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JOSEPH GOLDBERG - RAY ROMATOWSKI

WASTE ISOLATION PILOT PLANT PROJECT CONFLICT RESOLUTION MEETING

September 14, 1984

840901



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DEPARTMENT OF ENERGY

- Ray Romatowski, Manager, Albuquerque Operations Office (ALO) DOE
- Dennis Krenz, Acting Assistant Manager for Project and Energy Programs
- James Stout, Assistant Chief Counsel, Office of General Counsel
- Mary Wilson, Lawyer, Office of General Counsel
- Harry Mumma, Acting WIPP Project Manager



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GOVERNOR

**STATE OF NEW MEXICO**

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**JOSEPH GOLDBERG**  
SECRETARY  
FOR HEALTH & ENVIRONMENT

July 10, 1984

Mr. Raymond G. Romatowski, Manager  
Albuquerque Operations Office  
U.S. Department of Energy  
P.O. Box 5400  
Albuquerque, New Mexico 87115

RE: Conflict Resolution of Certain WIPP  
Health and Safety Issues

Dear Mr. Romatowski:

Since my appointment as Chairman of the State's Radioactive Waste Task Force I have been reviewing the negotiations between the State and the Department of Energy. I am requesting a meeting between us pursuant to Article IX of the Agreement for consultation and cooperation ("C&C Agreement") to discuss in detail the resolution of those health and safety issues involving WIPP which are in conflict. I am hopeful that through this meeting we can resolve these areas of conflict and thereby avoid the necessity of formal invocation of the conflict resolution provisions of Article IX.

Representatives of DOE and the State have been negotiating since last August over the resolution of certain continuing concerns of the State regarding WIPP. While there has been progress in resolving several of the minor issues (Post-closure Control and Compliance with Regulatory Standards), DOE's last formal response to the State indicates that we have reached an impasse on the major issues (Mission, Retrievability Demonstration and Site Characterization). I view these major issues as central and fundamental to the State's ability to conduct a meaningful independent review of the public health and safety of WIPP. Furthermore, I am concerned that there is a basic disagreement between us now as to the meaning and extent of DOE's responsibility for good faith consultation and cooperation with the State over WIPP. I believe we are approaching a critical juncture on WIPP both in its construction and in our federal-state relationship over the project. It is important that these major issues be resolved as soon as possible and in a manner that ensures that the State is able to perform creditably an independent and competent evaluation of WIPP.

I define the outstanding major issues over which we are in conflict as follows:

## 1. WIPP MISSION

Issue in Conflict: The State seeks a specific and numerically precise definition of the WIPP Mission in the C&C Agreement which would bind DOE to maximum levels and quantities of radioactive waste to be emplaced at WIPP, absent further congressional action. DOE's response to the State acknowledges that the current numerical limitations are only those contained in the FEIS, which could be changed and/or increased if DOE chooses to do so by a supplement to the FEIS. DOE apparently understands the statutory mission limitation for WIPP in P.L. 96-164 as flexible and capable of administrative expansion by DOE beyond the limitations contained in the FEIS. The State disagrees with DOE's interpretation of the federal statutes and therefore objects to such an administrative expansion of the WIPP Mission by DOE without further congressional authorization.

State's Position: DOE should agree contractually with the State in the C&C Agreement that the description of the TRU and HLW waste in the WIPP FEIS quantitatively defines the maximum dose rates and radionuclide concentrations of the waste to be brought to WIPP.

Proposed Solution: The State seeks either modification of Article VI of the C&C Agreement or otherwise to define clearly the Mission of WIPP by establishing a maximum numerical limitation on the level and quantities of the radioactive waste at WIPP. These limitations would be substantially similar to those contained in the FEIS. For the RH-TRU, the limitation should be 100 rem/hr surface dose rate and a concentration of 23 curies/liter. For the HLW, the numerical limitations should be a total of 40 cannisters containing 430,000 curies/cannister, with each cannister not to exceed a surface dose rate of 7,000 rem/hr.

## 2. RETRIEVABILITY DEMONSTRATION

Issue in Conflict: Although DOE has accelerated the schedule for the construction of the repository, DOE has made no similar commitment to accelerate the demonstration of retrievability of the waste to be emplaced. The State seeks the right to be present at the tests, to be notified on a quarterly basis of the estimated shipping dates of the waste, and the right to have a three-month reaction period after completion of the tests and reports thereon before each waste type is shipped to WIPP. DOE objects to these requirements.

State's Position: The State views a successful demonstration of the retrievability of the waste as one of the most critical events of WIPP in terms of the State's responsibility to evaluate independently the public health and safety of the project. The retrievability demonstration tests must not be left to the very end of the construction of the project, nor must they be carried out in a rushed manner in which the State does not have ample time to verify the results and react prior to the shipment and emplacement of the waste if the State is not satisfied.

Proposed Solution: The State seeks a guarantee either through amendment to the C&C Agreement or otherwise an early and timely retrievability test with a full and meaningful review and comment period to be completed 90 days

before any waste forms subject to the tests are shipped to WIPP. Any guarantee should also ensure that the State is present during the tests and that the State is advised on a quarterly basis of the estimated first shipping dates of the different waste forms.

### 3. CONTINUING SITE CHARACTERIZATION AND FINAL SUMMATION REPORT

Issue in Conflict: The site characterization work required to be performed by DOE under the 1981 Stipulated Agreement reached in Court remains incomplete in some areas. Progress in performing the additional site characterization studies agreed to in June of 1983 by DOE has been extremely slow. The State has received no plans or schedules for completing the recommended studies. To ensure satisfactory completion of these tests, studies and reports prior to the emplacement of any waste, the State seeks to modify the C&C Agreement to propose a review milestone for these studies and tests prior to the shipment and emplacement of the waste and the operation of WIPP. The State also requests that there be a final summation report issued by these additional studies, tests and reports, and that the State and the public have a 60-day review and comment period prior to shipment of the waste to WIPP. DOE has objected to such requirements.

State's Position: The State contends that certain questions concerning the suitability of the site remain unanswered. Specifically, the Rustler Hydrology, including the questions of recharge, discharge, water transport, solute transport, fracture or karst flow and detailed characteristics near the center of the site have not been adequately characterized. Further, the delineation of the Castile brine under the site remains unknown, and one feature, possibly indicating the presence of deep dissolution one mile north of the edge of Zone 2, remains unexplored. The State has recommended that these studies be completed by July of 1985, and that the State and general public be allowed an appropriate review and comment period on these reports, which should be considered by DOE before making a final decision on the shipment and emplacement of the waste. The State seeks a final summation report on these tests, studies and reports prior to any shipment of waste to WIPP but not prior to any further construction of the WIPP repository.

Proposed Solution: The State seeks an amendment to the C&C Agreement guaranteeing completion of these additional studies, tests and reports prior to shipment of waste to WIPP. The amendment would also guarantee that DOE would prepare a final summation report on these additional tests, studies and reports, stating DOE's overall conclusions and affording the State and public appropriate review and comment periods prior to shipment of the waste to WIPP.

