

# WIPP Library



## PUBLIC MEETING ON W.I.P.P. PERMIT APPLICATION

Tuesday, November 10, 1992

Room 110, Campus Union Building  
ENMU-Roswell  
Roswell, New Mexico

### APPEARANCES:

#### For the New Mexico Environment Department:

Mr. Tom Duker  
Moderator

Ms. Kathleen Sisneros  
Director, Water and Waste Management Division

Mr. Benito Garcia  
Chief, Hazardous and Radioactive Materials Bureau

Ms. Susan Collins  
WIPP Permit Coordinator  
Hazardous and Radioactive Materials Bureau

Mr. Bob Lopez

#### For the U. S. Department of Energy:

Ms. Patty Baratti-Sallani

#### For A. T. Kearney and Company:

Mr. John Darabaris

Ms. Connie Walker

Ms. June Drieth

#### For Westinghouse:

Mr. Jack Johnson

Mr. Larry Ledford

921117.5



## INDEX OF PRESENTATIONS

	<u>Page</u>
Tom Duker	2
Susan Collins	5
Patty Baratti-Sallani	13
Betty Richards	15
John Heaton	19
George Shoup	21
Dick Doss	22
Alfredo Dominguez	24
Hugh J. Barker	37
Tom Duker	41
Susan Collins	44
Patty Baratti-Sallani	51
Tom Jennings	56
Andy Smith	61
Alfredo Dominguez	66
Bob Forrest	70
Cliff Stroud	76
Robert Light	78
Dan Kidd	81
Chuck Bernhard	84
Darlene Logan	92
Eric Daly	98
John Camp	103
Tom Duker	125
Susan Collins	128
Patty Baratti-Sallani	136
Harry Spetnagel	139
Magil Duran	140
Christi Brito	144
Mort Appelbaum	154
Juan Montes	161
Reyna Luz Juarez	167
Teresa Juarez	169
Aurelia Najjar	172
Daniel Schreck	173
Janet Greenwald	177
Randall Cook	180
Holly McQuinn	184
Marilyn Lawson	188

(The meeting commenced at 9:20 AM, to-wit:)

1 MR. DUKER: Let me ask you, can everybody in here hear me OK  
2 without the microphone? Is that OK?  
3

4 MS. COLLINS: Can you hear me? Thanks.

5 MR. DUKER: I think we'll do that, if we can get by without  
6 using the microphone. OK. We're going to start on this. My name  
7 is Tom Duker. I'm with the New Mexico Environment Department, and  
8 I've been asked to be the facilitator or moderator for these  
9 meetings. So I'd like to bid you good morning and welcome to the  
10 New Mexico Environment Department's public information meeting on  
11 the WIPP permit application process for the test phase. Whereas  
12 the New Mexico hazardous waste regulations do not require these  
13 meetings, the Department is requesting input from citizens early in  
14 the process. It needs to be emphasized that this permit applica-  
15 tion is only for the test phase at WIPP, and does not include a  
16 request for permanent disposal of mixed waste at the WIPP site.  
17 The requirements and details of this permit have not been totally  
18 formulated. That's the reason for these meetings, to include your  
19 input in the upcoming drafting of the permit. Formal hearings will  
20 be conducted at a later time, when the actual permit has been  
21 granted, or a notice of intent to deny.

22 In order to provide the time for all interested persons to  
23 express their thoughts, we've instituted a basic procedure for the  
24 conduct of these meetings. If you wish to make an oral presenta-  
25 tion of any type, please sign up for an available time at the table

1 over hereby the door. This will be on a first-come, first-served  
2 basis. You will be called upon at the time for which you've signed  
3 up. You may make a statement at that time, a presentation, or you  
4 may ask questions; but you are requested to stay within the  
5 allotted time, which is 10 minutes per person, so as not to take  
6 away from the others that follow you. All oral presentations will  
7 be recorded by our recorder over here.

8 If you wish to submit any written material, please do so at  
9 the sign-up table. A register has been provided to log in and  
10 number all submitted materials. All written input will be read and  
11 will be studied thoroughly. We do request that anybody who wishes  
12 to submit written material do so no later than November 25th, this  
13 month.

14 In order to receive a summary at a later time, please, when  
15 you sign in, give your name, title if applicable, organization, and  
16 mailing address when you sign in; and please print clearly. You  
17 will receive a reply.

18 We ask that you please comment on the issues at hand, which  
19 are the WIPP permit application for the test phase. The New Mexico  
20 Environment Department wants to hear from as many citizens as  
21 possible, and in order to accomplish this and be fair to everyone  
22 who wishes to comment, it is important that all individuals stick  
23 to this particular issue and stay within the time allotted to you.  
24 These meetings are very important to all of us in this state.  
25 Demonstrations and other disruptive behavior cannot be allowed,

1 period, at these meetings. They will only serve to cause delays,  
2 prevent other from being heard, and possible termination of the  
3 meeting.

4 As was mentioned, this is an early--very early stage in the  
5 WIPP permit application process. Some questions may not be able to  
6 be answered at this time, simply because we are still in the  
7 process. Future formal hearings will be held, once the draft is  
8 written, or a notice of intent to deny. But it is your input here  
9 today that will help influence this document.

10 As these meetings will run until 9:00 o'clock tonight, there  
11 will be a need to take a number of breaks during the day. There  
12 will be approximately 10-minute breaks at--this afternoon at 2:00  
13 o'clock, 3:30, and 7:20, as well as a 40-minute break for lunch at  
14 11:20, and a one-hour recess for dinner at 5:00 o'clock PM. For  
15 your information, there is no smoking in this room. Rest-rooms are  
16 located just out the door to the left, both men's and women's.  
17 There is a cafeteria out through the lobby and to the left, and I  
18 understand they stay open 'til 6:00 o'clock at night. We--there is  
19 a pay telephone right over here, outside the registration desk, if  
20 you so desire to make a phone call.

21 At this time I'd like to introduce the participants in this  
22 meeting. At the very back of the room is Kathleen Sisneros. She  
23 is the director of our Water and Waste Management Division at the  
24 New Mexico Environment Department. Over here on my far left is  
25 Benito Garcia. He is the chief of our Hazardous and Radioactive

1 Materials Bureau. Susan Collins, right here, is our WIPP Permit  
2 Coordinator. From consultants A. T. Kearney and Company, we have  
3 Connie Walker in red over here. In front of her is John Darabaris,  
4 and right over here by the overhead is June Drieth. From the  
5 Department of Energy, we have Patty Baratti-Sallani out here; and  
6 also from Westinghouse, Larry Ledford--is that correct, Ledford?

7 MR. LEDFORD: Yes.

8 MR. DUKER: These are the people who are here to answer  
9 questions or to also make a brief presentation.

10 At this particular time we'd like to start with a brief  
11 presentation by Susan Collins, who is our WIPP Permit Coordinator.  
12 She's with the New Mexico Environment Department Hazardous and  
13 Radioactive Materials Bureau. Her presentation that she'll be  
14 making now will be repeated again at 12:00 o'clock noon, and again  
15 at 6:00 o'clock PM. Susan.

16 MS. COLLINS: Thank you for waiting. I appreciate your  
17 patience. In the time that I have, I'd like to give you a brief  
18 view of the permitting process, and then specifically address the  
19 status of the WIPP Part B application. To do this I'm going to  
20 address four key issues: Why is the State of New Mexico reviewing  
21 the WIPP application, what is the test phase, what's in this  
22 application, and then what's the status of the review?

23 The first question is, why are we reviewing the permit  
24 application? To obtain the legal right to treat, store, or dispose  
25 of regulated waste, a facility must formally apply for a Resource

1 Conservation and Recovery Act permit, commonly known as a "RCRA  
2 Part B" permit. DOE-Westinghouse has submitted a RCRA Part B  
3 application for the WIPP test phase. The test phase is a period of  
4 time during which various tests will be performed, to evaluate the  
5 suitability of WIPP for long-term disposal. DOE-Westinghouse has  
6 developed test-phase plans, describing the activities and tests  
7 that will be performed during this test phase. The New Mexico  
8 Environment Department has examined elements of the test plan that  
9 apply to the Part B permit application--specifically, those  
10 elements insuring that DOE-Westinghouse will safely manage the  
11 waste to be placed at WIPP. NMED cannot evaluate the technical  
12 merit of various tests, because some of those tests are being  
13 performed to evaluate compliance with regulations other than RCRA.  
14 However, if a permit is issued, DOE-Westinghouse cannot implement  
15 a change in the test plan that affects the RCRA permit, without  
16 notifying the New Mexico Environment Department. If DOE-Westing-  
17 house were to do this, they would be in violation of the permit.  
18 Alternatively, if DOE-Westinghouse want to implement tests not  
19 technically reviewed in the process that we're in now, the  
20 appropriate regulatory mechanism would be to request a permit  
21 modification, which again would require public input.

22 To return to the question of why DOE-Westinghouse has  
23 submitted a Part B application, they want to store and test  
24 hazardous waste that is mixed with radioactive waste; hence the  
25 term, "mixed waste." This activity requires a RCRA permit. I'd

1 like to point out that the State's regulatory authority is over the  
2 hazardous components of this kind of waste, but because you can't  
3 separate the radioactive component from the RCRA hazardous waste,  
4 the New Mexico Environment Department regulates all of it. An  
5 example of the mixed waste might be a glass beaker contaminated  
6 with both radioactive waste and a hazardous component.

7       Could I have the second view, please? Thank you. Now we know  
8 why the New Mexico Environment Department is reviewing the  
9 application. This is a facility that plans on conducting tests  
10 with stored mixed waste. Let me tell you what's in an application.  
11 This is Volume 1 of a seven-volume application series that DOE-  
12 Westinghouse submitted to us in March of this year. We review all  
13 the volumes and all the references that are contained within the  
14 Part B application. This specific volume is broken into chapters,  
15 and I'd like to address with you what's in the particular chapters.

16       The first chapter, Part A, consists of several standardized  
17 forms which give general facility information--the name, the EPA ID  
18 number, where is it, who's the owner-operator, what types of  
19 activities are going to be conducted there, what's the volume of  
20 hazardous waste, what types of waste will be handled.

21       Chapter B, is a general description of the facility, which  
22 expands the information provided in the Part A. Typically Chapter  
23 B gives a detailed description of what businesses are going to be  
24 developed here. It's a physical portrait of the site--what does it  
25 look like? We get a brief discussion of the RCRA units. We call

1 the RCRA units "hazardous waste management units." In this  
2 chapter, for example, we would want to know if the facility is in  
3 the 100-year flood plain; we would want to see topographic maps,  
4 boundaries of the facilities.

5 Chapter C, "Waste Characteristics"--this chapter of the RCRA  
6 permit application addresses analysis and characterization of the  
7 hazardous waste which will be handled during the WIPP test phase.  
8 This chapter must include all the information needed to meet the  
9 regulatory requirements to properly store and manage the waste in  
10 WIPP during this test phase. Specifically, we look at what are the  
11 wastes, why are they hazardous, how would labs test the hazardous  
12 waste to see actually what wastes are there. In summary, we want  
13 to know in Chapter C that hazardous waste destined for WIPP has  
14 been properly characterized, so that it can be properly managed  
15 there during the test phase.

16 Chapter D, "Facility and Process Description," really provides  
17 the "nuts and bolts" of what the unit design is. What are the  
18 units like and how will the waste be managed in these particular  
19 units? This provides a discussion of the processes that go on in  
20 handling and storing the waste in the RCRA units. This gives us  
21 the physical structure of the unit, what is it made of, is it made  
22 of steel, is it made of concrete? We get a lot of design drawings  
23 in this particular chapter. This is very much an engineering  
24 section, having standard--requiring standard engineering practices  
25 that DOE-Westinghouse must follow to ensure safe management of

1 hazardous waste.

2 Chapter E is "Protection of Ground Water." This provides a  
3 complete description of measures to be taken to protect ground  
4 water from contamination.

5 Chapter F, "Procedures to Prevent Hazards," just as the title  
6 says; this provides a discussion of the procedures followed at the  
7 WIPP site, to prevent hazards associated with each particular  
8 hazardous waste management unit. The chapter provides a descrip-  
9 tion of security procedures and equipment at the facility, and it  
10 outlines inspection procedures and schedules.

11 "Contingency Plan," Chapter G, outlines what the facility will  
12 do to respond to an emergency, such as a fire, an explosion, or an  
13 unplanned release of hazardous waste. Note the difference between  
14 Chapter F and Chapter G. The first, "Procedures to Prevent  
15 Hazards," must address how to prevent hazards, but the contingency  
16 plan, which is a RCRA requirement, requires that the facility  
17 address what happens when an event could occur. Specifically, it  
18 tells who the emergency coordinators are, gives us an evacuation  
19 plan, what will trigger an emergency response. Also, it describes  
20 the reporting requirements to local, state, and federal agencies;  
21 and finally, it describes in some detail how a similar emergency  
22 would be prevented.

23 Chapter H is on training. It describes training people  
24 receive to operate and maintain the facility. It includes an  
25 outline of training programs, job titles, job descriptions. This

1 gives the training program content, and additionally, the emergency  
2 response training.

3 Chapter I is "Closure." This describes how each hazardous  
4 waste management unit will be clean-closed at the end of its test-  
5 phase life, and how final closure will be conducted. The plan must  
6 describe how the facility will remove any hazardous waste, and then  
7 sample to verify that the remaining area is free from contamina-  
8 tion. It has to provide an outline for all closure activities, as  
9 well as provide a schedule for closure. The State of New Mexico  
10 will require WIPP to clean-close. This means that all waste will  
11 be removed from both subsurface units and from the waste-handling  
12 building.

13 Now, hopefully, we know why we're reviewing the application;  
14 it's a mixed-waste storage and test unit. We know what's in the  
15 application. How do we determine if the application is complete?  
16 We begin with an administrative review. Basically, are all the  
17 pieces there? Once the facility has submitted an application, our  
18 first step is to determine if all the required information has been  
19 submitted. If you want to visualize a 100-piece puzzle as a Part  
20 B application, and I needed to determine if it was administratively  
21 complete, I would count to see if there were 100 pieces of the  
22 puzzle there. I wouldn't look to see if the pieces were bent or  
23 were broken; I wouldn't see if I could put the pieces of the puzzle  
24 together. I would just look to see if I had 100 puzzle pieces.  
25 For the Part B application submitted by Westinghouse-DOE, we would

1 want to know, are all the chapters here? Is the contingency plan  
2 here? Is the closure, the schedules, are the inspection procedures  
3 here? We don't evaluate it on its technical merit. We just want  
4 to know, are all the chapters there? The administrative require-  
5 ments found in the regulations are what guide me in this particular  
6 review. The Part B application for WIPP has been reviewed by NMED  
7 staff, and in fact determined to be administratively complete.  
8 This does not mean that the application is complete and WIPP has a  
9 permit, but rather, it means that all the required pieces of the  
10 application, as defined by the regulations, are present.

11 We are currently in the technical review phase of this  
12 permitting process. This is an in-depth evaluation of the permit  
13 application. The purpose of the evaluation is to determine if the  
14 application satisfies the technical requirements of RCRA. During  
15 the interactive period of the technical review, I rely entirely on  
16 the regulations for guidance to know what to ask, and conversely,  
17 to know what I can't ask. This again is an interactive period  
18 between NMED and the application. Deficiencies or weaknesses  
19 identified during this technical review that might require a  
20 submission of additional materials or modifications are addressed  
21 to the applicant, either informally--say, through working-group  
22 meetings--or it may become a notice of deficiency. A "notice of  
23 deficiency" is a more formal way of communicating with the appli-  
24 cant. Again, the purpose of the technical review is to determine  
25 if the application satisfies the technical requirements of RCRA.

1 To summarize what is ongoing, it's interactive, it's--we have  
2 weekly meetings with the applicant; we ask for additional data, we  
3 ask for modifications to the application, and great deal more  
4 detailed information. This is where we are now in the permitting  
5 process for this application.

6 What's unique to this permitting process are the meetings we  
7 are now engaged in. At the direction of Secretary Espinoza, we  
8 have scheduled these public meetings to involve the public in the  
9 permitting process, before the State writes either the draft permit  
10 or a notice of intent to deny. This is your opportunity to be  
11 involved, to give me your technical comments on the application, or  
12 your concerns in general.

13 What happens next, what happens after these meetings? We  
14 finish the technical review, we'll review the public comments and  
15 incorporate where appropriate. DOE-Westinghouse will receive a  
16 formal communication from NMED, in the form of a notice of  
17 deficiency that will list out the outstanding concerns. We will  
18 receive back a revised Part B application. That application will  
19 be reviewed, and a tentative decision will be made to either  
20 proceed with the draft permit or a notice of intent to deny. We'll  
21 go to public comment, have hearings. Again, the public will be  
22 involved and make comments. We respond to those comments formally,  
23 and at the end of that process, a final permit will be submitted to  
24 the Secretary for her decision. I hope this has been helpful in  
25 giving you just an overview of the process we are in now.

1 MR. DUKER: Thank you, Susan.

2 MS. COLLINS: You bet.

3 MR. DUKER: At this particular time, we'd like to call on  
4 Patty Baratti-Sallani, who will make a brief presentation. She is  
5 from the Department of Energy, and this will just be prior to  
6 soliciting comments from those of you who have signed up to make  
7 presentations. So if Patty would come up here now--

8 MS. BARATTI-SALLANI: Thank you. I am Patty Baratti-Sallani.  
9 I work for the Department of Energy at the WIPP Project. The WIPP  
10 Project was authorized by the Congress of the United States, as the  
11 result of Public Law 96164, which was the Department of Energy  
12 National Security and Military Applications of Nuclear Energy  
13 Authorization Act of 1980. Congress intends for the WIPP facility  
14 to demonstrate the safe disposal of transuranic waste that results  
15 from the activities of various defense activities in this country.

16 Recently the Congress restated its intent in the WIPP Land  
17 Withdrawal Bill of 1992, when it provided the DOE with a set of  
18 prerequisite activities that are to be completed prior to the  
19 initiation of waste management activities at the facility. One of  
20 the mandates is compliance with the applicable environmental laws  
21 and regulations, including the Resource Conservation and Recovery  
22 Act and the State of New Mexico's equivalent law, the New Mexico  
23 Hazardous Waste Act.

24 The permit application that the NMED is currently reviewing is  
25 one of the steps that the DOE has taken to comply with the New

1 Mexico Hazardous Waste Act and with RCRA. The DOE is subject to  
2 the New Mexico Hazardous Waste Act and to RCRA at the WIPP  
3 facility, because much of the waste is transuranic mixed waste;  
4 that is, it is radioactive waste that also contains chemicals that  
5 are regulated as hazardous waste under the New Mexico Hazardous  
6 Waste Act and the Resource Conservation and Recovery Act. In order  
7 to satisfy the requirements of the New Mexico Hazardous Waste Act  
8 and RCRA, the DOE submitted a permit application in February of  
9 1991, following a written request from the director of the  
10 Environmental Improvement Division, the NMED's predecessor. The  
11 NMED initiated their process of administrative review, and issued  
12 a notice that the application was administratively complete, in  
13 July of 1992. During the NMED's review, and in response to their  
14 request, the DOE submitted supplemental information, in the form of  
15 a revision to the application. This version of the application was  
16 made available to the public in the spring of this year, in  
17 numerous reading rooms throughout the state, and available here at  
18 the Roswell Public Library. Currently the DOE is responding to  
19 requests for additional information and clarification, as the NMED  
20 progresses through their technical review of the application.

21 The application is limited to the test phase. This includes  
22 tests with transuranic mixed waste, designed to provide the DOE and  
23 the technical community with information that will be useful in  
24 making decisions regarding permanent disposal of transuranic waste  
25 at the WIPP facility. This decision is still many years off, and

1 will be made only after the DOE has demonstrated that the WIPP  
2 facility can isolate the waste for thousands of years.

3 Congress has recently required that the US Environmental  
4 Protection Agency must review and certify that DOE's demonstration  
5 of the WIPP facility's adequacy. Further, the EPA will have to  
6 involve the public, including the State of New Mexico, in their  
7 review process. The DOE is very interested in what the public has  
8 to say concerning NMED's permitting process. The DOE has used the  
9 benefits of numerous public meetings in shaping the WIPP program,  
10 and values the opinion of the public. We, our management, and  
11 operating contractor, Westinghouse, appreciate this opportunity to  
12 hear first-hand the public's comments on the permitting process.  
13 Thank you.

14 MR. DUKER: Thank you, Patty. Before we proceed to hearing  
15 from those of you who wish to address this meeting, I would like to  
16 reiterate what I said earlier about these presentations. In order  
17 to hear from everyone who wishes to speak, it's very important that  
18 comments be pertinent to the WIPP permit application process for  
19 the test phase, and that all speakers adhere to their allotted 10  
20 minutes' time. Thank you very much.

21 The first person who wishes to address this is Betty Richards.  
22 Betty, if you would come up here, and if you would state your name,  
23 title, if any; organization, if any, for our reporter, I would  
24 appreciate it. Thank you.

25 MS. RICHARDS: My name is Betty Richards, and I'm not with any

1 organization; I'm just a concerned citizen. I'm going to have to  
2 express my concerns. Unfortunately, I do not have the scientific  
3 background to comment on the technical aspects of the Part B  
4 application for a permit, but please let me tell you what I've  
5 learned, during my almost-20 years that I've lived in Carlsbad.

6 A friend of mine, Richard Murphy, who owned a mud-logging  
7 business, was hired by Sandia Labs to drill test holes at WIPP in  
8 the late '70's. He was not anti-WIPP, and considered this a good  
9 business opportunity. But he told me that the H<sub>2</sub>S gas ruined  
10 \$10,000 worth of his equipment, and also that there was a large  
11 salt sea under the designated repository site. When he voiced his  
12 scepticism about the wisdom of continuing to build WIPP in this  
13 location, he received a conference call from Westinghouse, DOE, and  
14 Sandia Labs, and was told in very plain language that unless he  
15 shut up, he would never receive a BLM permit again. He shut up--to  
16 them, but not to me. He told me he was a spectator when some of  
17 the testing was being done, and that he personally witnessed  
18 testers operating machines that were not plugged in. When he  
19 pointed this out, their response was, "That's OK; we don't know how  
20 to operate them anyway." He watched analysts reading core samples  
21 upside down. He also told me that the reports were not written on-  
22 site, but were tailored to fit the criteria later that evening at  
23 the Motel Stevens.

24 My husband and I were having an early dinner at a local  
25 restaurant, when we personally overheard a conversation among three

1 men who were part of the group which included Admiral Watkins and  
2 the governors of several states, following their tour of WIPP.  
3 They were laughing and discussing WIPP loudly enough for us to  
4 hear. One man said, "After viewing WIPP, I can certainly see how  
5 Rocky Flats happened." One of them said that at the bottom of the  
6 shaft, there was a sign that said, "No welding," and there was a  
7 man welding beneath the sign. Another said he had counted over 100  
8 safety violations himself. Someone asked if he ever reported the  
9 safety violations, and the response was that every time he wrote up  
10 a safety report, it came back altered, so as not to be a violation.  
11 There was much more similar conversation, leaving us with the  
12 conclusion that the DOE is the very same DOE that has lied and  
13 covered up for 40 years.

14 While on a field trip at WIPP, I asked an employee how he  
15 could rationalize the fact that radioactive waste would eventually  
16 pollute the Pecos River. His response: "Cancer is just one of the  
17 many things that people die from." I don't know about you, but if  
18 I have a choice of what to die from, cancer would not make my "top  
19 10" list.

20 I want you to know these things, because I believe that the  
21 DOE has not changed its stripes. No matter how many times DOE's  
22 "spin doctors" assure us that what has happened at other DOE  
23 facilities will not happen at WIPP, I do not believe them. WIPP is  
24 supposed to be a pilot plant, but the Carlsbad Chamber of Commerce  
25 and Department of Development are calling WIPP the solution to the

1 nation's nuclear waste problem and a permanent disposal site.

2 You know, frankly, I don't understand why a woman takes a man  
3 back who beats her. I can't understand how Willie Horton got a  
4 week-end pass; and maybe you could help me to understand how the  
5 DOE was granted a variance under RCRA. Don't the deplorable--  
6 doesn't the deplorable track record of the DOE tell us something?  
7 By the time the other DOE facilities have found out how the DOE has  
8 been operating, the damage has already been done. Right now is the  
9 time to impose preventive regulations. I realize that preventive  
10 action is not governmental standard operating procedure, but the  
11 time for change has come.

12 I appeal to you to demand that the DOE be held responsible and  
13 acceptable every--and accountable--excuse me--every step of the  
14 way. When you sit down to draft the permit, please make us, the  
15 people of the State of New Mexico, first priority, ahead of DOE's  
16 agenda. I want to thank you for listening to me.

17 MS. COLLINS: Thank you, Betty. Are you going to leave that  
18 as a statement for us?

19 MS. RICHARDS: Sure, you can have it.

20 MR. DUKER: Would you take it to Darlene? She'll log it, and  
21 then--thank you, Betty. OK. Thank you very much. The next person  
22 who wishes to make a presentation here, I believe, is John Heaton.  
23 John, if you would come up here and state your name and organiza-  
24 tion, if any, and title for our recorder; and you have 10 minutes,  
25 sir.

1 MR. HEATON: Thank you. My name is John Heaton and I reside  
2 in Carlsbad. I'm a pharmacist there and have practiced since 1966.

3 There are certainly no people more concerned about the safety  
4 of WIPP than the people in Carlsbad. WIPP is a vast, scientific  
5 project which is bringing the finest scientific minds in the  
6 country together, whether national laboratories, the universities,  
7 the National Academy of Sciences, the EPA, the New Mexico Environ-  
8 ment Department, and some other 20 oversight groups. We in  
9 Carlsbad, I think, have ceased to be impressed by the emotionalism  
10 expressed in the prior statement and by the emotionalism that's  
11 being--and radicalism that's being expressed by our northern  
12 neighbors. They seem to be more concerned about a project that's  
13 250 miles away than issues concerning their environment that are in  
14 their own neighborhood. We believe, I think, in Carlsbad, that we  
15 have really evolved past the emotionalism, and we're interested in  
16 the scientific issues.

17 We believe DOE and their contractors have acted and are acting  
18 in an exceptionally responsible manner with this project, and have  
19 gone to extraordinary lengths to demonstrate the safety of this  
20 project. As stipulated by the Land Withdrawal Bill recently passed  
21 by Congress, before any testing can occur, DOE has to convince EPA  
22 the tests will produce data directly relevant to demonstrating  
23 compliance with RCRA. In fact, a significant portion of the WIPP  
24 test phase itself will be directed toward ensuring that WIPP can  
25 comply with RCRA, as well as meet a whole host of other environmen-

1 tal regulations. The Land Withdrawal Bill sets forth the proper  
2 terms and conditions that ensure the public health and safety is  
3 adequately protected. The waste being experimented with will be a  
4 very small amount; it will be carefully contained; it is very  
5 carefully characterized for known contents, prior to being  
6 experimented with; and I believe the process presents no or  
7 extremely little risk.

8 It is my understanding EPA believes the WIPP is eligible for  
9 interim status; the Circuit Court of Appeals in the District of  
10 Columbia believes the project is eligible for interim status; and  
11 I would strongly object to an additional set of conditions to be  
12 contained in the permit to regulate the use of waste for test  
13 purposes. WIPP already has a RCRA "no migration" variance for  
14 permanent storage. It almost seems ludicrous to stifle the  
15 experimental process when permanence has been demonstrated.

16 In closing I would like to say that I consider myself to be an  
17 extremely strong environmentalist, much like most of the citizens  
18 of Carlsbad and of the State of New Mexico, and I happen to believe  
19 that WIPP, if the research proves it to be so, is a responsible  
20 approach and a potential solution to a serious problem in this  
21 country and in this state. I encourage the State to move expedi-  
22 tiously with the RCRA permitting process, in order for the research  
23 to begin as quickly as possible, in our strong quest for responsi-  
24 ble environmental answers. Thank you.

25 MR. DUKER: Thank you, sir. OK. Thank you, Mr. Heaton. The

1 next person who is signed up here to address this group is--I  
2 believe this is George Shoup--is it "Shoup," sir? If you would be  
3 so kind as to state your name and organization for the recorder.

4 MR. SHOUP: My name is George Shoup and I'm with the Depart-  
5 ment of Development in Carlsbad. I'd like to establish my standing  
6 with the panel. I'm a past-president of the Chamber of Commerce of  
7 the City of Carlsbad; I'm a past-president of the Department of  
8 Development; I spent 15 years on the Zoning Commission of Carlsbad;  
9 I'm a director of United New Mexico Bank; I'm a past-director of  
10 Landsun Methodist Homes; I'm on the board of advisors of the  
11 College of the Southwest; I'm a trustee of McMurry University; and  
12 I'm presently an interstate stream commissioner, representing the  
13 lower Pecos Valley. My occupation, I'm a contractor, and I'm  
14 President of Constructors, Incorporated; Chairman of the Board of  
15 Southeast Redimix.

16 Someone accused me of having a vested interest as a business-  
17 man, and I'll admit that I do; but I've had a very vested interest  
18 in the WIPP Project, because I was first associated with it in  
19 1972, in the initial meetings with ERDA. I have continued to  
20 support the project from that time forward. My corporation did the  
21 initial site prep at WIPP, and we've continued to work on the site  
22 from that day forward. Many of the 100-or-so employees that are  
23 associated with me have worked--have felt that the environmental  
24 and safety precautions are an overkill, along with the enormous  
25 hours of training that are necessary. With time, though, we have

1 realized that the Department of Energy is trying to set the future  
2 high standards that are needed to properly handle waste solutions  
3 for our nation. This example, in my view, has been exemplary. I  
4 have never, in all the years I've been associated with WIPP,  
5 received a single complaint for one of my employees in which he  
6 expressed any concern for his safety or for our environment.

7 It is our position in Carlsbad that we agree with the  
8 Governor, in his statement on April the 9th, that allowing the test  
9 phase to begin will facilitate our ability to probe WIPP's ability  
10 to meet health and safety standards important to New Mexico  
11 citizens. Therefore, we in Carlsbad feel that we do not need  
12 additional sets of conditions to be contained in the permit to  
13 regulate the use of WIPP for test purposes. We in Carlsbad, who  
14 are virtually the closest associated with the project, have the  
15 most vital stake in the safety of the project, and we concur with  
16 the Governor, and hope that the New Mexico Environment Department  
17 will continue on track it has already--on the track it has already  
18 begun, and move on the RCRA permit expeditiously. Thank you.

19 MR. DUKER: Thank you, sir. The next person that has  
20 expressed a desire to address this group is Dick Doss. If Mr. Doss  
21 will come up, please--will you be so kind as to state your name and  
22 organization for our recorder?

23 MR. DOSS: My name is Dick Doss. I'm President of the  
24 Carlsbad Chamber of Commerce; I'm Senior Vice-President of the  
25 Carlsbad National Bank. I am a native New Mexican and native of

1 Carlsbad. It is my intent to live in Carlsbad, and I hope that my  
2 daughter will return to live in Carlsbad after her schooling.

3 I'm concerned with the safety of WIPP and the transportation  
4 of the waste that is to be stored there. I know many of the  
5 workers at WIPP; I've toured the site above and below the surface.  
6 I believe that the DOE has gone to extremes to endorse that all--to  
7 ensure that all the concerns with the public health and safety are  
8 addressed and adequately managed. For the most part, these are  
9 local people who intend to live in Carlsbad, and don't want a  
10 dangerous depository in their back yard. Last evening Assistant  
11 Secretary of Energy Leo Duffy asserted that the DOE is environmen-  
12 tally sensitive and needs to get the test phase underway, to ensure  
13 that the project will comply with the RCRA and other environmental  
14 regulations.

15 The Land Withdrawal Bill recently passed, with the full  
16 support of Senators Domenici and Bingaman and Representatives  
17 Skeen, Schiff, and even Richardson, requires that the public health  
18 and safety is adequately protected. Congress provided regulations  
19 for the use of waste in the test phases, and any additional sets of  
20 conditions will be repetitious, costly, and unnecessary.

