

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT

IN THE MATTER OF NEW MEXICO
DRAFT HAZARDOUS WASTE PERMIT
AT THE WASTE ISOLATION PILOT PLANT:

ORDER ON DRAFT PERMIT

This matter is before the Secretary of Environment for decision on the draft permit for the Waste Isolation Pilot Plant ("WIPP"), Carlsbad, New Mexico.

THE SECRETARY FINDS:

1. In February 1991, the New Mexico Environment Department ("NMED") received an application from the Department of Energy ("DOE") and the Westinghouse Electric Corporation ("WEC") which requested a permit to operate a hazardous waste container storage area in the Waste Handling Building and to operate two miscellaneous hazardous waste management units with a portion of the subsurface mined openings.
2. This application was revised twice during the years of 1991 through 1993.
3. NMED reviewed the permit applications and upon determination that the application was complete, prepared the draft permit.
4. Pursuant to HWMR-7 §902.A, public notice was given on the WIPP draft permit on August 30, 1993 requesting public review and comment.
5. The first comment period closed on November 1, 1993, but at the request of DOE was extended for 30 days.



6. At the end of the second comment period, December 1, 1993, DOE requested a sixty day extension of time in which to comment. A forty-four day extension was granted and the public comment period closed on January 14, 1994.

7. The federal Environmental Protection Agency made technical comments regarding the draft permit on August 31, 1993.

8. On October 21, 1993, DOE commented "that tests involving radioactive waste will not be conducted at WIPP." Comment from Arlen Hunt.

9. DOE "no longer intends to conduct mixed-waste testing during a Test Phase at WIPP". Comment dated November 30, 1993 from Arlen Hunt.

10. Southwest Research and Information Center ("SRIC") commented that the entire application should be withdrawn, because the test phase plan has been withdrawn. Comment dated November 24, 1993 from Don Hancock.

11. Comment received from Concerned Citizens for Nuclear Safety ("CCNS") asserts that DOE should withdraw its permit application and that it is not a viable application. Comment dated November 24, 1993 from Margret Carde.

12. Ed McClelland commented that though the "trained scientists at WIPP should be able to handle waste far better and safer than lesser trained personnel scattered around the country", WIPP "should be put to beneficial use before too long or closed down." Comment dated November 27, 1993 from Ed McClelland.

13. Maurice Webster commented that the contempt shown by WEC for the public interest cannot be allowed and that "[f]ailure to implement Part B of the Proposal must cause cessation of all activity on the WIPP site." Letter dated September 30, 1993 from Maurice H. Webster.

14. "DOE recognizes that the current RCRA Part B permit application for WIPP requires revision in light of the October 1993 decision to abandon waste tests at WIPP." Comment from George Dials dated January 13, 1994.

15. DOE requested "the opportunity to revise its permit application to accurately reflect the current programmatic direction regarding WIPP." Comment from George Dials dated January 13, 1994.

16. SRIC commented that the draft permit should be terminated and that "[n]o additional public resources are justified to be expended on this draft permit. Instead, DOE, state, and public resources should be focused on discussing issues related to matters that must be adequately addressed in DOE's permit application for the disposal activities at WIPP" Comment dated January 14, 1994 from Don Hancock.

17. CCNS stated that "it would be a waste of time and taxpayer money both for NMED and for the people of this state to continue the permitting process. . . . NMED must not waste any more time or money on processing this invalid application." Comment dated November 24, 1993 from Margret Carde.

18. HWMR-7 §902.A.5 states that "[n]o ruling shall be made on permit issuance or denial without an opportunity for a public hearing."

19. A public hearing at this time is not appropriate and an unnecessary expenditure of public monies because of DOE's stated intent not to conduct waste tests at WIPP.

20. All comments received during the comment period have been considered in this Order.

21. Comments, verbal or written, received after January 14, 1994 have not been considered in this Order.

THEREFORE THE SECRETARY ORDERS:

22. The Regulations require a public hearing before a ruling on the issuance or denial of the draft permit; however, in an effort to achieve the most efficient use of public monies, no ruling is made on the issuance or denial of the draft permit at this time.

23. In that DOE has stated that it no longer intends to conduct testing at WIPP, the draft permit is **WITHDRAWN AND REMANDED** ✓
to NMED's Hazardous and Radioactive Materials Bureau.


24. By May 31, 1995, DOE shall submit a complete revised application that more accurately reflects future WIPP activities.

25. Within twenty-one calendar days of this order, DOE shall submit a schedule of milestones of its anticipated progress of submissions on the revised application.

26. Within one month of this Order, DOE shall hold a stakeholders meeting to explain its schedule and permit revisions.

✓
27. If no complete revised permit application is received by the Hazardous and Radioactive Materials Bureau by May 31, 1995, a public notice of intent to deny will automatically be issued.

Date:

September 2, 1994
JUDITH M. ESPINOSA
Secretary

**Locations of Public Copies of the
WIPP Hazardous Waste Disposal Permit Application**

NMED Hazardous & Radioactive Materials
Bureau
525 Camino de los Marquez, Suite 4
P.O. Box 26110
Santa Fe, NM 87502
Ph (505) 827-4308

NMED District I Office
4131 Montgomery Blvd, NE
Albuquerque, NM 87109
Ph (505) 841-9472

NMED District III Office
P.O. Box 965
1001 North Solano Drive
Las Cruces, NM 88001
Ph (505) 524-6300

NMED District IV Office
1914 West Second
Roswell, NM 88201
Ph (505) 624-6046

DOE/Forrestal Building
Public Library Reading Room
AD-234.1
FOI - USDOE
1000 Independence Avenue SW
Washington, DC 20585

Defense Nuclear Facilities Safety
Board
625 Indiana Ave NW, Suite 700
Washington, DC 20004

Office of Scientific and Technical
Information
Technical Information Center
P.O. Box 62
Oak Ridge, TN 37831

Thomas Brannigan Memorial Library
200 E. Picacho
Las Cruces, NM 88005

New Mexico State Library
325 Don Gaspar
Santa Fe, NM 87505

Pannell Library
New Mexico Junior College
5317 Lovington Highway
Hobbs, NM 88240

Carlsbad Public Library
101 South Halagueno Street
Carlsbad, NM 88220

Zimmermann Library
Government Publications Department
University of New Mexico
Albuquerque, NM 87138

WIPP Public Reading Room
National Atomic Museum
U.S. Department of Energy
Albuquerque Field Office
Albuquerque, NM 87115

Sandia National Laboratories
Technical Library
Organization 3144
P.O. Box 5800
Albuquerque, NM 87185

Sandia National Laboratories
Waste Management and Transportation
Library
Organization 6332
P.O. Box 5800
Albuquerque, NM 87175

Martin Speare Memorial Library
New Mexico Institute of Mining and
Technology
Campus Station
Socorro, NM 87801

Raton Public Library
244 Cook Avenue
Raton, NM 87740