### 4. DOE'S RESPONSIBILITY TO CONSULT AND COOPERATE WITH THE STATE

Issue in Conflict: The State reads Article VII of the C&C Agreement and the statutory language of Public Law 96-164 as creating a general, overriding responsibility on the part of DOE to consult and cooperate with the State in good faith and to advise the State in a timely fashion on the significant aspects of WIPP in order for the State to make an independent review of the public health and safety of WIPP. The DOE Assistant Inspector General's letter of May 10, 1984 (copy attached) states that DOE's position in this regard is that only specific, written provisions of the current C&C

Agreement define DOE's responsibility for consultation and cooperation with the State, and nothing more. That letter also recommends that the formal conflict resolution procedures of Article IX be utilized in instances where we disagree over health and safety issues, or over whether DOE has complied with its responsibility for consulting and cooperating with the State. The State understands this letter to mean that DOE now perceives that it has no general responsibility for good faith consultation and cooperation with the State, and that our C&C Agreement must be constantly updated with detailed written amendments and modifications in order to create such binding obligations on DOE.

State's Position: The State disagrees with this narrow interpretation of DOE's consultation and cooperation responsibilities under the C&C Agreement and Public Law 96-164. Because of the complexity of WIPP and disparity in information-gathering ability in favor of DOE, the Department of Energy must live up to a much broader standard of good faith consultation and cooperation if the State is to carry out properly its responsibility to independently review the public health and safety of the WIPP project.

Proposed Solution: The State seeks an amendment to Article VIII-Consultation and Cooperation, to clarify the nature and extent of DOE's responsibility to consult and cooperate with the State on WIPP.

I am eager to discuss these issues with you to determine the full extent of our present conflicts in the hope of an immediate resolution or as preparatory to submitting these issues to a formal conflict resolution procedure conducted by third parties. In addition, I would like to discuss generally with you what I perceive to be other outstanding issues that are moving toward potential conflict. These other issues include the following:

8/9/84

end of August

1. Early delivery of the high-level waste acceptance criteria to the State for its review and comment.
2. Engineered barriers at WIPP, whether or not mandated by EPA regulations.
3. Agreement on a classification category for components, structures and systems in the construction of WIPP equal to that required for similar nuclear facilities.
4. An early and definite schedule for completing the NEPA review for non-INEL waste to be shipped to WIPP, including transportation; agreement on appropriate standards for WIPP waste shipment containers.
5. Resolution of various transportation issues, including completion of preliminary transportation analysis report, shipping container design, and adequacy of NEPA review for transportation of wastes to WIPP.
6. Resolution of the compensation for loss of mineral resources issue.
7. Criteria for TRU waste retrieval decision.

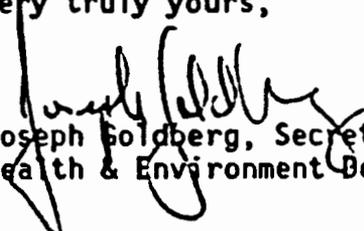
While we are not at this time seeking conflict resolution on these other issues, I believe it is incumbent that these issues be given a high priority

Mr. Raymond G. Romatowski  
July 10, 1984  
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for resolution within the next four months. I realize that some of these items are complex and certain aspects of them may not be entirely ripe for resolution at this time. Nevertheless, we must have a firm schedule for addressing and resolving these issues as the WIPP project continues to proceed with construction. I don't believe that either you or I should be satisfied to allow these issues to remain unresolved and unaddressed during the remainder of this year. We should use every method available to us to insure that they are in fact resolved.

I would like to meet with you concerning these matters during the period July 18 - July 20, 1984. Please have your staff contact my office to arrange for a convenient time and location for the meeting. I would suggest that at least one-half of a day be set aside for the meeting.

Very truly yours,



Joseph Goldberg, Secretary  
Health & Environment Department



Department of Energy  
Washington, D.C. 20585

May 10, 1984

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RECEIVED

MAY 14 1984

ENVIRONMENTAL  
EVALUATION GROUP

Mr. Robert H. Neill  
Director  
Environmental Evaluation Group  
320 E. Marcy Street  
P.O. Box 968  
Sante Fe, New Mexico 87503

Dear Mr. Neill:

This refers to your letter of April 18, 1984, stating your concern with our conclusion that the State of New Mexico's Environmental Evaluation Group (EEG) was being adequately informed of problems affecting the Waste Isolation Pilot Plant (WIPP) project. Our conclusion was based, in part, on Appendix B to the 1981 Agreement for Consultation and Cooperation, which was used as the standard for adequacy.

The State and the Department of Energy entered into the Agreement to consult and cooperate about the State's concerns regarding public health and safety. The Agreement established key events and associated milestones and specified time frames for State review and comment. Appendix B delineated the specific documentation to be provided by the Department to the State for review and comment.

Pursuant to Appendix B, the initial WIPP Waste Acceptance Criteria was provided to the State for comment. The Department subsequently revised the criteria to address, among other things, the potential problems from gas generation associated with PU-238 contaminated waste. It appears from your letter that you have received a copy of the latest revision. This notification of a potential problem provides the State an opportunity to review and comment on the Department's proposed solution. The Agreement provides for similar treatment of other issues, such as your concern with certification of the TRU waste shipping container.

Article IX of the Agreement prescribed specific actions that could be taken by the State to resolve conflicts associated with the State's concern over public health and safety. We recommend that this procedure be used as a basis for resolving future conflicts on matters covered by the Agreement.

We have construed your letter of April 18, to be a request under the Freedom of Information Act for a copy of the Memorandum to File from A. K. Walter, subject: Meeting With DOE Office of Environmental Compliance, September 15, 1983. Your request for this document is being processed separately.

Sincerely,



William R. Partridge  
Assistant Inspector General  
for Inspections



**Department of Energy**  
Albuquerque Operations Office  
P. O. Box 5400  
Albuquerque, New Mexico 87115

JUL 25 1984

Mr. Joseph Goldberg  
Secretary  
Health & Environment Department  
P. O. Box 969  
Santa Fe, New Mexico 87503-0969

Dear Mr. Goldberg:

This will confirm our telephone conversation of July 16, 1984, in which we agreed on how we would proceed with the resolution of the State's concerns regarding WIPP as outlined in your July 10 letter. We will meet in my office in Albuquerque at 8:30 a.m. on Tuesday, August 21, 1984. In the meantime James Stout or Mary Wilson of our Office of Chief Counsel will meet with Joseph Canepa to continue negotiations on these issues.

As I indicated, we believe that with a little additional negotiation our staff representatives can reach accord on the State's concerns related to retrievability demonstration and continuing site characterization and the final summation report. In addition, although our initial positions on the WIPP mission are farther apart than on the other issues, we believe that progress can also be made on this matter prior to our August 20 meeting.

We are not in disagreement on the fourth issue raised in your letter. Under the Consultation and Cooperation Agreement, as the Manager of AL, I am designated as the DOE representative for the consultation and cooperation process with the State. The views expressed in the May 10, 1984, letter of the Assistant Inspector General for Inspections do not accurately reflect the DOE's position with respect to the resolution of the State's concerns. We are committed to a meaningful and ongoing consultation and cooperation process with the State. We view the conflict resolution provisions of Article IX as a measure of last resort to be used only when a complete stalemate has been reached.

Finally, we appreciate your list of the seven issues which you believe are potential problem areas. At our August 20 meeting we can discuss the best approach for assuring that these matters are satisfactorily resolved.

I look forward to meeting with you.

Sincerely,

R. G. Romatowski  
Manager

September 13, 1984

FIRST MODIFICATION TO THE JULY 1, 1981 "AGREEMENT  
FOR CONSULTATION AND COOPERATION" ON WIPP BY THE  
STATE OF NEW MEXICO AND U. S. DEPARTMENT OF ENERGY

The following modifications to the July 1, 1981 Agreement for Consultation and Cooperation, and the Working Agreement for Consultation and Cooperation, which forms a part thereof, are hereby agreed to by the State of New Mexico ("State) and the United States Department of Energy ("DOE"), and are effective and binding upon the parties as of the signing of this document.

