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April 8, 1983

Chairman
Radioactive Waste Consultation Task Force
New Mexico State Capitol Building
Santa Fe, New Mexico 87503

Dear Sir:

Thank you for your letter of March 24, 1983, transmitting the State's modified version of our proposed Revision No. 1 to Article IV of the Working Agreement for Consultation and Cooperation.

We have executed the copies of Revision No. 1 which you forwarded to us and have enclosed a signed copy for your records.

The effect of the modifications proposed by you is to permit the State to comment on all materials contained in draft DOE orders related to the health and safety considerations of the WIPP Project. Although it is clear from your letter that you appreciate the process by which our Headquarters issues DOE orders, it would be appropriate to review a few aspects of this process to assure that we clearly identify the procedures we are to follow. As you have noted, draft DOE orders are issued by the Department's Assistant Secretary, Management and Administration for comment by field offices including AL. I have instructed the WIPP Project Manager to assure that the Environmental Evaluation Group is promptly furnished a copy of applicable portions of such draft DOE orders which relate to the health and safety considerations of the WIPP Project. With respect to each such draft order forwarded to the State, we will identify any time constraints imposed upon us by DOE Headquarters. Based upon our past experiences, we believe that a period of thirty days will normally be available for review by the State and submission of its comments to the WIPP Project Office.

If you have any further questions or comments regarding Revision No. 1, to our Working Agreement, please do not hesitate to call upon me for a further discussion in this matter.

Sincerely,
Original signed by
R. G. Romatowski
R. G. Romatowski
Manager

CONCURRENCES	
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WORKING AGREEMENT
for
CONSULTATION AND COOPERATION AGREEMENT

Appendix B, Article IV

REVISION I

STATE OF NEW MEXICO

UNITED STATES DEPARTMENT OF ENERGY



Chairman, Radioactive Waste
Consultation Task Force



Manager, Albuquerque Operations
Office

3-25-83

(DATE)

4/8/83

(DATE)

ARTICLE IV - KEY EVENTS AND ASSOCIATED MILESTONES

Where a Key Event has already commenced or been completed, DOE shall, at the State's request, review with the State the information already furnished by DOE to the State and provide such supplementary information as may be agreed upon. It is recognized, however, that DOE's ability to respond to any particular State concern may be limited after the commencement or completion of a Key Event or Milestone.

A. DRAFT ENVIRONMENTAL EVALUATION (already commenced)

1. Issuance of Geological Characterization Report - GCR

This background document has been furnished to the State.

2. Issuance of Draft Environmental Impact Statement

- (a) DOE has furnished this document to the State.
- (b) The State has reviewed and commented in accordance with NEPA.
- (c) DOE has acknowledged the State's comments after holding additional hearings at the State's request.

B. PRELIMINARY ENGINEERING - TITLE I (already commenced)

1. Conceptual Design and Design Criteria

The State has been furnished this documentation.

2. Title I Design Report

- (a) The State has been furnished the technical portions of the Title I design report.
- (b) DOE shall furnish any supplements to these portions when completed.

3. Issuance of Safety Analysis Report (SAR) for Title I Design

- (a) The State has been furnished the SAR in five volumes.
- (b) The State's review is in progress and shall be an ongoing process.
- (c) DOE is responding and shall continue to respond to the State's comments.
- (d) Consultation shall continue.
- (e) DOE-initiated changes to the SAR shall follow this same ongoing process.

C. FINAL ENVIRONMENTAL EVALUATION (already commenced)

1. DOE Applications for State and Federal Permits or Approvals

2. Issuance of Final Environmental Impact Statement (FEIS)

DOE shall furnish copies to the State at the time of approval by the Secretary.

D. SITE AND PRELIMINARY DESIGN VALIDATION (SPDV) CONSTRUCTION (already commenced)

1. Institutional (For Informational Purposes)*

- (a) FEIS and Record of Decision
- (b) Any required BLM cooperative agreement on land use
- (c) Any required right-of-way acquisition
- (d) Any leases that are required
- (e) All applications for State and Federal permits and clearances
- (f) All approved State and Federal permits and clearances

2. SPDV Design

Any State comments as to public health and safety concerns shall be provided to the DOE WIPP Project Manager within 60 calendar days after receipt of documentation from DOE. DOE shall respond to the State comments within 30 calendar days after receipt of such comments. Nothing herein shall preclude further discussions of the matter or any updates prepared by DOE. Reasonable time frames for State comments and DOE response to any DOE updates shall be as negotiated by the WIPP Project Office (WPO) and EEG.

