

United States Government

Department of Energy

# memorandum

Carlsbad Area Office  
Carlsbad, New Mexico 88221

DATE: March 11, 1996  
REPLY TO  
ATTN OF: CAO:96-0048  
SUBJECT: Land Withdrawal Act Amendments

TO: Thomas P. Grumbly, Assistant Secretary, EM-1

On March 7 & 8, 1996, Ramona Travato, EPA/ORIA, and I participated in meetings convened by Congressional staff for the Senate and House of Representatives respectively, to discuss the areas of agreement between DOE and EPA on proposed amendments to the Land Withdrawal Act of 1992 (LWA). Following are the major areas of agreement for changes to the LWA:

- Elimination of all language referencing the test phase;
- Elimination of the 180 day waiting period after the Secretary's disposal decision;
- Inclusion of a requirement for EPA to accept chapters of the Compliance Certification Application as they are finalized by DOE and to conduct the completeness and technical reviews of them in an interactive fashion prior to DOE submission of the "full" Compliance Certification Application (CCA) in October 1996;
- EPA's certification review is to be completed within one year of DOE's submission of the "full" CCA, thus by the end of October 1997;
- Elimination of various studies currently required as prerequisites to opening WIPP;
- Elimination of the requirement for a RCRA "No Migration Variance Petition" for the facility;
- Modification of the LWA dealing with engineered and natural barriers to state that the Secretary shall use both engineered and natural barriers to the extent necessary to comply with EPA's disposal standards and criteria and may use other measures as the Secretary deems necessary.



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Mr. Grumbly

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DOE and EPA agreed that EPA's role as regulator is to remain unchanged from that provided in the LWA and that the five-year recertification provision would remain. It is expected that the House Commerce Committee may take action as soon as Wednesday, March 13, 1996, by "marking-up" the Skeen bill, HR 1663, to reflect the DOE and EPA agreed positions. I anticipate that we will receive a draft revised bill this week.

A timetable for Senate action is contingent upon discussions between Senator Domenici and Senator Bingaman. Furthermore, according to Senate staff, it is likely that in the Senate, a LWA amendments bill could be passed as an amendment to another bill rather than being acted on separately. Senator Domenici has committed to supporting the DOE/EPA agreed changes in the LWA.

I will provide you with updates as progress is made.

  
George E. Dials  
Manager

cc:

Steve Cowan, EM-30

Jim Turi, EM-33

CAO Senior Staff