WHEREAS, the State has identified certain continuing concerns regarding: (1) the specific mission of WIPP, (2) a demonstration of the retrievability of the WIPP waste prior to emplacement, (3) post-closure control and responsibility by DOE, (4) completion of certain additional scientific testing and reports, (5) compliance with applicable federal regulatory standards for waste repositories, and (6) a program for encouraging and reporting upon the hiring of New Mexico residents at WIPP; and

WHEREAS, DOE and the State have agreed that the following modifications address those specific State concerns and are in furtherance of, and consistent with, both DOE's responsibility for national security and carrying out the mission of WIPP in accordance with Public Law 96-164 and the State's responsibility for the welfare of its citizens and the safe environment of New Mexico; and

WHEREAS, these modifications are made in accordance with Article V - Modifications of the Agreement for Consultation and Cooperation and Article I regarding modification of the Working Agreement; and

WHEREAS, the parties recognize that because of the long-term and significant nature of the WIPP Project there may be additional issues and concerns that may be addressed in future agreed upon modifications and this First Modification in no way limits the parties from raising such additional concerns in the future;

NOW, THEREFORE, the parties agree to modify the July 1, 1981 Agreement for Consultation and Cooperation and the Working Agreement for Consultation and Cooperation, which is a part thereof, as follows:

MODIFICATIONS TO AGREEMENT FOR CONSULTATION AND COOPERATION

ARTICLE VI - WIPP MISSION

- B. WIPP is intended to include receipt, handling and permanent disposal of defense transuranic waste and temporary storage for experimental purposes of a limited amount of high-level defense waste.

All of the high-level waste will be removed from the WIPP upon completion of the experiments and prior to decontamination and decommissioning of the facility. The transuranic waste will be subject to a period of retrievability prior to permanent disposal as set forth in the Retrievability Plan referenced in Article IV of the Working Agreement.

The WIPP FEIS analyzes the impacts on the public health and safety from the release of radioactive material from WIPP. It is DOE's position that the bounds of these impacts are established by the estimated dose consequences, rather than by any of the particular characteristics of the waste to be emplaced at WIPP. It is the States position that the impacts on public health and safety are bounded not only by dose estimates but by the site characterization, multiple containment barriers, QA programs, design criteria, operational controls, enforcement of safety programs and other good engineering practices. The analyses in the WIPP FEIS use the upper limit of 100 rem per hour as the maximum surface dose rate for a canister of remote

handled transuranic waste (RH-TRU) and an expected maximum activity level of 23 curies per liter for the waste. The Record of Decision, dated January 22, 1981, also limited the total volume of RH-TRU to be shipped to WIPP to 250,000 cubic feet.

A limited amount of RH-TRU waste, described below as falling within the 100 to 1000 rem/hour range, presently in existence has activity levels and characteristics which exceed the transuranic waste characteristics used in the WIPP FEIS. Since physically reducing such waste form to levels below 100 rem/hr may be impractical, and since the WIPP Waste Acceptance Criteria (WAC) or its companion waste certification compliance requirements will permit exceptions to the WAC, the DOE will, prior to granting such exceptions to such waste and prior to the shipment of such waste: (1) perform environmental analyses to ascertain the impact of such on the public health and safety, and (2) consult with the State of New Mexico, including providing the State with a copy of the analyses for review and comment. In no instance will an exception to the WAC be granted if it would cause a significant increase in the impacts on public health and safety discussed in the WIPP FEIS.

The DOE agrees that no defense RH-TRU with a surface dose rate in excess of 1000 rem per hour will be shipped to WIPP and that no more than 5% of the total volume of 250,000 cubic feet (or 12,500 cubic feet maximum) of defense RH-TRU shipped to WIPP will exceed 100 rem per hour surface dose rate. Defense RH-TRU waste shipped to WIPP will not exceed the 23 curies per liter maximum activity level (averaged over the volume of the canister). The total curies of defense RH-TRU for WIPP shall not exceed 5.1 million curies. The concentration of radionuclides in RH-TRU canisters shall be determined by a procedure which shall include one or more of the following

basic methods: (1) materials accountability; (2) classification by source; (3) gross radioactivity measurements; (4) direct measurements of major contributing radionuclides; and/or (5) such other procedures the parties may agree to.

Further, DOE agrees that the amount of defense high-level waste (DHLW) used on an experimental basis will not exceed 430,000 curies per canister, and a total of 17.2 million curies. DOE will disclose in writing to the State the upper limit of the surface dose rate of any <sup>defense</sup>HLW canister to be brought to WIPP for experimental purposes no later than \_\_\_\_\_ (date).

WIPP is not designated for the permanent disposal of high-level waste, nor has the WIPP site itself been characterized for such permanent disposal.

C. DOE, or its successor governmental agency, or the United States if no such agency, shall not abandon the WIPP site without decontamination and decommissioning having been completed, and DOE or its successor governmental agency, or the United States if no such agency, shall have the responsibility for ongoing post-closure institutional control at the WIPP site. As stated in the Working Agreement, the Milestones and associated consultation and cooperation process provisions covering the decontamination and decommissioning of WIPP, including the consultation process concerning the length and extent of the post-closure institutional control shall be negotiated and resolved by the parties in the future, and at least one year prior to the decontamination and decommissioning of WIPP.

D. During facility construction and operation the DOE will not allow subsurface mining, drilling or resource exploration from within the WIPP site. The "WIPP site" as used here means the 4 mile x 4 mile (10,240 acres) area consisting of sections, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34 of Township 22 South, Range 31 East, NMPM, in Southeastern New Mexico.

Deviated drilling for oil and gas from outside the WIPP site may be allowed so long as the subsurface of the WIPP site is not penetrated above a depth of 6,000 feet from the surface. A portion of the land comprising the WIPP site is presently owned by the State. The foregoing statement of DOE policy regarding the preservation of the integrity of the WIPP site is not intended to diminish the State's authority and responsibility with respect to such state-owned land.

One year prior to the completion of decontamination and decommissioning of the WIPP site, DOE shall make a decision whether to continue the above-stated policy regarding subsurface mining, drilling or resource exploration, at the WIPP site. The DOE shall consult with the State prior to making the decision. The State's position at this time is that the DOE should take measures to prevent any non-WIPP mining or drilling from the surface down to 6,000 feet within the 16 section (4 mile x 4 mile) "WIPP site" and that the DOE should devise ways to protect the site by enforcing this policy for the longest time possible after the site is decommissioned.

- E. In carrying out this stated mission, DOE and WIPP will comply, at a minimum, with all applicable state, federal and local standards, regulations and laws, including any applicable regulations or standards promulgated by the Environmental Protection Agency (EPA). Compliance by way of grandfathering, variance, waiver, or exemption shall in no way prevent or stop the State

from requiring any similar health and safety measures at WIPP under separate authority, nor shall such type of compliance prevent or stop the State from seeking conflict resolution under Article IX, herein, over such health and safety measures.

- F. The foregoing statement of the mission is based on the WIPP mission authorized by Congress in P.L. 96-164. The parties recognize that all or part of this statement of mission in this Agreement for Consultation and Cooperation would not be binding on the parties if, in the future, Congress enacts legislation specifically related to the WIPP mission which conflicts with this statement of the mission. The parties further recognize that this Agreement for Consultation and Cooperation in no way relieves or alters, in any respect, any requirements or responsibilities imposed on DOE by any other federal laws or regulations including but not limited to the National Environmental Policy Act.