21 We would encourage the New Mexico Environmental Department to  
22 work with the DOE to get the permit in place and the test phase  
23 underway. Without testing, the problem of disposing of nuclear  
24 waste cannot be solved, and the citizens in other parts of our  
25 state and nation will continue to live with unacceptable-risk

1 conditions. WIPP is not the problem; it is the beginning of the  
2 solution. Let's allow the testing to begin.

3 MR. DUKER: Thank you, sir. Our next person who has signed up  
4 here to make a presentation is Alfredo Dominguez. If you'd be so  
5 kind as to come up and state your name, title, and organization, if  
6 applicable, for our recorder.

7 MR. DOMINGUEZ: I'm Alfredo Dominguez from Roswell, New  
8 Mexico. I'm affiliated with a group called the Alliance for  
9 Environmental Concerns. I came in to testify and address some  
10 issues that we feel are valid in the application.

11 The first thing is that Part B of the DOE's application asks  
12 for twice as much waste as now has been allowed under the Land  
13 Withdrawal Act of Congress. This--in essence this application is  
14 outdated and should be changed in that respect.

15 Also, the State has no real idea what's in the barrels. The  
16 DOE is essentially asking the State to take their word for it, as  
17 to what is in the barrels. We ask that the State independently  
18 verify what's in these barrels for the test phase, and charge the  
19 DOE for that verification.

20 After the test phase, we want the State to ensure that if the  
21 test phase proves--rather, if it is determined that WIPP is  
22 unsuitable, that a contingency plan be made up, stating where the  
23 waste will be taken to, after it's put in WIPP. We feel that once  
24 that waste is placed at WIPP, no other state or location will ever  
25 take it back.

1 We feel that the State is acting hastily in setting up an  
2 arbitrary schedule, because the State has never handled a permit of  
3 this complexity or size, yet they're on a schedule that wants it to  
4 be finished by August 24th. This is unprecedented in the State's  
5 handling of permits of this type. That is all. Thank you.

6 MR. DUKER: Thank you, sir. At this time, we have nobody who  
7 has signed up to make any further presentations. If any of you do,  
8 if you would like to make a comment, if you'd like to ask a  
9 question, we ask that you do sign up. To allow you time, if you  
10 wish to do so, we will take a 10-minute break right now; and as I  
11 mentioned, rest-rooms are out here; on the left, there's a cafete-  
12 ria. And if you do wish to make a comment, if you wish to ask a  
13 question of any of the people here, concerning the permit applica-  
14 tion process for this test phase, we certainly encourage you to  
15 sign up to make a statement. Thank you, and we'll adjourn again in  
16 approximately 10 minutes.

17 (Whereupon the meeting was in recess from 10:05 AM until  
18 10:32 AM.)

19 MR. DUKER: Ladies and gentlemen, we have no people signed up  
20 to do a formal presentation at this point, but we do--since we have  
21 the time, we have a gentleman here who made a presentation earlier,  
22 Alfredo Dominguez, and he would like to ask a couple of questions  
23 here. So time permitting, we will go ahead and let him do that.  
24 Go ahead, if you'd like to ask questions of--

25 MR. DOMINGUEZ: From up there, or--

1 MR. DUKER: No, you can do it there, as long as we can--can  
2 you hear him OK? OK.

3 MR. DOMINGUEZ: All right. The first question, when is the  
4 revised application to come out? You were telling me--

5 MS. COLLINS: Yes, we were just talking about the revised  
6 application. You had asked me about the total quantity, and  
7 originally it was 1%, and the Land Withdrawal Bill reduced it to  
8 5%; and the appropriate way that the applicant addresses that is  
9 that they modify the application, and that comes in in the revised  
10 application. When do we receive that? We go through the review  
11 process we're in now. The State issues a notice of deficiency;  
12 that's our formal way of communicating with the applicant. The  
13 applicant gets an allotted amount of time; I don't know yet how  
14 long that's going to be; not less than 30 days. At the end of that  
15 time, we get the revised application, and all this new information  
16 will be in there.

17 MR. DOMINGUEZ: Is that point 5% of--

18 MS. COLLINS: Did I say, "5%"? It's point 5; .5%, reduced  
19 from 1% to .5.

20 MR. DOMINGUEZ: OK. Will there be any remote-handled waste  
21 coming in?

22 MS. COLLINS: No.

23 MR. DOMINGUEZ: Not at all? Is that a state requirement or  
24 federal?

25 MS. COLLINS: It's not in the application right now, so we

1 would not review the application, nor would the permit indicate,  
2 that remote handling would be allowed. Should the applicant come  
3 back to us and request remote-handled, I don't know. It would be  
4 through a permit modification. I really can't address whether it  
5 would be--

6 MR. GARCIA: No, I mean, we would have to request information  
7 on the proposal, if there was a modification, request to handle--  
8 remote-handle waste. The question is whether or not the State has  
9 the authority to regulate the radioactive waste, based on exposure  
10 to radioactive components. The regulatory control right now is  
11 over the regular handling, and I think DOE, under their DOE orders,  
12 would have to look at the safety requirements associated with  
13 exposures of drums and--Jack, is that correct, what I'm saying  
14 here? On remote-handled waste, if DOE were to look at using it, or  
15 placing it at WIPP at a future date, DOE orders would cover the  
16 safety requirements associated with the radioactive components?

17 MR. JOHNSON: That's correct.

18 MR. DOMINGUEZ: Again, so this permit, then, in the test  
19 phase, no remote-handled waste would be coming in, is that correct;  
20 or--

21 MR. GARCIA: That's correct.

22 MR. DOMINGUEZ: But it's not because of your permit; it's  
23 because--why is that?

24 MS. COLLINS: It's not in the application.

25 MR. GARCIA: We never considered it. It was never--I don't

1 know whether it was considered as--as an option by DOE. If they  
2 had requested remote-handled waste in the application, we would  
3 have looked at it, in conjunction with the regular waste component.  
4 But we were never asked for it; and I guess it goes back to  
5 essentially waste characterization issues, and we do have--Connie,  
6 we're talking about waste characterization of remote-handled waste,  
7 and why we don't have any remote-handled waste in the application;  
8 and basically that would be a DOE--

9 MS. WALKER: It would be at the request of the DOE--

10 MR. GARCIA: --issue?

11 MS. WALKER: --request of the DOE, and we would have--

12 (Whereupon a portion of the remarks were inaudible.)

13 MS. WALKER: There are other restrictions through the recent  
14 bill, and also design considerations for retrieval. So there are  
15 a number of other issues that restrict the remote-handled waste  
16 shipments.

17 MS. COLLINS: We wouldn't anticipate it during the test phase.

18 MS. WALKER: No, it's restricted as an--

19 MS. COLLINS: OK. So the answer to your question is no, it  
20 would not be--

21 MR. DOMINGUEZ: Because it's restricted in the Land Withdrawal  
22 Bill. Just give me a second. How much say do you have over  
23 transportation?

24 MR. GARCIA: First of all, let us say, it's not part of this  
25 permit application, in terms of route transportation requirements.

1 The route transportation requirements are basically addressed under  
2 the Federal Department of Transportation regs, and placarding,  
3 labeling, and all that stuff comes under them. So it's really not  
4 part of this application. Bob Lopez of our bureau is--deals with  
5 emergency response to transportation issues on WIPP, and you may  
6 want to ask him, if you have any questions.

7 MR. DOMINGUEZ: Will any of the waste be coming by rail?

8 MS. COLLINS: No.

9 MR. DOMINGUEZ: None at all? Why is that? I mean--

10 MS. COLLINS: It's not in the application.

11 MR. DOMINGUEZ: So they can't bring--that would violate the  
12 permit?

13 MS. COLLINS: Should we go forward, and the permit is issued,  
14 and they brought waste in by rail, it would be a violation of the  
15 permit.

16 MR. DOMINGUEZ: What is "process knowledge"?

17 MS. COLLINS: Connie, would you like to address process  
18 knowledge?

19 MS. WALKER: What is "process knowledge"?

20 MR. DOMINGUEZ: Yes.

21 MR. GARCIA: This is Connie Walker. She's a consultant with  
22 A. T. Kearney. She's working under contract with the New Mexico  
23 Environment Department to look at technical issues that are  
24 submitted in the application by DOE-Westinghouse, and she can  
25 address your question on--on process knowledge, and give you just

1 a broad-scope definition on what it is.

2 MS. WALKER: In a very general sense, "process knowledge" is  
3 a mechanism for determining what the contents of a waste is by  
4 understanding the process by which that waste is generated. For  
5 example, some--in a facility that generates--and this is just like  
6 an industrial facility that generates sludge or something, you  
7 know, in a process, if you understand that process, it's a very  
8 stream of chemicals that would go into that, and that's the process  
9 knowledge, understanding how a waste would be generated. It could  
10 tell you the contents of the waste, in lieu of specifically  
11 analyzing that waste, to understand what's in it. You would  
12 understand the processes associated with generating it. That's  
13 what "process knowledge" is.

14 MR. DARABARIS: Yes, in a simplified manner--John Darabaris,  
15 A. T. Kearney--you would know what materials have been put into the  
16 production of whatever you're trying to produce. You know what  
17 your end product chemistry is. Therefore, the differential is the  
18 waste products which are generated through that process stream, and  
19 that's--that's, in a nutshell, what "process knowledge" is.

20 MR. DOMINGUEZ: What other methods of waste characterization  
21 are there?

22 MS. WALKER: Well, the most simple form of waste characteriza-  
23 tion is actually just a sample of a waste sort, to chemically  
24 analyze it in a laboratory. There are ways that one can do a  
25 statistical analysis, a chemical analysis, and statistically

1 evaluate the data, so you don't have to analyze every bit of waste  
2 that comes through. You can demonstrate it statistically.

3 MR. DARABARIS: And to some extent, too, you can get a good  
4 handle just from knowing the waste forms that you're dealing with.  
5 I think earlier Susan had talked about beakers, and you may have  
6 metals, metallic objects, that sort of thing, that gives you an  
7 understanding of the waste from the bin--the drum, or bin, or  
8 whatever, the container or structure that's holding it.

9 MR. DOMINGUEZ: What method of analysis is DOE using to  
10 determine the effectiveness of the test phase?

11 MS. COLLINS: We're in the process right now, Alfredo, of  
12 addressing that. That's what we do during the technical review  
13 phase. We haven't finalized the review, and I think it's premature  
14 for us to make a statement of what the requirements are, because we  
15 don't know yet. We're still reviewing it. We're reviewing what  
16 they've submitted to us, and then we will ask questions, and they  
17 will clarify what characterization they will undergo to bring the  
18 waste together.

19 MR. DOMINGUEZ: How old is the waste coming in for the test  
20 phase? How old is the--

21 MS. COLLINS: Some of it is legacy waste, some of it's newly  
22 generated.

23 MS. WALKER: My understanding--maybe you can clarify this,  
24 Jack--is, there going to be any--I thought that maybe some of the  
25 waste was 1985. Isn't that the age of the waste planned for the

1 test phase, or is some of it--

2 MR. JOHNSON: There are--the waste can be as old as the early  
3 '80's.

4 MR. DOMINGUEZ: OK. So--

5 MR. DUKER: For the record, that was Jack Johnson from  
6 Westinghouse that just answered your question on that, for the  
7 recorder.

8 MR. DOMINGUEZ: The waste is going to be coming from the early  
9 '80's, and will probably be coming from Rocky Flats, is that  
10 correct?

11 MS. WALKER: There are two generator sites. One is Rocky  
12 Flats and one is Idaho National Laboratory.

13 MR. DOMINGUEZ: And so both of them have produced wastes since  
14 the early 1980's?

15 MS. WALKER: That's my understanding.

16 MR. DOMINGUEZ: Is a waste that was made in 1940 much  
17 different from the waste generated in the early '80's?

18 MS. WALKER: I wouldn't--I don't know.

19 MR. DOMINGUEZ: Anybody?

20 MS. COLLINS: Is that something particular to this applica-  
21 tion?

22 MR. DARABARIS: Yes, I think, again, we're restricted to  
23 what's presented in the application.

24 MS. COLLINS: Yes.

25 MR. DOMINGUEZ: All right. I understand. What kind of

1 materials are we talking about, on the waste that's generated? I  
2 mean, for the test phase.

3 MS. COLLINS: You mean, what are the forms, what--

4 MR. DOMINGUEZ: Yes.

5 MS. COLLINS: It could be trash, could be gloves, could be  
6 sludges. You're talking--are you talking about the RCRA components  
7 or just the physical "what is it?"

8 MR. DOMINGUEZ: The RCRA components, why we have to regulate  
9 it.

10 MS. COLLINS: It's RCRA hazardous waste. It's--the stuff  
11 that's coming is contaminated with both RCRA hazardous waste and a  
12 radioactive component.

13 MR. DOMINGUEZ: Could I have some definition of "hazardous  
14 waste," what types of chemicals that would be?

15 MS. COLLINS: I can show you, OK?

16 MR. DOMINGUEZ: Could you?

17 MS. COLLINS: Yeah.

18 (Whereupon Mr. Dominguez joined Ms. Collins at the head  
19 table to examine written material, and discussion was had off the  
20 record.)

21 MR. DOMINGUEZ: The permit requires a contingency plan?

22 MS. COLLINS: The RCRA requires a contingency plan, and within  
23 any permit, you would have a contingency plan.

24 MR. DOMINGUEZ: Could you briefly tell me what the contingency  
25 plan consists of?

1 MS. COLLINS: Yes. In the event of a fire, explosion, what we  
2 call an "unplanned event," it tells what the facility will do, in  
3 terms of the emergency. OK, it tells--did you get that handout?

4 MR. DOMINGUEZ: Yeah.

5 MS. COLLINS: It would say who the emergency coordinators are,  
6 what--the personnel, how can they be activated, emergency evacua-  
7 tion routes. We talk about memorandums of understanding with  
8 hospitals, so that in an emergency, we would know that there's a  
9 hospital nearby to bring personnel or injured people to. It would  
10 say what is an emergency--what's a minor emergency, what we call a  
11 "minor event;" what would be an emergency, what would trigger a  
12 response; how a local agency would be informed; what would trigger  
13 a reporting requirement to the State, for instance; when would the  
14 EPA be notified. It tells, for instance, if you have a fire and  
15 you are using water, what do you do with the water, if the water is  
16 contaminated? Do you sample it? How often? Actually, it wouldn't  
17 be how often. You have to determine if your water has become  
18 contaminated with hazardous waste. What are you going to do with  
19 the water if it's contaminated? All those things are contained  
20 within the contingency plan.

21 MR. DOMINGUEZ: OK; and has DOE submitted a contingency plan  
22 as such?

23 MS. COLLINS: It is required.

24 MR. DOMINGUEZ: Have they specified what they would do if,  
25 like you say, there's a fire, they would use water, because--

1 MS. COLLINS: That is a requirement, yes.

2 MR. DOMINGUEZ: And what would they do?

3 MS. COLLINS: Well, what we have done in our technical review  
4 is, we've identified areas--and we've done this through all the  
5 chapters--we've identified areas of weakness; and specifically I  
6 can't address what they would do with water at this time. I can  
7 look.

8 MR. DARABARIS: Just for clarification, they are using dry  
9 chemicals.

10 MS. COLLINS: Dry chemicals, in both subsurface and above-  
11 ground?

12 MR. DARABARIS: For below-ground.

13 MS. COLLINS: Below-ground? Thank you.

14 MR. DARABARIS: For your reference, we do generically indicate  
15 some of the additional information that we've requested, in our  
16 summary material that we have available to the public. For  
17 instance, we have requested a discussion of emergency situations  
18 which have required information--i.e., fire, explosion, that sort  
19 of thing. So if you want to review that at Page 4--

20 MR. DOMINGUEZ: OK. What page is that?

21 MR. DARABARIS: Page 4.

22 MS. COLLINS: Do you have that handout, Alfredo?

23 MR. DOMINGUEZ: Yes. Again, this is the first time I saw this  
24 stuff today, so I haven't had a chance to look through all of it.

25 MS. COLLINS: Well, the intent of the handout is to give a

1 general overview of the chapters, what--what you would expect to  
2 see in the chapters, and then some of the larger issues that we  
3 have identified, that we request more information about. It is not  
4 all-inclusive; it is just general issues that we would like  
5 additional information on.

6 MR. DOMINGUEZ: OK. On the closure plan, the "clean closure"  
7 means that all radioactive waste would be taken off the area?

8 MS. COLLINS: All mixed waste.

9 MR. DOMINGUEZ: All mixed waste?

10 MS. COLLINS: Uh-huh.

11 MR. DOMINGUEZ: And where would it be taken to? Does it  
12 specify that, or--

13 MS. COLLINS: The regulations don't allow us to require a  
14 federal facility to identify where the waste would be returned to;  
15 is that correct?

16 MS. WALKER: My understanding is--

17 MS. COLLINS: The regulations are fairly clear about this.

18 MR. GARCIA: It is required that they remove it. It doesn't  
19 say, "Remove it to X location."

20 MS. COLLINS: And we propose a length of time that the waste  
21 might remain in the waste-handling building. Should we--should we  
22 decide to do that, that would be a permit condition; but the  
23 regulations don't allow us to require an actual location to be  
24 identified.

25 MR. DUKER: I think maybe we can take one or two more

1 questions, and then we need to take a break on this.

2 MS. COLLINS: Do you have any questions that I can attempt to  
3 answer? Could you identify yourself?

4 MR. DUKER: Yes, the recorder is having a real dickens of a  
5 time. She asks that--

6 MR. BARKER: I'll speak loud.

7 MR. DUKER: --if you could--in fact, we'd actually like you to  
8 come up here, where you can kind of be heard a little bit better.  
9 It makes it better for the other people.

10 MR. BARKER: Well, I have--I can--can you hear me, Recorder?  
11 OK.

12 MR. DUKER: If you'd identify yourself, please.

13 MR. BARKER: Hugh Barker; I'm with the Alliance for Environ-  
14 mental Concerns, same as my friend, here. I walked in on something  
15 that kind of intrigues me. I'm a pensioned railroad engineer, and  
16 I've always been pushing for transportation of this nuclear waste  
17 by rail. At least it would take it off our national dangerous  
18 area, our interstate highways, thousands of miles. Why is the door  
19 shut so completely on rail transport?

20 MS. COLLINS: Because it wasn't in the application, when they  
21 submitted it to us. That is a decision of the applicant. It is  
22 not a discretionary decision of the State.

23 MR. BARKER: This was submitted by the State or by DOE?

24 MR. GARCIA: DOE; DOE made the decision on how to transport  
25 the material, and we don't have any role in that decision-making

1 process. We have Patty here with DOE; maybe she can answer the  
2 question, or perhaps Jack. I don't know; they may not want to  
3 address it, but they may give you an insight as to how that  
4 decision was made.

5 MR. BARKER: I'm wondering why they're so adamant in shutting  
6 rail service out. I've had experience in that, and it's well--the  
7 safety measures are stringent, I can--

8 MR. GARCIA: Do you want to address that, Patty?

9 MS. BARATTI-SALLANI: It isn't shut out. It is not included  
10 in our application for the test phase, but it has not been  
11 completely precluded from consideration, in the repository stage,  
12 when we'll be bringing a larger volume of waste. One of the things  
13 is that, Mr. Barker, there are some generator sites that do not  
14 have rail access, and we would still have to truck the materials  
15 from the generator site to the nearest rail head. At this  
16 particular time, the waste that we'll be bringing in during the  
17 test phase is by truck. But it has not been shut out in the  
18 future, if we go into a repository phase.

19 MR. BARKER: OK. I have another question: The incoming trash  
20 or waste in the--for test or otherwise, you said it will be a mix.  
21 Will this mix have to be identified at each incoming shipment, or--  
22 I get an idea of casualness about this. I mean, we could ship in  
23 a nuclear bomb, and it's not checked that thoroughly. Am I wrong in  
24 that assumption, or will each incoming be identified?

25 MS. COLLINS: I think what you're referring to is waste

1 characterization--

2 MR. BARKER: Yes.

3 MS. COLLINS: --in other words, what is it; why is it  
4 hazardous; do they know what it is before it's put into the  
5 container, before it comes to New Mexico?

6 MR. GARCIA: You just want to have every container checked as  
7 it's--

8 MR. BARKER: Well, that would be the positively safe way.

9 MS. COLLINS: Right. I don't want to avoid your question, but  
10 that is something that we review in the technical review. We ask  
11 the applicant to describe in great detail characterization. How do  
12 they know what's going into the test bin, as it comes to New  
13 Mexico? We don't have their response yet, but we will respond to  
14 you in written form, at the end of this public-comment time, at the  
15 end of these meetings; and hopefully then, after we have the  
16 response from DOE-Westinghouse, I could address the question in  
17 more detail.

18 MR. BARKER: One more comment and question; I'll keep it as  
19 brief as possible. You said that one positive exclusion from these  
20 incoming containers would be that which is flammable or explosive.

21 MS. COLLINS: Flammable or explosive.

22 MR. BARKER: Do you recognize the fact that built-up gasses of  
23 this nuclear stuff can cause explosions, and has in the past? I  
24 mean, is there--is there any exclusion on that, you know, build-up  
25 of gas material?

1 MS. COLLINS: This is John Darabaris from A. T. Kearney, our  
2 technical consultant. I'd like him to address that.

3 MR. DARABARIS: The exclusion deals with the acceptance  
4 criteria for moving waste from the generator site to WIPP, and  
5 accepting it, and thereby allowing the temporary storage during the  
6 test phase. During the test phase, part of the--the main thrust of  
7 any test phase activity is to analyze what sort of waste-transfor-  
8 mation processes occur, and as a result, they are proposing very  
9 stringent controls on build-up of any sort of gas. That would be  
10 the thrust of what they're going to be monitoring, and they are  
11 actually establishing or proposing levels of gas build-up restric-  
12 tions, where they will purge the bins to be below those levels of  
13 concern of flammability, toxicity, and that sort of thing.

14 MR. BARKER: It's of great concern, because the Russians have  
15 covered their big explosion over there of accumulated gasses for I  
16 don't know how many years, and they're humans, just like we are.  
17 We want to shut the door on that possibility. That's all I have.  
18 Thank you.

19 MS. COLLINS: Thank you.

20 MR. DUKER: Thank you for your comments, sir. OK. We're  
21 going to be taking a lunch break. We originally had scheduled from  
22 11:15 to 12:00. We do have a presentation again at 12:00 o'clock,  
23 so we're going to go ahead and take a break now, and we will be  
24 back in this room slightly before 12:00 o'clock, so that we can be  
25 on time, in consideration of the speakers who have signed up for

1 this afternoon. So we invite the people who are here, if you wish  
2 to come back and hear the formal presentations, as well as other  
3 speakers who have concerns or input, we certainly invite you to  
4 participate in this, and we do thank you for your participation  
5 this morning. It's very, very valuable to us. Thank you.

6 (Whereupon the meeting was in recess from 10:59 AM until  
7 1:15 PM.)

8 MR. DUKER: Let's go ahead and get started again, here.  
9 Again, I'd like to welcome you to the New Mexico Environment Public  
10 Information Meeting on the WIPP permit application process for the  
11 test phase. While the New Mexico Hazardous Waste regulations do  
12 not require these meetings, the Department is requesting input from  
13 citizens early in this process.

14 It needs to be emphasized that this permit application is only  
15 for the test phase at WIPP, and does not include a request for  
16 permanent disposal of mixed waste at the WIPP site. The require-  
17 ments and details of the permit have not been completely formulat-  
18 ed, and that's the reason for these meetings, to include your input  
19 in the upcoming drafting of the permit. Formal hearings will be  
20 conducted at a later time, when the actual permit has been drafted,  
21 or an attempt to deny.

22 In order to provide the time for all interested persons to  
23 express their thoughts, we've instituted a basic procedure for the  
24 conduct of these meetings. If any of you wish to make an oral  
25 presentation, please sign up for an available time at the table by

1 the door. This will be on a first-come, first-served basis.  
2 You'll be called upon at the time for which you have signed up. At  
3 that time you may make a statement, a presentation, or you may ask  
4 questions of any of the participants in this particular meeting;  
5 but you are requested to stay within the allotted 10-minute time,  
6 so as not to take away from others who follow you. All oral  
7 presentations will be recorded by our recorder.

8 If you wish to submit any written material, please do so at  
9 the sign-up table. A register has been provided to log in and  
10 number all submitted written material, and all written input will  
11 be read and studied thoroughly. However, we do remind you that we  
12 need to have that in no later than the 25th of this month.

13 In order to receive a summary of these proceedings at a later  
14 time, please give your name, your title, organization, and mailing  
15 address, when you do sign in, and please print clearly, and you  
16 will receive a reply.

17 We ask that you please comment on the issues at hand, the WIPP  
18 permit application for the test phase. The New Mexico Environment  
19 Department wants to hear from as many citizens as possible, and in  
20 order to accomplish this and be fair to everyone who wishes to  
21 comment, it's important that everyone stick to this particular  
22 issue, and stay within the time which is allotted to you. These  
23 meetings are very important to all of us. Demonstrations and other  
24 disruptive behavior cannot be allowed at these meetings. They'll  
25 only serve to cause delay and prevent others from being heard, and

1 cause the possible termination of a meeting.

2 As was mentioned, this is a very early stage in the WIPP  
3 permit application process for the test phase. Some questions may  
4 not be able to be answered at this time, and that's simply because  
5 we are in the process. Future formal hearings will be held, once  
6 the draft is written, or an intent to deny. But it's your input  
7 here today that will help influence this document.

8 As these meetings run from 9:00 in the morning until 9:00  
9 o'clock at night, there will be a need to take a number of breaks  
10 during the day. This afternoon we'll have 10-minute breaks at 2:00  
11 o'clock, 3:30, and 7:20, as well as a one-hour recess for dinner at  
12 5:00 o'clock. For your information, there is no smoking in this  
13 room. Rest-rooms are located out in the hallway, both men's and  
14 women's. There is a cafeteria out here that remains open until  
15 6:00 o'clock tonight.

16 At this time, I'd like to introduce the participants in this  
17 meeting. From the New Mexico Environment Department, sitting in  
18 the back of the room is Kathleen Sisneros, who is the director of  
19 our Water and Waste Management Division. On my far left over here  
20 is Benito Garcia, who is the chief of our Hazardous and Radioactive  
21 Materials Bureau; Susan Collins, who is the WIPP coordinator. We  
22 have a number of people here from our consultants, the A. T.  
23 Kearney Company. Right up here on the front row is Connie Walker;  
24 right over here by the overhead projector is June Drieth; coming up  
25 here is John Darabaris, who is the program director. From the US

1 Department of Energy, we have Patty Baratti-Sallani, sitting right  
2 back over here; and from Westinghouse we have Larry Ledford right  
3 here, and sitting back over here is Jack Johnson.

4 At this particular time I'd like to have Susan Collins come up  
5 here and give you a brief presentation. Susan is our WIPP Program  
6 Coordinator, as I mentioned, and she's with New Mexico Environment  
7 Department Hazardous and Radioactive Materials Bureau. Her  
8 presentation will be repeated again at 6:00 o'clock this evening.  
9 Susan.

10 MS. COLLINS: In the time that I have, I'd like to give you a  
11 brief view of the permitting process, and then specifically address  
12 the status of the WIPP Part B application. To do this I'm going to  
13 address four key issues: Why is the State of New Mexico reviewing  
14 the application, what's in the test phase, what's in the applica-  
15 tion, and what's the status of the review.

16 Why are we--why is the State of New Mexico reviewing the WIPP  
17 application submitted by DOE-Westinghouse? To obtain the legal  
18 right to treat, store, and/or dispose of hazardous waste, a  
19 facility must formally apply for a Research Conservation and  
20 Recovery Act permit, commonly known as a "RCRA Part B" permit.  
21 DOE-Westinghouse has submitted a RCRA Part B permit application for  
22 the WIPP test phase. This test phase is a period of time during  
23 which various tests will be performed to evaluate the suitability  
24 of WIPP for long-term disposal. DOE-Westinghouse has developed  
25 test-phase plans, describing the activities and tests that will be

1 performed during this test phase. NMED has examined elements of  
2 the test plan that apply to the RCRA Part B application--specifi-  
3 cally, those elements ensuring that DOE-Westingshouse will safely  
4 manage the waste to be placed at WIPP. NMED cannot evaluate the  
5 technical merit of various tests, because some of these are being  
6 performed to evaluate compliance with regulations other than RCRA.  
7 If a permit is issued, DOE-Westingshouse cannot implement a change  
8 in the test plan that affects the RCRA permit, without notifying  
9 the New Mexico Environment Department. If DOE-Westingshouse were to  
10 do this, they would be in violation of the permit. Alternatively,  
11 should DOE-Westingshouse want to implement tests not technically  
12 reviewed in the process we're in now, the appropriate regulatory  
13 mechanism would be to request a permit modification, which again  
14 would require public input.

15 To return to the question of why DOE-Westingshouse has  
16 submitted a Part B permit application, they want to store and test  
17 hazardous waste which is mixed with radioactive waste; hence the  
18 term, "mixed waste." This activity does require a RCRA permit.  
19 I'd like to point out that our regulatory authority is over the  
20 hazardous component of this mixed waste. Because the radioactive  
21 component can't be separated from the RCRA hazardous waste, the New  
22 Mexico Environment Department regulates all of it. An example of  
23 the mixed waste might be a glass beaker that's been contaminated  
24 with both a radioactive component and a hazardous component.

25 Now we know why the New Mexico Environment Department is

1 evaluating the WIPP application. This is a facility that plans on  
2 conducting tests with mixed waste. Let me tell you what's in an  
3 application. The application that we received from DOE-Westing-  
4 house was composed of seven volumes. This is Volume 1; the other  
5 volumes are appendices. This is really the "meat and potatoes" of  
6 the application that we received. We review all the appendices and  
7 all the references that are contained in this document for this  
8 evaluation.

9 The first chapter in Volume 1 is Part A. This consists of  
10 several standardized forms, and it performs general facility  
11 information--name, EPA ID number, location--where is it, who's the  
12 owner and operator, what types of hazardous-waste activities we  
13 anticipate would be conducted there, what's the volume of hazardous  
14 waste, what are the types of waste that will be handled.

15 Chapter B is the facility description. This contains a  
16 general description of the facility, which expands the information  
17 presented in the Part A. This gives a physical portrait of the  
18 site--what does it look like. There's a brief discussion of the  
19 RCRA units; we call those RCRA units "hazardous waste management  
20 units." In this chapter, for example, we want to know if the  
21 facility is a 100-year flood plain; we want to see topographic  
22 maps; we would like to know and request information on the  
23 boundaries of the facility.

24 Chapter C of the application addresses analysis and character-  
25 ization of the hazardous waste which will be handled during this

1 test phase. This chapter must include all the information needed  
2 to meet the regulatory requirements to properly store and manage  
3 the waste during a test phase. Specifically, we look at what are  
4 the wastes and why are they hazardous; how would labs test this  
5 hazardous waste to see what hazardous components it might contain.  
6 In summary, we want to know in Chapter C that hazardous waste  
7 destined for WIPP has been properly characterized, so that it can  
8 be properly managed during the test phase.

9 Chapter D, "Facility and Process Description"--this really  
10 provides the "nuts and the bolts" of the unit design, what the  
11 units are like, and how the waste will be managed in these  
12 particular units. This provides a discussion of the processes that  
13 go on with handling and storing the waste in the three RCRA units.  
14 These RCRA units are the waste-handling building and the two  
15 subsurface test rooms. We get a physical structure of the unit, we  
16 know what it's made of. This is very much in the engineering  
17 section, having standard engineering practices that DOE-Westing-  
18 house must follow to ensure safe management of waste.

19 Chapter E, "Protection of Ground Water"--this provides a  
20 complete description of measures taken to protect the ground water  
21 from contamination.

22 "Procedures to Prevent Hazards" is the next one. This chapter  
23 provides a discussion of the procedures followed at the WIPP site  
24 to prevent hazards associated with each hazardous-waste management  
25 unit. This chapter provides a description of security procedures

1 and equipment there, and it outlines inspection procedures and  
2 schedules.

