



NEW MEXICO ENERGY, MINERALS
& NATURAL RESOURCES DEPARTMENT

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Jennifer A. Salisbury
CABINET SECRETARY

June 14, 1996



MEMORANDUM

To: *(Benito Garcia)*
State of New Mexico Interagency Review Group,
WIPP Land Management Planning and Implementation

From: Chris Wentz, Coordinator *CW*
N.M. Radioactive Waste Consultation Task Force

Subject: U.S. DEPARTMENT of ENERGY (DOE) COMMENTS on the PROPOSED
JOINT POWERS AGREEMENT (JPA) for WIPP LAND MANAGEMENT

Enclosed for your review is a copy of DOE's comments on our proposed JPA for WIPP Land Management. As mentioned in my last correspondence of February 13, we had to wait for these comments on our "final" draft of the JPA before moving forward in the process of executing the agreement.

In talking to Beth Bennington of the DOE Carlsbad Area Office, it appears they would like to meet with us here in Santa Fe during the last week of this month to discuss their comments. A meeting from 9:00-11:00 a.m. on Wednesday, June 26, in our building (2040 Pacheco Street, 2nd floor Conference Room) has been proposed.

Please review the enclosed comments and let me know by Tuesday, June 18, if the proposed meeting date and time work for you. If a majority of our Interagency Review Group can meet with DOE and its contractor (Westinghouse) on June 26, we'll schedule it and try to get together by conference call prior to the meeting. If not, we'll probably have to postpone the State/DOE meeting until the week of July 8 due to the upcoming Fourth of July holiday.

Thanks for your assistance on this. I can be reached at 827-1372.

Enclosures (1)

c: Jennifer A. Salisbury, Cabinet Secretary and Task Force Chair

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COMMENTS THAT ARE ANNOTATED WITH AN (*) ARE MANDATORY AND REQUIRE RESPONSE AND RESOLUTION						
SEC	PAGE	PARA	LINE	COMMENT	AUTHOR RESPONSE	REVIEWER ACCEPT/ REJECT
3	23		5	Insert "the actual date of" after the word "to" and before the word "termination."		
4	23		2	Delete "beginning in January 1997." The JPA is reviewed annually, not necessarily in January.		
4	23		6	Delete remainder of paragraph to include the next two lines on page 24.		
4	24		2	Delete passage "and approved by the Secretary of DFA."		
5	24		all	Recommend rewording passage as follows: "Any party may subcontract any portion of the services to be performed under this agreement to any third party, in order to meet its obligations and requirements contained therein."		
7	25		2-4	Delete last three lines of subsection		
8	25		5	Add "or the Federal Tort Claims Act" to the end of the sentence.		
App.1	2		7-12	Delete representative from NMLD DOE oversight. Involvement in an agreement of this nature, to this degree is outside the scope of the AIP.		

<p>DOCUMENT REVIEWER:</p> <p>_____</p> <p style="text-align: center;">Signature Date</p>	<p>COMMENT RESOLUTION APPROVED:</p> <p>_____</p> <p style="text-align: center;">Signature Date</p>
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**WASTE ISOLATION PILOT PLANT (WIPP)
CARLSBAD AREA OFFICE**

DOCUMENT REVIEW RECORD

DOCUMENT NAME: Joint Powers Agreement among United States Department of Energy, New Mexico Department of Game and Fish, New Mexico Energy, Minerals and Natural Resources, New Mexico Environment Department, New Mexico Office of Cultural Affairs, and New Mexico State Land Office on Management of the WIPP Land Withdrawal Area

NUMBER/REVISION: 0

DOCUMENT DATE: N/A

REVIEWER: DOE/CAO

TYPE OF REVIEW: Preliminary

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GENERAL COMMENTS:

1. Globally delete all references to the WIPP Land Management Implementation Plan (LMIP) (DOE/WIPP 94-026). This has been superseded with the reprint of the WIPP Land Management Plan (LMP)(93-004)
2. Globally delete any stipulations that would involve transmittal of information that may be acquired by way of requests through intrastate departmental exchange (e.g., information from one state agency to another) or information that may have sensitive or proprietary status (e.g., daily drilling reports that include production costs, production depths, etc.).