#### ARTICLE VII - KEY EVENTS AND MILESTONES

- C. The following are currently identified as Key Events:

1. Draft Environmental Evaluation;
2. Preliminary Engineering - Title I;
3. Final Environmental Evaluation;

4. Site and Preliminary Design Validation (SPDV)  
Construction;
5. Detailed Design - Title II;
6. Construction of Exhaust and Waste Shafts;
7. Construction of Waste handling Building;
8. Underground Development;
9. Construction of Exhaust Filter Building;
10. Computer Installation for the Facilities Alarm and  
Monitoring System;
11. Operations;
12. Retrievability Decision for TRU waste;
13. High-Level Waste Retrieval and Shipping;
14. Decontamination and Decommissioning.

#### ARTICLE VIII- CONSULTATION AND COOPERATION

- H. Employment of New Mexico Residents. The parties recognize that neither DOE nor the State can require that New Mexico residents be employed by DOE and its subcontractors for the construction and operation of WIPP. Nevertheless, both parties agree that it is desirable, within the limits of the law, to encourage the employment of New Mexico residents. DOE agrees to establish with the State a monitoring and statistical reporting program for itself and its subcontractors in order to periodically report on the number of New Mexico residents hired and the

steps taken to fully and effectively publicize the availability of WIPP jobs in New Mexico for prospective New Mexico employees. The details of this program will be agreed upon in writing by the State and DOE.

MODIFICATIONS TO WORKING AGREEMENT FOR CONSULTATION AND COOPERATION

ARTICLE IV - KEY EVENTS AND ASSOCIATED MILESTONES

K. OPERATIONS

11. Retrievability Demonstration

The objective of this activity is the demonstration of the retrievability of the three waste forms: i.e., remote-handled transuranic (RH-TRU), contact-handled transuranic (CH-TRU), and experimental defense high level waste (DHLW) in accord with criteria established in WIPP-DOE-71, Design Criteria Waste Isolation Pilot Plant, as revised. DOE will provide to the State for its review and comment the following documents:

1. retrieval equipment design specifications for each waste form;
2. retrievability demonstration plan for each waste form, which will include a summary of the demonstration procedures and techniques to be followed, the in situ conditions to be simulated, and the criteria for evaluating the results of the demonstration of the procedures and techniques;

3. report on the mock, onsite CH-TRU retrievability demonstration which documents the results of the demonstration of the applicable procedures and techniques;

4. report on the mock, onsite RH-TRU retrievability demonstration which documents the results of the demonstration of the applicable procedures and techniques;

5. report on each mock, onsite DHLW retrievability demonstration which documents the results of the demonstration of the applicable procedures and techniques.

The State shall review and comment on each report listed in paragraphs 3, 4, and 5 above in writing within sixty (60) days of its receipt. DOE shall consider and respond to such comments. The first shipment of each specific waste form or configuration of that form shall not occur until seventy-five (75) days after the DOE responds to the State's comments on DOE's report on the retrievability demonstration for that waste form or configuration. The State shall be invited to view the retrievability demonstrations.

The Manager, AL-DOE, shall advise the State in writing, on a quarterly basis, of the estimated first shipping date of each waste form.

## K. OPERATIONS

### 12. Geotechnical Studies

As stated in WIPP-DOE-174, DOE will perform certain additional geotechnical studies at the WIPP site. The specific studies to be conducted for this purpose are listed at Appendix I. This list does not preclude performance of additional studies as needed to resolve scientific issues or questions. The parties may agree to amend Appendices I & II as needed in the future. DOE or its contractors will issue reports on these studies. The specific titles, anticipated completion dates for each report, and a detailed description of the scope of each will be provided to the State by March 31, 1985

The reports will be provided to the State for review and comment during the period June 1985 to January 1, 1988. A summary report on the additional geotechnical studies listed in Appendix I will be provided by DOE to the State no later than January 1, 1988. The State may, at its option, review and comment on such geotechnical studies and DOE's summary report.

The completion of the tests and the issuance of these reports may be concurrent with construction of WIPP, but will be completed prior to the shipment of any radioactive waste to WIPP, with the possible exception of the long-term sorbing tracer test report. The DOE will, however, make every effort to start the long-term sorbing tracer test as soon as possible and no later than January 1986. The State's position on these studies is that they will answer some remaining uncertainties about the site. The DOE position concerning these studies is as set forth in WIPP-DOE-174.

#### 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. Decontamination and Decommissioning Plan, including any remaining borehole plugging, decontamination of surface facilities, and disposition of underground and surface facilities and equipment.

2. Post-Closure Control Plan, including but not limited to, active and/or passive control periods, specific organization responsibilities, control of resource recovery activities, active and passive control requirements, environmental monitoring and safety considerations. This plan will be implemented, and the implementation monitored, by DOE, its successor governmental agency or other designated federal agency.
3. Retrieval of last experimental waste
4. Shipment offsite of last experimental waste.
5. Public Health and Safety Radiation Standards Plan. This plan shall include a description of DOE's implementation of applicable public health and radiation protection standards in effect at the time the facility is to be decommissioned.
6. The 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.
7. Periodic reports on progress of excavation and geotechnical conditions encountered for mining performed prior to this key event.

## APPENDIX I

### Additional Geotechnical Studies

- 1.(a) Investigate the depression of the marker beds in the lower part of the Salado Formation, centered two miles north of the WIPP shafts (this structure is generally referred to as the "FC-92" structure).

DOE will investigate this depression by drilling the hole DOE-2. This hole will be drilled into the Delaware Mountain Group (DMG) Formation. It will be a multi-purpose hole, the primary purpose of which will be to answer the questions about the origin of the marker bed depressions in the Salado Formation at this location. The secondary objectives will be to gather information about the Rustler and the DMG hydrologic parameters. In the event brine is encountered in the Castile, the DOE may examine the DMG elsewhere rather than deeper DOE-2.

- (b) Investigate the origin of the artesian heads which have been encountered at the levels of the Salado and Castile Formations in several deep boreholes, e.g. AEC-7, WIPP-12 and Cabin Baby. This investigation should utilize the data to be obtained from Cabin Baby and DOE-2 boreholes.

2. Perform hydrologic testing of the Rustler water-bearing zones.

Perform hydrologic testing at three well hydropads at

H-3, and H-11; long-term flow-tests at H-3; single well testing at several existing wells.

3. Perform tracer testing in the Rustler aquifers.

Perform convergent tracer tests at hydropads H-3 and H-4. Perform at least one field test using sorbing tracers at a site to be selected after consultation with EEG.

4. Obtain water-chemistry data for the Rustler aquifers.

Obtain water samples from several boreholes and different water-producing horizons in the Rustler Formation where such sampling has not already been done. Analyze these for major and minor dissolved constituents as well as for environmental isotopes such as, Cl-36, C-14, U-234, U-238, Ra-226, O-18/16 and H-2/1, to aid in the determination of flow-paths, groundwater velocity and the recharge/discharge areas.

5. Conduct a water balance study for the WIPP site.

This study should try to answer the questions of recharge and discharge; infiltration characteristics of surficial materials; evaporation from the WIPP ground surface, and from the lakes and the Pecos river; and the overall balance of the movement of water through the formations overlying the Salado at the WIPP site.

6. Perform computer modeling of groundwater flow and solute transport through the Rustler aquifers.

Using the information obtained from the work described in items 2 to 5 above, perform computer modeling of groundwater flow and solute transport through the Rustler.