3 "Contingency Plan," Chapter G--this outlines what the facility  
4 will do to respond to emergencies, such as fire, explosions, or  
5 unplanned releases of hazardous waste at the facility. There's a  
6 difference between Chapter F and Chapter G. The first, Chapter F,  
7 "Procedures to Prevent Hazards," must address how to prevent  
8 hazards from occurring, while the contingency plan, which is a RCRA  
9 requirement, requires that the facility address what happens when  
10 an unplanned event occurs. Specifically, it tells who the  
11 emergency coordinators are, this has to provide an evacuation plan,  
12 what will trigger an emergency response. Also, it describes the  
13 reporting requirements to local, state, and federal agencies.

14 Training, personnel training--this describes the training  
15 people receive to operate and maintain the facility. It includes  
16 an outline of the training programs, the job titles, and the job  
17 descriptions. Additionally, it gives us the training program  
18 content, and it gives us a sense of detail about the emergency  
19 response training.

20 "Closure," Chapter I--"Closure" describes how each hazardous-  
21 waste management unit will be clean-closed at the end of its test-  
22 phase life, and how final closure will be conducted. The plan must  
23 describe how the facility will remove any hazardous waste, and then  
24 sample to verify that the remaining area is free from contamina-  
25 tion. It provides an outline of all closure activities, as well as

1 providing schedules for closure. The State of New Mexico will  
2 require WIPP to clean-close. This means that all waste would be  
3 removed from both subsurface units, as well as from the waste-  
4 handling building.

5 Now we know why we're reviewing the application. This is a  
6 facility that is planning on conducting tests with mixed waste. We  
7 know basically what's in the application. The next step for us is,  
8 how do we determine if the application is complete? Once the  
9 facility has submitted an application, our first step is to  
10 determine if the required information has been submitted. If you  
11 want to visualize a 100-piece puzzle as a Part B application, and  
12 we needed to determine if it was administratively complete, we  
13 would count to see if there were 100 puzzle pieces. We wouldn't  
14 look to see if the pieces were broken; we wouldn't look to see if  
15 the pieces were folded, or if in fact they even fit together. We  
16 would only look to see if there were 100 puzzle pieces. For the  
17 Part B application, doing an administrative review for it, we look  
18 to see if all the chapters are there, if the contingency plan is  
19 there, if waste analysis has been addressed, if a closure plan is  
20 there, and the appropriate schedules. We don't evaluate it on its  
21 technical merit. The administrative requirements found in the  
22 regulations are what guide us in this particular review.

23 The Part B application for WIPP has been reviewed by NMED  
24 staff and in fact determined to be administratively complete. This  
25 does not mean that the application is complete and WIPP has a

1 permit; but rather, it means that all the required pieces of the  
2 application, as defined by the regulations, are present.

3       Once administrative completeness has been determined, we move  
4 to technical review phase. That is the phase that we're in right  
5 now. This is an in-depth evaluation of the permit application.  
6 The purpose of evaluation is to determine if the application  
7 satisfies the technical requirements of RCRA. During the interac-  
8 tive period of the technical review, we rely entirely on the  
9 regulations for guidance, to know what to ask, and conversely, to  
10 know what we can't ask. This, again, is an interactive period  
11 between NMED and the applicant. Any deficiencies or weaknesses  
12 noted in the technical review can be addressed to the applicant  
13 either informally--say, in working-group meetings--or can be  
14 addressed in a more formal way with a notice of deficiency. The  
15 purpose, again, of this technical review is to determine if the  
16 application satisfies the technical requirements of RCRA.

17       To summarize, it's an interactive process, on-going; we have  
18 weekly meetings with the applicant. We ask for data, we ask for  
19 modifications to the application, we ask for a great deal more of  
20 detailed information. This is where we are now in the permitting  
21 process. What is unique to this process are the meetings we're now  
22 engaged in. At the direction of Secretary Espinoza, we have  
23 scheduled these public meetings to involve the public in the  
24 permitting process, before the State writes either the draft permit  
25 or a notice of intent to deny. This is your opportunity to be

1 involved, to give us your technical comments on the application, or  
2 your concerns in general.

3 What happens next? What happens after these meetings? We  
4 finish the technical review, we review public comment generated  
5 from these meetings, incorporate them where appropriate. DOE-  
6 Westinghouse will receive our formal communication, a notice of  
7 deficiency, listing any outstanding weaknesses in the application.  
8 They respond to us with a revised application. We review that  
9 revised application and make a tentative decision to proceed with  
10 either a draft permit or a notice of intent to deny. We go to  
11 public comment; we have hearings, another opportunity for the  
12 public to be involved; and generate a final permit, submit it to  
13 the Secretary for her decision.

14 I appreciate your attention and hope that I have addressed the  
15 key issues that I wanted to bring to you.

16 MR. DUKER: Thank you, Susan.

17 MS. COLLINS: Yes.

18 MR. DUKER: At this particular time, we are going to have  
19 Patty Baratti-Sallani of the United States Department of Energy  
20 appear, who is going to give us a brief presentation, just prior to  
21 taking comments from those who have signed up to do so this  
22 afternoon. Patty.

23 MS. BARATTI-SALLANI: I'm Patty Baratti-Sallani; I work for  
24 the Department of Energy at the WIPP Project. The WIPP Project was  
25 authorized by the Congress of the United States as the result of

1 Public Law 96164, which was the Department of Energy National  
2 Security and Military Applications of Nuclear Energy Authorization  
3 Act of 1980. Congress intends for the WIPP facility to demonstrate  
4 the safe disposal of transuranic waste that results from the  
5 activities of various defense activities in this country. Recently  
6 the Congress restated its intent in the WIPP Land Withdrawal Act of  
7 1992, when it provided the DOE with a set of prerequisite activi-  
8 ties that are to be completed prior to the initiation of waste  
9 management at the facility. One of the mandates is compliance with  
10 the applicable environmental laws and regulations, including the  
11 Resource Conservation and Recovery Act and the State of New  
12 Mexico's equivalent law, the New Mexico Hazardous Waste Act. The  
13 permit application that the NMED is currently reviewing is one of  
14 the steps that the DOE has taken to comply with the New Mexico  
15 Hazardous Waste Act and with RCRA.

16 The DOE is subject to the New Mexico Hazardous Waste Act and  
17 RCRA at the WIPP facility, because much of the waste is transuranic  
18 mixed waste; that is, it is radioactive waste that also contains  
19 chemicals that are regulated as hazardous waste, under the New  
20 Mexico Hazardous Waste Act and the Resource Conservation and  
21 Recovery Act. In order to satisfy the requirements of the New  
22 Mexico Hazardous Waste Act and RCRA, the DOE submitted the permit  
23 application in February, 1991, following a written request from the  
24 Director of the Environmental Improvement Division, the NMED's  
25 predecessor. The NMED initiated their process of administrative

1 review, and issued a notice that the application was administra-  
2 tively complete in July of 1992.

3 During the NMED's review, and in response to their request,  
4 the DOE submitted supplemental information, in the form of a  
5 revision to the application. This version of the application was  
6 made available to the public in the spring of this year, in  
7 numerous reading rooms throughout the state, including the Roswell  
8 Public Library. Currently the DOE is responding to request for  
9 additional information and clarification, as the NMED progresses  
10 through their technical review of the application.

11 The application is limited to the test phase, which includes  
12 tests with transuranic mixed waste, designed to provide the DOE and  
13 the technical community with information that will be useful in  
14 making decisions regarding the permanent disposal of transuranic  
15 waste at the WIPP facility. This decision is still many years  
16 away, and will be made after the DOE has demonstrated that the WIPP  
17 facility can isolate the waste for thousands of years.

18 Congress has recently required that the US Environmental  
19 Protection Agency must review and certify that DOE's demonstration  
20 of the WIPP facility's adequacy. Further, the EPA will have to  
21 involve the public, including the State of New Mexico, in their  
22 review process. The DOE is very interested in what the public has  
23 to say concerning NMED's permitting process. The DOE has used the  
24 benefit of numerous public meetings in shaping the WIPP program,  
25 and values the opinion of the public. We and our management and

1 operating contractor, Westinghouse, appreciate this opportunity to  
2 hear first-hand the public's comments on the permitting process.  
3 Thank you.

4 MR. DUKER: Thank you. OK. Before we proceed to hearing from  
5 those of you who have signed up to address this meeting, I would  
6 like to reiterate just a little bit about what I said earlier. In  
7 order to hear from everyone who wishes to speak, it's very  
8 important that the comments be pertinent to this WIPP permit  
9 application and process for the test phase, and that all speakers  
10 adhere to their 10-minute allotted time. I thank you for that.  
11 The speaker who has signed up first to address us this afternoon is  
12 Hugh Barker. Hugh, would you please come up here and, for the  
13 record, state your name and organization for the recorder?

14 MR. BARKER: I will, thank you. First, I realize this meeting  
15 is for the express purpose of permit application for a test phase  
16 only, but please suffer through my brief opinion. I am Hugh J.  
17 Barker of the Alliance for Environmental Concerns, situated here in  
18 Roswell. Of course, I am against WIPP in all its context. I first  
19 became part of the anti-WIPP movement when we were trying for a  
20 safe WIPP; that was several years ago. During the ensuing years,  
21 we have reached the conclusion--my group, anyway--that a safe WIPP  
22 is very remote, if not impossible. The next-best thing we can  
23 suggest is constant monitoring, with no let-up or cessation, with  
24 immediate retrieval when it becomes necessary.

25 The nature of the deep burial site and the physical nature of

1 the alleged encapsulating salt makes retrieval totally unrealistic.  
2 Judge John Stuart Penn in his ruling saw this immediately. The  
3 fallacious assumption that salt caverns are the safest storage  
4 facility has been probed and questioned from the beginning.  
5 Indeed, there is now evidence that the flooring and ceiling are now  
6 buckling and falling, respectively. There have been occurrences in  
7 the recent past of sections of ceiling falling. Miraculously, no  
8 one was killed or seriously injured. At the time, DOE tried to say  
9 this was part of a testing phase. This introduced a new element  
10 into the WIPP program, one of distrust of the agencies in charge.  
11 This distrust has been further nurtured by other lies and denials.

12 The most vulnerable part of the WIPP site is the aquifer  
13 situated close to the burial chambers. I need not remind you that  
14 water is the very lifeblood of New Mexico. What we have should not  
15 be polluted for thousands of years. A few "nickel-and-dime" jobs  
16 at the site area is a ridiculously low price to pay for the  
17 terrible--for this terrible possibility.

18 The various hearings and meetings have assiduously avoided the  
19 very great, immediate danger of the WIPP Project, the transporting  
20 of thousands of trucks over thousands of miles of our nation's  
21 interstates. These interstates connect the most populated and  
22 congested areas of our nation. At the very least, this terrible  
23 substance should be transported at night and by rail, avoiding a  
24 threat to our schools, hospitals, and most vulnerable areas.

25 I urge you people to be aware of your tremendous responsibili-

1 ty, to echo that banal cliché, "You can never put this genie back  
2 in the bottle." Thank you.

3 MR. DUKER: Mr. Barker. The next gentleman who has signed up  
4 to address this group is Tom Jennings. If Tom would come up here  
5 and identify himself for the recorder, and his title, if any, and  
6 organization, etc., please.

7 MR. JENNINGS: Thank you. First of all, I'm Tom Jennings, and  
8 I'm on the City Council of the City of Roswell, and I would like to  
9 thank the Department of Energy and the New Mexico Department of  
10 Environment for coming to Roswell to let the citizens here express  
11 their concerns.

12 One of my first concerns is that there's not very many people  
13 here. I don't think there was very much publicity, in relation to  
14 this event, because the first thing, you don't see anybody here.  
15 There's hardly anybody here. Maybe the earlier meeting or the  
16 later meeting will have substantially more people, but in my  
17 estimation, I don't think you'd see a greater difference in the  
18 attendance. I mean, I think, you know, I don't know if we should  
19 blast our city media or the city paper, or whoever's in charge of  
20 the media, but it should be looked into, because we need to make  
21 sure that the people of this community and this part of the state  
22 and this state and this country know what's going on, and it is  
23 part of our media's responsibility to get that out; but it's the  
24 Department--the DOE and the Department of Environment for the State  
25 should also be charged with doing that. But I think that any

1 future meetings, it should be better-publicized, because I didn't  
2 read anything in today's paper. Maybe there was something in  
3 there, maybe I missed it. I didn't read it in the Albuquerque  
4 paper today, either.

5 First of all, I have a question for the DOE. The City of  
6 Roswell has passed an ordinance, regulating the transportation of  
7 nuclear waste, these nuclear-waste shipments, through the city, and  
8 we have asked that the DOE or Westinghouse advise the City if  
9 they're going to abide by our ordinance. I've been told verbally  
10 that, but the City of Roswell would like to know in writing if you  
11 are going to comply with our ordinance or not; and I think that we  
12 shouldn't wait 'til the last minute to have this information. We  
13 should have ample time, so that we have--so that we can take  
14 necessary precautions or steps to ensure the safety and the  
15 environment of our community. So if representatives from DOE can  
16 reply to that to the City, it would certainly be appreciated.

17 One of the things that I've looked at is the--the Land  
18 Withdrawal Bill, or the Waste Isolation Pilot Plant Land Withdrawal  
19 Act. It is the 102d Congress, Second Session of the House of  
20 Representatives, reported under Report No. 102-1037; and on this  
21 report, there's several things that I have a concern with. One of  
22 them is Section 15, the "Economic Assistance and Miscellaneous  
23 Payments." In this section it says that there's going to be a \$20  
24 million payment appropriated annually for the state. It's going to  
25 be presented to the state, if the Congress so chooses, each year.

1 But to be eligible for assistance, Item--under Item D of this  
2 section, it says, "Eligible Assistance. A portion of the payments  
3 under this section (1) shall be made available to units of local  
4 government in Lea and Eddy Counties in the state," and among other  
5 things; and my concern is that Roswell, Chaves County, is by far  
6 the largest population center in this part of the state. We have  
7 the largest city, we have the largest population of these three  
8 counties in the southeast part of the state, and we don't get a  
9 nickel out of this. You know, it says that--only Lea and Eddy  
10 Counties. Well, 100% of the waste goes through Chaves County, or  
11 almost 100%. Very little of the waste will go through Lea County,  
12 yet Lea County gets a big portion of the money. Where is Chaves  
13 County, and why aren't we included in this? I think that we  
14 certainly and the State should certainly look into this. Why  
15 hasn't Chaves County been provided for?

16 We don't have a truck by-pass. We certainly could use a truck  
17 by-pass to protect our environment. If you look--when you guys are  
18 here, and you're driving through our town, and when you're going  
19 back to Santa Fe, and you're going east on the main street that  
20 runs through the center of town, I want you to look at that  
21 highway. We resurfaced that highway approximately six months ago,  
22 and with the truck traffic that's on our major thoroughfare,  
23 through the center of our town, through--through New Mexico  
24 Military Institute, which has students housed a half a block from  
25 the thoroughfare, the road is in shambles within six months of

1 being resurfaced. And so I think we have a problem with our road,  
2 and we're not going to get a truck by-pass unless we're real lucky.

3 If we read further in this same bill from Congress, it says,  
4 "The Santa Fe By-pass. No transuranic waste may be transported  
5 from the Los Alamos National Laboratory to WIPP until (1) an amount  
6 of funds sufficient to construct the Santa Fe by-pass has been made  
7 available to the state; (2) the Santa Fe by-pass has been complet-  
8 ed; or (3) the administrator has made the certification required  
9 under Section 8-B-1-B." As we probably most of us know, that most  
10 of the waste is not going to go through Santa Fe; it's not going to  
11 come from Los Alamos. Most of the waste is going to come from  
12 Idaho or from Rocky Flats in Colorado, and all that waste is going  
13 to come through Roswell. It's not going to go through Lea County;  
14 it's going to go partially through Eddy County, but it's all going  
15 to come through Roswell. It's not going to go through Santa Fe,  
16 but Roswell's not included in this, and we don't get a by-pass.  
17 We're not included in this, and I think it's a sham for our  
18 government to ram this thing down our throats, and not give us a  
19 by-pass. We've always been promised a by-pass. Where's our by-  
20 pass? It's on the drawing boards. We need this; and, you know,  
21 it's for the betterment of our community, and to ensure that our  
22 community is safe, that we're not going to have an environmental  
23 problem and increased truck traffic through the heart of our town;  
24 and I think that the DOE and the DOT and the Department of  
25 Environment of the State should ensure that Roswell gets a truck

1 by-pass, and that our streets are safe for our inhabitants. You  
2 know, once this thing gets kicked on, there's going to be a lot of  
3 trucks going through here, and, you know, we need to ensure that we  
4 have a safe city. And it appears to me that Chaves County and  
5 Roswell, who receive 100% of the waste, or almost 100% of the  
6 waste, have been left out of this Land Withdrawal Bill, and I think  
7 that we've really got short-changed. And so I would like for you  
8 all to look into that, and if you could get back to the City, if  
9 you have any ideas or input how that we can solve that problem,  
10 because we certainly would appreciate any assistance that any of  
11 your agencies or yourselves can muster and provide to the City.

12 One of the things that concerns me is retrievable waste. Part  
13 of this Land Withdrawal Bill says that the waste must be retriev-  
14 able, and, you know, hopefully it will be retrievable, should there  
15 be a failure in the test phase. But, you know, when that waste is  
16 retrieved, if it can be retrieved, the question is, what's going to  
17 happen to that waste? And I certainly don't think it would be a  
18 wise idea, if we retrieve that waste, to store it at site, because  
19 the prevailing winds from the WIPP site, 60--or two-thirds of the  
20 time, the prevailing winds blow in the direction of Roswell, and if  
21 the waste is stored on the surface, we certainly may be in line for  
22 some radiation or some potential problem. And so I think that the  
23 Environment Department should certainly address that--that aspect  
24 of the WIPP Project, in that--requiring something to be set in  
25 concrete, before we allow this test phase to be implemented, so

1 that we ensure that if something does fail, that we'll be protect-  
2 ed, and we won't be "left holding the bag," so to speak, with the  
3 waste that's on site.

4 As you notice in the Land Withdrawal Bill, they don't say  
5 anything about where the waste is going to be taken back to. If it  
6 comes from Idaho, Cecil Andruss damn sure isn't going to let the  
7 waste be returned to Idaho, and I doubt if the people in Colorado  
8 would do likewise, or Los Alamos, or wherever it may come from. So  
9 I think that the Environment Department and DOE should certainly  
10 look into this, and make sure that this concern is addressed, prior  
11 to approving a permit for the WIPP site.

12 And I think that pretty much sums up what I have to say, and  
13 once again, I thank you for providing us this opportunity, because  
14 it's certainly needed for this part of the state. Thank you.

15 MR. DUKER: Thank you, Mr. Jennings. OK. We--Darlene, what's  
16 the time for our next speaker?

17 (Inaudible response was made by the registrar.)

18 MR. DUKER: Not 'til 2:10? OK.

19 MR. SMITH: What's your procedure for handling responses to  
20 concerns like the one we just heard?

21 MR. DUKER: We have a sign-up table out in front, and we'll  
22 allow anybody 10 minutes to either make a statement, or a response,  
23 or to ask questions of any of the people that are here.

24 MR. SMITH: Well, that's not my question. My question is,  
25 what's the procedure for you folks to respond, the State to

1 respond.

2 MR. DUKER: You mean, the--all that has to be done is to ask  
3 a question of us that is pertinent to this test phase permit  
4 process.

5 MR. SMITH: Well, he just asked several questions.

6 MR. DUKER: Oh, I understand what you're saying; as far as a  
7 written response to what he's asking? If a question is asked  
8 directly here that can be answered here, we will attempt to answer  
9 it, if we can, or there will be a written response to any of these,  
10 both oral and written, presentations. That's why we ask that--

11 MR. SMITH: What's the answer to the question about the by-  
12 pass?

13 MR. DUKER: Well, the question of the by-pass is not part of  
14 this, is it?

15 MR. GARCIA: Let me answer his question, the gentleman back  
16 here. Could you give me your name, first, for the court reporter,  
17 so I know who I'm talking to, sir?

18 MR. SMITH: Yeah, I'm Andy Smith.

19 MR. GARCIA: OK. The questions that Councilman Jennings asked  
20 are primarily those that are outside the scope of someone like  
21 myself to answer. Those are policy or actually political questions  
22 that need to be addressed by someone out of our policy-making  
23 group. That's our Secretary's office, Director's office, and I  
24 would consult with them, before replying in writing. And some of  
25 those questions perhaps would be better directed to the Congressio-

1     nal delegates, and asking them why some language was not included  
2     for Chaves County. But those questions are outside the scope of  
3     this meeting for me to answer, and even for my office to answer in  
4     writing. So we would consult with our policy-makers before making  
5     a written response.

6             MR. SMITH: Well, how can I, as an outside observer, find out  
7     what your answer is?

8             MR. DUKER: If you signed the register out there for a reply,  
9     you will receive a summary on this, and that's the reason we have  
10    the register out there.

11            MR. SMITH: Will it include a response to his question?

12            MR. DUKER: Yes.

13            MR. SMITH: When will it be provided?

14            MR. DUKER: When an answer is obtained on it.

15            MR. GARCIA: We're looking at obtaining all questions for  
16    submittal, comments, by November 25th, and then responding to those  
17    within a month's time frame. The tentative date for response would  
18    be by December 18th, but we're looking at approximately a month's  
19    time to get all the comments from all the meetings we're having--  
20    Las Cruces, Roswell, Santa Fe, Raton--getting all the comments and  
21    questions and responses to those, within a month's time frame after  
22    we close the meetings.

23            MR. SMITH: And that will be distributed to all the attendees?

24            MR. GARCIA: Whoever signs the register.

25            MR. DUKER: I think Kathleen Sisneros in the back has a

comment on that.

MS. SISNEROS: Well, Councilman Jennings has (inaudible) in addressing his concerns, especially to the by-pass. The Environment Department certainly has no authority to direct any funding to the City or the County, for that matter, for the by-pass. However, the Environment Department is represented on the Governor's WIPP Task Force, and we'll certainly alert the task force to the concerns that Councilman Jennings has raised in this meeting.

But with respect to the purpose of our meeting here today, and the process that we're following on the hazardous-waste permit, we're dealing with a very, very limited part of the WIPP permit--of the WIPP Project; and unfortunately, transportation is not involved, with respect to the hazardous-waste permit issuance. But I will take the concerns voiced today to Secretary Espinoza, and we will bring them to the attention of the Governor's WIPP Task Force.

MR. DUKER: OK. We have another presenter in about 10 minutes. We have a policy of one person per meeting on the same-- or on the particular subject. Because we do not have, as Councilman Jennings pointed out, a great many people here this afternoon, I did put one person here on kind of a stand-by for this, and since we do have the time, I can allow Alfredo Dominguez, here, 10 minutes, if you'll come up here; and you'll have to stick close to that 10 minutes on that.

MR. DOMINGUEZ: OK. I'd like to thank you again for the opportunity to speak. Earlier this morning I heard testimony from

1 several Carlsbad businessmen, who asked you to expedite this  
2 permit, because they had vital interests, business interests, at  
3 stake. They swore they were environmentalists. I, too, have  
4 concerns. I am concerned about clean air, clean water, about WIPP  
5 trucks running down my main street. My even greater concern is  
6 certain Government agencies who break their own laws, and seem to  
7 disregard the will of the people when they do this.

8 With that in mind, I want these concerns addressed, in that  
9 the DOE will have to submit a new test plan for the EPA approval.  
10 The EPA will not have to submit this until about the time that your  
11 final draft permit is coming up. It seems almost a waste of time  
12 to issue a final draft permit, before you see the EPA's approved  
13 test plans. Also, the EPA's test plans have to be--there has to be  
14 public hearings for this, and also, it's subject to litigation, if  
15 it doesn't meet what a lot of people feel are adequate standards.  
16 So this may be a long time, and I don't see how you can approve the  
17 final draft plan, when you don't know what the DOE intends to do  
18 with a new test plan.

19 And also, when they do come out with a new test plan, I would  
20 like another opportunity to have a public meeting here in Roswell,  
21 so I can address my concerns with the new test plan. I cannot  
22 comment on it now, because the DOE has not submitted it and EPA has  
23 not approved it.

24 Also, if the test phase does go through, I think the permit  
25 should prohibit the test bins, especially for the wet brines

1 testing; make sure that they're not left there, after--during the  
2 test phase, or even if the test phase--if they decide to go on with  
3 the long-term disposal. Those test bins were not designed for  
4 long-term disposal, and they shouldn't be left there, along with  
5 the other trash. That's all the concerns I have. Thank you very  
6 much.

7 MR. DUKER: Thank you, Alfredo. OK. I guess our speaker is  
8 not here yet for the--yes, sir?

9 MR. SMITH: Yeah, I have another question. Can you provide us  
10 some information on the qualifications of the people who are going  
11 to be reviewing this plan?

12 MS. COLLINS: Is the question about the test plan?

13 MR. SMITH: Yeah, the reviewing staff's qualifications.

14 MS. COLLINS: Yeah. I tried to address that, when I gave my  
15 initial presentation. The State of New Mexico does not review the  
16 test plan, during our technical review, unless it relates directly  
17 to the application. We don't evaluate the test plan on its  
18 technical merit. If it applies to RCRA standards, we do evaluate  
19 it. Therefore, should DOE generate a new test plan, as is required  
20 by the Land Withdrawal Bill, that new test plan, in essence, has to  
21 conform to the permit, if the permit is issued. For example, if  
22 there is a new test in the test plan that's in conflict with the  
23 permit, DOE could not proceed with that test unless they came back  
24 to the State and requested a permit modification.

25 So to answer your question, we do look at the test plan, but

1 it's not part of our technical review process, unless it relates to  
2 RCRA. Should they change the test plan, and it's conflicting with  
3 the permit, they have to require modification.

4 MR. SMITH: Who's performing the technical review?

5 MS. COLLINS: On the application? The State, with the  
6 consultant, A. T. Kearney.

7 MR. SMITH: A. G. Kearney?

8 MS. COLLINS: A.--A as in "apple"--T. Kearney, K-e-a-r-n-e-y.

9 MR. SMITH: OK. What are their qualifications?

10 MR. COLLINS: John, would you like to address--this is John  
11 Darabaris, Vice-President of A. T. Kearney. Perhaps he could  
12 address your question.

13 MR. DARABARIS: Yes. A. T. Kearney has been supporting the  
14 State of New Mexico on the technical review since, I think,  
15 midsummer, when the contract was implemented. Since 1980, A. T.  
16 Kearney has been supporting the United States Environmental  
17 Protection Agency on RCRA implementation. We have had repeated  
18 successful rebids on contracts supporting the EPA. During that  
19 time frame, we've probably reviewed over 600 permits, for a wide  
20 range of facilities--both commercial facilities, Department of  
21 Defense facilities, Department of Energy facilities--for the EPA.  
22 So therefore we've been somewhat consistent in our position; and  
23 also, we provide what I would call a wide range of technical  
24 capability in regulatory understanding that's consistent with the  
25 evolving nature of the RCRA program since its inception, since it

1 began in 1980; and I guess that pretty much--

2 MR. SMITH: Are you reviewing on behalf of the citizens of New  
3 Mexico?

4 MR. DARABARIS: We're reviewing on behalf of the State of New  
5 Mexico's Department of Environment; so yes.

6 MR. SMITH: And how are you funded?

7 MR. DARABARIS: We are funded through a contract with the  
8 State of New Mexico's Environment Department.

9 MR. SMITH: Where are your offices?

10 MR. DARABARIS: We have an office in Denver; we have an office  
11 in San Francisco; we have an office in Alexandria, Virginia; we  
12 have an office in Chicago; we have an office in Atlanta; we've set  
13 up a project office in Santa Fe, in order to facilitate the State's  
14 review. We also have a project office, for instance, in Salt Lake  
15 City, to facilitate some work we're doing for the State of Utah,  
16 RCRA support activities. A number of the other offices we have, we  
17 have an office in New York; and our RCRA support activities are on  
18 a nationwide basis.

19 MR. SMITH: How is your company owned?

20 MR. DARABARIS: We are a partnership organization, and  
21 therefore, it is owned by partners within the organization. The  
22 environmental organization is one element within a wide array of  
23 consulting skills that we offer.

24 MS. COLLINS: Thank you, John.

25 MR. DUKER: Thank you, John. Excuse me just a minute. We

1 have several people signed up who do not seem to be here to speak  
2 at the appropriate time. OK, we've reached the time here where we  
3 have scheduled to take a quick break, and I'd like to do that, to  
4 give the people who signed up earlier a chance to get here for  
5 their presentation. Let's take a quick, 10-minute break. We'll  
6 adjourn right after that. Thank you very much.

7 (Whereupon the meeting was in recess from 1:10 PM until  
8 2:07 PM.)

9 MR. DUKER: Good afternoon. For the benefit of the gentlemen  
10 who just came in, we had a formal presentation this morning at 9:00  
11 o'clock; we have one at 12:00 o'clock noon; we will have another  
12 one at 6:00 o'clock this afternoon. But just to kind of go over it  
13 for your benefit, we have a presentation by the New Mexico  
14 Environment Department on the test-phase permit application  
15 process, and then also a brief presentation by the Department of  
16 Energy, and from that point we went into scheduled comments or  
17 presentations from citizens who wished to do so.

18 I see here that we have a number of people signed up. We do  
19 ask a couple of things of the participants here. First of all,  
20 we've allotted 10-minute segments for any individual who wishes to  
21 speak, ask questions, or make comments. We also ask that the  
22 comments or presentations be pertinent to the WIPP application--or  
23 permit application process for the test phase. There are, we know,  
24 other issues and other concerns. However, that's what we're  
25 addressing here, and it may be that there are other things that we

1 cannot answer, or our people here cannot answer, simply because  
2 it's not in our scope, or it's something that has not been fully  
3 worked out at this particular time. We will try to answer as many  
4 questions as we can, if you have those, but I just wanted to let  
5 you know that there are certain things that may be outside the  
6 particular scope of this meeting.

7 Now, these meetings are not formal hearings, obviously.  
8 They're not required. However, the New Mexico Environment  
9 Department did desire to hold public information meetings, for the  
10 purpose of getting individuals' input, as we go forward with the  
11 development of this permit process. So with that, I see that we  
12 have a gentleman here who signed up, Bob Forrest, the mayor of  
13 Carlsbad, New Mexico. Would you come up here, sir, and state your  
14 name for the recorder, and you have 10 minutes.

15 MR. FORREST: OK. Thank you very much, and I want to thank  
16 the committee for the opportunity to appear, and we hope that maybe  
17 next time that you'll come to the City of Carlsbad and have a  
18 hearing, but I know it's hard to please everyone. If I need to  
19 state my name again, Mayor Bob Forrest, representing the City of  
20 Carlsbad.

21 MS. SISNEROS: Mayor--

22 MR. FORREST: Yes, ma'am?

23 MS. SISNEROS: --if you'd excuse the interruption--Tom, I'd  
24 like to acknowledge that we have an area legislator in the  
25 audience, Representative Bob Light. I would like to, on behalf of

1 the New Mexico Environment Department, welcome him and thank him  
2 for attending this meeting.

3 MR. LIGHT: Thank you.

4 MR. FORREST: We also have a--also the newly elected state  
5 senator from Carlsbad, Dan Kidd. But again, thank you for the  
6 opportunity, and we're looking forward to you coming back to  
7 Carlsbad.

8 You know, we've been working on this project for 20 years, and  
9 our very first concern, back in the early '70's, was safety; and I  
10 think when we look back at where we came from, if you had written  
11 a script, I don't think it could have been written any better.  
12 Maybe some of the people in Santa Fe wouldn't agree with me, but we  
13 tried to keep that issue Number One in front of us, and today--but  
14 we still think it's one of the best things that's happened to the  
15 state and to the nation, and especially to the city. Still, our  
16 number one concern today is safety, and we have over 26 different  
17 agencies overseeing the project, from EEG, to the State of New  
18 Mexico, to the Federal Government, to the--all the agencies that  
19 are set up; and we're in the process right now of getting the  
20 environmental monitoring system set up in the City of Carlsbad, to  
21 be funded through DOE, to the tune of about \$4 million a year,  
22 independent monitoring through New Mexico State, and we think that  
23 this will kind of be the icing on the cake, as to making sure that  
24 all of the safety issues are addressed in the State of New Mexico,  
25 and help the Environmental Department from New Mexico to do their

1 job better.

