term Plan of December, 2004 is appended," but that report is not included in the version of the modification request on the WIPP website.

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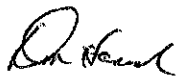


It is not clear what is the relationship between the "Mine Long Term Plan" and the *Mining and Waste Emplacement Timeline*. That relationship should be clearly stated in the modification request and the supporting document(s) should be readily available to the public. For example, the permittees could indicate in the modification request where the document(s) can be found on the WIPP website.

3. SRIC notes that when NMED issues its final decision regarding the class 3 modification noticed on September 17, 2004, including revised Table I-1, it could clearly indicate how any future panel closure modifications could revise Table I-1.

Thank you very much for your careful consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Hancock". The signature is written in a cursive style with a large initial "D".

Don Hancock