7. Study the mechanics of removal of salt from the Rustler Formation at and near the site.

Questions to be answered by this study include, (a) more precise areal definition of removal of salt from various zones in the Rustler, (b) locations, characteristics and thickness of dissolution residues in the Rustler, (c) recharge and discharge paths of fresh water and brine used in the dissolution process, and (d) the timing and the rate of dissolution.

8. Delineation of Castile brine.

Evaluate and field-test non-invasive geophysical methods to identify and delineate possible occurrences of brine in the Castile Formation under the repository. DOE will consult with EEG prior to the selection of such methods to be tested. If a method shows good results from field-tests, conduct a survey over the site using this method.

9. Investigation of suspected "Dolines".

Investigate some of the prominent depressions at the site and in the surrounding area to address the question of their

origin, particularly the suspicion of at least some of these being "dolines".

10. Study of MB-139

Study the marker bed 139 underlying the repository horizon to determine its composition, structure and origin and the origin of brine and gases apparently associated with it.

APPENDIX II.

(Titles of reports, detailed description of the scope of each and the schedules of publication will be supplied by DOE to the State by March 31, 198~~5~~<sup>6</sup>. The Appendix II will then become a part of this Agreement.)

ISSUE: MAXIMUM DOSE RATE FOR DEFENSE HIGH-LEVEL WASTE (DHLW)

EEG proposed that the maximum surface dose rate should be 7,000 rem/hour for the DHLW. (p. 5, 9/4/84, C&C Agreement). After discussions by the Task Force, (9/7/84), the sentence was deleted and the following inserted: "DOE will provide the upper limit of the surface dose rate of any DHLW canister to be brought to WIPP for experimental purposes by...".

DOE Position

1. DOE never specified a maximum dose rate for the DHLW in any document.
2. The experiments have not yet been designed and the waste supplier, Savannah River Plant (SRP) has not informed DOE what they will be able to supply for the WIPP experiments.
3. It is not necessary to establish the maximum dose rate in the near future since the DHLW experiments will not begin until 1989.

EEG Position

1. We agree that DOE never specified a maximum dose rate for the DHLW. The following table shows the plethora of various dose rates cited in different DOE documents.

DOSE RATES FOR WIPP DHLW (rem/hour)		
>4,500	DOE WIPP FEIS	10/80
25,000	DOE DP-1606	6/81
5,275	DOE DP-1606 Rev 1	7/83
7,000	DOE Safety Assessment Report	1/84
25,000	DOE/IG-0207 report	6/18/84
15,000	DOE opinion at meeting	8/21/84
?	DOE HLW criteria	Not yet published

2. Although WIPP is not a high-level waste (HLW) repository, it must be designed and built to safely handle the most radioactive HLW waste that will be brought into the facility for experiments.
3. We are not satisfied that the design would meet the NRC expectations for managing high-level waste and the issue of design classification must be addressed. However, the classification issue cannot be fully solved until the characteristics of the experimental high level waste are known.
4. Construction of the components of the WIPP facility that would be affected by any decision to upgrade classification is already underway and will be essentially finished within 15 months. It will be difficult for the State to obtain changes in a system once it has been constructed. Therefore, we need an upper limit to work with within the next 3 or 4 months.
5. While we are sympathetic to the DOE's desire to retain flexibility in the design of the experiments, we believed that DOE established a maximum dose rate for the experimental waste when DOE selected a design rate for the facility cask of 7,000 rem/hour\* to transport the HLW at the WIPP site.

\*Title 1 Design Report Supplement Volume II-A, Design Bases January 1980, Document No. D-41-F-20, Rev 7, Sheet 3 of k9 Design Basis, Facility Cask.

6. Without a maximum limit, EEG cannot fully evaluate the adequacy of the design and quality assurance in protecting the health and safety of people from WIPP.
7. Although DOE maintains they don't know the upper limit of the dose rate that Savannah River (SRP) can produce, they obviously have asked Savannah River (SRP) to provide certain dose rates. What upper dose rate has DOE requested SRP to produce for the experiments?
8. A maximum dose rate for the DHLW was requested in the 7/10/84 Goldberg letter to Romatowski. What progress has been made in 2 months in establishing an upper limit?

The maximum dose rate should be listed in the DHLW criteria document.

9. In December, 1983 DOE stated that Interim Bounding Criteria for the high level waste criteria of the DHLW would be available in January, 1984. DOE subsequently stated that the date would be August, 1984.

## HLW MAXIMUM DOSE RATE

### EEG Position

Even though the high-level waste will be brought to WIPP for only temporary emplacements and experiments, the waste handling facilities of WIPP should be designed to safely handle such waste. The design should therefore meet the NRC expectations for similar facilities and the classification of the materials, components and systems used in the design should be of a high enough grade to satisfy regulations for similar facilities in the commercial nuclear waste area. The construction of the waste handling facilities at WIPP will be completed by end of CY 1985. An upper limit of the surface dose rate of such waste to be brought to WIPP is needed to review the adequacy of the design and the adequacy of the materials, components and systems to be used in the design and construction of the waste handling facilities at WIPP.

We are sympathetic to the DOE's desire to retain flexibility in the design of HLW experiments. We also understand that the Savannah River Plant (SRP) facility may not be able to provide waste with high enough surface dose rate for carrying out the experiments at WIPP. The DOE, however, must have established a maximum dose rate when they selected a design rate of 7,000 rem/hour for the facility cask (contained in the document D-41-F-20, Rev. 7, Sheet 3 of K-9, Design Basis) and this rate must have been given to SRP. We should at least have that number immediately in order to perform our analyses. In December, 1983 DOE informed us that the Interim Bounding Criteria for DHLW would be available in January, 1984 and subsequently forwarded the date to August, 1984. We have not received it to date.

## Areas of Difference in Appendix 1 (Additional Geotechnical Studies)

### Salado/Castile Hydrology (Item #1B)

This is the only item in the proposed Appendix 1 which was not mentioned in the "Additional Recommended Studies" in EEG-23 (published May, 1983) and therefore not discussed in WIPP-DOE-174 (published June, 1983). The simple reason for this omission is that the problem which this recommended study would address did not surface until December, 1983. At a meeting held between the EEG and the Sandia Lab scientists working on WIPP hydrology program, on December 2, 1983, EEG learned that a 307 foot rise in hydraulic head apparently from the lower Salado or upper Castile formations was recorded in the annulus of the "Cabin Baby" borehole. The fluid rising in the annulus of this borehole continued to flow for several weeks at the ground surface. In early 1984 the borehole was capped off and the pressure at the surface has been monitored which currently stands at 175 psi and is rising. After learning about the situation at the "Cabin Baby" borehole, we also learned that similar artesian heads from the Salado Formation had also been encountered in at least two other boreholes (WIPP-12 and AEC-7) previously drilled for the site investigation for the WIPP project. Since the Salado Formation will contain the WIPP repository, a proper investigation of the origin of the water pressures apparently emanating from this Formation is clearly warranted. The DOE has anticipated this question from the State as shown by the attached copy of a page from the "11th Quarterly Presentation by DOE to N.M.EEG" report.

### Delineation of Castile Brine (Item #8)

DOE has agreed to carry out this work for the past 2 years. In December, 1982, the state agreed to cancel one of the Stipulated Agreement tests (Deepening of borehole ERDA-6) in lieu of geophysical delineation of Castile brine at the WIPP site (letter from Goldstein to McGough, 12/16/82). The DOE has conducted some work in this direction but has not displayed a commitment to properly carry out this study. The EEG has discussed the methods and the results of a pilot study with Sandia scientists and two independent well-known experts in this field, and is convinced that a geophysical survey over the entire site would provide valuable information on the occurrence of brine in the Castile Formation. DOE's insistence on pursuing this work only if a method is "proven out" appears to be an excuse for not carrying out this work.