2 And right now, we have a situation down in the Carlsbad area  
3 where some oil field companies have been dumping some waste in  
4 these lakes, and we found out just the other day that the radiation  
5 in our area is twice what it should be. So we want to come in  
6 here, and we wish this monitoring system was already in place, so  
7 that we would know today, before we ever get a shipment of waste,  
8 just what's in our area, so when we come back in five or six years  
9 and find these differences, they weren't already there; they  
10 happened after the waste was shipped there. We want to know that,  
11 because we live there, and if there's anybody concerned about the  
12 health and the safety of this project, it's the people in Carlsbad,  
13 New Mexico, and we owe it to our citizens.

14 We promised from the very beginning that we would go through  
15 this process, it would take approximately 20 years, but there would  
16 be a test period, where we'd do it for seven or eight years, and  
17 that would determine whether it would become a permanent depository  
18 or not. But also, after working with the DOE--and I know they have  
19 a bad--they've had some problems with other areas before, but I  
20 think they've learned their lesson. They're going to have to meet  
21 the requirements; they're going to have to be open to the public;  
22 and if they was to give me a blank check, as Mayor of the city, to  
23 provide for the project, and just do whatever I could to make it a  
24 safer project, I really don't know what it is. I think they're  
25 trying to work with us. I know they've got some regulations set

1 up, and I just hope that your group won't be any tougher than what  
2 the federal regulations are, because I know the State's different,  
3 and we ought to look at New Mexico separately.

4 We're in this together, and this waste--if anybody's to blame  
5 for the waste, maybe it's the State of New Mexico. We have two  
6 national laboratories, we have 60,000 jobs that are nuclear-related  
7 jobs, we have the largest uranium mines in the world, we detonated  
8 the first atomic bomb; and if we can help solve this problem and  
9 bring the waste back home, I think maybe that's the answer. I just  
10 have an awful hard time, thinking that the answer is a Butler  
11 building, or a 55-gallon drum, or sitting on top of the ground at  
12 Los Alamos or Oak Ridge or Rocky Flats. And I think if everybody  
13 has the attitude, "Not in my back yard," it's not going to ever  
14 work. I think we've got to take a look; and if we've learned  
15 anything--and I have, in the last seven years, traveling to Oak  
16 Ridge, and to Rocky Flats, and these areas where we could walk out  
17 of these Butler buildings, and there's downtown Denver five miles  
18 away--that isn't the answer, and Los Alamos isn't the answer.

19 All these testimonies--and I guess we've been to 200 hearings  
20 around the state, in the last 15 years, and no one has ever come up  
21 with a better solution, or even attempted to come up with one.  
22 We've had these environmental groups that we argue with and go back  
23 and forth, but I just hope I live to see the day when someone from  
24 the Sierra Club comes to us and says, "You know, you may be right.  
25 You may have the answer as to what we need to do."

1           But I would just encourage your department. We have an  
2 excellent relationship with the Governor and with your staff and  
3 with the State, and I don't know a project--we've been before the  
4 state legislature every session in the last 15 or 20 years, and we  
5 have never got an anti-WIPP bill passed, in the House or in the  
6 Senate of the State of New Mexico. I think that speaks well of the  
7 relationship that we have with the State, and we want to continue  
8 that relationship, because we think that's where our future is, and  
9 we think that if EEG hasn't done anything else--and they've done--I  
10 don't agree with everything, but they've made WIPP safer, and I'll  
11 give Bob Vigil all the credit he's due. WIPP is safer today than  
12 it would have been four years ago.

13           But I think we reach a point--and you know, I think the  
14 federal government, what's happened in Nevada could very well  
15 happen in New Mexico, and it almost did, when they appointed the  
16 administrative land authority, because we wouldn't work with the  
17 federal government. The judges said, "Go back and give the  
18 legislative control. Let the State have their regular permit, and  
19 the DOE and everybody has to work together;" and that's the process  
20 we need to go through. But, you know, New Mexico ranks No. 2 in  
21 taking federal dollars and DOE money. We like their money, we like  
22 their facilities that they build, but I don't think we can continue  
23 to hold them hostage. I think we're going to have to work--  
24 whatever happens in Carlsbad, New Mexico in the next seven years,  
25 the permitting you come up with, the legal requirements to grant

1 the permit, that's the key to the future of the waste management  
2 for the whole world; because what's happening here, we're 20 years  
3 into this project, and in our lifetime, we'll never see a project  
4 like we have down there. I just encourage you as a board--I can't  
5 make this consideration strong enough--you can work with DOE and  
6 the requirements and come up with a permit system that we can live  
7 with; and thank you very much for your time.

8 MR. DUKER: Thank you, Mayor Forrest. I think, since we do  
9 have a number of participants here, I'd like to, just very briefly,  
10 go back through the introductions we did earlier of who is here for  
11 the New Mexico Environment Department. In the back is Kathleen  
12 Sisneros; she is the director of the Water and Waste Management  
13 Division for the Environment Department. On my left over here is  
14 Benito Garcia, who is the chief of the Hazardous and Radioactive  
15 Materials Bureau; Susan Collins, who is the WIPP permit coordina-  
16 tor. We have consultants here, the A. T. Kearney Company, and this  
17 is Bob Darabaris--or John Darabaris over here; we have Connie  
18 Walker; and we have June Drieth over here in the blue. From the  
19 Department of Energy, we have Patty--I'm going to get it right yet,  
20 Patty--

21 MR. DARABARIS: Baratti-Sallani.

22 MR. DUKER: Thank you; and Jack Johnson from Westinghouse over  
23 here, and Larry Ledford over here, also from Westinghouse. I am  
24 just the moderator for this. My name is Tom Duker, and I am the  
25 training officer for the New Mexico Environment Department.

1           So at this particular time, I'd like to recognize--I believe  
2           it is Cliff Stroud from Carlsbad, who is the next-scheduled person  
3           to come up here. I'm not sure of your title, but if you'd be happy  
4           to state it for our recorder, here, sir.

5           MR. STROUD: Thank you, Tom. I have many titles. The one I'm  
6           working under today, I guess, is President of the Carlsbad  
7           Department of Development; and I think the message that you will  
8           hear today from the citizens of Carlsbad and our elected officials  
9           and newly elected officials will probably be different variations  
10          of the same theme. But we've got our home there, we've got our  
11          families there, and we've got our businesses there, and as such, I  
12          think that we have a very--a very large amount of our lives at  
13          stake, and we've taken a close interest in this WIPP Project for  
14          the last 20 years, and as it's become more focused, so has our  
15          interest.

16          But the RCRA permit is something that we've paid close  
17          attention to in Carlsbad, just as we focused on all the issues  
18          relevant to WIPP, and its impact on the health and safety of our  
19          families and communities in southeast New Mexico, and all the  
20          citizens of that area; and it's our opinion that--that as well as  
21          with the other areas, the aspects of the project, the Department of  
22          Energy has gone to great lengths to ensure that concerns are  
23          addressed, and that all concerns are addressed, especially those  
24          dealing with public health and safety. And it seems to us that a  
25          significant portion of the test phase is directed to ensure that

1 WIPP can comply with RCRA, as well as a host of other environmental  
2 regulations.

3 It's stipulated in the Land Withdrawal Bill, recently passed  
4 by Congress, that before any testing can occur, the Department of  
5 Energy has to convince the Environmental Protection Agency that all  
6 tests will produce data directly relevant to demonstrating  
7 compliance with RCRA, and it seems to us that the Land Withdrawal  
8 Bill, therefore, in itself provides many strong safeguards that no  
9 unnecessary testing will occur. In this regard, I believe that we  
10 are satisfied that the Land Withdrawal Bill sets forth the proper  
11 conditions and terms that ensure that public health and safety is  
12 adequately addressed.

13 And I guess what I'm saying is, in other words, we feel that  
14 we don't need an additional set of conditions, if you will, to be  
15 contained in the permit to regulate west--waste--excuse me--for the  
16 test purposes. Congress has done this. It's in the Land Withdraw-  
17 al Bill.

18 Governor King, in a letter of April 9th, 1992 to George  
19 Miller, Chairman of the House Interior Committee, suggested and  
20 stated that allowing the test phase to begin will facilitate our  
21 ability--and I quote--"to probe WIPP's ability to meet health and  
22 safety standards important to New Mexico citizens," and we concur  
23 with that.

24 It's also our understanding that the EPA believes WIPP is  
25 eligible for interim status; that the Circuit Court of Appeals for

1 the District of Columbia believes that WIPP is eligible for interim  
2 status; and that New Mexico Statute 74-4-4 does not allow New  
3 Mexico to adopt regulations more stringent than federal regulations  
4 adopted by the EPA.

5 And in closing, I'd just like to say, because of our proximity  
6 to WIPP, we feel in Carlsbad we have one of the most vital, I  
7 guess, things at stake in the safety of the project. We concur  
8 with the Governor of New Mexico, and we hope that the New Mexico  
9 Environment Department will continue on the track it has already  
10 begun, and move on the RCRA permit expeditiously. Thank you for  
11 allowing me to speak to this distinguished group this afternoon.

12 MR. DUKER: Thank you, Mr. Stroud. At this time we'd like to  
13 recognize Representative Robert Light. Would you care to come up  
14 here, sir?

15 MR. LIGHT: I'm Representative Robert Light, District 55,  
16 State of New Mexico, reelected through no opposition. I would like  
17 to--I'm here today to merely state that I've been involved with  
18 WIPP since becoming a county commissioner in 1979, so it's been  
19 about 12 years that WIPP has been in my district, either as a  
20 county commissioner or as a state legislator. I've been on the  
21 Radioactive-Hazardous Materials Committee for all the time I have  
22 served in the legislature, which has been eight years; I've been  
23 its chairman for two.

24 I'd like to say that when it comes to RCRA, which is for mixed  
25 waste, and it gives the State authority over siting and permitting

1 for any sort of hazardous materials, that because it's a mixed  
2 waste, coming down from--into the WIPP area, and we see some other  
3 materials in there besides radioactive material, it gives the State  
4 that authority. However, I'm a little disappointed that the  
5 Federal Government did not exempt WIPP initially from RCRA. It's  
6 such a specialized facility that RCRA will be more than--than--I  
7 would say more than attended to, in what they're doing with the  
8 WIPP facility.

9 RCRA is a federal agency, and it's Resource Conservation and  
10 Recovery Act. To me that's very confusing to the public, because  
11 when you talk about "resource conservation," you think automatical-  
12 ly, "Are we taking care of our natural resources, and are we  
13 conserving them?" That isn't what it's all about at all. In  
14 conservation, in the interest of conservation, it doesn't have  
15 anything to do with WIPP. RCRA does give the State certain  
16 authority, and while I'm disappointed that WIPP is actually  
17 involved in the RCRA process, I do feel that the State has that  
18 authority and should not in any way promulgate rules that are more  
19 stringent than what the EPA puts forth. We have never, in the  
20 State of New Mexico, to my knowledge, promulgated rules and  
21 regulations that are more stringent than the EPA, and I think the  
22 EPA is quite--quite concerned that WIPP is safe.

23 Let me tell you one thing, that it's in my district, and I'm  
24 quite concerned that it is a safe project; always have been. My  
25 entire investment in my business life is in the Carlsbad area; and

1 let me say that I represent a number of people in Carlsbad that  
2 have concerns about WIPP, and if there was a lack of safety, I  
3 would be the first one to come forward with a concern about the  
4 safety of WIPP.

5 I do feel that we need to do the testing program, and I would  
6 hope that the State could rule, under the RCRA rules and regula-  
7 tions, and move forward with granting this permit for WIPP. I  
8 admit, too, that there are people who feel that the State, through  
9 RCRA, can make some new rules on its own. I would hope that the  
10 State doesn't take that path; that they use RCRA as it's written,  
11 and either grant a permit for Subpart B or not; and Subpart B is  
12 somewhat confusing. Subpart B of the EPA rules and regulations,  
13 which have not been promulgated--Subpart B has not been finalized--  
14 is an entirely different process than Subpart B under RCRA.  
15 Subpart B under RCRA requires that whoever stores must first--and  
16 I can read this to you; I'm sure you've all seen it--must submit an  
17 application to the State for the suitability for long-term disposal  
18 of transuranic waste will eventually be established. But under  
19 RCRA, Part B, each application must be facility-specific, and must  
20 be a permit that describes what they are storing, and it has really  
21 very little to do with Subpart B under the EPA regulations that  
22 have not yet been promulgated. I would hope that the State can see  
23 its way clear to grant a--a permit under Subpart B, RCRA regula-  
24 tions.

25 I've heard a lot of testimony, and I'm sure that you've heard

1 a lot here today, through the years that I've been on the Radioac-  
2 tive-Hazardous Materials Committee, and there's volumes of it, just  
3 volumes of it; and it all has to do, basically, with safety; and I  
4 would hope that the facility--we feel safe about it, we feel  
5 comfortable with it, and there are people around the state that  
6 don't, and yet we feel that our concerns are as important as anyone  
7 in this state, because it's right in our back yard. And I would  
8 hope that the State of New Mexico and the Environment Department  
9 will move forward with their permit under Subpart B, RCRA. Thank  
10 you.

11 MR. DUKER: Thank you, Representative. At this time we'd like  
12 to recognize the senator-elect from District 34, Dan Kidd.

13 MR. KIDD: Thank you very much, and it's a pleasure to be here  
14 with you today. Most of us who live in Carlsbad have personally  
15 been associated with most every phase of WIPP for--since 1973, in  
16 one way or another, and I think the one thing that all of us have  
17 always been concerned about from Day One is safety. Living there,  
18 with your grandchildren, with yourself there, certainly I think a  
19 lot of people misunderstand our motives in Carlsbad. My motives  
20 have always been the same as the motives, I think, of anyone who  
21 lives in Clovis, Alamogordo, or Albuquerque, where we've tolerated  
22 and understood the necessity of having nuclear weapons. We would  
23 suspect, I don't believe the F-111's in Clovis stop in Pecos, Texas  
24 and reload. We understand that and it's a necessary thing.  
25 Disposal of radioactive waste, in my mind, has always been a very

1 necessary process that has to go on in this country, and I've been  
2 convinced over the years that the WIPP Project is the proper and  
3 best solution that we have today. I think, as the mayor pointed  
4 out quite eloquently before, I've never heard another suggestion of  
5 any alternative, other than WIPP. It's our opinion that as with  
6 other aspects of the project, DOE has gone to whatever lengths have  
7 been necessary, beyond what might even sometimes be reasonably  
8 expected, to address those concerns that deal with public health  
9 and safety. I've never, ever talked to anyone at DOE or Westing-  
10 house where I had the least suspicion that they wanted to short-  
11 change anything that might deal with public health and safety.

12 I believe that a significant portion of the tests will be  
13 directed to comply with RCRA. I think the Land Withdrawal Bill  
14 that was recently passed, with the involvement of EPA, I believe  
15 the proper rules for testing will be laid out. I believe they will  
16 be laid out in a manner that we can all approve of. I think we can  
17 continue, as with anything else, to add to and think up things that  
18 might extend the project. I hesitate to think of the damage to the  
19 environment in other areas of the country--Colorado, Idaho, Los  
20 Alamos in our own state--that are long, long overdue for something  
21 to be done.

22 We're satisfied, I think, the general public. I just went  
23 through a general election campaign. I believe the people of  
24 southeastern New Mexico are very proud of the WIPP Project,  
25 especially as regards its safety. We had some of the people

1 working in our campaign that were early opponents of WIPP. I felt  
2 a very, very deep compliment that they felt like that I was being  
3 concerned enough to make sure that, in my judgment, WIPP would  
4 progress safely; and I pledged to them, as well as you today, as  
5 Representative Light said, if I had the least suspicion that  
6 anything wasn't the way it should be, I would be the first to speak  
7 up. However, instead of setting another set of conditions by the  
8 State of New Mexico, I'd like to see the New Mexico Energy  
9 Department going with DOE to implement EPA rules, work with them,  
10 see--stay aware, so we can all be sure that the rules that are set  
11 forth are being followed, rather than an additional, different set  
12 of rules.

13 I think that the ones of us who live in southeastern New  
14 Mexico--not necessarily Carlsbad, but southeastern New Mexico--are  
15 very interested--always have been--in the safety ultimately, not  
16 only of the WIPP site, but New Mexico in general. All of us in  
17 Carlsbad that have been active in city and state government, the  
18 Department of Development, the business community, we've all been  
19 involved in the transportation problem of the waste. So I think  
20 we're all satisfied, after 20 years, that we need to move forward;  
21 that we have the most vital stake, I believe, in this whole  
22 project; and I, for one, would not be here today and be talking to  
23 you, if I wasn't totally satisfied that the Department of Energy,  
24 with the assistance of Westinghouse and the State of New Mexico, is  
25 going to make that project as safe as the human mind can. Thank

1 you all very much for allowing me to be here today.

2 MR. DUKER: Thank you, sir. I'd like to recognize at this  
3 point Chuck Bernhard. I'm not sure of your title, sir, but--

4 MR. BERNHARD: Yeah.

5 MR. DUKER: --if you would like to state that for us--

6 MR. BERNHARD: My name is Chuck Bernhard. I'm the executive  
7 director of the Carlsbad Department of Development. In my capacity  
8 as Executive Director, I play a support role to the leadership of  
9 Carlsbad, including the mayor, state senator, and other business  
10 leaders in the community, about the WIPP situation. Part of my job  
11 has been to follow every development related to WIPP, and believe  
12 me, there are a lot of them, and they seem to increase in complexi-  
13 ty all the time; and one of the ones that I've followed real  
14 closely is the RCRA permit situation; and it's something that--  
15 there's been some legal questions raised about whether the site has  
16 interim status under RCRA. There's some opinions that have been  
17 expressed to that extent. I believe the Court of Appeals' decision  
18 in July raised some questions about the district court's decision  
19 about the eligibility of the site for interim status. There has  
20 been some letters from EPA--I believe one of them went to Kathleen  
21 Sisneros--in August of '91, from the general counsel. There was a  
22 letter from the EPA Administrator Cleggs to Leo Duffy, supporting  
23 the appeal regarding interim status.

24 But all these things were happening, and let me tell you what  
25 I'm impressed with is, DOE has decided to go forward and pursue the

1 process in a formal fashion, and we have followed very closely the  
2 amount of work they have put into preparing the documents for the  
3 State Environment Department. I've talked with some individuals  
4 from A. T. Kearney, who the State Environment Department has on  
5 board to help review the RCRA permit, and I'm very satisfied as to  
6 their background to look at this issue, having worked on a no-  
7 migration petition. The bottom line of what I'm saying is, I'm  
8 very satisfied, from a safety standpoint, for Carlsbad, that this  
9 permit is being given all due diligence, that it will be done  
10 right.

11 Now, as to some questions whether this permit--permit process  
12 should have some extra requirements, I don't believe that that's  
13 necessary. I believe that when, if you look back at the Congres-  
14 sional debates about RCRA, that included a view of WIPP--this is  
15 out of the *Congressional Record* of October 11th, 1984--some  
16 specific questions were raised about WIPP's relationship to the  
17 RCRA standards, and whether there ought to be special restrictions  
18 placed on WIPP, relative to RCRA, and the resounding answer from  
19 Senator Chaffee, Senator Randolph, several others, was no, that  
20 WIPP was a special facility; that the requirements governing how  
21 that facility would operate were already intrinsically procedurally  
22 and technically sound, in terms of the storage of hazardous waste.  
23 So I think the historical context for this is very clear, that the  
24 RCRA permit will provide, from a procedural standpoint, the  
25 necessary safeguards on safety, if we just follow--follow the way

1 the permit application is, and I see DOE doing that to the fullest  
2 extent.

3 Now, one other issue about safety: I think we have to keep in  
4 mind that when Congress passed the Land Withdrawal Bill a couple of  
5 weeks ago, there was a very large consideration given to health and  
6 safety standards; and in fact, many would contend they even went  
7 too far. But regardless of that, their--I'm satisfied that the  
8 land withdrawal legislation--and I'm speaking as a father of three  
9 children, who lives in Carlsbad, as much as I am as my position as  
10 Executive Director--I'm satisfied that the legislation itself, the  
11 land withdrawal legislation, contains the necessary safeguards to  
12 protect the health and safety of Carlsbad residents.

13 And so from that viewpoint, I think what we would just say to  
14 you, the New Mexico Environment Department, is, we want to thank  
15 you for taking this issue on. It's not an easy one. The word we  
16 get back is that you're doing a good job of getting the process  
17 reviewed, and I want to commend you on holding public discussions  
18 like this. But I would also, on the same note, encourage you to  
19 continue to move forward. Let's get this done expeditiously. I  
20 don't think there's any reason for any further delay, and ultimate-  
21 ly, what we're going to accomplish is, we're going to find a safer  
22 way to store this transuranic waste that's sitting around the  
23 country right now, in unsatisfactory storage places; and I've been  
24 with the mayor to Oak Ridge, and Savannah River, Rocky Flats,  
25 Idaho, and believe me, it's--it's far better off 2,100 feet below

1 the surface of the ground in a bed of salt than it is in some of  
2 the places where it is right now. So I think, just philosophical-  
3 ly, as the New Mexico Environment Department, I think the best  
4 thing you could do for the environment would be to review this  
5 process quickly and get on with the permitting process. Thank you.

6 MR. DUKER: Thank you, Mr. Bernhard. We do have some speakers  
7 lined up for approximately 3:20. At this particular time, we have  
8 no one else signed up to make a presentation or to ask questions.  
9 For those of you who came in, if you wish to make comments or ask  
10 questions, we do ask that you sign up for an available time slot.  
11 So we will go ahead and take a brief recess at this particular  
12 point. I want to thank all of you who are here to participate for  
13 your comments. They will, of course, certainly be considered in  
14 the process. I want to again mention, what we did earlier is that  
15 any written materials that anybody wishes to submit should be  
16 submitted to Susan Collins, who's our WIPP Permit Coordinator,  
17 prior to or no later than November 25th, this month, so it can be  
18 taken into consideration. Anybody have anything else?

19 MR. GARCIA: I'd like to bring up one thing. I guess Susan  
20 and I are both kind of wondering, and maybe Kathy is, too--it seems  
21 like everyone that spoke just now kept referring to us having more  
22 stringent regulations or requirements in this permit than we have--  
23 than the EPA would have; and we are essentially enforcing the exact  
24 regulations that EPA has promulgated and adopted. So we're not  
25 looking at anything more stringent than is in the regular regs

1 right now; and I was kind of disturbed by it, because I--it was the  
2 central feeling that I got out of everybody's talk here, and I  
3 really wanted to get down to the bottom line and see what--what  
4 prompted this, and what we're really looking at.

5 MR. DUKER: Bob, do you have that concern?

6 MR. BERNHARD: Yeah.

7 MR. DUKER: Go ahead, Bob.

8 MR. LIGHT: What prompted that was the recent editorial in our  
9 paper, where a person who is very much opposed to the Waste  
10 Isolation Pilot Plant made the comment that they hoped the State  
11 would come up with new rules and regulations that would prohibit  
12 opening the plant, in a sense--that's what the person said--and  
13 it's just one of those things that I don't think the State is in a  
14 position to make new rules and regulations under RCRA. I think  
15 they're merely trying to carry out the rules and regulations that  
16 are promulgated today under RCRA by the EPA, and I think that's  
17 true, is it not, Kathleen?

18 MS. SISNEROS: Yes, sir, that's correct. If I could respond  
19 to your concerns, on behalf of the Department: As you have  
20 indicated, the State Hazardous Waste Act requires the State to  
21 adopt regulations that are no more stringent than the federal  
22 requirements. The State has in fact done that. We, in essence,  
23 adopt the federal regulations by reference. Obviously there are  
24 some minor changes--that is, when they talk about the "Administra-  
25 tor," we talk about the "Secretary," the Department Secretary, and

1 those sorts of things. But our regulations are essentially  
2 identical to EPA's. The permitting process and the permit that  
3 would be issued to any facility--not--not necessarily WIPP, but any  
4 facility--are based on requirements contained in those regulations.  
5 That's what we have--that's what we base the permit on. We can't  
6 just arbitrarily pick other requirements out of the air and--and  
7 put them in a permit. We cannot do that. We do not have the  
8 authority to do that. Our requirements on any permit will be based  
9 on the regulations, on the state regulations; and those are, as I  
10 said, virtually identical to the federal regulations. So we--I  
11 think that the Department has set rules no more stringent than; we  
12 have to, by our law.

13 MR. LIGHT: However, I would like to ask Kathleen, while she's  
14 commenting, are there not certain laws, federal laws, that allow  
15 you to be more stringent, under certain rule-making, than is the  
16 EPA or the federal regulations, is that not true, that allow you to  
17 do that, but we do not have any in place at this time?

18 MS. SISNEROS: That's correct. There are some laws that allow  
19 that State to adopt regulations or requirements that are more  
20 stringent than federal.

21 MR. LIGHT: I just wanted to point that out; so it's not  
22 without some concern that we talk on that issue.

23 MR. GARCIA: Thank you very much.

24 MR. BERNHARD: Could I make one comment, too? I think one--I  
25 advised this group on that issue, so I'll defend it a little bit.

1 There was a letter in our paper from Margaret Carr of the Concerned  
2 Citizens for Nuclear Safety to this effect. It said, "Let's--let's  
3 make things more stringent than the State," so that's why we're  
4 responding and saying--

5 MS. COLLINS: We have seen that, and--

6 MR. BERNHARD: Right.

7 MS. COLLINS: --there is an additional article, two weeks, in  
8 the *Journal* by another individual on this same issue.

9 MR. BERNHARD: And our main point is that the Land Withdrawal  
10 Bill was laid out, was put together by its designers, believe me,  
11 took every safety and health consideration into account; and I  
12 think the way that RCRA was shaped by Congress also took care of  
13 that procedurally. So we just say, "Go ahead, follow--follow what  
14 the federal guidelines are. Keep going."

15 MS. SISNEROS: On--on--again, on behalf of the Department,  
16 our--any permit requirement, any permit that is issued has to be  
17 based on the state regulations.

18 MR. BERNHARD: Right.

19 MS. SISNEROS: That's what we follow; and the state statute  
20 prohibits us from adopting regulations that are more stringent than  
21 the federal requirements. So I--

22 MS. COLLINS: Kathleen, could I ask a question? We can't  
23 change that in the middle of this process, is that correct?

24 MS. SISNEROS: Well--

25 MS. COLLINS: Is there a different--

1 MS. SISNEROS: --it requires a change to state law.

2 MS. COLLINS: Right. OK. That was my point.

3 MS. SISNEROS: And I--you know, we have the law as it is.

4 MR. BERNHARD: Well, maybe we're responding too strong in a  
5 way, but it is a concern that we have.

6 MR. DUKER: OK. Again, thank you very much. We will take a  
7 brief recess, and there will be several other presenters, approxi-  
8 mately 3:20 this afternoon. Thank you.

9 (Whereupon the meeting was in recess from 2:45 PM until  
10 3:20 PM.)

11 MR. DUKER: Good afternoon again. We're reconvening here.  
12 For the benefit--I don't know if--is it Darlene Logan--if you were  
13 here for the presentations that we made. We do a formal presenta-  
14 tion; we did one at 9:00 o'clock, at noon, and we'll do another one  
15 at 6:00 o'clock, by both the Department of Environment and  
16 Department of Energy; and I just--I'll just very briefly go over  
17 kind of the format of the rules that we use for these particular  
18 presentations. We do our presentation, then we allow 10-minute  
19 increments for any individual to make a comment, to--a presenta-  
20 tion, or to come up and ask questions that they may wish to ask;  
21 and the reason we do that is to allow a maximum number of people  
22 that wish to speak at these--these particular meetings. These are  
23 meetings, as opposed to hearings, in that this is nothing that's  
24 mandated by statute or regulation, but we at the Environment  
25 Department--or the Environment Department wanted to have public

1 comment, as we go through the development process of the WIPP  
2 permit application for the test phase; and we--in addition to  
3 asking you to stick within the time limits you've signed up for, we  
4 also ask that the comments be directed towards this particular  
5 process. We realize that there are concerns, and--and we will note  
6 those, but the input that we're looking for is assistance to us as  
7 a state agency, as we develop this particular permit; and again, it  
8 is for the test phase. At a later date, once this has gone  
9 further, there will be formal public hearings and public comment,  
10 and this will occur sometime later down the line. But these ones  
11 here, we wanted to do these around the state, at several locations,  
12 to get citizen comment on this. So if you'd like to come up here  
13 and make a presentation, or--or whichever you wish to do, if you  
14 would come up here, and for our recorder, give your name and title  
15 and position, or--if you represent any particular organization, or  
16 whatever. So please come up.

17 MS. LOGAN: (Addressing the reporter) My name is Darlene  
18 Logan, and I represent the New Mexico Compadres for Safe WIPP. I  
19 live in Roswell. (Addressing the meeting) My name is Darlene  
20 Logan. I want to thank you all for holding one of the state permit  
21 meetings in Roswell. I have come here straight from work, and so  
22 I'm dressed in my work clothes. I'm not a member of the armed  
23 forces; I'm a teacher at New Mexico Military Institute. I speak  
24 now as a concerned citizen, and as a member of the New Mexico  
25 Compadres for Safe WIPP.

1 The members of the New Mexico Compadres for Safe WIPP are  
2 concerned Roswell citizens who collected over 1,200 signatures a  
3 few years ago on a petition we sent to the Department of Energy and  
4 our Congressional representatives. This petition requested that  
5 the Department of Energy comply with all EPA standards before WIPP  
6 opens. Now that the WIPP Land Withdrawal Bill passed in October,  
7 we continue to express our concerns for public safety; and today,  
8 as fellow-New Mexicans, whose State must issue a permit before WIPP  
9 opens, we express our concerns to you.

10 No. 1, we're concerned that no New Mexico permit be issued  
11 until after the EPA certifies that WIPP complies with their  
12 depository disposal regulations. We wonder why Bruce King, who  
13 promised to be more of an environmental governor than Garrey  
14 Carruthers, is in such a rush to issue an August, '93 permit,  
15 before EPA certification.

16 No. 2, we're concerned that the Department of Energy issue a  
17 new supplement in its final environmental impact statement, before  
18 New Mexico issues a permit.

19 No. 3, we're concerned that New Mexico not receive any barrels  
20 of experimental waste unless each barrel is inspected for hazardous  
21 flammable material. The expense of this monitoring should be  
22 included in the applicant's permit fee.

23 No. 4, we're concerned that New Mexico receive the annual  
24 payment of \$20 million, and we're upset that this money will not be  
25 as, quote, "automatic" or as plentiful as the Department of Energy

1 had promised, in its early years of wooing New Mexico for our 16-  
2 square-mile WIPP site.

3 No. 5, we're concerned that New Mexico roads be repaired and  
4 promised by-passes built immediately to accommodate the transport  
5 of test waste. As member of the Roswell community, we are appalled  
6 that WIPP trucks will be traveling through the middle of our town  
7 and practically through a campus of sleeping cadets, whose dorms  
8 are on Main Street, at New Mexico Military Institute. I know the  
9 City of Roswell has issued an ordinance restricting WIPP truck  
10 travel to the hours of midnight to 6:00 AM, but actually, one WIPP  
11 truck traveling through the middle of town is one WIPP truck too  
12 many. The citizens of Roswell were promised a by-pass.

13 No. 6, we're concerned that more emergency medical training be  
14 provided by the Department of Energy, and that concerned citizens  
15 be able to attend such training sessions. In the past, these  
16 sessions have been closed to the general public, even for observa-  
17 tion.

18 No. 7, we're concerned that any part of WIPP would be used for  
19 interim storage. DOE's retrieval plan should include a designated  
20 interim storage area outside of our state.

21 No. 8, we're concerned that the Department of Energy provide  
22 a viable retrieval plan. After all, we've read accounts in the  
23 newspaper of certain salt rooms collapsing at WIPP. We've listened  
24 to WIPP/Westinghouse officials claim that these room falls were  
25 predicted, and yet we've never read an account of a prediction

1 before a room collapsed. We're concerned that the test waste is  
2 truly retrievable. If this upcoming period is really a test phase,  
3 the Department of Energy needs to provide a viable retrieval plan,  
4 and New Mexico needs to withhold its permit until that time.

5 No. 9, we're concerned that those employees at WIPP who dare  
6 to report safety hazards not be punished or fired for their  
7 conscientious concerns for safety. Give them bonuses.