- (a) Design Criteria
- (b) SPDV experimental program summary (SAR amendment - see Article III, Paragraph C, Chapter 1, item 6)
- (c) Technical portions of the SPDV design (furnished as discrete construction contract packages)

3. Notification (For Informational Purposes)

- (a) 30 calendar day notification prior to site mobilization of first SPDV construction contractor
- (b) Baseline SPDV schedule summary

E. DETAILED DESIGN - TITLE II (already commenced)

1. Title I

*Wherever documents are indicated in this Working Agreement as being furnished "for informational purposes", the furnishing of the documents is intended to provide background information for other Milestones or Key Events. While the State need not furnish comments, the State may discuss such documents with DOE under this Working Agreement.

(a) Title I design package

DOE has provided this documentation to the State. Any State comments as to public health and safety concerns shall be provided to the DOE WIPP Project Manager within * calendar days after receipt of documentation from DOE. DOE shall respond to the State comments within ___ calendar days after receipt of such comments. Nothing herein shall preclude further discussions of the matter or any updates prepared by DOE. Reasonable time frames for State comments and DOE response to any DOE updates shall be negotiated by the WPO and EEG.

(b) Title I design criteria

DOE has provided this document to the State. Any State comments as to public health and safety concerns shall be provided to the DOE WIPP Project Manager within ___ calendar days after receipt of documentation from DOE. DOE shall respond to the State comments within ___ calendar days after receipt of such comments. Nothing herein shall preclude further discussions of the matter or any updates prepared by DOE. Reasonable time frames for State comments and DOE response to any DOE updates shall be negotiated by the WPO and EEG.

(c) Waste acceptance criteria

DOE has provided the Waste Acceptance Criteria document to the State. Any State comments as to public health and safety concerns shall be provided to the DOE WIPP Project Manager within ___ calendar days after receipt of documentation from DOE. DOE shall respond to the State comments with ___ calendar days after receipt of such comments. Nothing herein shall preclude further discussions of the matter or any updates prepared by DOE. Reasonable time frames for State comments and DOE response to any DOE updates shall be negotiated by the WPO and EEG.

(d) SAR amendments

Reasonable time limits for State review and comment and the corresponding DOE response to the State shall be agreed upon between the EEG and the DOE WIPP Project Manager for each amendment.

*Wherever in this Working Agreement time requirements are left blank, it is intended that such requirements be negotiated by the WPO and EEG.

2. Institutional (For Informational Purposes)

FEIS and Record of Decision (furnished for informational purposes under IV.D.1 above)

3. Notification (For Informational Purposes)

Project Progress Report (monthly)

F. CONSTRUCTION OF EXHAUST AND WASTE SHAFTS (TWO SHAFTS)

The following Milestones are currently established for this Key Event. Additional Milestones shall be negotiated in the future, as appropriate. State comments will be provided within 30 days of receipt of the final document for review unless otherwise noted.

1. Title II

- (a) Technical portions of the Title II design packages consisting of CCP-1D, including final construction drawings and specifications for the Exhaust Shaft and Waste Shaft.
- (b) Technical Portions of the Title II design packages consisting of CCP-1Fb, including final construction drawings and specifications for underground development (experimental areas).
- (c) Title II Amendments to the SAR. These amendments will reflect the cost reduced design of WIPP and the underground orientation of WIPP.

2. Institutional (for Informational Purposes)

- (a) Federal Land withdrawal - full facility administrative land withdrawal.
- (b) Lease acquisition.
- (c) All applications and approvals for State and Federal permits and clearances.
 - (1) Air Quality Permit
 - (2) Water Quality Permit
 - (3) Approval to Install Septic Field(s)
 - (4) Archaeological Mitigation
 - (5) Rights-of-Way

3. Preliminary Geotechnical Suitability Determination

- (a) Basic data reports for Site Characterization
- (b) Dissolutioning of Evaporites in the Delaware Basin Report (SAND 82-0461)
- (c) DMG Hydrology Report (TME 3166)
- (d) Geohydrology of the Proposed WIPP Site - Los Medanos area,

Southeast New Mexico, USGS Water Resources Investigation
#83-4016.