FORWARD RESULTS TO:

COMMENTS DUE BY:

COMMENTS THAT ARE ANNOTATED WITH AN (*) ARE MANDATORY AND REQUIRE RESPONSE AND RESOLUTION

SEC	PAGE	PARA	LINE	COMMENT	AUTHOR RESPONSE	REVIEWER ACCEPT/ REJECT
Title Page	Title Page	N/A	Sec. 1(i)	"Environmental" misspelled		
Intro	1	1	n/a	Suggest identifying a liaison/point of contact for the State, to receive, track and disseminate information exchanged in accordance with this agreement		
	4	5	4	Modify sentence from "research and development facility" to "mixed TRU waste disposal facility as defined in the WIPP Land Withdrawal Act"		
	5	4	4&5	Delete reference to the WIPP LMIP and reword accordingly		
	6	1	1	Delete reference to the LMIP		
	6	2	6	Add "and lands adjacent to..." after "within"		

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SEC	PAGE	PARA	LINE	COMMENT	AUTHOR RESPONSE	REVIEWER ACCEPT/ REJECT
(1) (B)	8			Preface sentence with "To the extent possible"		
(1) (C)	8			Add "on properties that have not received prior archeological clearance" after "activities"		
(1) (D)	8			Delete all of "D". Notification and consultation with SHPOs is a standard edict under the auspices of the NHPA.		
(2) (A)	8			Add "and assist" after "consult with" Add "and benchmark" after "evaluate"		
(2) (B)	8			Add a stipulation for the timely (30 days) response to all requests for comments on archeological reports	DRAFT	
(1) (B)	10			Revise sentence to read, "Provide to the DGF, within 30 days of receipt or development, any final report or publication summarizing survey and monitoring data on raptors... Omit "or other documentation" and replace "containing" with "summarizing"		
(3)	11			Add DGF commitment to provide, to the DOE, within 30 days of receipt, decisions on permit applications pursuant to wildlife research and education. In addition, this commitment should include the stipulation that written justifications, based on sound, scientific principles are provided, by the DGF regarding denials, modifications, or stipulations/limitations to permit requests that may be viewed as erroneous.		
(1) (C)	10 & 11		4	Replace "may effect" with "have been determined to pose substantive risk to..."		
(2) (A)	11		3	Replace "may effect" with "have been determined to pose substantive risk to..."		
(3) (A)	11		3	Replace "may effect" with "have been determined to pose substantive risk to..."		

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SEC	PAGE	PARA	LINE	COMMENT	AUTHOR RESPONSE	REVIEWER ACCEPT/ REJECT
f	11		all	Reword the first sentence of this passage to read, "The DOE will provide a fire management program that can coordinate a timely, well-coordinated, and effective response to wildfires within the WIPP withdrawal area as resources and conditions will permit."		
(1)	12		2-4, 6&7	Delete all of section (A), Section (B) delete "full suppression of a..." replace with "response to" and insert "incidents" after the word "wildfire"		
g	12		8	Add the words, "in sections immediately" after "leases" and before the word "adjacent"		
(1) (A) (i,ii, iii,iv, v)	13 & 14			Delete all per general comment #2		
(B) (i,ii)	14 & 15		2-10	Line 2 & 3, delete entire sentence and replace with "30 days of development:" after "within" Section (i) - Modify to read, "WIPP reclamation plans applicable to state and/or federal lands" Delete all of section (ii) as it is redundant.		
(C) (D)	15		4-8	In subsections (C) and (D), move the statement; "...any lease or permit applications, as well as proposed modifications to existing leases and permits, for the exploration, development, or production of minerals, including potash, on State Trust Lands located within one mile of the WIPP Site Boundary." behind "comment on" and before "to the SLO..." in the first and second lines of the subsection.		
(2) (A) (B)	15 & 16		all	Delete from text per general comment #2		

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SEC	PAGE	PARA	LINE	COMMENT	AUTHOR RESPONSE	REVIEWER ACCEPT/ REJECT
(iii) (v)	16 & 17		4-11	Delete entire passage for (iii) beginning with "...that establish bottom hole location." Replace passage with "on well bores within 330 feet of the WIPP Site Boundary." Subsection (v) should be modified to read, "Notice of any completion, alternate use (to include waterflooding), activities used to enhance production (e.g., fracs), and/or plugging and abandonment reports for oil or gas well bores located on State Trust Lands within one mile of the WIPP Site boundary.		
(i)	17		2	Add "within seven days of acquiring the information" between "Division" and "with"		
(B)	20		5-10	Insert passage beginning with "...any permit applications" to the end of the paragraph, between "on" and "to" in the second line of subsection (B).		
h.	20		1-2	Delete entire first sentence. Delete "It is the intent of the" and change "to" to "will" in line 3.		
(1) (A) (B) (i) (ii) (2) (A) (B)	20 & 21		all	Delete. Subject information transfer to NMED DOE oversight is out of scope with the AIP.		
(i)	21		2,3, 4 & 5	Change word "return" to "reclaim" and make "land" plural in line two. Delete remainder of passage after "control" in line four. Add the following statement, "Regulatory driven requirements to mark the WIPP site after closure with a system of markers shall not be construed as failure to comply with this aspect of the agreement.		
(1) (A) (B)	21 & 22		all	Delete all as these requirements are contained in federal edicts such as pertinent NEPA documentation.		

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