8 In general, we're concerned for safety--the safety of our  
9 people, our land, our water, and our air--and we look to our  
10 government for protection. After all, isn't our national protec-  
11 tion--i.e., the need to build nuclear weapons--what got us into  
12 this mess to begin with? And after all the horror stories of Rocky  
13 Flats, *et al.*, how can we believe the Department of Energy has  
14 public safety as its top priority? Well, the DOE now possesses the  
15 16-square-mile WIPP site; that's a done deal; and so the permit  
16 issued by New Mexico is our last bit of protection, our last shot  
17 for safety.

18 The little comic strip, "Pogo," once said, "We've seen the  
19 enemy and it is us." In issuing the permit, please prove that  
20 statement wrong. We ask you--no, we beg you--our state government,  
21 not to issue the precious permit until the Department of Energy and  
22 WIPP/Westinghouse have complied with all safety regulations.

23 MR. DUKER: Thank you, Ms. Logan.

24 MS. LOGAN: May I give this to someone?

25 MR. DUKER: Yes, if you'd like to; the lady out there at the

1 door will log it in for you. Thank you very much. I believe, when  
2 you signed up earlier, there were a few other people indicating  
3 they wanted to--

4 MS. LOGAN: They'll be here; it's at the other times.

5 MR. DUKER: Oh, is it? The time has changed on that?

6 MS. LOGAN: No, it's--I think it was 3:40 and 3:50.

7 MR. DUKER: Yes, it was; so the--

8 MS. LOGAN: So they were going to come right after school.

9 MR. DUKER: OK, fine. Good. We'll await their arrival on  
10 that.

11 MS. LOGAN: And I know a bunch more people are coming this  
12 evening; they're coming after work.

13 MR. DUKER: Yeah, we--we have a scheduled break, which we  
14 announced earlier today, between 5:00 and 6:00. Six o'clock is  
15 when we'll do our next formal presentations, and then between then  
16 and 9:00 o'clock, after these--these presentations take a total of  
17 about 30 minutes, and then 'til 9:00 o'clock, all those times will  
18 be available for any additional people who wish to make comments,  
19 or ask questions, or, you know, make statements, or whatever, from  
20 that point on. But between now and 5:00 o'clock we'll be here, you  
21 know, to do that, and then again after 6:00 o'clock. There should  
22 be ample time, hopefully, for everybody that wishes to be heard.  
23 OK. We appreciate your comments. Thank you very much.

24 Well, again, we've reached a lull in our conversations here.  
25 Hopefully these other persons who wish to make comments are just a

1 few minutes off, so we'll just take a break in place, here, until  
2 such time as they arrive, and then we'll reconvene in about 10  
3 minutes, or whenever they arrive. Thank you.

4 (Whereupon the meeting was in recess from 3:32 PM until  
5 3:40 PM.)

6 MR. DUKER: OK. We have two additional people who have asked  
7 to either speak, or make a presentation or a comment, or ask  
8 questions. For their information, I don't know if either one of  
9 you were here for our initial formal presentations that we made,  
10 but just for your part of this, again, this is a public meeting.  
11 It is not a formal hearing. Those of you who signed up to talk are  
12 given 10 minutes to either ask questions, which may or may not be  
13 able to be answered, depending on what they are, or make a  
14 presentation or a statement, whichever you wish to do. The  
15 procedure we're going through are--is to solicit input from the  
16 public on the WIPP permit application process that we're going  
17 through right now, the State of New Mexico Environment Department,  
18 for the test phase of the WIPP Project. So while we realize that  
19 there are a lot of other questions and concerns in other areas,  
20 what we're going to use the input for will have to be pertinent to  
21 this. If--you know, we'll certainly take other concerns into  
22 consideration, and they'll all be documented. We're recording  
23 these here; written submissions are being looked at very carefully,  
24 and also being recorded; so--just to kind of bring you up to date  
25 on the ground rules of this. I believe--is it Eric Daly? If you'd

1 like to come up here, sir--if you would state--come up here to the  
2 podium. If you'd like to state your name and if you have an  
3 organization that you're representing, for the recorder; you have  
4 10 minutes.

5 MR. DALY: My name is Eric Daly, and I'm not representing  
6 anyone formally. I was--I decided to come down here; I wanted to  
7 ask some questions about the by-pass that has been talked about,  
8 going through Roswell; and I was wondering if that is going to be  
9 built before the test phase is scheduled to start.

10 MR. GARCIA: We can't really answer your question. The scope  
11 of the meeting is on the application for the test phase at the WIPP  
12 site, which does not cover by-passes or other transport.

13 MR. DALY: OK. Would it be possible to put something in the  
14 permit that makes such a by-pass mandatory, or--

15 MR. GARCIA: No.

16 MR. DALY: No?

17 MR. GARCIA: No, the permit covers the facility itself, and  
18 the use of the hazardous waste materials at the site only. It will  
19 not exclude those areas that you're talking about. You can voice  
20 your concerns on those subjects, but they're really not part of the  
21 scope of this--this permitting process.

22 MR. DALY: OK. Well, then, just let me voice that concern  
23 really quickly. As a cadet at New Mexico Military Institute, I  
24 live 100, 150 feet from where these trucks are supposed to be  
25 passing by, and it does concern me to think about hazardous waste

1 coming 100, 150 feet from where I'm living, studying, eating; and  
2 I think that's a real concern, and it's real. That's all I have.

3 MR. DUKER: OK. Well, thank you, Eric. OK.

4 UNIDENTIFIED MALE: Who sets--who sets the ground rules for  
5 these meetings? Why are they so limiting that you can't address  
6 this young man's questions?

7 MR. DUKER: Sir, there are certain things that this particu-  
8 lar--this meeting was called to address the permit process for the  
9 test phase at WIPP. There are a lot of other concerns that are not  
10 in the scope of the people who are here or the department who is  
11 handling it. There are other, appropriate channels to go through  
12 for additional things, and there are some things we do not either  
13 have the knowledge to answer those questions, we--it's not within  
14 our scope to answer them. Transportation issues would be best  
15 addressed to--what, Mr. Garcia?

16 MR. GARCIA: Again, if you're talking legislative authoriza-  
17 tion to appropriate monies to fund a by-pass around Roswell, it  
18 would be best to go through your Congressional delegates. I can't  
19 figure out any other way to do it. I don't think there's any  
20 specific agency that can just come up and say, "We're going to fund  
21 a by-pass for Roswell;" certainly not the Environment Department,  
22 because that's not within the scope of our mandate, and I can't  
23 really answer your questions. Maybe Kathy, back there, has a  
24 better answer.

25 MS. SISNEROS: Yes, transportation-related issues are not

1 within the area of responsibility of the Environment Department.  
2 There are two groups that you could--actually, three groups that  
3 you could address your concerns to. I've already committed to take  
4 the concerns that Councilman Jennings raised earlier today to the  
5 Governor's Task Force on WIPP. That's one avenue you need to  
6 address. Obviously, the Congressional delegation, and in particu-  
7 lar, the representatives--your area representatives; and also the  
8 New Mexico Highway Commission has the responsibility for authoriz-  
9 ing the routes, so you--you know, you could petition them, or  
10 certainly express your concerns to that body. But as Benito  
11 indicated, you know, the transportation responsibilities just are  
12 not our department, and while we understand your concerns, once  
13 again, you know, our--our purpose here was to talk and seek input  
14 on the hazardous--State-issued hazardous waste permit.

15 UNIDENTIFIED MALE: Well, my question was, who sets the ground  
16 rules for the meetings, and the way in which they're conducted?

17 MS. SISNEROS: Well, the Environment Department. We set--we  
18 set the ground rules. We set--we set these meetings for the  
19 express purpose of getting input on--on the hazardous waste permit.

20 UNIDENTIFIED MALE: OK. I just don't think it's a very  
21 friendly environment. The taxpayers have spent many thousands of  
22 dollars to arrange this meeting and pay for the people to be here.  
23 The expertise available is somewhat limited, citizens are here with  
24 questions that are not being answered, and I just don't feel a  
25 sense of teamwork, responsiveness, cooperation, and friendliness.

1 It feels cold.

2 MR. DUKER: Well, I don't--

3 MS. SISNEROS: The New Mexico Environment Department really  
4 took the initiative to have these meetings on the hazardous--on the  
5 issue of the hazardous waste permit, over and above any require-  
6 ments. We don't have to--under regulations, whether state or  
7 federal--have to have these meetings; and as a matter of fact, I  
8 understand in some areas, we have been criticized for having these  
9 meetings. The Secretary wanted to seek public input within the  
10 area of our responsibility; that is, on the hazardous waste permit.  
11 We recognize that the whole issue of WIPP is much broader than the  
12 one little piece that we're here to discuss today, and we under-  
13 stand that. But our purpose, again, was to seek input on--on  
14 hazardous waste issues, and on that permit--permit application. We  
15 have, as a department, committed to take the concerns expressed to  
16 the appropriate groups, and in particular, to the Governor's WIPP  
17 Task Force; but we--it's really not appropriate for our department  
18 to comment and make policy statements concerning areas for which we  
19 do not have responsibility.

20 UNIDENTIFIED MALE: Well, is there anybody here who can  
21 address the safety analysis of this particular operation?

22 MR. DUKER: In regard to--

23 UNIDENTIFIED MALE: Maximum credible accident.

24 MR. DUKER: Is this related more to transportation?

25 UNIDENTIFIED MALE: No, operation.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. DUKER: Operation?

MS. COLLINS: Could you state your question again?

UNIDENTIFIED MALE: Yeah. I'm asking about the safety analysis of the operation.

MS. COLLINS: Are you talking about the contingency plan?

UNIDENTIFIED MALE: I'm talking about defining the maximum credible accident and the scope of it.

MS. COLLINS: Could you clarify? Are you talking about the test phase, during the test-phase activities?

UNIDENTIFIED MALE: What is the maximum credible accident during the test phase?

MS. COLLINS: Are you asking, did we ask the applicant, "During the test phase, would you--would you describe the most credible accident;" is that what you're asking me?

UNIDENTIFIED MALE: Yes, the maximum credible accident.

MS. COLLINS: No, sir, we didn't do that. We asked them, in great detail, to give information and procedures to prevent hazards, and in the contingency plan, both of those chapters--I would refer you to our hand-out. OK, this describes what is contained in those chapters, and then key issues that we did raise with the applicant.

UNIDENTIFIED MALE: Are there any safety problems?

MS. COLLINS: We are reviewing the application. We are in the technical review phase, and I believe that I could answer that question probably in writing, at the end of this technical review,

1 when we do a summary of the process. We haven't formulated all  
2 questions yet to address to DOE-Westinghouse.

3 MR. DUKER: We have scheduled here next, and I'd like to  
4 recognize, John Camp, if he'd be so kind as to come up here to the  
5 podium. Thank you, sir.

6 MR. CAMP: I'm John Camp and I am a member of Compadres for  
7 Safe WIPP; and unfortunately, my main question had to do with  
8 transportation of waste, so I don't want to waste my time asking  
9 it.

10 The next question I would have is, since this is a trial  
11 period we're talking about, where will the waste be put, if it  
12 turns out that the facility is not adequate for its designed  
13 mission? What will happen to the waste in that case? Where will  
14 it go?

15 MS. COLLINS: Are you talking--to rephrase your question,  
16 should DOE decide to end the test phase, and--are you saying, where  
17 will it go to? What is its ultimate destination? Was that your  
18 question?

19 MR. CAMP: I gather it cannot be returned to the places where  
20 it is now, because of the political situation that would forbid it.

21 MS. COLLINS: It's my understanding of the regulations that  
22 what the State of New Mexico can require is through something  
23 called a "permit condition," or if we set up the rules in the  
24 permit, that the WIPP facility will not become that interim  
25 facility. The regulations don't allow us to require DOE to state

1 explicitly what the interim facility will be, but it's my under-  
2 standing that we can say in the permit that the facility will not  
3 be WIPP.

4 MR. CAMP: Will it be a facility in the State of New Mexico?

5 MS. COLLINS: That, I believe, is outside the permit. We  
6 could not identify that site in the permit.

7 MR. CAMP: So, in effect, the plan is incomplete?

8 MS. COLLINS: Which plan?

9 MR. CAMP: The contingency plan for the retrieval of waste, if  
10 the facility is not adequate.

11 MS. COLLINS: Oh, Kathleen, did you want to respond to that?

12 MS. SISNEROS: It might be appropriate to refer that question  
13 to the Department of Energy officials.

14 MR. DUKER: Mr. Johnson or Patty, would you like to respond to  
15 that?

16 MS. BARATTI-SALLANI: I don't believe at this time that  
17 determination has been made; it's still under consideration; but we  
18 will abide by the position of the State of New Mexico.

19 MR. CAMP: Would it be fair to say that the plan is in place  
20 to put the waste into the facility, but if it's decided that the  
21 waste does not belong there, that the contingency is to throw it  
22 way up high, or--where will it go? There seems to be no plan to  
23 deal with it after that.

24 MS. BARATTI-SALLANI: No, it is being considered.

25 MR. CAMP: Well, will the consideration of this issue end or

1 be completed before the waste is put into the facility?

2 MS. BARATTI-SALLANI: I can't tell you at this time. I don't  
3 know what the time frame is on that.

4 MR. CAMP: This would seem an important thing.

5 MS. COLLINS: Excuse me. The State of New Mexico will require  
6 WIPP to clean-close. We talked about that earlier. Again, back to  
7 the regulations: At the end of the test phase, all waste would  
8 have to be removed from the WIPP. That's what we mean by "clean  
9 closure."

10 MR. CAMP: Well, yes, removal is Step 1, but I think there has  
11 to be a necessary Step 2, if it can't stay at WIPP--

12 MS. COLLINS: Right.

13 MR. CAMP: --so it must be somewhere else; but no one else  
14 wants it. It's going to wind up in somebody's back yard, and I  
15 have a feeling it will wind up in the back yard of whoever has the  
16 least political clout. So what guarantee is there that it will not  
17 wind up somewhere in New Mexico?

18 MS. COLLINS: I think within the confines of what we've been  
19 doing in this technical review, I don't really think I can answer  
20 that question, because I don't know. We're just operating within  
21 the regulations.

22 MR. CAMP: I don't see how this could be called a "complete  
23 plan," if there is no contingency lined up for a destination for  
24 this waste, because, after all, this is a test phase.

25 MS. COLLINS: Again, I think I would support--yes?

1 MS. DRIETH: Excuse me. I'm June Drieth. I'm working with  
2 the New Mexico department to evaluate some of the permit; and I  
3 think what we need to think about also is that if the facility was  
4 to close, it's not going to go to another site, for example, in New  
5 Mexico, due to the fact that that particular site would also need  
6 to have a permit to accept that kind of waste. So, I mean--

7 MR. CAMP: There is no such site anywhere.

8 MS. DRIETH: Well, for example, some of the options, I think,  
9 that are being discussed, you know, could it go back to the  
10 generating sites that produced the waste--those are some of the  
11 things being discussed.

12 MR. CAMP: Do you have an opinion as to how likely that would  
13 be?

14 MS. COLLINS: That would be a decision by DOE.

15 MS. DRIETH: Yes; or other DOE sites.

16 MR. DARABARIS: As a point of issue--John Darabaris, A. T.  
17 Kearney--your point is well taken. It's not a point that has been  
18 completely ignored. If you'd look at our Page 5 of what we pulled  
19 together for a hand-out, we have asked for more information  
20 concerning off-site shipment of the waste from WIPP, after clean  
21 closure, if a disposal permit has not been issued. That's still  
22 outstanding; we have not received that information yet, so it would  
23 be premature for us to--

24 MR. CAMP: OK. Well, at what point will it become appropriate  
25 for this site to be designated?

1 MR. GARCIA: I think your comment's well taken, but I don't  
2 know if we can give you a definitive answer under the regs. I  
3 think it's something that we probably should look at. I don't know  
4 if we can require it, under the permit that would be granted, to  
5 return that waste to a specific site. I think we can require clean  
6 closure, under our permit, and then whether or not they complied  
7 with that would, of course, kick in another mechanism of enforce-  
8 ment. But I'm not sure we can, under the scope of the regulations,  
9 under the permit we're issuing for that facility, require them to  
10 take that waste to a specific site. Under our permit review  
11 process, we can ask them, "Can you give us information as to where  
12 you plan to take this stuff?" and I think we've done that, as a  
13 matter of fact, in formal and informal discussions, and we have not  
14 received the reply to that question yet. But we are pursuing that  
15 issue. Now, the question you're asking, I don't know if we can  
16 give you an answer to, and I don't know if we can require in the  
17 permit; but I do understand the question. I understand the  
18 concern, because I think we have the same concern.

19 MR. CAMP: Well, wouldn't you say it would be premature to put  
20 any waste in the facility before there is a determination?

21 MR. GARCIA: Well, as I stated, if it's clean closure, and we  
22 can require clean closure, but not require under the regs the  
23 specific site, that's all we can do. I don't think we can go  
24 further than what the regulations allow us to demand.

25 MR. CAMP: Well, going outside the procedural aspect of this,

1 isn't it just a matter of common sense that nobody is going to want  
2 this waste, and all political pressure available will be applied to  
3 keep the waste out of anywhere else?

4 MR. GARCIA: That's an opinion; I don't know if it's a matter  
5 of common sense.

6 MR. CAMP: Well, a matter of experience, realism? I mean, the  
7 whole idea about WIPP is that people are trying to take the waste  
8 and put it somewhere else, besides where it is now. So I can't  
9 really see this process being reversed.

10 MR. GARCIA: I really can't comment, because as a person  
11 that's sitting here, representing an agency, I--I--I want to give  
12 you a personal opinion, but I can't, OK, and that's what you're  
13 asking me for. So I can tell you what we can do as a regulatory  
14 agency, under the regulations, but I can't go beyond that scope.

15 MR. CAMP: OK. Well, I've got another question about the  
16 content of the bins, especially--barrels, I should say--those that  
17 are being prepared at Rocky Flats. I understand that there is a  
18 possibility that the content of each bin might actually be an  
19 average of the contents there at Rocky Flats, and there might  
20 possibly be combinations of chemicals that could be explosive, or  
21 reactive, or otherwise dangerous, if the bins are not inspected one  
22 by one, and not taken on average. Does the permit deal with this?

23 MS. COLLINS: Do you want to address that, Connie? This is  
24 Connie Walker, a representative of A. T. Kearney. I'm sorry.

25 MS. WALKER: I apologize. I'm Connie Walker of A. T. Kearney.

1 Initial waste characterization is being dealt with at a very  
2 extensive level of detail, as part of the permit application, and  
3 the questions that you ask are issues that we have examined, as  
4 part of our application review. What we can tell you is that DOE  
5 is restricted to ship what is called "DOO 1" and "DOO 3," explosive  
6 and ignitable wastes, to WIPP, under their own mandates and their  
7 shipping requirements and those sorts of things. Now, we are  
8 evaluating very closely waste characterization related to appropri-  
9 ate determining what is in the bins, prior to packaging and  
10 shipping to WIPP, so they can be stored subsurface in an appropri-  
11 ate manner, and that's kind of where we're at. The questions that  
12 you have asked are questions that we have asked, and we're awaiting  
13 a response to that at this point.

14 MR. CAMP: Do you expect to receive a response before the  
15 waste is actually shipped, even for the test phase?

16 MS. WALKER: Oh, yes.

17 MR. CAMP: So this is not the same situation as we have with  
18 the alternate disposition of the waste, if it's not adequate?

19 MS. WALKER: We are asking questions under this--on their  
20 permit application that are within the scope of the regulations.  
21 The questions we are asking are very much directed towards RCRA  
22 requirements and state requirements relative to hazardous waste  
23 regulations, and therefore, those responses will be received prior  
24 to any determination relative to the permit.

25 MR. CAMP: So in other words, this one will be wrapped up

1 before the waste is shipped, unlike the very sensitive political  
2 issue of where does the waste go, if--

3 MS. WALKER: We will address it, within the scope of the  
4 regulations, prior to--

5 MS. COLLINS: Before the draft permit is written, this has to  
6 be resolved.

7 MR. GARCIA: The short answer is yes.

8 MS. COLLINS: Yes.

9 MR. CAMP: OK. Well, that's encouraging. I think the other  
10 question, the first one, is really just a little bit too hot--  
11 excuse the pun--for a direct answer, and I'm afraid that is one of  
12 the biggest problems we've got here. Nobody wants it. If it can't  
13 be at WIPP, it won't disappear. If it would cease to exist, it  
14 could be dealt with, but it will not cease to exist. Maybe I could  
15 go on the record with my other concern involving transportation,  
16 which is not appropriate for this meeting.

17 MR. DUKER: You may go on record.

18 MR. CAMP: OK. Well, are there any plans for improving 285  
19 between here and Vaughn?

20 MS. COLLINS: We would appreciate it if you went on the  
21 record, but can you address that?

22 MR. GARCIA: This is Bob Lopez. He's our emergency response  
23 person for WIPP transportation activities. Do you have any--

24 MR. LOPEZ: You know, it's very general, you know. I can have  
25 somebody--a person from the Energy and Minerals Department might

1 know a little bit more than I do; but it is the intent that some of  
2 the appropriations that were under the land withdrawal were, you  
3 know, for by-passes to Los Alamos, by-passes for Roswell, and  
4 modifications to 285.

5 MR. CAMP: I have seen some plans that call for expanding 285,  
6 but not for the nearly 100 miles between Roswell and Vaughn, which  
7 is a very narrow, two-lane road without shoulders, basically.

8 MR. LOPEZ: I--I can get somebody to respond to that.

9 MR. CAMP: I would just like to say that, in my personal  
10 experience, I have passed--actually, going the opposite way, passed  
11 an empty WIPP truck on a dry run, and there was very little room  
12 for error by either driver. It was a very close call. Thank you.

13 MR. DUKER: Thank you, sir. OK. We do not have anybody else  
14 lined up at this particular point to make a presentation. Yes,  
15 ma'am?

16 UNIDENTIFIED FEMALE: May I ask a question of the emergency  
17 response person?

18 MR. DUKER: Yes, you may.

19 UNIDENTIFIED FEMALE: Sir, have there ever been any discus-  
20 sions about opening those training sessions to interested public,  
21 and not just restricting them to medical people or firemen; because  
22 there are several of us who are concerned enough to want to be  
23 somewhat trained or aware of what to do, in case of an accident;  
24 and if the State has more--and it definitely needs more--emergency  
25 training sessions, could they not be open to the public?

1 MR. LOPEZ: I think that was the intent, and we're going  
2 around the state, holding some of these training sessions.

3 UNIDENTIFIED FEMALE: Well, some of us went to the ones in  
4 Roswell, and we were turned away at the door, because we weren't  
5 connected with the hospital.

6 MR. LOPEZ: OK. Now, you know, looking at some of the  
7 evaluations from Roswell, the attendance was something like 13.  
8 You know, I just don't know--

9 UNIDENTIFIED FEMALE: We were turned away.

10 MR. LOPEZ: No, I just don't know, you know, if you guys made,  
11 you know, preliminary arrangements, or--

12 MR. GARCIA: Bob, are you talking emergency medical technician  
13 training, or are you talking radiological emergency response?

14 UNIDENTIFIED FEMALE: A lot of us would just like to learn  
15 what to do, in case of an emergency, and a lot of people would be  
16 interested in--

17 MR. LOPEZ: I don't think that would be a problem.

18 UNIDENTIFIED FEMALE: A problem to attend the sessions? But  
19 we've been turned away, so how would we go about requesting  
20 admission?

21 MR. LOPEZ: OK, REACTS is not going to be back into the state  
22 until the following year. In the interim, right now, the next time  
23 REACTS comes into the state--

24 MR. GARCIA: Is that the course you're talking about?

25 MR. LOPEZ: The REACTS training, yes.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNIDENTIFIED FEMALE: Whatever courses are--

MR. GARCIA: Well, there's different trainings offered by different agencies, and DOE offers some training courses across the state.

MR. LOPEZ: I just don't--I'm not aware that anybody was refused.

MR. GARCIA: Are you aware of anything like that, Patty, where somebody was refused training?

MS. PATTY BARATTI-SALLANI: No, I do know one instance where that may have been a reason that you could have been refused, at a training session where a person came in, who was a citizen of the community. She was allowed to stay at the training session until she became so disruptive; and it was law enforcement personnel, and of their own volition, the law enforcement personnel took her out, completely out of the building. She completely disrupted the session, and the law enforcement personnel couldn't receive their training, and of course, that was obviously the reason that she was removed. The law enforcement people were very unhappy, because they felt they were being deprived of their opportunity to receive training, because the person was opposed to WIPP and was using that as a forum to disrupt the whole thing. But it wasn't the WIPP people that took her out; it was the law enforcement people.

MR. LOPEZ: I might add, on our advisory committee, we have some private citizens helping us out and preparing, you know, and planning for a medical emergency.

1 UNIDENTIFIED FEMALE: All I'm saying is, people in the Roswell  
2 community would be very happy to be involved in this, if we knew,  
3 No. 1, how to go about requesting permission to be involved--cross  
4 our hearts not to be disruptive. We want to learn this.

5 MR. DUKER: One thing that was just mentioned to me here, that  
6 there are two appropriate places where you could get in touch with,  
7 as far as asking for this. One would be--

8 MR. GARCIA: Well, Bobby can contact the Department of Public  
9 Safety, and of course, DOE has their own training people; and I  
10 think you're talking to the two right people, and I--you know, I  
11 think a formal, written request might be better than just asking  
12 someone on a verbal basis. But I think if you're really interested  
13 in getting the public involved, it's going to have to be not  
14 individuals asking, but maybe if you could get four or five, or  
15 whatever you're looking at, individuals getting trained, it would  
16 be better. But I think that's something you would have to work out  
17 with those training agencies.

18 MR. LOPEZ: And if there is a problem, maybe if they could  
19 prepare by putting up news releases and making arrangements so, you  
20 know, also the facilities to have a large crowd.

21 UNIDENTIFIED FEMALE: OK. Thank you.

22 MS. SISNEROS: Bobby, would you be able to get a copy of the  
23 listing of the next training sessions to occur in this state?

24 MR. LOPEZ: For REACTS? Like I said, REACTS is not going to  
25 be in the state for about another year.

1 MS. SISNEROS: Is that the only one?

2 MR. LOPEZ; I think that's the only one that WIPP is working  
3 on, so it will be a while.

4 MS. SISNEROS: You can also work through the Medical Task  
5 Force and bring your concerns to their attention, the fact that  
6 your concerns are that citizens are not allowed to participate, and  
7 the fact that there is some interest there.

8 MR. DUKER: OK. Yes, sir?

9 MR. SMITH: It's still not clear to me whether or not there's  
10 been a safety analysis done of this, including a definition of the  
11 maximum credible accident.

12 MR. DARABARIS: As part of--DOE prepared final safety analysis  
13 reports for the facility through, I believe, nuclear criticality  
14 requirements, so I think that's where you're dealing with the issue  
15 of maximum credible events; and actual design requirements are  
16 based on a level of design criticality that is consistent within  
17 the EPA requirements. I think those approximate like a nuclear  
18 power plant. Maybe the DOE people can follow up on that, if they  
19 want. It's not within this review, from the standpoint of maximum  
20 credible event. We are aware of the degree to which they design  
21 the facility to withstand the designated events--seismic events,  
22 etc.--that may occur.

23 MS. COLLINS: But you've done that?

24 MR. DARABARIS: Yeah.

25 MR. SMITH: Well, how do you mean that term, "criticality"?

1 Are you talking about nuclear criticality?

2 MR. DARABARIS: When you have maximum credible event, that, to  
3 my mind, is, from a design standpoint, as far as the facility  
4 design, it would be able to withstand certain maximum events of a  
5 tornado, seismic type of nature--natural phenomena.

6 MS. COLLINS: John, you weren't inferring that you expected  
7 nuclear criticality to occur?

8 MR. DARABARIS: No, no.

9 MS. COLLINS: That wasn't what his question was.

10 MR. SMITH: So you were using the term in a different context?

11 MR. DARABARIS: I was using the term in somewhat of a civil  
12 engineering context.

13 MR. SMITH: Do you have a feel for what the maximum credible  
14 accident is?

15 MS. COLLINS: John, anything that's opinion--I would rather  
16 stick to our technical review.

17 MR. DARABARIS: From a radiological standpoint, we are dealing  
18 with radioactive hazardous waste.

19 MR. DUKER: I think--I think a question like that should be  
20 best directed to Patty over here, from Department of Energy.

21 MS. BARATTI-SALLANI: This is contained in the final safety  
22 analysis for WIPP, and is contained in about five five-inch binders  
23 full of material. Now, keep in mind, of course, that is a legal  
24 document, and if they decide to do other things, or change anything  
25 structural, of course, they have to make addendums to it.

1 MR. SMITH: Who did that, do you know? Who can answer  
2 questions about that now?

3 MS. BARATTI-SALLANI: Well, it would be the DOE and Westing-  
4 house, are the principal persons.

5 MR. SMITH: Do you know if that study group is still intact?  
6 Does the group still exist?

7 MS. BARATTI-SALLANI: It wasn't done as a group *per se*. I  
8 couldn't say whether every single person who worked on it is there  
9 still.

10 MR. SMITH: In Albuquerque?

11 MS. BARATTI-SALLANI: No, that would be at the WIPP site.

12 MR. SMITH: At the WIPP site? OK.

13 MR. DUKER: One of the formats that we're trying to do here--  
14 and I realize that we've loosened up a little bit, because we don't  
15 have a lot of presenters, but if we have individuals that would  
16 like to ask a series of questions, I would appreciate if you took  
17 a time slot in this to ask them. We don't want to get this so we  
18 have a lot of back-and-forth between this room. One of the reasons  
19 we did set this up is so that people could come up and ask their  
20 concerns of individuals, and then we can try and answer them with  
21 what we have here, within the scope of what we're able to do. The  
22 statements which some of you may have made which are not pertinent,  
23 we are making a record and we will pass along, where applicable, to  
24 appropriate agencies; but we don't--we're not really set up to do  
25 just a question-and-answer type of comment from the audience. This

1 is why we--we went to the trouble of trying to provide time for  
2 individuals to have that. So being that we do not have another  
3 presenter at this point, if either of the gentlemen there would  
4 like to--or has in mind some individual questions, we would like  
5 you to come up here. It's a lot easier on our recorder, here, to  
6 try and do this, because the acoustics, in some cases, are not real  
7 well--or real good here, and we would like you to do that. So sir,  
8 if you--Mr. Camp, if you would like to come up, if you have some  
9 additional things, I can give you, at this point--or is it Mr.  
10 Smith?

11 MR. CAMP: Well, I guess I could come up.

12 MR. DUKER: Yes, we do need to be able to hear, and I think  
13 it's easier to--for you, also, to see some of the people that may  
14 be able to respond to some of these things.

15 MR. CAMP: Well, of course, I can't speak for you, but my  
16 impression that the maximum credible accident would be for an oil-  
17 and-gas producer to drill through the waste site, WIPP site, into  
18 the brine lake below, and the pressurized water would blow up  
19 through the WIPP site, through the bore hole, into the atmosphere.  
20 Is that anything like the maximum credible accident that has been  
21 considered?

22 MS. COLLINS: We--we have--we don't review a maximum credible  
23 accident. Our review has been to--and it's in Chapter F--how will  
24 we prevent hazards from occurring? It's a very in-depth, detailed  
25 chapter. I would urge you to read the application, and then the

1 summary of what we've covered; and then we additionally address  
2 what will happen if something happens. So we again in the  
3 contingency plan ask for a great deal of information, to be assured  
4 that their emergency preparedness is sufficient for emergencies.  
5 But specifically we do not ask for maximum credible accident.

6 MR. CAMP: Has there, to this point, been a determination of  
7 how to warn future generations that there is hazardous waste below  
8 this site?

9 MS. COLLINS: I believe that that has--that has not been part  
10 of our review. Patty?

11 MS. BARATTI-SALLANI: That's true. The Sandia has two  
12 separate groups of a variety of people with scientific backgrounds,  
13 as well as laymen, who are working at various types of markings  
14 that could be used at closure of the site, both written as well as  
15 symbolic, to try to be able to convey that to future generations.