- (e) Exploration of Disturbed Zone (Data File Report on ERDA-6 and WIPP-12 testing)
 - (f) Basic Data Report--Borehole WIPP-12 Deepening (TME 3148)
 - (g) Site Deformation Report (SAND 82-1069)
 - (h) Brine Reservoirs Report (TME 3153)
 - (i) Breccia Pipe Report (USGS Open File 82-968)
 - (j) Fracture Flow in the Rustler Aquifers Report (SAND 82-1012)
 - (k) Hydrogeochemical Parameters of Fluid Bearing Zones in the Rustler and Bell Canyon Formations (SAND 83-0210)
 - (l) Natural Resources Study Report (TME 3156)
 - (m) Interim Policy Statement on Resource Recovery
4. Preliminary Transportation Evaluation
- (a) Radiological impacts under normal conditions
 - (b) Radiological impacts under accident conditions
5. Preliminary Experimental Program
- (a) In-Situ Testing Plan for WIPP (SAND 81-2628)
 - (b) Simulated Waste Experiments Planned for the Waste Isolation Pilot Plant (SAND 82-0547)
6. SPDV Site and Design Validation
- (a) Plans for SPDV Design Validation
 - (b) Plans for SPDV Site Validation (WIPP-DOE-116)
 - (c) Preliminary Design Validation Report, including field data
 - (d) Results of Site Validation Experiments, including field data
 - (e) Site Validation Summary Report containing a summation of the results of all experiments and studies conducted during the SPDV phase and site validation phase at least sixty (60) days prior to issuance of the Final Validation Declaration, i.e., the "Decision to Construct the Full WIPP Repository."
- (1) State and public shall have sixty (60) days in which to comment on the document.
 - (2) DOE shall review, consider and respond to any State or public comments before entering a final decision to construct the WIPP repository.
7. Cost Reduction Program Environmental Analysis (WIPP-DOE-136)
8. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.

9. Notification

- (a) Final decision on permanent facility construction. At least 30 calendar days, DOE notification to the State prior to site mobilization of first construction contractor
- (b) Baseline master construction schedule
- (c) Site Operations Weekly Report
- (d) Project Progress Reports (monthly)
- (e) Interim Resource Recovery Plan (Complete)

G. CONSTRUCTION OF WASTE HANDLING BUILDING

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

1. Title II

- (a) Technical portions of the CCP 14 design package
- (b) Title II amendments to the SAR

2. Notification (For Informational Purposes)

- (a) Project Progress Reports (monthly)
- (b) Baseline schedule summary

3. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.

H. UNDERGROUND DEVELOPMENT

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

1. Title II

- (a) Technical portions of the CCP 1E design package
- (b) Title II amendments to the SAR

2. Notification (For Informational Purposes)

- (a) Project Progress Reports (monthly)
- (b) Baseline schedule summary
- (c) Results of geologic mapping of the tunnels, the scope of which will be determined by WPO and EEG.

3. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.

I. CONSTRUCTION OF EXHAUST FILTER BUILDING

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

1. Title II
 - (a) Technical Portions of the CCP 19 design package
 - (b) Title II amendments to the SAR
2. Notification (For Informational Purposes)
 - (a) Project Progress Reports (monthly)
 - (b) Baseline schedule summary
3. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.

J. COMPUTER INSTALLATION FOR THE FACILITIES ALARM AND MONITORING SYSTEMS

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

1. Title II
 - (a) Technical portions of the CCP 17 design package
 - (b) Title II amendments to the SAR
2. Notification (For Informational Purposes)
 - (a) Project Progress Reports (monthly)
 - (b) Baseline schedule summary
3. State shall have the opportunity to consult with DOE and comment on all materials contained in the draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.

K. OPERATIONS

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

Any State comments as to public health and safety concerns shall be provided to the DOE WIPP Project Manager within ___ calendar days after receipt of documentation from DOE. DOE shall respond to the State comments within ___ calendar days after receipt of such

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comments. Nothing herein shall preclude further discussions of the matter, or any updates prepared by DOE. Reasonable time frames for State comments and DOE response to any DOE updates shall be as negotiated by the principal representatives of the parties.

