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January 5, 1995

George Dials
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VIA FAX AND MAIL

Dear George,

This letter serves the following purposes:

- * to briefly discuss the upcoming January 9 SPM meeting;
- * to briefly respond to your December 14 regarding stakeholder participation in SPM;
- * to briefly respond to your December 21 and December 23 letters regarding the relationship of SPM and the draft compliance certification application; and
- * to make some suggestions for the January 23 stakeholder meeting.

January 9 SPM meeting

I will not be attending the January 9 meeting, so I wanted to provide a few comments before the meeting. I appreciate the fact that for the first time, the SPM white papers were delivered three weeks before the meeting. That is a good improvement, which I hope will be followed with future similar events.

However, the Non-Salado Flow Position Paper is seriously deficient, and SRIC in no way agrees with many of its conclusions. It is incomplete as previous papers have been in terms of not meeting the stated requirements of SPM to fully discuss various unresolved issues and how (including what experiments) could be done. Further, the paper seriously misrepresents the state of knowledge. For instance, the discussion of castile brine reservoirs on pages 3-31 to 3-33 indicates that seriously flawed, non-conservative data will be used in future performance assessments. For example, the paper states that the number of brine reservoirs assumed will be limited to four. SRIC strongly objects. SRIC believes, and has so stated for several years, that every borehole must be assumed to hit a brine reservoir, because there is certainly enough brine at the site for such a situation to occur. If DOE wants to use a lesser probability than one for encountering brine, it should drill a series of boreholes into the Castile underneath the waste disposal area to demonstrate that a lesser probability is reasonable.

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The paper also states on page 3-33 that brine reservoir volumes larger than ten million cubic meters will no longer be used. However, SRIC does not agree that there is sufficient evidence to support such an assumption. The calculated volume of WIPP-12 is uncertain, but even the white paper assumes it to be 30 percent of the limit, and there are uncertainties with that estimated volume. Moreover, the paper provides no basis for a showing that WIPP-12 is likely the highest reasonable volume for brine reservoirs in and around the WIPP site. Thus, SRIC objects to using any lesser reservoir volume than that used in the 1992 PA.

Suggestion: To make all of the position papers and other WIPP documents more usable, more than one measurement unit should be noted. For example, for brine reservoir volume, barrels should be used in addition to cubic meters.

Recommendation: As with the previous incomplete white papers, SRIC continues to request that SPM-2 specifically state that not all stakeholder concerns have been incorporated and that revised white papers be issued for further public comment.

Stakeholder participation in SPM meetings

Your December 14, 1994 letter suggests that I should support stakeholder involvement in SPM meetings since my request for at least three weeks advanced receipt of white papers has been agreed to and met.

I have stated consistently, including in my letters to you of August 26, 1994, September 20, 1994, October 17, 1994, and to Sarah Bigger of December 7, 1994, that the receipt of white papers three weeks in advance is essential and that other changes -- and I have made specific recommendations which have not been adequately responded to -- are necessary or that SPM should be discontinued. I also sent my October 17 letter (as stated on the letter's "cc" list, with the September 20 letter as an enclosure) to about 15 other people who had been involved or interested in the SPM process to keep them informed and to insure that my position is not misrepresented. I have been told by several stakeholders that they share my concerns and support my recommendations. Obviously, each stakeholder and organization will decide for their own reasons about their level of participation; some have attended some or all of the meetings, some have not.

Regardless of the reasons, however, I believe that it is clear that the level of non-governmental stakeholder involvement in the SPM process is clearly deficient, in comparison with the groups and individuals who have been involved in other public processes related to WIPP over the years. I would hope that, as you have indicated will be the case, the January 23 meeting in Albuquerque will provide an opportunity to discuss improvements in stakeholder involvement with SPM and other aspects of WIPP.

Relationship of SPM to the draft compliance application

As you know, I have many times stated that I strongly disagree with DOE submitting a draft compliance application to EPA in March. I continue to oppose such an application. A draft application that does not represent DOE's current best performance assessment is meaningless. A draft application that is inconsistent with SPM (which at that point might not show compliance) is disingenuous at best and can reasonably be considered fraudulent. The fact that the application will apparently not include discussion of disturbed performance, which will not be submitted until July, is a further indication of the futility and counter-productiveness of a March submission. I continue to believe that once the draft application is submitted the focus of most stakeholder involvement with WIPP compliance-related activities, including SPM, will be with EPA and the draft application.

Your December 21 and 23 letters really do not address those concerns. The two-page document attached to the December 21 letter states that the draft application is "a means to focus and get feedback on what should be included in the final application." Further, "draft application will facilitate building consensus between EPA and DOE on the approach for the final application." Your December 23 letter also states that "the purpose of the draft application is to begin a dialogue with the regulator regarding the content of the final application."

It appears, therefore, that the focus of the draft application is to have EPA and DOE agree on what should be in the final application. (Certainly, DOE is already having numerous "dialogues" in the form of technical exchanges and meetings in addition to other contacts.) The appropriate forum for such a discussion has to be in the rulemaking that is established once the compliance criteria (40 CFR 194) are finalized. Since you obviously disagree with my view, I want to understand what you think is EPA's view about the utility of your "initiative." Therefore, please provide me with what assurances, commitments, or suggestions that EPA has given as to how it will handle the draft compliance application that provides you the basis for the goals that you have stated.

January 23, 1995 stakeholder meeting

I believe that the meeting could be useful, especially if it focuses on issues of stakeholder involvement, and the relationship of the SPM process and the draft compliance application. The meeting should be structured to allow discussion of the issues and concerns of stakeholders, including those I have raised in this and previous letters.

Recommendations: DOE should be prepared to discuss specifically how it intends to continue the SPM process. Your December 23 letter states that future "stakeholder meetings regarding SPM and

the position papers will be held." At the meeting, you should have ideas about how and when such meetings should occur, but you should not be making decisions without stakeholder input. You should have specific information about how waste characterization and engineered barriers will be incorporated into SPM, the draft compliance application, and the final compliance application. You should ask for responses and suggestions from participants as to how to better involve stakeholders in those processes.

The issue of responses to stakeholders requests and access to information is another continuing concern. We continue to request on-line access to WIPP documents and other computer-based information. You should be prepared to discuss specific improvements and timeframes for such changes.

Thank you for your consideration.

Sincerely,



Don Hancock

cc: Bob Neill, EEG
Chris Wentz, NMEM&NR
Steve Zappe, NMED
Larry Weinstock, EPA
Garland Harris, CARD
Lila Bird, WIN
Ian Aeby, NM Alliance
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