16 MR. CAMP: How long will these warnings be necessary over the  
17 site?

18 MS. BARATTI-SALLANI: I can't really say. They anticipate  
19 them lasting for many, many generations, because you can only count  
20 on your records for so many hundred years.

21 MR. CAMP: Well, it would make a difference, how many  
22 generations. I think we could count on English to remain around  
23 for two generations in its present form, fairly stable; but given  
24 the history of language altogether, I don't believe it will be  
25 intelligible for many thousands of years.

1 MS. BARATTI-SALLANI: That's why there's consideration of a  
2 variety of markings, and I would anticipate it will probably be a  
3 combination of things, not just a single type. It would have to  
4 cover, as you say, pictographic, not just language.

5 MR. CAMP: It's very difficult to predict the stability--  
6 future stability of language, but I think--don't we have some idea  
7 of how long the site will be dangerous, as far as drilling into it?

8 MS. BARATTI-SALLANI: Well, 10,000 years; we have to assure  
9 the safety for that long. So we're looking at graphics.

10 MR. CAMP: I don't believe there's any existing language that  
11 can claim to have been the same, basically the same--

12 MS. BARATTI-SALLANI: You're probably struggling with the same  
13 problem that the scientists are struggling with.

14 MR. CAMP: Thank you.

15 MR. DUKER: Thank you, Mr. Camp. Mr. Smith, would you like to  
16 come up and make any further comments or questions?

17 MR. SMITH: No, not really. I--I just had those questions  
18 that had to do with taking out, and I had some others dealing with  
19 transportation, but it looks like you're avoiding that area; or not  
20 avoiding, just not including that area.

21 MR. DUKER: Well, I guess--and this is just kind of a personal  
22 observation--that if I were with the Department--or the Bureau of  
23 Indian Affairs, and somebody asked me a question about the  
24 Department of Agriculture, I probably would do you a disservice to  
25 even try to make an opinion. I guess that would be the best

1 analogy that I can do at this point. I mean, we have a certain  
2 scope, a certain particular thing we're doing right here, and we  
3 are making a forum available, so that some of the information or  
4 some of the questions and concerns can be passed on to other people  
5 for the record. But it's like any corporation; there are a lot of  
6 different departments working on the same problem, and we're just  
7 one of those; and the entire tenor of these meetings that we're  
8 voluntarily conducting is to get some input that will assist our  
9 people, as they begin to work on this one permit process; and, you  
10 know, for that we certainly thank you for anything that you can put  
11 into it; and other things that are beyond our abilities and scopes,  
12 hopefully you will be able to address those to some of those  
13 appropriate areas, and we'll certainly be of assistance in letting  
14 you know where you can go with those. So anyway, with that, I do  
15 not believe we have anybody--

16 MR. GARCIA: In response to your questions, probably, on  
17 credible accidents, on WIPP transport, I think the Environmental  
18 Evaluation Group has done extensive work on accident scenarios and  
19 release of radionucleites, which do not include the hazardous waste  
20 component, but I think they can provide you with information on  
21 exposures from the radioactive component that would be transported;  
22 and I don't know if Bobby knows of anyone else, but perhaps--I  
23 think DOE has a contractor who's also done some of that work and  
24 can provide you with information. Do you know who that is, Patty,  
25 from DOE? Sandia Laboratory?

1 MS. BARATTI-SALLANI: Sandia did the studies on transporta-  
2 tion, some of the model studies.

3 MR. LOPEZ: Referencing also the documents from EEG, maybe  
4 even Dr. Brogan, who did some lab analysis for the State.

5 MR. CAMP: Who is that?

6 MR. LOPEZ: Dr. Brogan, who did some analysis.

7 MR. GARCIA: Who's he with?

8 MR. LOPEZ: He's with the University of New Mexico.

9 MR. SMITH: But when you're doing your emergency preparedness  
10 training, what do you base that on? What size accident do you deal  
11 with?

12 MR. LOPEZ: I think, you know, we deal mostly from the area of  
13 preparedness, you know. These guys are able to (inaudible). The  
14 State Police initiate the emergency response, mode of response, to  
15 an accident scene, as well as there's communication between the  
16 various responsible State agencies and the DOE, you know, those  
17 type of things.

18 MR. SMITH: Procedural?

19 MR. LOPEZ: It's procedural, a lot of hands-on type of  
20 training.

21 MR. SMITH: But you do not include in your program a worst-  
22 case hypothetical accident that you're prepared to deal with?

23 MR. LOPEZ: No, we haven't--we have some drills; we drill. We  
24 just had a training session in Raton, and we--you know, if there is  
25 contamination, where the resources are, who's responsible, from

1 that standpoint, for preparedness.

2 MR. DUKER: OK. We'll take one more question on this before  
3 we take a break, there. Is it Mr. Camp?

4 MR. CAMP: I just have a follow-up question. However, I don't  
5 want to take more than my share of time, if anyone else has a  
6 question.

7 MR. DUKER: All right. I would like to ask that you who were  
8 not here for our formal presentation, if there's a possibility that  
9 you can come here at 6:00 o'clock this evening, we will be doing  
10 this again, and Susan Collins will be going through, step by step,  
11 the procedure that we're looking at here, and then we're also--yes,  
12 Ms.--

13 MS. SISNEROS: Don, I think Mr. Camp had a question. There  
14 wasn't anyone else who had a question.

15 MR. DUKER: Oh, OK.

16 MR. CAMP: In your drills, do you practice for a situation in  
17 which there would be a container breach?

18 MR. LOPEZ: We haven't practiced that yet. To get that  
19 cooperation and discussion between the State and especially the  
20 Department of Public Safety, in developing some of these scenarios,  
21 those discussions must be initiated, and we haven't practiced that.  
22 You know, in Raton there was not a release scenario threat, but the  
23 assumption that there might have been contamination was a (inaudi-  
24 ble).

25 MR. DUKER: OK. Do we have another question? I thought I saw

1 a hand over there. Would you please identify yourself?

2 MS. LAWSON: I'm Marilyn Lawson, and I've done some articles  
3 on WIPP for the *Roswell Daily Record*, and I don't have access to  
4 the bill that's been passed, so I feel very limited in my opinion  
5 that I can give you. What tests are actually going to be conducted  
6 down there?

7 MR. GARCIA: Are you referring to the land withdrawal  
8 legislation?

9 MS. LAWSON: Yes, I don't have that recent bill, the Land  
10 Withdrawal Bill.

11 MS. COLLINS: Patty, can you address what tests and then  
12 cross-reference to the appropriate document?

13 MS. BARATTI-SALLANI: Well, I really--really can't, because I  
14 don't know all the details on all the tests that are going to be  
15 performed during that. I think part of them will deal with the new  
16 constraints we have under the bill, under the EPA; but I could have  
17 someone get back to you on that.

18 MS. LAWSON: I need to get a copy of that bill just as fast as  
19 I can. I'd like to do an article.

20 MS. BARATTI-SALLANI: The only thing, like I say, is, try the  
21 legislative offices. They will have a copy.

22 MS. LAWSON: They're so slow; it will be three weeks before I  
23 can get one.

24 MR. GARCIA: We can send you a copy of that, I think, if we've  
25 got one. You have one of those, don't you, Kathy? Can we send

1 this lady a copy?

2 MS. LAWSON: I'd really appreciate it.

3 MR. DUKER: OK. When we break, if you could give us your name  
4 and address on that, and we'll send it to you.

5 MS. LAWSON: I'd appreciate it.

6 MR. DUKER: If we have no other questions right now, we'll  
7 take a break, and then we'll reassemble here in a little bit. We  
8 will be taking a break before too long for dinner, about 30  
9 minutes, but we'll take a quick break here, just in case there's  
10 somebody else that comes in, or we'll give you an opportunity to  
11 ask another question or two, before we formally break for dinner.  
12 So let's take a quick break, here.

13 (Whereupon the meeting was in recess from 4:27 PM until  
14 6:40 PM.)

15 MR. DUKER: Good evening, ladies and gentlemen. Welcome to  
16 the New Mexico Environment Department public information meeting on  
17 the WIPP permit application process. Though the New Mexico  
18 hazardous waste regulations do not require these meetings, the  
19 Department is requesting input from citizens early in the process.  
20 It needs to be emphasized that this permit application that we're  
21 considering is only for the test phase at WIPP, and does not  
22 include a request for permanent disposal of mixed waste at the WIPP  
23 site. The requirements and the details of the permit have not been  
24 formulated. That is the reason for these meetings, to include your  
25 input in the upcoming drafting of the permit, or a notice of

1 intention to deny. Formal hearings will be conducted at a later  
2 time, when the actual permit has been drafted.

3 In order to provide time for all interested persons to express  
4 their thoughts, we've instituted a basic procedure for the conduct  
5 of these meetings. If you wish to make an oral presentation, if  
6 you have not done so, please sign up for available time at the  
7 table by the door. This will be on a first-come, first-served  
8 basis. You'll be called upon at the time for which you have signed  
9 up. At that time you may make a statement, you may present--or you  
10 may ask questions of participants up here; but you are requested to  
11 stay within the allotted 10 minutes, so as not to take away from  
12 others who follow.

13 All oral presentations will be recorded by our recorder. If  
14 you wish to submit any written material, please do so at the sign-  
15 up table. A register has been provided to log in and number all  
16 written material. All written input will be read and studied  
17 thoroughly. If you need to mail or submit the information at a  
18 later time, we need to have it in no later than November 25th.

19 In order to receive a written reply at a later time, please  
20 give your name; title, if any; organization, if you represent an  
21 organization; and your mailing address, when you sign up. Please  
22 print clearly, and you will receive a reply.

23 Please comment on the issues at hand, which is the WIPP permit  
24 application for the test phase. The New Mexico Environment  
25 Department wants to hear from as many citizens as possible. In

1 order to accomplish this and be fair to everyone who wishes to  
2 comment, it is important that all individuals stick to this issue  
3 and stay within the time which is allotted. These meetings are  
4 very important to all of us. Demonstrations and any other  
5 disruptive behavior cannot be allowed at these meetings. They'll  
6 only serve to cause delays, prevent others from being heard, and in  
7 an extreme case, cause the termination of the meetings.

8 As was mentioned, this is a very early stage in the WIPP  
9 permit application process. Some questions may not be able to be  
10 answered at this time, simply because we are just in the process.  
11 Future formal hearings will be held, once the draft is written, or  
12 a notice of intention to deny. But it's your input which will help  
13 influence this document.

14 As these meetings run until 9:00 o'clock PM, we may need to  
15 take a break or two, as the evening goes along. We've scheduled  
16 one at approximately 7:20, but we are starting late, due to us  
17 wanting to get more of you here, with this mix-up in the--in the  
18 location, so we'll do one at an appropriate time. For your  
19 information, there is no smoking in this room. If you need to,  
20 there are rest-rooms, both men's and women's, located just outside  
21 of the door here, on the left.

22 At this time I'd like to introduce to you the people who are  
23 going to participate in this meeting. In the very back of the room  
24 over there is Kathleen Sisneros; she is the director of the New  
25 Mexico Environment Department Water and Waste Management Division.

1 To my left is Benito Garcia; he's the chief of the Hazardous and  
2 Radioactive Materials Bureau for the New Mexico Environment  
3 Department. Susan Collins is the WIPP permit coordinator for our  
4 department. Consultants to the State of New Mexico Environment  
5 Department, from the A. T. Kearney Company, right over here, Ms.  
6 Connie Walker, June Drieth, and John Darabaris. From the US  
7 Department of Energy, Patty Baratti-Sallani, right here in the  
8 center; and from Westinghouse we have Larry Ledford, by the door,  
9 and we also have Jack Johnson, over here.

10 At this particular time, we'll have a brief presentation by  
11 Susan Collins, who is the WIPP permit coordinator. As I mentioned,  
12 Susan is with the New Mexico Environment Department Hazardous and  
13 Radioactive Materials Bureau. Her presentation was done at 9:00  
14 o'clock this morning, and also 12:00 o'clock noon, and this will be  
15 the last presentation of the day; so I'll turn this over right now  
16 to Susan, to go over it.

17 MS. COLLINS: Thank you. For the past day and a half, I've  
18 given this presentation a number of times, and what's happened  
19 during some of the discussions are questions that have been raised,  
20 so I've modified my presentation a little bit. It does parallel my  
21 slides, but there are some--a little bit--things are a little bit  
22 out of order, so bear with my presentation and the slides.

23 In the time that I have, I'd like to give you a brief view of  
24 the permitting process, and then specifically address the status of  
25 the WIPP Part B application. To do this, I'm going to address four

1 key issues: Why is the State of New Mexico reviewing the WIPP  
2 application, what's in the test phase, what's in the application,  
3 and then what's the status of the review.

4 First question, why is the State of New Mexico reviewing this  
5 application? To obtain the legal right to treat, store, and/or  
6 dispose of regulated hazardous waste, the facility must formally  
7 apply for a Resource Conservation and Recovery Act permit, commonly  
8 known as a "RCRA Part B" permit. DOE has submitted a RCRA Part B  
9 permit application for the WIPP test phase. This test phase is a  
10 period of time during which various tests will be performed, to  
11 evaluate the suitability of WIPP for long-term disposal. DOE-  
12 Westinghouse has developed test-phase plans, describing the  
13 activities and tests that will be performed during this test phase.  
14 The New Mexico Environment Department has examined the elements of  
15 this test plan that apply to the Part B application; specifically,  
16 those elements ensuring that DOE-Westinghouse will safely manage  
17 the waste to be placed at WIPP. This is an important point. The  
18 New Mexico Environment Department cannot evaluate the technical  
19 merits of various tests, because some of those are being performed  
20 to evaluate compliance with regulations other than RCRA. However,  
21 if a permit is issued, DOE-Westinghouse cannot implement a change  
22 in the test plan that affects the RCRA permit without notifying the  
23 New Mexico Environment Department. If DOE-Westinghouse were to do  
24 this, they would be in violation of their permit. Alternatively,  
25 should DOE-Westinghouse want to implement tests not technically

1 reviewed in the process we're in now, the appropriate regulatory  
2 mechanism would be to request a permit modification, which would  
3 again require public input.

4 To return to the question of why DOE has submitted a Part B  
5 application, they want to store and test hazardous waste that is  
6 mixed with radioactive waste; hence the term, "mixed waste." This  
7 activity does require a RCRA permit. I'd like to point out that  
8 our regulatory authority is over the hazardous component of this  
9 mixed waste, but because the radioactive component cannot be  
10 separated from the RCRA waste, New Mexico Environment Department  
11 regulates all of it. An example of a mixed waste might be a glass  
12 beaker that's contaminated both with a radioactive element and  
13 hazardous waste.

14 Now we know why we're reviewing the application: It's a  
15 facility that plans on conducting tests using mixed waste. Let me  
16 tell you what's in an application. This is Volume 1 of seven  
17 volumes that DOE-Westinghouse submitted to the State in March of  
18 '92. Volume 1 is what we call the "meat and potato" of the whole  
19 application; the other six volumes are appendices and maps. I'd  
20 like to review with you the chapters that are contained within  
21 Volume 1.

22 The first chapter is the Part A, which consists of several  
23 standardized forms. It provides general facility information--  
24 what's the name of the facility, the EPA ID number, the location,  
25 who's the owner and operator; it gives us the type of hazardous-

1 waste activities conducted there, what's the volume of hazardous  
2 waste, and what types of waste will be handled.

3 Chapter B is a general description of the facility which  
4 expands the information from the Part A. Typically it gives a  
5 detailed description of what business is conducted at the site.  
6 It's as physical portrait; what does it look like. It gives us a  
7 brief description of the RCRA units. We call RCRA units "hazardous  
8 waste management units." There are three such units at the WIPP  
9 facility; one is in a waste-handling building, the other two are in  
10 the subsurface. In this chapter, for example, we would want to  
11 know if the facility is in the 100-year flood plain. We would want  
12 to see topographic maps; we would need to know the boundaries of  
13 the facility.

14 Chapter C of the RCRA permit application addresses analysis  
15 and characterization of hazardous waste which will be handled  
16 during the WIPP test phase. This chapter must include all  
17 information needed to meet regulatory requirements to properly  
18 store and manage the waste there. Very specifically, we look at  
19 what are the wastes, why are they hazardous, and how labs would  
20 test these hazardous wastes, to see what the waste contains. In  
21 summary, we want to know in Chapter C that hazardous waste destined  
22 for WIPP has been properly characterized, so that it can be  
23 properly managed there, during the test phase.

24 Chapter D is the facility and process description. This  
25 chapter really provides the "nuts and the bolts" of what the unit

1 design is; what the units are like, and how the waste will be  
2 managed in these particular units. It provides a discussion of the  
3 processes that go on with handling and storing the waste in the  
4 three RCRA units. This chapter gives the physical structure--what  
5 is it made of, is it steel, is it concrete? This is very much an  
6 engineering section, having standard engineering practices that DOE  
7 and Westinghouse must follow to ensure the safe management of  
8 hazardous waste. It's a very detailed description of each  
9 hazardous-waste management unit. What does it look like? How will  
10 they manage the waste in the units?

11 Chapter E, "Ground Water"--this provides a complete descrip-  
12 tion of measures to be taken to protect ground water from contami-  
13 nation.

14 Chapter F, "Procedures to Prevent Hazards"--this chapter  
15 provides as discussion of the procedures followed at the WIPP site  
16 to prevent hazards associated with each hazardous-waste management  
17 unit. The chapter provides a description of security procedures  
18 and equipment at the facility, and it outlines inspection proce-  
19 dures and schedules.

20 The contingency plan--this outlines what the facility will do  
21 to respond to emergencies such as fire, explosions, or any  
22 unplanned release of hazardous waste at the facility. Note the  
23 difference between Chapter F and Chapter G. The first, "Procedures  
24 to Prevent Hazards," must address how to prevent a hazard from  
25 occurring; but the contingency plan, which is a RCRA requirement,

1 requires that the facility address what happens when an event  
2 occurs. Specifically, it tells us who the emergency coordinators  
3 are; it gives evacuation plans; it tells us what will trigger an  
4 emergency response. Also, it describes the reporting requirements  
5 to local, state, and federal agencies.

6 "Training" describes the training people receive to operate  
7 and maintain the facility. It also would include an outline of  
8 training programs, job titles, and descriptions of those jobs. It  
9 gives us the training program content, and--very important--it  
10 describes in detail the emergency response training that personnel  
11 at the WIPP site receive.

12 "Closure"--"Closure" describes how each hazardous-waste  
13 management unit will be clean-closed, at the end of its test-phase  
14 life; how final closure will be conducted. The plan must describe  
15 how the facility will remove any hazardous waste and then sample to  
16 verify that the remaining area is free from hazardous waste. It  
17 provides an outline of all closure activities, as well as providing  
18 a schedule for that closure. The State of New Mexico will require  
19 WIPP to clean-close. This means that all waste will be removed  
20 from both subsurface units, as well as the waste-handling building.

21 Now we know why we're reviewing the application; it is a  
22 mixed-waste area. We know what's in the application. What I'd  
23 like to address is how do we determine if the application is  
24 complete. We begin with an administrative review, wanting to know  
25 if all the pieces are there. Once a facility has submitted an

1 application, our first step is to determine if all the required  
2 information has been submitted. If you want to visualize a 100-  
3 piece puzzle as a Part B application, and we needed to determine if  
4 it was administratively complete, I would count to see if there  
5 were 100 puzzle pieces there. I wouldn't look to see if the pieces  
6 were folded, I wouldn't look to see if they were broken, or if they  
7 fit together nicely. I would only look to see if there were 100  
8 puzzle pieces. And likewise for the Part B application: When we  
9 do an administrative review, we look to see if all the chapters are  
10 there, if the contingency plan is there, if the closure plan is  
11 there, if the schedules are there. We don't review it to see if  
12 it's technically complete; we just look to see if the pieces are  
13 there. Part B for WIPP has been reviewed by NMED staff, and in  
14 fact determined to be administratively complete. This does not  
15 mean that the application is complete and WIPP has a permit, but  
16 rather, it means that all the required pieces of information, as  
17 defined by the regulations, are present.

18 We move from administrative review to technical review. This  
19 is an in-depth evaluation of the permit application. The purpose  
20 of the evaluation is to determine if the application satisfies the  
21 technical requirements of RCRA. During the interactive period of  
22 the technical review, I rely entirely on the regulations for  
23 guidance, to know what to ask, and conversely, to know what I can't  
24 ask. This, again, is an interactive period between NMED and the  
25 applicant. Deficiencies or weaknesses that we note during the

1 technical review will be addressed in a number of ways. An  
2 informal way is through our working group meetings. We meet weekly  
3 with the applicant to go back and forth as we're reviewing the  
4 chapters; or we--or this--or the response to the applicant can be  
5 more formal, a notice of deficiency. Again, the purpose of the  
6 technical review is to determine if the application satisfies the  
7 technical requirements of RCRA. To summarize, the review is  
8 interactive; it's on-going, we haven't finished the technical  
9 review at this point, we're still having weekly meetings with DOE-  
10 Westinghouse. We ask for data, we ask for modifications to the  
11 application, we're still asking for a great deal of detailed  
12 information. This where we are now in the permitting process.  
13 What is unique to the process are the meetings we are now engaged  
14 in. At the direction of Secretary Espinoza, we have scheduled  
15 these public meetings to involve the public in the permitting  
16 process, before the State writes either the draft permit or a  
17 notice of intent to deny. This is your opportunity to be involved;  
18 give us your technical comments on the application or your concerns  
19 in general.

20 What happens next, after the technical review? We have to  
21 finish the review which, as I said, is still on-going. We receive  
22 public comment and we incorporate it where appropriate. DOE-  
23 Westinghouse will receive our formal communication, the notice of  
24 deficiency. That notice will list any outstanding concerns or  
25 issues we still have. They will respond with another, revised Part

1 B application. We review that revised application, and then make  
2 a tentative decision to either write a draft permit or notice of  
3 intent to deny. We go to public comment; this is a RCRA require-  
4 ment. We have hearings. This is another opportunity for the  
5 public to be involved. We write a final permit, and give that to  
6 the Secretary, where she will make her decision.

7 I hope this presentation has been helpful in clarifying some  
8 of the issues and questions that we have been working on in Santa  
9 Fe.

10 MR. DUKER: Thank you, Susan. We have one more presentation  
11 here, and we'd like to have Patty Baratti-Sallani, from the  
12 Department of Energy, up here, and she is going to give you a very  
13 brief presentation, after which we will go on towards your  
14 comments.

15 MS. BARATTI-SALLANI: I'm Patty Baratti-Sallani. I work for  
16 the Department of Energy at the WIPP Project. The WIPP Project was  
17 authorized by the Congress of the United States, as the result of  
18 Public Law 96-164, which was the Department of Energy National  
19 Security and Military Application of Nuclear Energy Authorization  
20 Act of 1980. Congress intends the WIPP facility to demonstrate the  
21 safe disposal of transuranic waste that results from various  
22 defense activities in this country.

23 Recently the Congress restated its intent in the WIPP Land  
24 Withdrawal Act of 1992, when it provided the DOE with a set of  
25 prerequisite activities that are to be completed, prior to the

1 initiation of waste-management activities at the facility. One of  
2 the mandates is compliance with applicable environmental laws and  
3 regulations, including the Resource Conservation and Recovery Act  
4 and the State of New Mexico's equivalent law, the New Mexico  
5 Hazardous Waste Act. The permit application NMED is currently  
6 reviewing is one of the steps that DOE has taken to comply with the  
7 New Mexico Hazardous Waste Act and with RCRA. The DOE is subject  
8 to the New Mexico Hazardous Waste Act and to RCRA at the WIPP  
9 facility, because much of the waste is transuranic mixed waste;  
10 that is, it is radioactive waste that also contains chemicals that  
11 are regulated as hazardous waste, under the New Mexico Hazardous  
12 Waste Act and the Resource Conservation and Recovery Act.

13 In order to satisfy the requirements of the New Mexico  
14 Hazardous Waste Act and RCRA, the DOE submitted the permit  
15 application in February of 1991, following a written request from  
16 the director of the Environmental Improvement Division, the NMED's  
17 predecessor. The NMED initiated their process of administrative  
18 review and issued a notice that the application was administrative-  
19 ly complete in July of 1992. During the NMED's review, and in  
20 response to their request, DOE submitted supplemental information,  
21 in the form of a revision to the application. This version of the  
22 application was made available to the public in the spring of this  
23 year, in numerous reading rooms throughout the state, including the  
24 Roswell Public Library. Currently the DOE is responding to the  
25 request for additional information and clarification, as the NMED

1 progresses through their technical review of the application.

2       The application is limited to the test phase, which includes  
3 tests of transuranic mixed waste, designed to provide the DOE and  
4 the technical community with information that will be useful in  
5 making decisions regarding permanent disposal of transuranic waste  
6 at the WIPP facility. This decision is still many years off, and  
7 will be made after the DOE has demonstrated that the WIPP facility  
8 can isolate the waste for thousands of years.

9       Congress has recently required that the US Environmental  
10 Protection Agency must review and certify the DOE's demonstration  
11 of the WIPP facility's adequacy. Further, the EPA will have to  
12 involve the public, including the State of New Mexico, in their  
13 review process. The DOE is very interested in what the public has  
14 to say, concerning the NMED's permitting process. The DOE has  
15 used the benefits of numerous public meetings in shaping the WIPP  
16 program, and values the opinions of the public. We, our manage-  
17 ment, and operating contractor, Westinghouse, appreciate this  
18 opportunity to hear first-hand the public's comments on the  
19 permitting process. Thank you.

20       MR. DUKER: Thank you. Before we proceed to hearing from  
21 those of you who wish to address this meeting, I would like to  
22 reiterate what I said earlier about those presentations. In order  
23 to hear from everyone who wishes to speak, it's very important that  
24 the comments be as pertinent to the WIPP permit process as  
25 possible, and that the speakers adhere to the 10-minute allotted

1 time, so that we can have a chance to hear from everybody. It's an  
2 enemy fly. OK, at this point, I'd like to recognize the person who  
3 signed up to speak first, Harry Spetnagel--is that it?

4 MR. SPETNAGEL: Yes.

5 MR. DUKER: If you'd be so kind, sir, as to come up here, and  
6 for the recorder, state your name, and if you represent any  
7 organization.

8 MR. SPETNAGEL: I've recently moved to Roswell, and I guess I  
9 have, first of all, a question about your presentation. When you  
10 speak of "technical review," it sounds to me as though you are  
11 making sure that if the requirement of your administration says  
12 that costs shall be expressed in man-minutes, that that's what the  
13 application expresses. Am I to understand that you're not  
14 evaluating the scientific assumptions or the "technical" in the  
15 other sense?

16 MS. COLLINS: What we evaluate is the application, as  
17 submitted to us by the applicant--in this case, DOE-Westinghouse--  
18 and this is what we technically review. We also look at referenc-  
19 es, should they be in the application.

20 MR. SPETNAGEL: OK, but no one is questioning Westinghouse's  
21 science; that's not your purpose? "Technical" means the proposal?

22 MS. COLLINS: According to the regulations that we have  
23 adopted, that is correct.

24 MR. SPETNAGEL: OK, I understand. As a recent transplant to  
25 Roswell--and I'll try to be brief--I'm concerned about, I suppose,

1 in the long term, the safety of the materials, as they make their  
2 way here from elsewhere.

3 Also, my understanding of "hazardous materials"--it seems that  
4 you mentioned earlier laboratory glassware, and I'm thinking about  
5 plutonium rods; and I think that "hazardous material" really  
6 depends on how much of it, and how much radioactivity it has; and  
7 I think the public is entitled to know what's there, as you go  
8 along.

9 And I guess my other concern is, from the geological point of  
10 view, what I understand is, it's not all that certain that these  
11 caverns will contain whatever is put in there for thousands of  
12 years, as you suggested, ma'am. So I'm curious to know if, during  
13 the test phase, if something breaks or doesn't go as planned, do  
14 you just fill in the hole, or what happens to what we're testing?

15 And that's the extent of my comment, I think, but those are my  
16 concerns: Is it safe to have it come here; and what will be in  
17 there; and then finally, if it doesn't work, what do we do then?  
18 Thanks.

19 MR. DUKER: Thank you, sir, very much. OK. We'd like to  
20 recognize the next speaker at this time. I believe it is Magil  
21 Duran. If you'd be so kind as to state your name for the recorder,  
22 and any organization you represent, sir.

23 MR. DURAN: My name is Magil Duran. I'm a member of the AEC,  
24 Alliance for Environmental Concerns, here in Roswell, which is a  
25 grass-roots organization; and we're just a bunch of people that are

1 concerned about what the WIPP site is all about.

2       What--some of the questions that are nagging, insofar as the  
3 geology of the land, what will the Department of Energy and WIPP do  
4 if, in fact, the brine--or the gasses that are going to be  
5 generated by all of the materials placed in the WIPP site, will the  
6 gas being generated, will it go up, will it go to the sides, or  
7 will it go down? If it does go down, we'd like to know, would it,  
8 by any chance, hit the bell-dome canyon that is below the WIPP  
9 site; and why did the Government, after rejecting this area in the  
10 beginning, come back and say it was OK?

11       The geology of the land is not as the WIPP and Westinghouse  
12 have stated. It is not stable. We had an earthquake, a 4.3  
13 earthquake, not too long ago. We have three earthquake faults that  
14 run through the WIPP site. The land around the WIPP site is ripped  
15 with old, abandoned well holes. Some of them are--haven't even  
16 been identified yet, although they did know that there were two  
17 people that had active control. We don't know whether they bought  
18 them out or not yet. Will the DOE comply with all the EPA  
19 standards, and will the permits be satisfied, prior to any of the  
20 trucks going from any of the places such as Colorado; or Livermore,  
21 California; Washington, all of these places--will be satisfied?  
22 Will these permits be satisfied prior?

23       And when that big block of salt fell, about nine months ago--I  
24 believe it was 80 to 100 tons--a news item came out that it fell  
25 right on schedule. We would like to know when the next block,

1 where, and how big, from Westinghouse, if they would be so kind.

2       And the caverns--so far as them being dry, they're not. The  
3 migration of the water in that area is very bad. It cannot be that  
4 you can put any materials in there and expect the caverns to  
5 encapsulate it and not cause any gasses that we were talking about,  
6 that I spoke of earlier. I don't agree that, in any way, shape, or  
7 form, that gasses are going to remain inert, with all of the  
8 different chemicals that are going to be put in there. We have  
9 very hazardous chemicals that are not atomic, they're not radioac-  
10 tive, but these chemicals that we do put in there, along with the  
11 salt and the water and the metals that are going to be used, will  
12 generate very quickly. That's a very corrosive environment that we  
13 have placed there, and we cannot allow that to go.

14       And 800 feet below, there's a bell-canyon dome, with two  
15 million gallons of brine under 2,000 pounds-per-square-inch  
16 pressure. If the gasses were to go down inside the canyon and  
17 pierce that dome, which has been dormant for hundreds of millions  
18 of years, and that water goes to the WIPP site, and then it hits  
19 our Ressler formation, and then it gets into the ecology of the  
20 land, which goes to the Pecos River, what are we going to do? Does  
21 the Government have a stand-by plan on how to stop the Pecos River?

22       I--and also, the land itself--what would happen if we can no  
23 longer use the Pecos River? On the east coast of our state and the  
24 west coast--I mean, the west side of our--of Texas, they would not  
25 be able to ever use that land again.

1           And the last thing is, you members have driven the roads from  
2 Santa Fe to Roswell; and can you truthfully say that we will be  
3 able to take the poundings, without the monies to repair the roads,  
4 as was promised to New Mexico when this whole thing started? They  
5 promised New Mexico hundreds of millions of dollars for repair and  
6 maintenance of the roads. Now we are under the impression that we  
7 have to submit for \$15 million a year; and Congress may be not in  
8 a giving mood, so we may not get the money, if Congress decides  
9 they don't want to give us the money; and then again, the monies  
10 that are being allocated to New Mexico do not have to be spent on  
11 the highways. They can be spent for vacations, they can be spent  
12 for any other item that the Government deems necessary.