STATUS OF SITE-CHARACTERIZATION AND/OR "RAD" ACTIVITIES ONGOING OR BEING CONSIDERED IN ANTICIPATION OF EXPECTED REQUESTS FROM STATE OF NEW MEXICO.

- . CHARACTERIZATION OF BRINES IN "BRINE WEEPS" WITHIN WIPP FACILITY.
  - . COMPARISON WITH FLUIDS IN FLUID INCLUSIONS.
  - . INTERPRETATION WITH RESPECT TO PROBABLE SOURCE OF FLUIDS.
- . CONSIDERATION OF ENTIRE HYDROLOGY OF SALADO FORMATION.
  - . FLUIDS ENCOUNTERED SPORADICALLY IN MB139.
  - . ARTESIAN HEADS ENCOUNTERED IN SALADO IN SOME DEEP HOLES.
    - . WIPP-12, CABIN BABY, AEC-7.
- . COMMERCIAL PROGRAM PLACING EMPHASIS ON TESTING NEAR FACILITY HORIZON.
- . LARGE-SCALE PUMP TESTS AT DOE-1 (H-3) AND H-9.
  - . LARGE-SCALE, LONG-TERM TESTS GIVE SOME IDEA OF REGIONAL EXTENT OF HYDROLOGIC PROPERTIES.
  - . THIS TYPE OF TEST BEING PUSHED IN COMMERCIAL PROGRAM.
- . CONSIDERATION OF DRILLING IN BALMORRHEA-LOVING TROUGH.
  - . IT IS BEGINNING TO APPEAR THAT NOT ALL OF THE OUTFLOW FROM THE WIPP IS AT MALAGA BEND.
- . CONSIDERATION OF CAREFUL GEOPHYSICAL SURVEY WITHIN ZONE III, COMBINED WITH DRILLING OF ONE OR TWO ADDITIONAL RUSTLER HOLES.
  - . THIS MAY BE ONLY WAY TO REALLY DETERMINE BOTH THE LATERAL DISTRIBUTION OF RUSTLER PROPERTIES AND/OR THE RELIABILITY OF GEOPHYSICAL CHARACTERIZATION.

From, "Eleventh Quarterly Presentation (by DOE) to N.M. EDG on the WIPP".  
June 28-29, 1984, Carlsbad.

Examples of Lack of Consultation and Cooperation  
of the WPO with EEG

1. WPO has displayed extreme reluctance in providing the plans and schedules of geological/hydrological studies which DOE agreed to conduct after the release of EEG-23 in May 1983. EEG has extracted some information through continuous prodding, but the progress is extremely slow.
2. WPO failed to inform EEG of gas encounters during WIPP excavations, did not inform us about their investigation of the Kerr-McGee mine gas blowout accidents and has not yet provided the information on gas encounters at WIPP repository horizon.
3. WPO failed to either conduct a proper investigation or inform EEG when several boreholes in the floor of the WIPP excavations filled up with brine through which gas bubbles can be seen to rise. Only one such encounter was reported in October, 1983. When EEG independently found out in June 1984 that there were about 20 such boreholes, DOE and TSC personnel reluctantly provided the information. Many boreholes have been obliterated by subsequent mining, and a research program to investigate this phenomenon has not yet been formulated.
4. WPO has not yet made a commitment to start a program of delineation of brine reservoirs in the Castile formation using geophysical methods. The State allowed DOE to forego deepening of ERDA-6 borehole in lieu of conducting this program, in 1982.
5. WPO has not provided us the results of several tests which were conducted in 1982 and 1983, e.g., Tracer Tests at H-2 and H-6, and anisotropy testing at H-4, H-5, and H-6.
6. There have been two DOE safety inspections or audits of the WIPP project carried out in 1984. DOE WPO has withheld these reports from EEG.

7. The WPO has failed to respond to EEG comments on amendments 7 and 8 of the WIPP Safety Analysis Report and the draft amendments to three Waste Acceptance Criteria documents. Although DOE responded to EEG comments on the Mound Certification Plan, we contend that the response was unsatisfactory and asked for an opportunity to discuss the controversial issue. The WPO has failed to provide such an opportunity.
8. The WPO has failed to keep EEG informed in a timely manner of information on high curie TRU wastes at certain of the DOE waste generator facilities. A report containing this information was published by DOE in January 1984, based on data made available to ALO in FY 83. The EEG discovered the existence of this document in the open literature in June 1984 and obtained a copy of this report in June, 1984 from the Idaho Operations Office of DOE.
9. Only 3 of 9 Savannah River Plant reports relating to waste characteristics and gas generation requested at the 3/23/84 meeting in Albuquerque and by letter on 4/11/84 have been received by 9/6/84.
10. WPO has not produced the remainder of the Preliminary Transportation Analysis Report relating to the defense RH-TRU and HLW waste forms which was required by the C and C Agreement.
11. DOE has failed to provide interim bounding criteria for HLW canisters scheduled for WIPP.
12. WPO has failed to provide criteria for decision on retrieval of waste.
13. DOE did not provide us with all the Title II documents required under the C and C Agreement such as Title II Design Report Supplements.
14. On August 1, 1984, DOE provided a schedule for material that had been overdue. Of the twelve new deadlines, eleven were missed. As of 9/13/84, ten are still outstanding.



"Equal Opportunity Employer"

**STATE OF NEW MEXICO**

**ENVIRONMENTAL EVALUATION GROUP**

320 E. Mercy Street  
P.O. Box 968  
Santa Fe, NM 87503  
(505) 827-8280

July 17, 1984

Ref: EEG Correspondence Monitor

W. R. Cooper  
WIPP Project Manager  
WIPP Project Office  
U. S. Department of Energy  
Albuquerque Operations Office  
P. O. Box 5400  
Albuquerque, NM 87115

Dear Mr. Cooper:

Enclosed is the latest EEG Correspondence Monitor dated 7/16/84. I am concerned about the following items which are considerably past due: DOE Identification Numbers 35, 52, 75, 81(100), 83, 88, 90(78), 95, 97, 101.

In addition, the first and last items on page 4 are due. Please let me know what is happening on these items and when we can expect a response. On page 5, there are several items that do not have a DOE identification number or an anticipated response date. Could you please supply this information?

Sincerely,

Robert H. Neill  
Director

RHN:NS:eg

Enclosure

cc: Arlen Hunt  
Peter Spiegler

OUTSTANDING DOE CORRE DENCE

Date of Correspondence	Identification No.		Subject	Staff Responsible		DOE Action	EEG Action	Comments
	EEG	DOE		EEG	DOE			
10/11/83D 10/20/83E 11/1/83D	WACC7-5	20	DOE to provide materials from meetings on gas generation on CH-TRU waste as soon as available.	RHN	Hunt	TWSO-Rocky Flats personnel briefed EEG at Quarterly Meeting. DOE to provide last report (draft) on gas generation by end of Aug. (Dec.)		L. Smith & T. Neilson gave a presentation on gas generation document on 6/28. Publication to be issued Aug., 1984 (Dec.).  Original scheduled target date: 11/10/83.
4/8/83D 10/20/83E-147 12/2/83D-1093	AG4-2	28	Reminder for Interim bounding acceptance criteria on defense high-level waste promised by DOE on 4/8/83	MSL	Hunt	DOE to send draft report in 7/84. Discussed at Quarterly Meeting.		DOE received phone call from SRP changing the glass formula. SRP told WIPP to hold report.  Original scheduled response: 12/1/83.
12/1/83E 12/19/83D	AG2-32	35	EEG requests status of resuspension study. DOE responds that plan is being developed.	JKC	Porter	DOE contends study is unnecessary and will send letter to that effect.		Original scheduled response: 12/15/83
11/16/83E 12/27/83E 3/15/84D 84-0215	AG1-3	52	EEG requests information from DOE from INEL on WAC - EEG asks status of requests 11/16/83. DOE transmits all documents requested except Prepp document.	MSL	Hunt	DOE will send PREPP SAR document by 6/30/84. Discussed at Quarterly Meeting.		Document originally scheduled for 5/31/84. Shea said document not out yet  Original scheduled response: 2/28/84.

