



Department of Energy

Washington, DC 20585

July 5, 1995



Don Hancock
Director, Nuclear Waste Safety Project
Southwest Research and Information Center
P.O. Box 4524
Albuquerque, NM 87106

Dear Mr. Hancock:

This is in response to your request for Department of Energy views on H.R. 1663, the "Waste Isolation Pilot Plant Land Withdrawal Amendment Act".

The Department of Energy agrees with the bill's sponsors that achieving a timely opening of the Waste Isolation Pilot Plant (WIPP) is important. As Secretary O'Leary stated when the bill was introduced, however, the Department does not believe additional legislation is necessary to reach that goal. I am enclosing a copy of the Secretary's statement for your convenience. Opening WIPP while continuing to protect the health and safety of citizens is crucial to the Department.

Thank you for sharing your organization's views on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Nordhaus".

Robert R. Nordhaus
General Counsel

Enclosure



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DOE

NEWS

NEWS MEDIA CONTACT:
Jayne Brady, 202-586-5806

FOR IMMEDIATE RELEASE
May 17, 1995

MEDIA ADVISORY

STATEMENT OF SECRETARY OF ENERGY ON WIPP LEGISLATION

Hazel R. O'Leary, Secretary of Energy said, "The Department of Energy shares with Representatives Skeen, Schaefer and Crapo the objective of a timely opening of the Waste Isolation Pilot Plant. We will continue working cooperatively with the Congressional delegation, the people of New Mexico and United States Environmental Protection Agency.

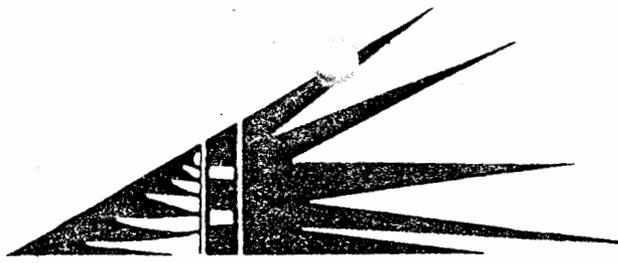
"The WIPP programs remains on time and within budget. While we don't believe additional legislation is required, we are willing to consider proposals from Congress that continue the progress without sacrificing human health and the environment," she added.

-DOE-

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SOUTHWEST RESEARCH AND INFORMATION CENTER
P.O. Box 4524 Albuquerque, NM 87106 505-262-1862

May 20, 1995

Secretary Hazel R. O'Leary
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585

VIA FAX (202) 586-7644 AND U.S. MAIL

Dear Secretary O'Leary:

Rep. Joe Skeen introduced H.R. 1663, the WIPP Land Withdrawal Amendment Act on May 17. According to the Carlsbad Current Argus of Thursday, May 18, 1995 (attached), DOE's "overall reaction is that it's something we generally support." The only issue that "needs to be worked out" is the EPA's regulatory role.

SRIC strongly opposes the Skeen bill, a view we believe is shared by the vast majority of New Mexicans, and we are shocked that DOE would support the bill in any way. We request:

1. an explanation of what role DOE employees or contractors played in drafting the Skeen bill;
2. that you immediately clarify whether the position quoted in the newspaper article is DOE's position or whether it was an unauthorized statement. If the latter occurred, we request that DOE issue a public clarification and discipline the spokesperson. If the statement does represent DOE's position, we ask that you explain the position in light of the following:

Briefly, the Skeen bill's many bad provisions include:

- * Eliminating EPA's regulatory role established under the WIPP Land Withdrawal Act of 1992 (Sec. 8(d)(1)(B)) that made EPA, not DOE, the agency that certifies that WIPP will comply with the disposal standards;
- * Repealing EPA's authority under the WIPP Act (Sec. 9(c)) to make a determination that WIPP is not in compliance with any law and to require DOE to comply with the law or to retrieve the wastes;
- * Amending RCRA's land ban requirement by allowing mixed wastes from various DOE sites to be brought to WIPP without treatment or the issuance of a no migration variance by EPA;
- * Repealing the requirement of the WIPP Act (Sec. 8(g)) and the EPA's disposal regulations (40 CFR 191.14(d)) that engineered barriers be used at WIPP;
- * Repealing the requirement of the WIPP Act (Sec. 7(b)(2)) that DOE must submit to Congress plans for decommissioning WIPP and post-decommissioning management of the site before waste disposal begins;

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- * Repealing the requirement of the WIPP Act (Sec. 7(b)(3)) that Congress have 180 days to consider whether disposal should begin if the EPA certification is given;
- * Repealing the requirement of the WIPP Act (Sec. 7(b)(5)) that DOE submit to Congress comprehensive recommendations, including a timetable, for the disposal of all transuranic wastes before waste emplacement begins;
- * Repealing the requirement of the WIPP Act (Sec. 7(b)(6)) that DOE conduct a public process to survey all transuranic waste types at all sites from which wastes are to be shipped to WIPP before waste emplacement can begin;
- * Repealing the requirement of the WIPP Act (Sec. 7(b)(4)) that DOE acquire existing oil and gas leases before waste disposal begins unless the EPA determines that the acquisition is not required;
- * Allowing non-defense transuranic waste to be brought to WIPP, even though WIPP's capacity is far less than the amount of existing DOE defense transuranic waste.

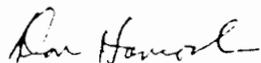
In addition, the Skeen bill states that the next DOE Secretary should make a decision about waste disposal at WIPP by March 31, 1997 even though final results of tests costing tens of millions of dollars now being conducted at Los Alamos National Lab and other facilities will not then be available, no remote-handled transuranic waste would be available for at least four more years after that date, and a supplemental final environmental impact statement would not be completed.

Many of the provisions of the Skeen bill not only eliminate EPA's regulatory role, but also the public participation and judicial review requirements of the WIPP Act.

SRIC believes that any DOE support for the Skeen bill is not only inappropriate for WIPP, but also that such support would be contrary to the position that DOE facilities should be subject to independent regulation. For example, the establishment of an Advisory Committee on External Regulation of DOE facilities (60 Federal Register 2743, January 11, 1995) and other actions that you have taken in support of independent regulation is inconsistent with taking away existing EPA regulatory authority for WIPP. Therefore, SRIC hopes that you will vigorously oppose the Skeen bill.

Thank you for your attention to this important matter.

Sincerely,



Don Hancock, Director
Nuclear Waste Safety Project

cc: Tom Grumbly
George Dials