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February 4, 1997

Harold Johnson
NEPA Document Manager
Attn: SEIS comments
P.O. Box 9800
Albuquerque, N.M. 87119

Dear Mr. Johnson:

RE: WASTE ISOLATION PILOT PLANT DISPOSAL PHASE, DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT; DEPARTMENT OF ENERGY, CARLSBAD AREA OFFICE, CARLSBAD, NEW MEXICO (NOVEMBER 1996)

The following transmits New Mexico Environment Department (NMED) staff comments concerning the above-referenced Draft Supplemental Environmental Impact Statement (DSEIS).

(1) Requirements/conflicts with NMED laws and regulations.

20 NMAC 4.1 in general, and Subparts V and IX (40 CFR §§264 and 270) in particular, define New Mexico's hazardous waste management program, identify standards for owners and operators of hazardous waste management facilities, and describe hazardous waste permitting procedures. The DSEIS assesses the impact the Proposed Action of operating the Waste Isolation Pilot Plant for disposal of defense related transuranic (TRU) and TRU-mixed waste, the latter of which is regulated under 20 NMAC 4.1. The DSEIS also considers several alternatives to the Proposed Action, including increasing the inventory of waste to be disposed of at WIPP, various treatment alternatives, and two no-action alternatives in which waste would be stored at the generator sites and WIPP would be dismantled. In general, the DSEIS addresses many issues which fall outside of the regulatory purview of 20 NMAC 4.1, and those issues, such as transportation and radiological impacts, were not reviewed. Likewise, alternatives to the Proposed Action were not evaluated on their relative merits.

The U.S. Department of Energy (DOE) and Westinghouse Waste Isolation Division (WID) have submitted a Resource Conservation and Recovery Act (RCRA) Part B Permit Application to NMED to operate WIPP as a hazardous waste storage and disposal facility. This permit application serves as a primary information source for DSEIS.

No conflicts with hazardous waste management or permitting regulations were found in the SEIS-II.

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(2) Deficiencies/inaccuracies in the information provided which prevent an adequate environmental assessment of the project.

The time frame for waste generation is inconsistent between the DSEIS and other documents produced by or for DOE. While the DSEIS assumes 35 years of waste generation, the documents used to support the inventory assumptions estimates projected waste volumes until the year 2022, or for only 25 years in the future (Table S-1). Likewise, the RCRA Part B Permit Application describes operations at WIPP as lasting for 25 years, followed by an 8- to 10-year closure period. DOE's assumption of 35 years for waste generation (and therefore facility operation under the Proposed Action) is inadequately justified in the DSEIS.

For transportation activities under the Proposed Action, DSEIS assumes transportation by truck only (Section 3.1.2, page 3-7), even though the RCRA Part B Permit Application states that "RH TRU mixed waste will arrive at the WIPP facility in a shielded road cask on a tractor trailer or in a railroad cask loaded on a railcar." (*RCRA Part B Permit Application, Revision 6, DOE/WIPP 91-005*, page D-81, lines 24+). Eliminating assessment of rail transport in the Proposed Action may preclude shipment of RH TRU waste by rail. DOE should reevaluate rail shipments in the Proposed Action in light of statements made in regulatory application documents submitted to NMED.

For TRU waste handling operations at the surface (Section 3.1.3.2, pages 3-10 - 3-11), DOE states that "For RH-TRU waste to be shipped in the RH-72B cask, the Department would not finalize the waste handling operation procedures until the NRC certifies the RH-72B transportation cask." However, DOE provides detailed descriptions of procedures for handling RH TRU mixed waste in the RCRA Part B Permit Application (for example, Section D-10a(3)(c) of Chapter D). Again, DOE may wish to reconsider statements which appear contrary to information contained within regulatory application documents.

Assumptions in the DSEIS about the location of maximally exposed individual (MEI) at WIPP are inconsistent with information provided in the RCRA Part B Permit Application. In the DSEIS (page 5-28), the MEI noninvolved worker from normal disposal operations at WIPP is located 200 meters east of the exhaust filter building, which would put him nearly 170 meters outside the Property Protection Area fence, half-way to the SPDV Salt Storage Area. Likewise, when evaluating WIPP disposal accidents (page 5-37), the MEI member of the public and the noninvolved worker were at the same location, 300 meters south of the exhaust filter building. This may be the closest physical access a member of the public has to the exhaust, but air dispersion modeling conducted for the RCRA Part B Permit Application (Appendix D10, and depicted graphically in Figures D9-2 and D9-3) indicate this location to be directly *upwind* of any releases from the exhaust filter building. According to the RCRA Part B Permit Application, the MEI noninvolved worker would be located 10 meters south of the exhaust outlet, while the MEI member of the public would be located on the north boundary of the Exclusive Use Area. DOE must reevaluate DSEIS calculations of risk based on releases to the air considering the information contained in other regulatory application documents.

(3) Other information which may be helpful to understand the environmental impact of the project.

Harold Johnson
February 4, 1997
Page 3

DOE has already submitted a RCRA Part B Permit Application to the State and a 40 CFR §191 Compliance Certification Application to EPA for permission to operate the WIPP facility as described in the DSEIS Proposed Action. This gives the impression that DOE has already predetermined which course of action they will pursue, and that the DSEIS is simply a formality.

The DSEIS is valuable as a single, concise document which evaluates the risks (from both radiological and chemical hazards) at generator sites, along transportation routes, and at the WIPP facility which is unavailable from any other single WIPP document. However, some of the inconsistencies noted above indicate that risks presented in the DSEIS do not agree with descriptions of risk provided in the other regulatory application documents.

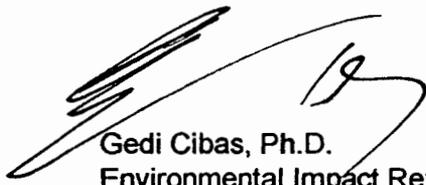
(4) Other Comments.

Although the DSEIS indicates it was published in November 1996, and includes information reflecting changes in the WIPP Land Withdrawal Act as of September 23, 1996, it contains inconsistent references to the correct versions of both the Final No-Migration Variance Petition and the RCRA Part B Permit Application. Page S-3 refers incorrectly to the Final *Draft* No-Migration Variance Petition; pages 1-8 and 1-15 refer to the RCRA application incorrectly as being Revision 5.2 and issued in 1995; and subsequent chapters reference the superseded RCRA application Revision 5.2 instead of the current Revision 6 issued in April 1996. These are relatively minor errors which nonetheless should be corrected.

One minor annoyance which permeates the entire document is the apparently arbitrary use of the terms "probability" and "percent chance" when referring to latent cancer fatalities (LCF). When the text is compared to tables listing probabilities, it is clear that the values in the text are multiplied by 100 whenever a "percent chance of an LCF" is provided. This sort of mental gymnastic burden on the reader is unnecessary, and DOE should reconsider the use of "percent chance" throughout the text.

We appreciate the opportunity to review this document. Please let us know if you have any questions on the above.

Sincerely,



Gedi Cibas, Ph.D.
Environmental Impact Review Coordinator

NMED File No. 1045ER