1. Final facility

- (a) Final facility amendments to the SAR
- (b) Operating and Monitoring Plan
- (c) Final site emergency response manual
- (d) Periodic reports on progress of excavation and geotechnical conditions encountered for mining performed prior to this Key Event.

2. Pre-Operational Testing

Pre-operational Test Reports

3. Final Transportation Evaluation

- (a) Department of Transportation certification(s) of shipping cask(s) (For Informational Purposes)
- (b) Safety Analysis Report(s) on Packaging (SARP)
- (c) Information on the mode of transport and routing as available

4. Final Experimental Program

- (a) High level waste experimental plan and schedule including the continuing SWE
- (b) WAC and Certification Requirements for high level experimental wastes*.

5. Waste Certification

- (a) TRU Waste Acceptance Criteria (WIPP-DOE-069)
- (b) TRU Waste Certification Requirements
- (c) Quality Assurance Requirements for Certification of TRU Waste (DOE-WIPP 120)
- (d) Site Specific TRU Waste Certification Plans*. DOE shall provide to the State drafts of the WAC compliance procedures for each certifying facility and will consider State comments on these procedures before such procedures are finalized.

6. Acquisition of State Land

*All sites' plans for all waste forms need not be complete to permit WIPP to start operations. Those sites shipping waste to WIPP must have approved plans covering the waste form being shipped.

7. Legislative or Administrative Land Withdrawal (For Informational Purposes)
8. DOE shall provide the following investigation and reports to the State and allow for a 45 day review and comment period by State and general public. DOE shall consider and respond to such comments prior to the decision to transport any waste into the State for emplacement at the WIPP site:
 - (a) Results of Simulated Waste Experiments:
Including all pertinent results and analyses of experiments as agreed upon by WPO and EEG.
 - (b) Final results of design validation experiments and results of continuing site research and development studies, including all pertinent results and analyses of investigations and experiments as agreed upon by WPO and EEG.
9. Notification (For Informational Purposes)
 - (a) Seven calendar day notification prior to RH/CH TRU and high level waste retrievability demonstration
 - (b) Seven calendar day notification prior to expected start of operations (i.e., receipt of first waste)
 - (c) Project Progress Reports (monthly)
10. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.

L. RETRIEVABILITY DECISION FOR TRU WASTE

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

1. Facility Performance Evaluation
2. Status of Experimental Programs (especially borehole plugging)
3. Final Geotechnical Suitability Determination (update of preliminary determination incorporating any additional data acquired)
4. Final Retrieval Plan (if retrieval is required)
5. Legislative land withdrawal (if not previously obtained)
6. Notification of Decision to Retrieve or Not to Retrieve

7. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.
8. Periodic reports on progress of excavation and geotechnical conditions encountered for mining performed prior to this Key Event.

M. HIGH LEVEL WASTE RETRIEVAL AND SHIPPING

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

1. Decommissioning and Decontamination Plan for Experimental Facility Underground Area
2. Transportation Modes and Routes (as available)
3. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.
4. Periodic reports on progress of excavation and geotechnical conditions encountered for mining performed prior to this Key Event.

N. DECONTAMINATION AND DECOMMISSIONING

The following Milestones are currently established for this Key Event. Additional Milestones, together with reasonable time limits for State comment and DOE response, shall be negotiated in the future, as appropriate.

1. Decommissioning Plan (including borehole plugging and decontamination of surface facilities)
2. Monitoring Plan
3. Site Control Termination Plan
4. Retrieval of Last Experimental Waste
5. Shipment Off-site of Last Experimental Waste
6. Public Health and Safety Radiation Standards Plan
7. State shall have the opportunity to consult with DOE and comment on all materials contained in draft DOE Orders related to the health and safety considerations of the WIPP Project prior to promulgation of final Order(s) by DOE.

- g. Periodic reports on progress of excavation and geotechnical conditions encountered for mining performed prior to this Key Event.

ARTICLE V - INTERPRETATION AND IMPLEMENTATION

This Working Agreement shall be interpreted and implemented in a manner consistent with the underlying Agreement.

Chairmen

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Enclosure

cc:

D. T. Schueler, A/M, OPEP, AL
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