13           So I just want the people in Santa Fe to know that there are  
14 some concerned citizens here in Roswell. We don't believe that the  
15 WIPP site, in any way, shape, or form, can ever be safe--can ever  
16 be safe for hundreds of millions of years, or thousands of years,  
17 because there's too many--there's too much movement here. The  
18 geology of the land, and everything else about this beautiful here,  
19 we're going to ruin it, if we don't take care of it now; and  
20 children somewhere down the line are going to pay for our mistakes,  
21 if we allow the WIPP site to go through. So that is all I have to  
22 say.

23           MR. DUKER: Thank you, Mr. Duran. I just wanted to briefly  
24 mention, too, all the comments that you're making here today, that  
25 we are recording. We're taking notes, we're having it officially

1 recorded, and you will receive answers from us on this within 30  
2 days. So I want you to know that we appreciate these comments, and  
3 we will be getting back to you with answers in written form, and  
4 that will be within 30 days. That's one of the reasons, if you  
5 sign up out there, we do need your addresses, so that we can get  
6 that back to you.

7 The next speaker I'd like to recognize is Christi Brito. If  
8 you'd be so kind as to state your name and organization, if any,  
9 for the recorder.

10 MS. BRITO: My name is Christi Brito. I represent St. John's  
11 Peace and Justice Group, which is a peace-and-justice committee of  
12 one of the local Catholic churches here. I have several concerns  
13 about the WIPP site. One of the things I want to know about is the  
14 regulation period. Are the regulations already made up, and that's  
15 what this process is right now, that you're working on?

16 MS. COLLINS: The regulations are the Resource Conservation  
17 and Recovery Act that we adopted and--

18 MR. GARCIA: They're essentially the Environmental Protection  
19 Agency's regulations governing hazardous-waste storing, disposal,  
20 or transport, and they are essentially federal regulations that  
21 have been adopted by the state.

22 MS. BRITO: OK. Can you require the Department of Energy to  
23 have an independent monitor, to make sure that they're not  
24 violating what they tell you that they're going to do; like if they  
25 tell you that they're going to have this type of waste, can there

1 be an independent monitor, and maybe the cost covered in the permit  
2 fee for paying an independent monitor? How is it going to be  
3 monitored, to know that if they say that this barrel has this  
4 amount of radioactive waste, how is the State of New Mexico going  
5 to know that they're telling you the truth? What type of--can that  
6 be included in the RCRA permit? You know, something--

7 MR. GARCIA: This goes to characterization of the waste at the  
8 transport point, and the requirement of certain analytical  
9 procedures, and it's probably some kind of paper trail, proving  
10 what's in the drums; and probably that would be an inspection  
11 function for our enforcement staff, if we ever got--or if DOE ever  
12 got permitted for this type of--

13 MS. BRITO: Can the State of New Mexico require that they like  
14 do actual--what I understand is, they're going to take the barrels,  
15 and there might be--what--six barrels or something that fits into  
16 one tank, that actually test to see what's going to be in there,  
17 rather than just a paper trail or statistical thing saying, "We did  
18 this type of research, so we are saying that statistically there  
19 should be this and this in the barrel," so that you can actually  
20 know exactly?

21 MR. GARCIA: Those are some of the issues that we've kicked  
22 around with the applicant--that's DOE-Westinghouse--along with the  
23 contractors, and we've asked similar questions, and we've asked for  
24 more information; and we haven't gotten that response yet from DOE.  
25 But those are issues that we are looking at, and--

1 MS. BRITO: But that is something that you can do?

2 MR. GARCIA: If you really want to get a detailed response on  
3 your concern, perhaps you could write it down and send it in, and  
4 we will respond to that.

5 MS. BRITO: I would urge you--I mean, I'm glad that that's  
6 something you can do, and I urge you to follow through on that; and  
7 on that chapter--

8 MS. COLLINS: Excuse me--just to let you know, this is what we  
9 have generated, to give people an idea of what would be in  
10 particular chapters, what is in the permit; but then the issues  
11 that we have raised, just--just the larger issues. So--

12 MS. BRITO: OK. So it gives the issues that you guys have  
13 raised already?

14 MS. COLLINS: There are many more than this, but these are the  
15 major issues--

16 UNIDENTIFIED FEMALE: We can't hear back here.

17 MS. COLLINS: I'm sorry. OK. I was just describing,  
18 explaining what this is. This is something that we generated for  
19 these meetings. It describes what is it a permit, and it goes  
20 chapter by chapter. These chapters follow RCRA regulations. So  
21 the chapters describe--the sections describe what is in the  
22 chapter, and then what are the larger issues that we have raised  
23 during our technical review. Because we're still in the technical  
24 review, we are continuing to raise issues with--with the applicant.  
25 But this is at least to give you some general information.

1 MS. BRITO: As I was saying--this follows along that same line  
2 of questions--can you require independent ground water monitors, so  
3 that the State of New Mexico isn't just relying on the Department  
4 of Energy and Westinghouse saying the ground water's not contami-  
5 nated? I mean, I think we've seen in other places--Rocky Flats,  
6 Savannah River--that sometimes states don't always get truthful  
7 answers from--

8 MR. GARCIA: I think probably there's a difference in answers  
9 here, depending on how we look at the question. If you're looking  
10 at sometime down in the future, where if they got a disposal and,  
11 you know, we'd be looking at those kinds of things, in terms of  
12 ground-water monitoring issues. What we'll be looking at in the  
13 test phase, where they're going to keep this material in canisters  
14 or other containers, we'd be looking at monitoring any type of  
15 release from those containers, whatever they put on the site.

16 MS. BRITO: All right.

17 MR. GARCIA: So what we're looking at now--

18 MS. BRITO: That would be an independent monitoring, or  
19 monitoring by the State of New Mexico? You wouldn't be relying on  
20 information from Department of Energy or Westinghouse?

21 MR. GARCIA: We have independent monitoring, as well as  
22 requirements on monitoring that we'd be looking at. Do we have any  
23 submittals on the monitoring?

24 MS. WALKER: We have some information provided in the  
25 application concerning the ground water and the site hydrogeology,

1 and specifically there's a chapter in the application that does  
2 deal with that. I'm sorry--my name is Connie Walker, with A. T.  
3 Kearney; and there is a chapter in here that does deal with ground-  
4 water issues, and it provides what is required, relative to the  
5 regulatory requirements under this particular application.

6 MS. BRITO: And also in your permit, can you make them tell  
7 you--let's say that--I think Mr. Duran addressed the issue of the  
8 first ceiling that fell in. The Department of Energy said, "Oh,  
9 that was part of the plan." Are they going to have more--do they  
10 plan to have more ceilings fall in, as part of their test plan; and  
11 if they do, can you get them to tell you what their schedule is;  
12 and also, can you get them to tell you, if the ceiling falls in  
13 and--you know, on all these barrels that they're testing, how are  
14 they going to get them out of there? Not only how are they going  
15 to get it out of there, but where will they take it, if it doesn't-

16 MS. COLLINS: You've asked a lot of questions.

17 MR. GARCIA: I think the first one we could let DOE address,  
18 to see if they have any more scheduled roof-falls.

19 MS. COLLINS: Are any scheduled, Patty? Sorry about that.

20 MS. BARATTI-SALLANI: In the old test rooms, which was where  
21 the rock-falls occurred, in the north end of the excavation, is a  
22 different area from the area that we call the "test rooms" today,  
23 where the waste bins are going in, there has been, through an  
24 outside expert panel--not Westinghouse, not DOE--an international  
25 specialist in mining recommended to us that a support system be put

1 in, in addition to the normal monitoring, where the bins will go.  
2 Now, in the old test rooms, unless we continue to maintain those  
3 rooms--those rooms have been sealed off. They've got a chain link  
4 fence across them; you cannot go into any of those rooms. Workers  
5 are not allowed in there; the public is not allowed in there; and  
6 unless we either go in and fill those rooms, the rocks will  
7 continue to free. So eventually, I'm sure that we would have  
8 another rock-fall in that end of the underground excavation.

9 MS. BRITO: So you're not planning any rock-falls in the area  
10 where you're going to be testing?

11 MS. BARATTI-SALLANI: Not--not where we will be putting the  
12 test bins, no. Those are newer excavations, and we are no longer  
13 using the north area.

14 MS. BRITO: And do you have a plan for if--in the event that  
15 there were to be a rock-fall where you have the test bins, how  
16 would you get the waste out, and where are you going to take it?

17 MS. BARATTI-SALLANI: We have a retrieval plan, and it's in  
18 the--

19 MS. BRITO: Where are you going to take the waste, if you--if  
20 you get it--

21 MS. BARATTI-SALLANI: That would be addressed at--

22 MS. COLLINS: That--that is something that the State would--

23 MS. BRITO: It's a requirement?

24 MS. COLLINS: Yes; and we ask for maps, and we have a  
25 location. We know the quantity, and they can't exceed a certain

1 quantity.

2 MS. BRITO: And there will be monitors; the State can require  
3 them to have monitors, to make sure that they're not exceeding that  
4 quantity?

5 MS. COLLINS: That's correct; that's correct.

6 MS. BRITO: And also a destination--where are they going to  
7 take it back? I mean, are they going to take it back to Idaho?  
8 Are they going to take it back to Colorado? Where are they going  
9 to remove it from the State of New Mexico, if--

10 MR. GARCIA: That's a question we had earlier, and I couldn't  
11 answer it, because under this set of regulations, we can't require  
12 them to give us the name of the place or location where they're  
13 going to take it, if we require them to take everything out of  
14 there.

15 MS. BRITO: Are they required to remove it completely--

16 MR. GARCIA: Yes.

17 MS. BRITO: --from the State of New Mexico?

18 MS. COLLINS: When I gave my presentation earlier, I said some  
19 of the things--they tell us what we can ask. It also tells us what  
20 we can't ask; and in this case, the regulations are very clear.  
21 They don't have to identify the site where the waste would be taken  
22 to. They do have to assure us that it will not be in the waste-  
23 handling building, so that that building would not be the interim  
24 facility.

25 MS. BRITO: So they could take it across the street, or--

1 MR. GARCIA: No; I think June can cover that.

2 MS. COLLINS: No, they can't, they can't, because--

3 MR. GARCIA: June, can you--

4 MS. COLLINS: --that leads to the next step of the permitting.

5 MS. DRIETH: I'm June Drieth, with A. T. Kearney. Basically,  
6 wherever they would take this material would also need to be  
7 permitted, and go through the proper process, such as we're doing

8 now, or they will have had to have had a permit, which gives them--

9 MS. BRITO: Do they have a permit--

10 MS. DRIETH: --a storage, treatment, and disposal permit.  
11 That gives them the opportunity to take this particular type of  
12 waste.

13 MS. BRITO: Do they have any permits currently, where they  
14 could take the waste--

15 MS. DRIETH: No.

16 MS. BRITO: --if they had to?

17 MS. DRIETH: No.

18 MS. BRITO: So in the State of New Mexico, they would have to  
19 go through the process we're going through right now?

20 MS. COLLINS: That's correct.

21 MS. DRIETH: You're speaking about WIPP? Yes, correct.

22 MS. COLLINS: You asked a question earlier about roof-fall and  
23 monitoring equipment. John, I'm wondering if you can talk about--

24 MR. DARABARIS: Well, just to add one more note to that, the  
25 Land Withdrawal Act--John Darabaris, A. T. Kearney. The Land

1 Withdrawal Act requires that they withdraw within one year, should  
2 closure be required, so there's a deadline.

3 MS. BRITO: Both of you have identified who you're from, but  
4 I don't recognize the initials; I'm sorry.

5 MS. DRIETH: We're a consulting firm that has been hired by  
6 the State of New Mexico to assist them in their evaluation of the  
7 application.

8 MS. BRITO: OK. I know you kept saying who you were, but I  
9 didn't know. OK. Can you regulate--can the State of New Mexico  
10 regulate DOE to be responsible, as part of the permit--let's say  
11 that either in the transportation, or at the actual WIPP site,  
12 there's a loss of life or loss of property, due to contamination.  
13 What type of monetary compensation would be available to the  
14 citizens of New Mexico that are affected by that? Could that be  
15 part of the regulations?

16 MR. GARCIA: I don't believe so. I think that would probably  
17 have to be a legal action, filed on behalf of that individual.

18 MS. BRITO: Is there anything you could put into the permit-  
19 ting--

20 MR. GARCIA: I'm not an attorney, so I really can't tell you.  
21 That's just my own opinion.

22 MS. BRITO: --process that would help maybe strengthen that  
23 position?

24 MR. GARCIA: I really don't know. That's a legal question,  
25 and I don't know.

1 MS. COLLINS: It's not a part of this permit application.

2 MS. BRITO: Well, I know, actually, it doesn't have anything  
3 to do with this particular hearing, but at previously meetings,  
4 when we've asked that question, DOE has indicated they have no  
5 responsibility to compensate people for those types of accidents.

6 MR. GARCIA: That's a legal issue--

7 MS. BRITO: It's a big concern that if the State of New Mexico  
8 is going to give them a permit, we need to know where they stand on  
9 that issue.

10 MR. GARCIA: Can you--can you make that a real formal  
11 question, so when we write it down, we can perhaps give you a real  
12 good answer on it?

13 MS. BRITO: OK. Can the State of New Mexico require, in the  
14 permitting process, a plan for DOE on how they're going to handle  
15 compensating the citizens of New Mexico, in the event of loss of  
16 life or property, due to contamination from an accident, or just  
17 contamination from the site itself?

18 MR. GARCIA: Now, you're talking both transportation and at  
19 the site?

20 MS. BRITO: Right; and I don't know if this--what you're  
21 coming up with right now regulates the transportation or just the  
22 site.

23 MS. COLLINS: No, just the site.

24 MS. BRITO: OK; so maybe I'll need to go to the transporta-  
25 tion--

1 MR. GARCIA: No, I'd leave it in, because I think maybe we can  
2 get you some type of answer on it, anyway.

3 MS. BRITO: OK.

4 MR. GARCIA: It's not part of this process, but maybe we can  
5 find out something for you.

6 MS. BRITO: All right. Those are the questions I have.

7 MS. COLLINS: Thank you.

8 MR. DUKER: Thank you. At this time I would like to recognize  
9 the next speaker, and that's Mort Appelbaum.

10 MR. APPELBAUM: Yes.

11 MR. DUKER: If you'd like to come up here, sir, and for the  
12 recorder, if you'd identify yourself and any organization you may  
13 represent.

14 MR. APPELBAUM: My name is Mort Appelbaum. I'm a resident of  
15 Roswell and a member of the Alliance for Environmental Concern. I  
16 will submit a formal, written--

17 MR. DUKER: Material?

18 MR. APPELBAUM: --to you, and I'm just seeking clarification  
19 on a number of points; and perhaps you might be able to answer  
20 these this evening.

21 First of all, it's my understanding that before the test phase  
22 can begin, that there are specific requirements, under the new  
23 October transfer of WIPP from the Bureau of Land Management to the  
24 DOE. Now, is it true that the EPA must formally establish  
25 standards, before the test phase can begin?

1 MR. GARCIA: Do you want to address that, Connie, or should  
2 we defer it, because it's really--

3 MS. WALKER: It doesn't deal specifically with the regulations  
4 that are--again, my name is Connie Walker--that have been addressed  
5 in the Land Withdrawal Bill. I'll have to address--specifically  
6 look at the time frames involved. I believe there was a one-year  
7 time frame associated with the initiation of regulations, but I  
8 would need to be clear on that, and I could get back with you.

9 MR. APPELBAUM: See, the reason I raise this point is because  
10 it seems a bit premature to me for you to even review the possibil-  
11 ity of extending a permit, if the DOE hasn't established the first  
12 phase of this process, in terms of submitting evidence to the EPA  
13 that--that they fully adhere to the EPA standards; and it's my  
14 understanding that these standards haven't even been promulgated,  
15 as of this moment.

16 MR. DARABARIS: John Darabaris, A. T. Kearney. The standards  
17 were promulgated several years ago. They were challenged in court,  
18 and the EPA lost the court case, and they've been trying to  
19 repromulgate the standards, and they're in the process; 40 CFR 191-  
20 -that's the Office of Radiation Protection. As I understand it,  
21 DOE has adhered to the standards that had been identified earlier  
22 in the promulgation which did not stand up to legal challenge, and  
23 committed to adhere to the new standards, as those are repromulgat-  
24 ed; but DOE is awaiting EPA's final submittal.

25 UNIDENTIFIED FEMALE: We can't hear you.

1 MR. GARCIA: Can we just share the microphone or something?

2 UNIDENTIFIED FEMALE: We can't hear the guy over--

3 MR. GARCIA: I think that works.

4 MR. DUKER: It works better when you turn it on.

5 MR. DARABARIS: OK. EPA promulgated standards under 40 CFR  
6 191, which had to do with the Office of Radiation Protection of  
7 EPA, several years ago. That did not withstand legal challenge.  
8 As a result, it had to go back and refashion those regulations, and  
9 they are in the process of that. In the interim, DOE has been--and  
10 my understanding--the DOE people can jump in if they want, but--  
11 adhering to the original 40 CFR 191 standards that did not stand up  
12 to the legal challenge, and now will subsequently have to meet the  
13 new standards, as they evolve over the next year. But from the  
14 permit's perspective--the permit's perspective, dealing with RCRA  
15 waste, chemical hazardous waste, that's where we're involved with  
16 our review process, in dealing with the ORP-type activities, at  
17 this time.

18 MR. GARCIA: The standard for radiation protection is what  
19 he's talking about, versus--versus RCRA regulations on the  
20 hazardous-waste component, which is what we're talking about. So  
21 there's a little bit of difference in them meeting standards for  
22 radiation protection, or radiation-material release standards,  
23 versus what we're looking at, which is the mixed-waste component,  
24 and really regulating that mixed waste by regulating the hazardous-  
25 waste component. So those standards are strictly not part of this

1 RCRA regulation; they're outside of that, and we're looking at the  
2 transuranic waste as a radioactive material, and setting standards  
3 for that material being utilized at or stored at WIPP.

4 MR. APPELBAUM: The application that was submitted to you by  
5 DOE made reference to an initial transportation of over 8,000  
6 barrels, and we know that the current legislation forbids this,  
7 that this would be in violation of the legislation that had been  
8 enacted in October. Now, how do you address that aspect of it? Do  
9 you require DOE to resubmit an application?

10 MS. COLLINS: Yes, it's part of the interactive, ongoing  
11 meetings that we have. We say, "You need to have .5 and not exceed  
12 that amount." So they do modify the application.

13 MR. APPELBAUM: Now, when does this actual process of  
14 determining whether or not a permit will be given--when does this  
15 process start?

16 MS. COLLINS: When the applicant submits the application.

17 MR. APPELBAUM: In other words, we're speaking in the sense  
18 that the initiation of the process certainly hasn't started, until  
19 DOE resubmits some indication that they will comply with the  
20 existing legislation that has been enacted in October?

21 MS. COLLINS: No, we are in the process--they submitted the  
22 application; we did the administrative review, it is complete; now  
23 we're doing the technical review. They have to comply with the  
24 RCRA regulations, as we're reviewing them during the process. We  
25 will move forward in the technical review and be finishing in a few

1 weeks after the comments.

2 MR. APPELBAUM: Now, Westinghouse is a nongovernment entity.

3 MS. COLLINS: DOE is; DOE is, Westinghouse is not.

4 MR. APPELBAUM: Now, will Westinghouse be required to post  
5 bond, in the event that any unforeseen event takes place that would  
6 be in terms of jeopardizing the public?

7 MR. GARCIA: I can't answer that. We can probably write that  
8 down and take it back. I have--

9 MS. COLLINS: Kathleen says they can't hear you. Did you hear  
10 the question, Kathleen?

11 MS. SISNEROS: I said I can't hear you.

12 MR. GARCIA: Can't hear us?

13 MR. APPELBAUM: The question was, will Westinghouse, as a  
14 nongovernment entity, be required to post a bond sufficient to  
15 compensate individuals or municipalities, in the event of an  
16 unforeseen accident?

17 MR. GARCIA: And I told him I can't answer his question,  
18 because I don't know the answer, and we'll try and get him an  
19 answer. I can't answer that question.

20 MS. SISNEROS: The Land Withdrawal Act does not give the State  
21 the authority to require that.

22 MR. APPELBAUM: Now, to what extent will the Occupational  
23 Health and Safety Administration standards be considered, in terms  
24 of your reviewing the application for a permit?

25 MS. COLLINS: I don't--I don't believe that they do.

1 MR. GARCIA: Yes, we won't review those standards. That's up  
2 to OSHA and the facility. OSHA would send their inspectors to that  
3 facility, whether they had a RCRA permit or not, and review worker  
4 conditions, and actions, and possible enforcement actions, relative  
5 to activities at that site; and it's really a consideration outside  
6 the scope of the permit application.

7 MR. APPELBAUM: Insofar as the City of Roswell is concerned,  
8 the transportation of these wastes through the city might entail  
9 very--in fact, the police would be required to escort these  
10 vehicles through the city. Inspections might also be required, as  
11 to whether or not the vehicles are within the scope of safety  
12 requirements. Will the City of Roswell be reimbursed for any  
13 possible use of its personnel, in monitoring this situation--

14 MR. GARCIA: That--

15 MR. APPELBAUM: --or will the burden fall upon the residents  
16 of Roswell, in terms of the monetary cost of the operation; or will  
17 Roswell be reimbursed for its involvement?

18 MR. GARCIA: Let me say, first of all, that's outside of our  
19 review. We have Bob Lopez here, who may have some knowledge on  
20 that. I can't--I really can't answer it for you. You may want to  
21 --have to ask DOE if they'll reimburse you. There is no mechanism  
22 that I know of for reimbursement. Bobby, can you answer that?

23 MR. LOPEZ: Bob Lopez. Right now all TRUPAC shipments  
24 entering the State of New Mexico will be inspected by the Motor  
25 Transportation Division, utilizing--they call it the "commercial

1 vehicle safety alliance" inspection. They're going to do the  
2 actual safety aspect of TRUPAC, as well as the radiological  
3 inspections; and they will be done in Raton, and some in fact will  
4 be done in Vaughn; if not Vaughn, they will be done by MVD  
5 inspectors down at the Carlsbad site.

6 MR. APPELBAUM: Now, will the State also provide an escort  
7 service for these--

8 MR. LOPEZ: That's the intention right now.

9 MR. APPELBAUM: And how will the State be reimbursed for the  
10 use of its personnel?

11 MR. LOPEZ: Right now the State has an agreement within the  
12 state, under the Western Governors' Association, and there's a  
13 supplement to the agreement, where funds have been allocated to pay  
14 for overtime for the MVD inspectors, the State Police, the ERO's.  
15 So, you know, a lot of that expense has already been given to the  
16 State under this grant.

17 MR. APPELBAUM: Is that in the form of a definitive sum, or is  
18 this negotiable?

19 MR. LOPEZ: It's under--it's a sum, and substantial, you know,  
20 for us to carry out that aspect of the program; and the WGA grant  
21 gets renewed every year, and the supplement to the WPA grant gets  
22 renewed every two years.

23 MR. APPELBAUM: I see. Well, thank you very much.

24 MR. DUKER: Thank you, sir. At this time I'd like to  
25 recognize our next speaker, Juan Montes. Would you be so kind as

1 to state your name and any organization for the recorder, sir?

2 MR. MONTES: *Me llamo Juan Montes, y me gustaria y la gracias*  
3 *al Departamento de Ambiente del Estado Nuevo Mexico para esta*  
4 *presentacion, y me gustaria empesar a preguntar, porque tenemos que*  
5 *mover tan rapido en estas junto.* And since the State hasn't seen  
6 fit to provide translators, let me do my own work. My name is Juan  
7 Montes, and I started in Spanish, because this is part of the  
8 exclusion that's gone on for a lot of years. Radiation and  
9 hazardous waste know no boundaries--ethnically, culturally; so if  
10 these hearings are part of the democratic process which we ought to  
11 be in, then they should be inclusive; and I'm asking right now, as  
12 a request, that future hearings have translations available to the  
13 people in the audience and to the speakers.

14 MS. BRITO: Could I make a comment on that?

15 MR. MONTES: Yes, please.

16 MS. BRITO: The parish that I represent is 95% Hispanic, and  
17 the Peace and Justice Committee deal with issues regarding WIPP and  
18 everything, and there is an amazing amount of people that don't  
19 even know, really, what WIPP is about, except what they learn at  
20 church, and that concerns me, that only the people in our parish  
21 are finding out, because the people don't read English, and there's  
22 been nothing printed in Spanish, and there's been nothing in the  
23 media and everything. So the people--a lot of them really don't  
24 know that WIPP exists. What he's saying is a really valid point.

25 MR. MONTES: Thank you. Now that I've hit you with a two-by-

1 four, let me give you a stroke; and it's really good to see the  
2 Environment Department providing these opportunities for comment.  
3 I live in the community of Questa, about 350 miles north of here,  
4 and right now, actually, due to unregulated mining, because there's  
5 a right way to mine and then there's the Questa way to mine, and  
6 we're living in a big mess, and there's major concerns, in terms of  
7 environmental degradation, in terms of our children's health; and  
8 it looks like the Environment Department, under Judy Espinoza, is  
9 finally taking some responsibility and assisting us. And that's  
10 why I came down here to Roswell, to warn people that, you know, we  
11 should do everything we can at the outset, to be preventive. Now  
12 it's too late for Questa. We have a river where 13 miles of it  
13 will be dead, and this is just hazardous mining waste, but imagine  
14 what radioactivity and hazardous waste can do. And again, I'm glad  
15 that you're having these things. We should be preventive.

16 And that leads me to asking, why is this on the fast track?  
17 You know, they say, "Well, conceptually, for the past 10, 15 years,  
18 all the meetings have been going on," but all of a sudden, the  
19 State is under a time line to get the draft permit by--what--August  
20 24th, 1993, and there's really no need for that; and that's one of  
21 my concerns.

22 And that concern is related to the next concern, which is the  
23 fact that the WIPP site even exists is a political decision. It's  
24 not a scientific decision. There's no basis that WIPP is the ideal  
25 geologic depository, and I reference the Institute for Energy

1 Research out of Washington, DC, the National Academy of Sciences;  
2 which leads to the next point: The National Academy of Sciences  
3 says that most of the tests that you all want to permit in the WIPP  
4 test phase aren't--don't have to be in WIPP, at the WIPP site.  
5 Isn't that a fact? You know--and this is the National Academy of  
6 Science. So this is a political situation. When we went to  
7 school, we were taught that science was accurate, exact, and  
8 objective, and politics has nothing to do with science--or  
9 shouldn't have. But the fact is, New Mexico is politically weak,  
10 so now we're the nuclear radioactive dump of the country--of the  
11 country. So--so that bothers me a lot. And now the State has a  
12 responsibility the act scientific on a political decision, which is  
13 very difficult. And I've read most of your comments and your  
14 interactive discussions with the DOE, and these folks have been--I  
15 think they're asking the right questions; I just think that the  
16 decision has been made, regardless of the questions. But I applaud  
17 your courage, and want to keep it up, and I think there ought to be  
18 a lot more access to these materials, because of the fact that DOE  
19 can sit here and give us answers--well, they don't have the answers  
20 here in writing. They don't have the answers about the cracks;  
21 they don't have the answers about the geomechanical measurements of  
22 the creeping salt, which is creeping in the new and the old areas;  
23 about the fractures in the floors; about the creeping salt; the  
24 shears, the shears in the geologic layers; and it's on here that  
25 they don't know; they don't know. So here, orally, you say you'll

1 give us answers, but in fact, for this permit, they don't know.  
2 But again, perhaps the decision's been made, and all this is just  
3 bluff. But I still like Volume 1, and I think you should make that  
4 accessible to the public, as well.

5 Another concern that I have is that you can't ignore transpor-  
6 tation, and that should be part of the process. It's going to come  
7 from the four direction. It's going to come from Idaho; Livermore  
8 in California; Rocky Flats in Colorado; Hanford in Washington;  
9 Savannah River site, Aiken, Georgia; Fernald in Cincinnati; and  
10 that leads to another point about DOE's track record in this  
11 country. All of the sites I mentioned are massive, massive  
12 environmental and health problems in this country. The Centers for  
13 Disease Control are undertaking--finally, because the DOE wasn't  
14 doing this before--undertaking health studies at each and every one  
15 of these sites, and they're finding brain tumors, they're finding  
16 leukemias. Our own Los Alamos National Laboratory-- which has  
17 always passed as a lab, but it's not, it's a production facility--  
18 found 22 brain tumors; and now the Center for Disease Control has  
19 seen fit to extend health studies throughout the Espanola,  
20 Pojoaque, and Los Alamos area, at a cost of millions and millions  
21 of dollars. There's a whole lot of people, and this is just in our  
22 state. So DOE's track record is not the best. These people have  
23 not done their work. In Hanford you have--what--almost two  
24 generations of leukemias, thyroids, brain tumors; and DOE purpose-  
25 ly--purposely releases radionucleites into the air, purposely.

1           So--and Westinghouse and all these other contractors aren't  
2 much better. What they're into is the profit. They're not into a  
3 socially motivated mission. If we took the profit out of nuclear  
4 waste, we could take all these corporations out with it.

5           Some questions: In terms of the waste characterization, in  
6 Hanford--and this is well-known--they don't know what's in the--  
7 what waste is where. Some of it is irretrievable for ever and  
8 ever. Some of it has been retrieved, some of it is leaking in  
9 their tanks, but they don't know the exact composition of what's in  
10 there. All they know is, it's a big mess. So how is the State of  
11 New Mexico supposed to characterize this waste, if the scientists  
12 and--who is it, Westinghouse or Pattel?--if they don't know, how do  
13 you all know what's in them, if you don't go up there and do a  
14 chemical analysis? Because if you use what DOE is proposing in  
15 terms of process knowledge, this should be the contents, but if you  
16 don't know the contents, you can't characterize it, then how do you  
17 know what you're dealing with? That's--that's a question I  
18 actually heard earlier.

19           MR. GARCIA: It was a statement.

20           MR. MONTES: No, it's a question. It's Hanford.

21           MR. GARCIA: Well, we're not dealing with Hanford right now.  
22 I think you could go back to our interactions with DOE and our  
23 contractors, and I think we've asked the same question, and we  
24 haven't gotten those responses yet, as you pointed out, and I hope  
25 we do soon, so we can respond to your question.

1 MR. MONTES: Well, I'd like to support the notion that  
2 somebody's proposing about New Mexico Environment Department having  
3 somebody on-site at Hanford, in Idaho, at Rocky Flats, and doing  
4 the waste characterization and doing the chemical analysis on-site-  
5 -on-site, before it gets on any semis headed this way; and that's  
6 a statement.

7 OK. I think the changes in view in the application have been  
8 addressed. Again, if WIPP fails, a site should be identified.  
9 Otherwise, I think we're going to be dealing with a foregone  
10 conclusion. Nobody in this country wants it. The governors or all  
11 the other 50 states don't want it. A point of example is that  
12 monitored, retrievable storage, which DOE--because all 50 governors  
13 refused to take any nuclear waste--is now pushing on the Indian  
14 country. So they're asking Native American tribes, which are now  
15 recognized as sovereign nations--they weren't when there was a land  
16 water or issue--or a water issue, but now it's a sovereign nation--  
17 to take this nuclear waste. So what's going to happen--and  
18 regardless of what New Mexico Environment Department says, or the  
19 Governor, or our political representatives, who haven't said much  
20 on this anyway--regardless of what they say, it's going to stay  
21 here. Nobody else wants it. Hanford is not going to take it back.  
22 Cecil Andrus in Idaho is not going to take it back; he'll block it  
23 at the border, which is maybe what New Mexico should do, block it  
24 at the border.

25 In closing, I'd just like to request that health and the

1 health risks be taken into account now, and that they be prevented,  
2 in terms of both transportation and the site. I think Mr. Duran,  
3 I think Mr. Appelbaum, a number of folks have said, you know, "What  
4 happens if this gets into the atmosphere? How far will it go  
5 down?" And this isn't just a state matter, this is a national  
6 matter, or an international matter. So I don't empathize with you  
7 all in the massiveness and the seriousness, because ultimately it's  
8 our children that are going to look back and say, "Well, Susan  
9 Collins blew it," or "Benito Garcia," or "Kathleen Sisneros." You  
10 know, that's a massive, massive responsibility. So it goes back in  
11 a full circle, back to the front. There's no reason to fast-track.  
12 Let's do it, but, you know, let's do it right; and if it's a  
13 political decision, then science should not legitimize a political  
14 decision. That's not what science is supposed to be about. Thank  
15 you.