Dates of Correspondence	Identification No.		Subject	Staff Responsible		DOE Action	EEG Action	Comments
	EEG	DOE		EEG	DOE			
12/16/83D	AG1-3-4	61	MOUND WIPP Certification Program Plan for Newly Generated CH-TRU Waste	MSL	Hunt		MSL to contact Jack Johnson for further discussions	Letter in DOE internal review.
1/18/84E 1/24/84E		62	EEG Comments sent on January 18. EEG notes that neither the Mound or INEL Criteria make ref. to the limitation for WIPP of only <u>defense</u> TRU waste.			Original scheduled response: 2/24/84		
5/2/84E-185	AG1-1-1-8	93	EEG submits comments on Mound Cert. Plans & INEL Cert. Criteria					
6/28/84D-0411			DOE replies to EEG comments on Mound Certification Plan.					
7/3/84E-210	AG1-3		EEG responds to DOE comments	MSL	Hunt			
2/29/84E-174	SARW5-0	75	Transmittal of S. Cohen criticality studies - EEG requests comments	JKC	Hunt	6/25/84 (Reports sent back to Pittsburgh for review)		Hunt to check to see if Cohen should go to meet with Pittsburgh reviewer
						Original scheduled response: 4/1/84.		
3/20/84E-179	WACC1-0	81	EEG review of WIPP-DOE-069 (draft) dtd 2/84, WIPP-DOE-114, Rev. 1 (Draft) 2/84, and WIPP-DOE-137, Rev. 1 (Draft), 2/84 - WAC & Compliance requirements	MSL	Hunt	DOE to respond by 8/1/84.		Discussed at Quarterly Mtg. and will provide new draft in August.
						Original scheduled response: 6/8/84		
6/4/84E-203	WACC1-0	100	EEG transmits additional comments on WIPP-DOE-069.		RHN			
6/11/84D-5985			DOE Transmits ORNL-5985/R1 "ORNL Certification Document for Newly Generated Contact-Handled TRU Waste					

Dates of Correspondence	Identification No.		Subject	Staff Responsible		DOE Action	EEG Action	Comments
	EEG	DOE		EEG	DOE			
7/16/84E-214	WACC3-1		EEG requests 30 days to review ORNL Waste Certification Plan					
3/29/84E-183	AGR1-3	84	EEG requests DOE to set up visit to LANL.	JMM	Hunt		Meeting will be 8/2/84.	
3/29/14E-182	SARW6-0	83	Engineered Barriers	JKC	Hunt		Original scheduled response: 6/15/84.	Sandia preparing Prog. & will be provided to EEG 9/1/84.
4/4/84E-180	AGR1-1-1	82	NEPA review for non-INEL Waste	MSL	Hunt		DOE to send schedule of NEPA review by 6/15/84	Mobley & McFadden to meet.
7/16/84E-213	WACC7-0		Transmitted of Memo summarizing July 13 meeting on DOE NEPA review for Non-INEL Wastes					
4/4/84E		85	EEG requests the information on TRUPACT: a. test plan b. draft reports on test results c. draft of SARP d. any other documentation relating to TRUPACT	JKC	McGough & McFadden		Will be available by 8/84 Will be available 11/84	DOE to provide ORNL test schedule by 7/9/84. EEG with ORNL site visit.
6/14/84E-0437			DOE sends "TRUPACT-1 Fleet Activities Plan" and test specifications for TRUPACT-1, Invites EEG to observe testing program.				Original Scheduled response: 6/15/84	
7/3/84-E211	AG1-3		EEG requests ORNL site visit and to attend TRUPACT tests.				ORNL visit scheduled 8/6-9/84.	
1/3/84D 1/10/84D 1/10/84D 1/25/84E 4/23/84E-184	SARW3-7	88	Amend. 7 Transmitted Amend. 8 Transmitted  EEG requests additional document. DOE sends "Description of Defense Waste Processing Facility Ref. Waste Form and Canister." EEG Transmits Comments on Amendments 7 and 8.	MSL	Figlik	6/29/84		ML called Coleman on 5/17/84 & 5/21/84 ref. mtg.  MSL still trying to establish meeting date.
4/23/84E-184								

Dates of Correspondence	Identification No.		Subject	Staff Responsible		DOE Action	EEG Action	Comments
	EEG	DOE		EEG	DOE			
4/17/84E 5/23/84	DCOF7-1		Request for results of Board of Inquiry Investigation. DOE says report will be ready late June	RHN	Sankey	Results to be ready by 6/30 to 7/15/84		Info. from D. Sankey to Mobley by Telecon 5/23/84. Bericlaw to brief EEG by 7/1/84.
4/23/84E	WPCV12-1 95		Request for document on hydrology program.	DR	Hunt		Discussed 7/10/84 meeting in Santa Fe.	August 1, 1984
3/7/84E-176 4/26/84E-190	SARW1-0 90 78		Classification System and Quality Assurance for WIPP	MSL	Figlik	DOE to respond by 6/7/84- Discussed at 6/28 meeting Original scheduled response: 6/7/84.		
5/14/84E-192	DCOF5-0 101		Ventilation Evaluations	JKC	Figlik	Hunt to get firm commitment from Figlik.		
5/18/84E-196	SARW1-0 97		Criteria for Decision on Retrieval of Waste	MSL	Hunt	Hunt will get commitment for response from TSC.		
5/18/84E-197 7/5/84D0512	WPCV16-5 98		Location of Borehole DOE-2 Letter to BLM indicating DOE/EEG request for DOE-2.	LC	Hunt			Phase I to begin 8/1/84.
5/17/84E-193	ADMN1-1		EEG transmits Annual Technical Progress Report	JMM	Sankey		Mobley to call D. Sankey 7/6/84	

Dates of Correspondence	Identification No.		Subject	Staff Responsible		DOE Action	EEG Action	Comments
	EEG	DOE		EEG	DOE			
5/20/82E 10/3/83E 5/17/83E 6/13/83E 5/31/84E201	WPCV-17-3	99 (7)	Marker Bed 139	LC	Hunt	Report due August, 1984.		DOE/Sandia to present at Quarterly Mtg.
5/31/84E200 7/16/84	WPCV14-3 WDCV14-1		Geophysical Exploration for Brine Reservoir and Brine Delineation	LC	Hunt			
6/14/84E-204	WPCV18-1		Brine and Gases near the repository.	LC	Hunt			
6/18/84E-205	DCOF7-1		EEG requests MSHA Inspections results of WIPP	LC	Gage			
6/19/84E-206	AGOR1-1-1		EEG requests that DOE revise slides showing organizational affiliation.					
6/25/84E-207 6/27/84E-208	SARW6-0		EEG requests comments & meeting on Engineered Barriers Report by Dr. A. Goldin.					
7/12/84E-212	WPCV18-1		EEG-25, EEG responds to DOE comments.					



