



State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
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JUDITH M. ESPINOSA  
 SECRETARY

RON CURRY  
 DEPUTY SECRETARY

BRUCE KING  
 GOVERNOR

RECEIVED

January 18, 1994

George E. Dials, Manager  
 Carlsbad Area Office  
 Department of Energy  
 P.O. Box 3090  
 Carlsbad, New Mexico 88221

Dear Mr. Dials:

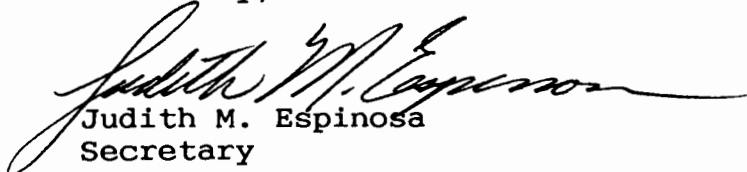
I am in receipt of your January 15, 1994 letter requesting the "opportunity to revise the RCRA Part B permit application to accurately reflect the current programmatic direction regarding the WIPP." I appreciate your statement that you welcome public participation of your "revised" permit application. I have not yet come to a final decision concerning the WIPP permit application. Indeed, most of the comments received during the public comment period suggested that I issue a Notice of Intent to Deny because the Department of Energy has decided that the bin and alcove transuranic waste tests will not be conducted at WIPP (see attached October 21, 1993 letter from Thomas Grumbly to Robert Sussman [EPA]).

I have instructed Kathleen Sisneros of my staff to contact affected stakeholders to set up a meeting to discuss DOE's decision not to conduct mixed waste tests at WIPP and your requests to be allowed to amend the Part B permit application. I understand that some stakeholders have also contacted you and expressed the desire to discuss these issues with you prior to my making a decision on the application. Therefore, to accomodate these various requests, and to allow for a fair and open discourse on the hazardous waste permitting process, Ms. Sisneros will be contacting you or your staff in the next few days to set up a meeting.

I look forward to a productive meeting.

If you have any questions, please feel free to contact me or Kathleen at 827-2834.

Sincerely,

  
 Judith M. Espinosa  
 Secretary



Attachment 1



**Department of Energy**  
Washington, DC 20585

OCT 21 1993

The Honorable Robert Sussman  
Deputy Administrator  
U.S. Environmental Protection Agency  
Washington, D.C. 20460

Dear Mr. <sup>Bob</sup>Sussman:

After careful consideration, I have concluded that the previously proposed bin and alcove transuranic waste tests at the Waste Isolation Pilot Plant (WIPP) should not be conducted. I am not convinced that they would have provided information directly relevant to a certification of compliance with the final disposal regulations or to compliance with the Solid Waste Disposal Act. In lieu of these tests, the Department of Energy (DOE) will conduct an expanded laboratory test program using radioactive and hazardous waste. This program has a stronger scientific foundation, will provide better data earlier, and should prove to be more cost effective.

This determination is consistent with the preliminary findings of DOE's Independent Technical Review Team, Sandia National Laboratories' performance assessment analysis and the views of the National Academy of Sciences, Environmental Evaluation Group, and others. Performance assessment activities will focus on the development of the Department's application for the Environmental Protection Agency (EPA) certification of WIPP's compliance with the Title 40 Code of Federal Regulations Part 191 and the Title 40 Code of Federal Regulations Part 268 disposal regulations. The Department plans to submit this draft application to EPA by the middle of fiscal year 1995. This process is designed to lead to an earlier resolution of these regulatory issues and a more timely disposal decision. A plan reflecting the revised test program activities will be submitted to EPA and others for review by December 31, 1993.

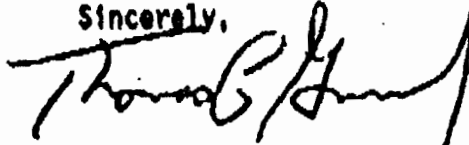
This redirection of effort will allow both DOE and EPA to devote their resources more effectively to addressing the disposal certification issues, and for EPA to focus its efforts on the issuance of the necessary criteria for certification of compliance with the disposal regulations and provide DOE its views on the specific experiments of the revised test program.

I remain committed to determining, as soon as possible, WIPP's suitability as a permanent transuranic waste disposal site. I believe it is in the national interest to move waste from interim

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storage to a suitable and safe disposal site. The decision to refocus the testing program on compliance with the disposal regulations will accelerate the disposal decision process. Your collaboration in reaching this goal is essential and deeply appreciated.

Sincerely,



Thomas P. Grumbly  
Assistant Secretary for Environmental  
Restoration and Waste Management