16 MR. DUKER: Thank you very much, Mr. Montes. I'd like to  
17 recognize the next speaker, Reyna Luz Juarez.

18 MS. R. JUAREZ: My name is Reyna Luz Juarez, and I'm from  
19 Albuquerque, New Mexico, with the New Mexico Alliance; and--let's  
20 see--first of all, I'd like to say that I'm against WIPP. I'm  
21 totally against it, and I'm tired of coming to these hearings and  
22 these comments and all this, and I have to keep telling you that we  
23 don't want it. But here we are again.

24 So I want to ask you first, you know, what everybody else has  
25 been asking: When this WIPP testing fails, you know, where do you

1 plan to put it? You know, I'd like to know where you plan to put  
2 it, and who's going to be responsible.

3 And another thing I'd like to ask is if you can require for  
4 the Department of Energy to do some kind of a study, to show people  
5 what the hazards and dangers are that's related to the whole WIPP  
6 thing, from the transportation to the disposal, the testing, and  
7 everything; because I think as people, we have a right to know what  
8 those dangers are, before we can say, "Yes, we want it," or "No, we  
9 don't want it." You know, there's so much technical stuff, and so  
10 many are involved, and we all need to understand. This is not for  
11 just the older people to decide, because I don't want, you know, to  
12 have to live with that on my shoulders, that my parents, or elders,  
13 or whatever, made the wrong decisions. You know, it's my environ-  
14 ment and my health, you know. So I'd like to ask that that be  
15 addressed.

16 Another thing is, I feel real safe, knowing that Pat and Louie  
17 can tell us when the roofs are going to fall. In that case, I'd  
18 like to know when the next earthquake is, you know. It's just--  
19 there's so many things--after you guys said that the roads were  
20 approved for travel--what was it--like a week, that road collapsed,  
21 you know. You say that the land is stable, there's no earthquakes,  
22 we have an earthquake. You say that the fields--the salt creeps or  
23 collapses--no, no, no, you say it encapsulates. The shit's falling  
24 in, you know, and it's falling in--that land is falling, and we're  
25 the ones, you know, within your whole test, and this--with the

1 land, you got to remember, there's people around this land. This  
2 isn't just land; it's people.

3 Another thing--it's making me nervous, you know; I get so  
4 frustrated. You're going to kill us, and that's the bottom line,  
5 you know. That is the bottom line. And it's not going to stay  
6 right here in New Mexico. It's going to spread, you know; so if it  
7 gets us here, it's going to get everybody. Watch Chernobyl, watch  
8 what's happening with all that stuff over there. I may not be very  
9 well-educated, but I can see. You know, I can see when something's  
10 not right, and this is not right, you know; and I don't think that  
11 we should have to accept it until it is thoroughly made clear that  
12 yes, it is right; and it's not going to happen. I guess I'll get  
13 old, coming to these meetings.

14 MR. DUKER: Thank you, Ms. Juarez. I'd like to recognize the  
15 next speaker, who is Teresa Juarez.

16 MS. T. JUAREZ: First, I'd like to take this opportunity to  
17 thank everybody that's here tonight, to express, I think, what a  
18 lot of us have been expressing for a long time. I'm also here  
19 because I have a daughter that lives in Artesia, and the young lady  
20 that just spoke is my niece; and my daughter's here, and my  
21 grandchildren. So for me, it's not only a concern of understanding  
22 it technically; it's a moral one.

23 When--the earth was given to us for a reason, and it wasn't to  
24 abuse. Native American lands have been abused. You have taken  
25 from their land, and now you have made it into waste; and now

1 you're asking my people, Chicano or Hispanics, to accept it; and  
2 I'm here to ask you how you're going to make it safe. How is the  
3 Department going to make it safe? I would like to know if a health  
4 study will be conducted, before an actual permit is given; because  
5 in our communities, communities of people of color, we're always  
6 the last ones to know, and always the ones first affected. In our  
7 communities, we are the ones that have suffered the greatest cancer  
8 rate throughout this nation, whether it's been an Afro-American  
9 community, a Chicano community, or a Native American community. So  
10 I feel that before any permit is given, that a health assessment be  
11 done.

12 I am not only talking about a health assessment for human  
13 life, but I'm also talking about plant life. In New Mexico there  
14 are plants that are unique to our state that I think we have a  
15 right to be protected. So I think that before a permit is issued,  
16 that DOE take this and the State take this into consideration. The  
17 Mother Earth is sacred to us. It's not something that you just  
18 look at and abuse, because you feel it's there. Neither is the  
19 water--it's life; the air we breathe. So we feel that it is in  
20 order that this be given to us. So we're not here just asking;  
21 we're demanding that it be done.

22 Another thing is, is that it's wonderful that we have these  
23 sessions, and that we're able to come here and voice our concerns,  
24 but so many times we feel that it falls on deaf ears. We feel that  
25 a citizen review committee should be developed, in order to work

1 along with the Department, to review the application permit, no  
2 matter how technical and difficult it is. We also feel that any  
3 documentation being developed afterwards should be done bilingual-  
4 ly. You are in a state that is bilingual, so you are dealing with  
5 two. Whether you feel that these people can speak two languages--  
6 our mother tongue is Mexican, it's Spanish, and we feel it's  
7 appropriate this be done.

8 So like I said, you know, we're talking here generations, and  
9 I don't know how long I'm going to live, but I want to know that my  
10 grandchildren are going to live for a long time; and my mother--she  
11 has great-grandchildren already, and I think she wants to see more.

12 So I don't think that when you come down into this area, that  
13 it's proper that meetings are changed, locations are changed, that  
14 our people don't know where we're going, that you give us short  
15 notices, because most of this stuff is done on a short notice.  
16 Whether it's a month, it's still short for our people; and whether  
17 DOE or ED or whatever--all these departments think that they've  
18 done all the work that they can. I don't think so. I think it's  
19 what Juan says.

20 And when we're talking about economics, and we're talking  
21 about a state that is deprived, why can't we look at clean industry  
22 coming into the state? Why do we have to look at nuclear waste?  
23 Why does our state have to do it? Why do we have to become a  
24 sacrifice state for everything for this nation? It's not fair, and  
25 I don't think that they have the right to ask us to sacrifice. I

1 think we've done a lot of sacrificing. Artesia's got one of the  
2 oil refineries. We've got the largest cancer rate, in Artesia.  
3 It's not ever spoken of, throughout this state. We've got Los  
4 Alamos where tumor rates are coming up incredibly; and are the  
5 studies being done on Native American communities? No, we have to  
6 fight to be part of it. We have to fight to be part of everything.  
7 So I think that, you know, if it's going to be done, if you're  
8 going to continue with this process, that a committee is in this;  
9 that we should have, you know, direct input, not a superficial  
10 input, as we have done all these years. Thank you.

11 MR. DUKER: Thank you, Ms. Juarez. I'd like to recognize the  
12 next speaker, Aurelia Najjar.

13 MS. NAJAR: My name is Aurelia Najjar, and I'm with the New  
14 Mexico Alliance, and I live here in Roswell; and I've been  
15 struggling with WIPP since 1979, when it was a little stake in the  
16 ground, before you all even, I think, decided to come in here. But  
17 I've got three questions; and the first one is, what's going to  
18 happen to the waste that's produced on-site? Is it going to be put  
19 there on the site?

20 MS. COLLINS: You mean, generated--waste that's generated  
21 there?

22 MS. NAJAR: Yes.

23 MS. COLLINS: There is an area in one of the test rooms that  
24 that waste will be put in.

25 MS. NAJAR: And then is the August 24th deadline necessary?

1 MS. COLLINS: For my review process, I don't have an August  
2 24th date. I have certain regulatory requirements that I have to  
3 fill, as far as public notices, and a time to write.

4 MS. NAJAR: OK; and if the date--you said you don't have a  
5 deadline?

6 MS. COLLINS: The question was, do I have a deadline. I do  
7 have some commitments for finishing certain tasks. We're in the  
8 technical review phase right now, and I have an estimate of how  
9 long that will take me, and then I have an estimate of how long  
10 writing the draft will take. So in that way, I do have a schedule.

11 MS. NAJAR: And what happens if that schedule is not met?

12 MS. COLLINS: Well, then I go to my supervisor and we look at  
13 modifying the schedule.

14 MS. NAJAR: DOE won't go and dump any of that; they won't go?

15 MS. COLLINS: No.

16 MS. NAJAR: OK, then. You've answered my questions. Thank  
17 you.

18 MR. DUKER: Thank you very much. The next speaker I'd like to  
19 recognize is Daniel--and I'm not sure how to pronounce this last  
20 name--

21 MR. SCHRECK: It's "Schreck."

22 MR. DUKER: "Schreck?" OK. If you would be so kind as to  
23 come up here.

24 MR. SCHRECK: My name is Daniel Schreck. I'm a representative  
25 of two charitable foundations that fund community groups to be able

1 to get around and make their concerns known about various issues.  
2 So most of the technical points that people have raised, I'm not  
3 going to reraise.

4 I would basically say, as a foundation professional, that I  
5 find the democratic process that we have in this country rudimenta-  
6 ry at best. It's very difficult for community people, in my  
7 experience, to make all these meetings. The bureaucracy of the  
8 United States has kind of grown in labyrinthian complexity, so that  
9 even if somebody wanted to be against something--for whatever  
10 unfounded reason scientific community might think they were against  
11 it--they've got to go through so much rigamarole--the Office of  
12 Radiological Research, DOE, EID, all the acronyms on down the line--  
13 --that in my view, part of the purpose of having a bureaucracy is to  
14 make sure people can negotiate the labyrinth of that bureaucracy.  
15 Having been a former staff member to the US Congress, I can tell  
16 you that rules and regulations are made so people can't get what  
17 they want.

18 And I have to say that as a person of European-American  
19 descent, I find that the American civilization under which we live  
20 doesn't really have a whole lot of moral sensitivity to other  
21 people's cultures. I say that after coming out of a pretty wealthy  
22 background, where people were mainly interested in making money;  
23 and I can tell you, after hanging out with rich people most of my  
24 life, that most of the people in this area, unless you're a friend  
25 of Admiral Watkins, aren't going to make a whole lot of money off

1 of this thing. When you ask people to take jobs, it's like asking  
2 somebody to take a job being an undertaker. I mean, this thing's  
3 going to open and it's going to close. People are not going to get  
4 a whole lot of employment off of this.

5 So I'd have to echo what somebody else said, which is--you  
6 know, it's--it's time for Americans to go, "Look, we came into this  
7 country. We gave everybody that was here a raw deal. So now it's  
8 time to try and make that deal a little better." We're asking  
9 people who've gotten the rawest deal to take something that,  
10 whether we like it or not, they don't like it. So sometimes we  
11 have to respect what other people want. It doesn't matter whether  
12 it's safe. It doesn't matter whether it's scientifically provable.  
13 What matters is, is that we're imposing our will on something that  
14 we don't understand.

15 If American civilization understood Mother Earth, there  
16 wouldn't be any waste to begin with. If we understood nuclear  
17 power, there wouldn't be any waste. As Juan Montes said, you know,  
18 we go into the scientific process with a set of untested assump-  
19 tions about what we're going to do, and then we try and prove it's  
20 OK later, after we've done it. There's nothing scientific about  
21 nuclear power at all. If nuclear power was scientific, the waste  
22 problem would have been solved Day 1. You can't introduce, in the  
23 scientific method--at least, what I was taught in school, the  
24 scientific method said, under Francis Bacon, that you have to have  
25 all your hypotheses tested, before you introduce a new science into

1 the world. That was never done. This science was never fully  
2 tested. We took stuff out of the ground, we turned it into  
3 something, and now we can't figure out how to put it back.

4 And so it's time to start asking people--and I don't mean  
5 scientists and I don't mean experts--it's time to start asking  
6 people who do know something about the Mother Earth, the few of  
7 them that we've allowed to live, over the last couple of hundred  
8 years--it's time to start asking some of these people, "You know,  
9 we blew it. You know, we need to figure out how we're going to  
10 solve this problem," because we're turning the whole country into  
11 a garbage dump. It's not just New Mexico. I just got back from  
12 New York City, from Chicago, LA. Every city you go to is a total  
13 mess. You know, LA's burning down; Los Alamos wants to sit on 60  
14 tons of plutonium--I mean, you know, we don't have a clue what  
15 we're doing; and, you know, I wish Bill Clinton luck, but, you  
16 know, he's kind of hedged in.

17 But anyway, you know, thanks for letting me ramble on, on my  
18 comments; but I really think that those of you that are involved in  
19 this government process are going to have to ask yourselves, "Did  
20 we ever have permission to take this country away from the people  
21 who owned it to begin with, and therefore, everything that we do is  
22 morally illegitimate, until we ask permission to be here;" and  
23 nobody's ever done that. No President of the United States has  
24 ever said, "Gee, I'm sorry we stole all this land, but we stole it  
25 fair and square." Thank you.

1 MR. DUKER: At this time we'd like to recognize Janet  
2 Greenwald.

3 MS. GREENWALD: I was at a very different kind of meeting last  
4 night. I was at the other end of the state, up by Los Alamos, at  
5 the San Ildefonso Pueblo. I was called there, with a lot of other  
6 people, to a meeting, because San Ildefonso had found out that some  
7 of its sacred lands and its sacred sites were contaminated by Los  
8 Alamos. They described to us how, where their ancestors are  
9 buried, how those sites are hot now, but because they feel they  
10 must continue their ceremonies, they go there anyway. They go  
11 there, week after week, knowing that they're being contaminated  
12 each time they go.

13 I've spoke to people who work at the WIPP site, and they tell  
14 me that G drift at the WIPP site has to be vacuumed out almost  
15 daily; that it's watery. Have you ever heard that in the news? I  
16 never heard it. I'm scared that the bad things that might happen  
17 because of WIPP, we'll never hear about those things, either.  
18 There'll just be people that will be hurt, and we don't know. They  
19 will be hurt, and we won't know.

20 The safest thing to do with the radioactive waste at this  
21 point is to leave it close to where it's made, above-ground  
22 storage, where it's monitorable--that is, in layers of cement,  
23 steel, cement, steel, cement, steel. I'm not talking about just a  
24 storage barn. I'm talking about something that can be monitored  
25 under, over, on the sides. I'm talking about not taking it onto

1 the highways with the school children, people going to hospitals.  
2 I'm saying, keep it where it is. Don't make it a hot football and  
3 toss it over here to us, because we're--we're low in economic  
4 power.

5 Our state is at a crossroads right now. Down one road, we  
6 could keep accepting the dangers and the ills that the Department  
7 of Energy gives us, along with the economic carrots that they give  
8 us; and if we go that route, eventually this will be a national-  
9 sacrifice area. There's no way that we're going to have a diverse  
10 economy, if the Department of Energy keeps accelerating its  
11 activities in our state. They're doing it all over the state. In  
12 Albuquerque--I'm actually from Los Lunas, but in Albuquerque,  
13 they're trying to dump radioactive waste into the river; and the  
14 Mescalero Reservation, you know, temporary high-level waste  
15 storage--temporary--whoever heard of "temporary" high-level waste  
16 storage? Idaho has had temporary high-level waste storage for  
17 several decades, now. And Los Alamos--I have friends that live in  
18 Los Alamos that have neighbors who are dying; that's been kept  
19 pretty quiet.

20 The WIPP site so far has created in New Mexico--for New  
21 Mexicans, not people who came in from other states--has created 600  
22 direct and indirect jobs. That's not to be sneezed at. Last year  
23 our tourist industry brought in 50,000 jobs. In Brazil there was  
24 a little town, where some children started playing with some cesium  
25 in a dump, and they brought it home. No one knew what it was, and

1 about 40 people were contaminated. It was very sad. But then what  
2 happened there? Well, the place got known as a place that was  
3 contaminated. Even though only 40 people were contaminated, the  
4 occupancy of the hotels dropped by 40%. No one would buy the  
5 agricultural products from that area. No one wanted to come there  
6 any more.

7 We don't need to take that road. We can take another road.  
8 We can go down the road where we have a diverse economy, where we  
9 maintain our tourist industry, where we reinvest in our communities  
10 and ourselves. The first step is that we have to regulate the  
11 Department of Energy and restrict its role in our state.

12 We need a health assessment here, before anything's done. We  
13 need an independent review board to work hand-in-hand with the  
14 State, to monitor and restrict the Department of Energy, that  
15 monster--that monster that's already hurt so many people. We've  
16 got to control it, if we want a future. Thank you.

17 MR. DUKER: Thank you very much. At this time, we're going to  
18 take about a 10-minute break. Again, I'd like to point out--pardon  
19 me? I'd like to point out that rest-rooms are right out there in  
20 the hall to the left. We'll reconvene in 10 minutes. We have no  
21 more scheduled speakers, but if any of you would like to sign up to  
22 make a comment or ask a question, we certainly encourage you to do  
23 so. It's about 8:20; we'll reconvene at 8:30, and we'll have time  
24 for about three more speakers, if anybody wishes. Thank you.

25 (Whereupon the meeting was in recess from 8:20 PM until

1 8:42 PM.)

2 MR. DUKER: I'd like to express our appreciation to all those  
3 who took the time to come down here tonight. We are certainly  
4 happy that we are able to hear from you. I'd like to mention again  
5 that we do have a little time here. We have one more speaker who  
6 has asked to be heard, and we do have room for a couple more, if  
7 any of the rest of you would like to sign up to either make a  
8 presentation, or ask questions, or whatever. At this time I'd like  
9 to recognize--I believe it's Randall--

10 MR. COOK: Yes.

11 MR. DUKER: --Cook, or Rendell?

12 MR. COOK: It's Randall.

13 MR. DUKER: OK. If you'll come up here, please.

14 MR. COOK: Good evening. My name is Randall Cook, and I'd  
15 like to be quite honest with you: I've been at the Institute for  
16 four years, and before tonight, although WIPP has been an issue  
17 that has been heard, it has been of no real concern to me. It is  
18 not something that I would consider myself involved in, and I would  
19 not have come down here this evening, were it not for an emotional  
20 appeal and a way to get out of study hall. But--so--but from what  
21 I have heard this evening, I decided that WIPP is something that I  
22 need to be interested in, something that I need to make a stand on.

23 Next year--I am a senior this year, and next year New Mexico  
24 Military Institute, Roswell, and presumably WIPP will be behind me.  
25 I'm at no personal risk, regardless of what happens here. But I

1 think--and I think that a comparison, just that I've developed  
2 tonight, I don't know if you're familiar with Jonathan Swift's  
3 *Ahmad's Proposal*. In that work, he proposes--he outlines a problem  
4 that faced the English Empire--the British Empire in the 17th and  
5 18th centuries. The Irish--there were simply too many of them.  
6 There was a famine, and the British didn't know what to do about  
7 it. They couldn't feed them, and so people starved, people died.  
8 Swift proposed a means of correcting the situation. He proposed  
9 that Irish children be raised specifically for the purpose of being  
10 slaughtered and eaten by the British.

11 Now, obviously, Swift's work was an allegory; it was not  
12 intended to be taken seriously. But when you read it, it stands to  
13 reason. It's logical. So there has to be something else that  
14 comes into play here, a morality of humanity that we must consider.

15 Now, WIPP is something that we can put next to this. We have  
16 too much--instead of not having enough of something, not having  
17 enough food, we have nuclear waste that we do not know what to do  
18 with; that our scientists and our leaders cannot resolve, and  
19 therefore, they must do something with it. What they propose to do  
20 is put it into a WIPP site. I propose that perhaps instead of just  
21 testing the effects of the WIPP site, we can--we could turn this  
22 into something better. We could test the effects of the WIPP site,  
23 the radioactivity, on the people, on the population around the WIPP  
24 site; and in that way, not only can we get rid of the waste, we can  
25 also come to a better understanding of radioactivities--radioactive

1 waste and materials' effect on mankind. This may lead to major  
2 break-throughs, break-throughs that will allow us in the future to  
3 perhaps guide the development of man, to change through mutation  
4 and improve man.

5 Now, Swift did not mean to kill Irish children and eat them,  
6 and I do not mean to conduct experiments on New Mexico southeastern  
7 population. But this is what we are proposing to do, and we cannot  
8 and must not accept such a proposal. Thanks for listening, and--  
9 this evening.

10 MR. DUKER: Is there anybody else who would like to make a  
11 presentation, or a comment, or ask some questions, at this  
12 particular time, who has not been heard from this evening? Yes,  
13 sir.

14 MR. LANE: OK.

15 MR. DUKER: If you'd like to come up here, please--state your  
16 name, please.

17 MR. LANE: My name is Chris Lane. I'm a senior, and I just  
18 got here; I'm a so-called "rat." I just heard about it tonight,  
19 and I was really kind of surprised at how few people showed up.  
20 I'm not real sure if that's publicity or just nobody cares. I  
21 think it's publicity, though.

22 But my own question is, everybody says this is a test. When  
23 is the test going to be over, and what's it going to prove; and  
24 after the test happens, what are you going to do with the answer?

25 MS. COLLINS: The question is, the length of the test, which

1 I'm interpreting to be, what is the length of the permit. That  
2 decision is made by the Secretary, Secretary Espinoza. It can't  
3 exceed 10 years, but--so that's the outside date. As far as what  
4 will the test show, that question needs to be directed to DOE.  
5 That is not something that we do a technical review on.

6 MR. LANE: What's going to happen after the test?

7 MS. COLLINS: That is a question that we wouldn't be able to  
8 answer. It's not part of the technical review of the application.  
9 You would have to direct that to DOE.

10 MR. LANE: OK. When can I get an answer from DOE?

11 MS. COLLINS: Are you asking--

12 MR. LANE: That would be part of the answer.

13 MS. COLLINS: Would you--would you restate the question?

14 MR. LANE: From you all's side, what do you plan to do, after  
15 the test is over?

16 MS. COLLINS: At the end of the test phase?

17 MR. LANE: Yes, ma'am.

18 MS. COLLINS: At the end of the operating permit, operation  
19 will cease at the facility, unless the applicant came back and  
20 applied for another permit.

21 MR. LANE: So everybody would leave and leave the nuclear  
22 waste there?

23 MS. COLLINS: Clean closure is a requirement; that's one of  
24 the requirements of RCRA. Closure is a requirement of RCRA. Clean  
25 closure is a requirement of the State of New Mexico. That means

1 all waste would have to be removed from the site.

2 MR. LANE: When would I be able to get the other answers from  
3 DOE?

4 MS. COLLINS: You would have to ask them. Patty?

5 MS. BARATTI-SALLANI: Pardon?

6 MR. GARCIA: He has a question on the test phase of the plan:  
7 What kind of answers are you going to get out of that; what length  
8 of time?

9 MS. BARATTI-SALLANI: Well, it will run probably five to seven  
10 years. It could run up to the 10-year period that the permit is  
11 issued; and the data from that will be analyzed, and it will be  
12 used to determine whether or not WIPP complies with the EPA  
13 regulations and the RCRA regulations, which will allow us, then, to  
14 apply for a permit for permanent disposal.

15 MR. LANE: Would this be the only WIPP site, or are you all  
16 going to go ahead and test until you find a suitable place?

17 MS. BARATTI-SALLANI: This is the only place at this time. I  
18 don't know of any other planned site.

19 MR. LANE: OK, thanks.

20 MR. DUKER: Thank you, sir.

21 MS. MCQUINN: My name's Holly McQuinn. I'll try to make this  
22 real short, but--

23 (Whereupon the reporter asked that the name be repeated.)

24 MS. MCQUINN: Holly McQuinn. I'm just curious about some-  
25 thing. At the beginning of the meeting--I don't know exactly who

1 it was referenced to; I just--I'm not as informed as I wish that I  
2 could be, but someone said--I think it was you, sir--that--a  
3 question was asked about the monetary compensation for property and  
4 lives that were contaminated; and you said that could only be  
5 gained by legal action; like--so that would be--

6 MR. GARCIA: I would assume so. I--you know, I--it is a legal  
7 question, and I'm not an attorney, and that's one of the points I  
8 was trying to make. I can't really speak for the answer on a legal  
9 basis. That was my opinion, that, you know, when someone gets hurt  
10 on the job, and they require him to be compensated for it.

11 MS. MCQUINN: OK. Basically, what I'm saying is--OK, say a  
12 person, you know, gets some--you know, medical harm from being  
13 contaminated. Would they sue the State? Is that who would be  
14 responsible, the State? Does anyone--does anyone know the answer?

15 MS. COLLINS: I think what we're trying to suggest is that  
16 it's a legal question, and you'd have to--

17 MS. MCQUINN: And basically, you have to ask that--

18 MS. COLLINS: --you'd have to ask a lawyer.

19 MS. MCQUINN: OK; and then--

20 MS. COLLINS: Is that correct, Kathleen? I don't know how  
21 else to answer that.

22 MS. MCQUINN: So in other words, no one here knows who would  
23 be responsible for the people being contaminated, is that correct?  
24 I mean, I--I'm curious, because I haven't really--

25 MS. SISNEROS: Your question is a real complicated one. I'm

1 not an attorney, but let me just discuss this scenario, as I see it  
2 coming. Let's say there is an individual that would be injured on  
3 the job, or would come down with cancer, or whatever.

4 MS. MCQUINN: No, I'm not--

5 MS. SISNEROS: That would be--that would be the substance of  
6 the--of the allegation. They would--

7 MS. MCQUINN: See, basically, I'm just talking about on the  
8 job.

9 MS. SISNEROS: I spoke to our attorney just a little while  
10 ago, during the break, on the very point about the Hazardous Waste  
11 Act. My question was, you know, I don't think the Hazardous Waste  
12 Act gives the State, in this permitting process, the authority to  
13 require DOE-Westinghouse to compensate an individual. Our attorney  
14 agreed with us. However, let's say someone was injured on the job,  
15 or had cancer, or something happened--

16 MS. MCQUINN: Outside of the being contaminated, outside--

17 MS. SISNEROS: Just forget about the permitting process and  
18 all of that. The avenue--their recourse would be to probably seek  
19 legal counsel, and sue, say, DOE or Westinghouse, or seek appropri-  
20 ate action. But they would have to prove that DOE--and again, I'm  
21 not an attorney, so--

22 MS. MCQUINN: They would have to prove they were at fault?

23 MS. SISNEROS: --I mean, this is pure speculation on my part.  
24 My understanding is that they would have to prove somehow that DOE-  
25 Westinghouse was negligent, or responsible for the injury, or

1 cancer, or whatever it is we're talking about. There is a  
2 possibility that the State might be sued, if an allegation were  
3 made that the State was somehow negligent in, say, issuing a  
4 permit; they allowed levels that were too high--say, radiation  
5 levels that were too high, and it led to employee exposure, and  
6 that sort of thing; but that is merely speculation on my part.  
7 RCRA doesn't give us the authority to require DOE and/or any  
8 employer to compensate for an injury or for loss of life. You  
9 know, there are other laws and other mechanisms for that.

10 MS. MCQUINN: So basically, it's subjective, and it would be--  
11 every situation would be different?

12 MS. SISNEROS: It would be very difficult to prove.

13 MS. T. JUAREZ: I want to respond to that, because I've worked  
14 with a lot of people that have tried to do those kind of legal  
15 things. One of the things we found real hard was that if they're  
16 not actually the generators, the producers of the waste, then they  
17 don't find them responsible. So you're talking about if--DOE would  
18 not be probably legally responsible, because they're not generating  
19 the thing.

20 MS. MCQUINN: So basically, no one's at fault?

21 MS. T. JUAREZ: That's what people--yes, but people end up the  
22 same way.

23 MS. MCQUINN: OK.

24 MR. DUKER: Yes, ma'am?

25 MS. LAWSON: I would like to interject something here.

1 MR. DUKER: Would you identify yourself for the recorder,  
2 please?

3 MS. LAWSON: I'm Marilyn Lawson. I wrote a series of articles  
4 for the *Record* on WIPP, and I'd like to mention this young man's  
5 question about other possible sites. I can say, without any  
6 hesitation, that DOE is considering nine other possible sites in  
7 New Mexico for low-level waste.

8 UNIDENTIFIED FEMALE: In New Mexico?

9 MS. LAWSON: In New Mexico. They're doing work on it. They  
10 are--they are studying these sites at the present time.

11 UNIDENTIFIED FEMALE: Only in New Mexico, or other states?

12 MS. LAWSON: Nine sites in New Mexico. One's near Oro Grande--

13 UNIDENTIFIED FEMALE: But I mean, any other states--

14 MS. T. JUAREZ: You know, one of the things that's happening,  
15 they haven't found a permanent storage place for any of the waste,  
16 including high-level waste. Right now they're finding for Yucca  
17 Mountain to be--for Yucca Mountain, so that they can store high-  
18 level waste. That's why they're trying to create monitors like  
19 storing waste on Indian lands right now. They have one going, the  
20 MRSF, which is Monitored Retrievable Storage Facility, and that's  
21 to store high-level waste temporarily--that's what they're saying--  
22 up to 40 years would be for this or that. But Yucca Mountain won't  
23 be ready for it to open. So in terms of the question of where is  
24 this waste going to go to, you know, if the test phase--you know,  
25 if it fails, where are they going to go; and that's the real

1 question, because once you mix chemicals, another chemical is  
2 created, so I think that's the question before us right now;  
3 because there is no other place, and New Mexico is the only state  
4 that's testing right now in this whole nation. Nobody else wants  
5 it; and because we're economically in the situation we are, they're  
6 bringing it in to us, and they're going to take it right down the  
7 street, and they're going to take it in front of you, and they're  
8 going to take it in front of our people. They don't care.

9 MS. LAWSON: I mention that simply because I think it's so  
10 important for the right procedure to be put into place now.

11 MS. BRITO: What you're doing right now is just permitting  
12 (inaudible). So these regulations need to be very strict.

13 MS. GREENWALD: It's not only for New Mexico; it could be a  
14 precedent for the world.

15 MS. T. JUAREZ: And we're the only other place that they found  
16 where they have big salt-bed mines. You know, the thing is--

17 MS. LAWSON: I have a list of possible locations. It was  
18 given to me confidentially.

19 MR. DUKER: The--I understand, and your comments are recorded  
20 here. However, I do want to remind you that the only thing that  
21 we're involved in right now is this one, particular application for  
22 a test phase at one particular site, which is what we're address-  
23 ing; and even though it's not pertinent to this particular thing,  
24 I do want you to know that both your comments are recorded, and  
25 will be looked at, as well as everybody else's. We have time for

1 about one, maybe two more questions. Does anybody else have  
2 anything else they would like to have on this? Do I see your hand  
3 raised, sir?

4 UNIDENTIFIED MALE: Yes, sir. I would just like to clarify  
5 that these other sites are of enormous relevance to this question.  
6 When we seek to set a precedent, sir, if you approve this site with  
7 minimum standards, it obligates the approval of other sites with  
8 the same standards, sir; and frankly, the thought of 10 separate  
9 storage facilities in New Mexico of radioactive waste, if those  
10 sites should become, at some future date, contaminated, would be,  
11 I would consider, equal to a nuclear attack on New Mexico, sir.

12 (Whereupon inaudible discussion was had among members of  
13 the public.)

14 MR. DUKER: OK. We thank you for your comments. We also  
15 thank you very much for coming here tonight, and it's very  
16 gratifying to see this many people take the time out of their lives  
17 to come here and comment on this, and we certainly thank all of you  
18 very, very much. And those of you who have signed up in front can  
19 be assured that you will get a reply, as I mentioned, within 30  
20 days. If you have additional written material of any type that you  
21 want to submit, please get them in to Susan, here, prior to  
22 November 25th, so they can be taken into consideration. Thank you  
23 again for coming.

24 (Whereupon the meeting adjourned at 9:01 PM.)

25 CERTIFICATE OF REPORTER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, Melinda S. Whitley, Certified Court Reporter and Notary Public for the State of New Mexico, do hereby certify that the foregoing proceedings were personally recorded and transcribed by me; that this transcript, consisting of 190 pages, is a true and accurate record of the proceedings had, to the best of my knowledge and ability; that I am neither related to or employed by any of the parties participating in this public meeting, nor financially interested in the matter.

  
Melinda S. Whitley, RPR  
NM CCR No. 8  
Date of Expiration: 12/31/92