**Department of Energy**  
Albuquerque Operations Office  
P. O. Box 5400  
Albuquerque, New Mexico 87115

RECEIVED

AUG 7 1984

ENVIRONMENTAL  
EVALUATION GROUP

**AUG - 1 1984**

Mr. Robert H. Neill, Director  
Environmental Evaluation Group  
State of New Mexico  
P. O. Box 968  
Santa Fe, NM 87503

Dear Mr. Neill:

The attachment to this letter provides the current status of, and schedules for, the items on the EEG Correspondence Monitor that were identified in your letter of July 17, 1984.

If you require any further information on these matters, please contact Mr. Arlen Hunt of my staff.

Sincerely,

*for Arlen Hunt*  
W. R. Cooper  
WIPP Project Manager  
WIPP Project Office

Enclosure

WIPP:AEH 84-031

<u>DOE Item Number</u>	<u>Anticipated DOE Response Date</u>	<u>Comments</u>
35 ✓	8/10/84	Status of resuspension
52 ✓	8/03/84	INEL on WAC information
75 ✓ <i>Carbon</i>	--	Item closed.
81/100 ✓	8/03/84	The EEG request for a 30-day review period to evaluate ORNL-5985/R1 is approved.
83 ✓	--	Item closed. Refer to DOE letter of 7/17/84 for discussion of engineered barrier studies.
88 ✓	8/15/84	Comments on Amendments 7 & 8.
29 —	--	Item closed. Refer to DOE Letter of 7/31/84 - #84-029.
95 ✓	8/24/84 —	Hydrology Program
90 ✓	8/08/84	Classification System and QA
101 ✓	8/10/84	Ventilation Evaluation
97 ✓	8/30/84	Retrieval of Waste
-- ✓	--	EEG Annual Technical Progress Report. Item closed. Report is acceptable.
-- ✓	8/10/84	Geophysical Exploration for Brine Reservoir and Brine Delineation
-- ✓	8/10/84	Brine and Gases near the repository.
-- ✓	8/10/84	Request for MSHA inspection (see <i>results</i> ) of WIPP.
06 —	--	Revise slides showing organizational affiliation. Item closed. Refer to DOE letter of 7/17/84.
--	8/17/84	Review of Goldin Report on engineered barriers.
--	8/10/84	EEG response to DOE comments on EEG-25
--	8/10/84	Request for copies of SC-0021 DOE is presently updating this document.

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**STATE OF NEW MEXICO**

**ENVIRONMENTAL EVALUATION GROUP**

320 E. Marcy Street  
P.O. Box 968  
Santa Fe, NM 87503  
(505) 827-8280

August 27, 1984

W. R. Cooper  
WIPP Project Manager  
WIPP Project Office  
U.S. Department of Energy  
P.O. Box 3090  
Carlsbad, NM 88220

Dear Randy:

Enclosed is our Correspondence Monitor dated August 27, 1984.

The attachment to your August 1, 1984 letter (84-031) listed the anticipated response dates to EEG's request for information. Of the twelve response dates that have passed, eleven were missed.

Please advise.

Sincerely,

Robert H. Neill  
Director

cc: A. Hunt  
P. Speigler

ISSUES THAT ARE MOVING TOWARD POTENTIAL CONFLICT RESOLUTION

1. Early delivery of the high-level waste acceptance criteria to the State for its review and comment.
2. Engineered barriers at WIPP, whether or not mandated by EPA regulations.
3. Agreement on a classification category for components, structures and systems in the construction of WIPP equal to that required for similar nuclear facilities.
4. An early and definite schedule for completing the NEPA review for non-INEL waste to be shipped to WIPP, including transportation; agreement on appropriate standards for WIPP waste shipment containers.
5. Resolution of various transportation issues, including completion of preliminary transportation analysis report, shipping container design, and adequacy of NEPA review for transportation of wastes to WIPP.
6. Resolution of the compensation for loss of mineral resources issue.
7. Criteria for TRU waste retrieval decision.

### PRIORITIZATION OF POTENTIAL CONFLICT RESOLUTION ISSUES

1. Early delivery of the high-level waste acceptance criteria to the State for its review and comment.
2. Agreement on a classification category for components, structures and systems in the construction of WIPP equal to that required for similar nuclear activities.
3. Resolution of various transportation issues, including completion of preliminary transportation analysis report, shipping container design, and adequacy of NEPA review for transportation of wastes to WIPP.
4. An early and definite schedule for completing the NEPA review for non-INEL waste to be shipped to WIPP, including transportation; agreement on appropriate standards for WIPP waste shipment containers.
5. Engineered barriers at WIPP, whether or not mandated by EPA regulations.
6. Resolution of the compensation for loss of mineral resources issue.
7. Criteria for TRU waste retrieval decision.

9/14/84  
New Mexico

APPROACH TO RESOLUTION  
OF OUTSTANDING  
ISSUES BETWEEN DOE AND NEW MEXICO

The seven issues to be resolved are listed on the attachment. The approach to a resolution will be as follows:

A. By October 15, 1984, the approach to the first four of the seven issues will be outlined through cooperative interchange between representatives of the DOE WIPP Project Office (WPO) and the New Mexico Environmental Evaluation Group (EEG). The outline will include a description of each issue, the major subheadings to be addressed, projected meeting dates between representatives of the WPO and EEG, major milestones for resolution. The objective of these milestones will be to reach a resolution of the four issues by February 15, 1985. The outline will be submitted for approval to the Secretary, New Mexico Health and Environment Department and the Manager, DOE Albuquerque Operations Office.

B. Assuming a successful conclusion to the negotiations on the first four issues, the remaining three issues will be approached similarly beginning no later than February 15, 1985.

References

1. Letter of July 10, 1984 from the Secretary, New Mexico Health and Environment Department to the Manager, DOE Albuquerque Operations Office.
2. Letter of July 25, 1984 from the Manager, DOE Albuquerque Operations Office to the Secretary, New Mexico Health and Environment Department.

## POTENTIAL CONFLICT RESOLUTION ISSUES

1. Early delivery of the high-level waste acceptance criteria to the State for its review and comment.
2. Agreement on a classification category for components, structures and systems in the construction of WIPP equal to that required for similar nuclear activities.
3. Resolution of various transportation issues, including completion of preliminary transportation analysis report, shipping container design, and adequacy of NEPA review for transportation of wastes to WIPP.
4. An early and definite schedule for completing the NEPA review for non-INEL waste to be shipped to WIPP, including transportation; agreement on appropriate standards for WIPP waste shipment containers.
5. Engineered barriers at WIPP, whether or not mandated by EPA regulations.
6. Resolution of the compensation for loss of mineral resources issue.
7. Criteria for TRU waste retrieval decision.

TRUPACT SCHEDULES

PER TTC/DOE 9-11-84

<u>EVENT</u>	<u>IDEAL SCHEDULE</u>	<u>SCHEDULE FOR DESIGN MODIFICATION</u>
Unit 0 Test	9-15	-
SARP Submission to DOE	10-30	-
Draft Data Report	10-30	-
Draft Analysis Report	12-31	2-85
Delivery		
Unit 1	12-84	4-85
Unit 2	2-85	5-85
Unit 3	4-85	6-85
Certificate of Compliance	3-85	?
Purchasing		
Request	5-85	?
RFQ	7-85	?
P.O.	10-85	?
Delivery of #1 Production	1-87	-

23 online by 10/88 for scheduled 5 TRUPACT/DA~~V~~ and total procurement of 41 by 1990.