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U.S. Wants Interim WIPP Storage

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The Bush administration is asking a judge to grant it the right to bring radioactive waste to the Waste Isolation Pilot Plant before the state Environment Department issues a permit for WIPP.

The U.S. Justice Department, on behalf of the Department of Energy, filed a motion Friday with U.S. District Judge John Garrett Penn asking that the nuclear waste repository near Carlsbad be granted "interim status" under the federal Resource Conservation and Recovery Act (RCRA).

Energy officials have long maintained that interim status gives them the right to

bring waste while the state reviews their hazardous waste permit.

But state Environment Secretary Judith Espinosa has made a preliminary finding that DOE must wait for her agency to examine the permit.

A U.S. Court of Appeals ruling in July said WIPP is eligible for interim status, but left open the question of whether the Energy Department followed all legal requirements necessary to qualify.

The department said in a news release that its motion asks Penn to resolve the date WIPP became subject to regulation under RCRA or state law.

Two people involved in the recent legal dispute over WIPP criticized outgoing

Energy Secretary James Watkins for filing the motion. Watkins leaves office in January.

"He should be deferring these types of things to the incoming secretary," said Attorney General Tom Udall.

But if the state makes good on its commitment to issue the permit by summer 1993, before shipments start, the entire issue "may well be moot," Udall said.

Don Hancock of Albuquerque's Southwest Research and Information Center said the motion "makes it a little more difficult for the Clinton administration to come in and take a contrary position in court."



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