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State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
*Hazardous & Radioactive Materials Bureau*  
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MARK E. WEIDLER  
SECRETARY

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DEPUTY SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 31, 1996

Mr. Michael McFadden, Assistant Manager  
Carlsbad Area Office  
Department of Energy  
P. O. Box 3090  
Carlsbad, New Mexico 88221

Dear Mr. McFadden:

**RE: Meeting request regarding Land Withdrawal Act Amendment**

The NMED Hazardous and Radioactive Materials Bureau (HRMB) has received your letter of October 21, 1996, requesting a meeting to discuss the recently amended WIPP Land Withdrawal Act (LWA). Your letter proposed that you, along with your technical and legal staff, meet with representatives of NMED to discuss the implications of the recent changes to this environmental regulation applicable to WIPP.

NMED understands that the amended WIPP LWA exempts transuranic mixed waste designated by the DOE Secretary for disposal at WIPP from treatment standards and land disposal prohibitions required under the Solid Waste Disposal Act (42 U.S.C. 6924(m)), sections 3004 (e), (f), (g), and (m), as codified in 40 CFR §268. However, this amendment does not impact the State's authority to administer those portions of the Resource Conservation and Recovery Act (RCRA) delegated to NMED by the U.S. EPA, as incorporated into the New Mexico Hazardous Waste Act, NMSA 1978 (Repl. Pamp. 1993) and as codified in the New Mexico Hazardous Waste Management Regulations, 20 NMAC 4.1. Because this change in the WIPP LWA does not affect our authority nor our current regulatory and permitting activities, NMED sees no need to engage in discussions with DOE on this subject.

As you are aware, HRMB staff are currently developing the preliminary draft permit for disposal of mixed transuranic waste at WIPP. HRMB staff may coordinate some review activities with the EPA Office of Radiation and Indoor Air's WIPP Center staff to ensure consistency between the application of 20 NMAC 4.1 regulations versus the radiation disposal standards in 40 CFR §191 and §194. These discussions between regulatory agencies are private and not subject to disclosure to the applicant.

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If you have any questions on this response to your request, please contact either myself or Mr. Steve Zappe at (505) 827-1557.

Sincerely,



Benito J. Garcia  
Chief, Hazardous and Radioactive Materials Bureau

cc: Susan McMichael, NMED OGC  
Steve Zappe, HRMB  
Frank Marcinowski, EPA ORIA  
Matt Hale, EPA OSW  
David Neleigh, EPA Region 6  
WIPP File - Red '96