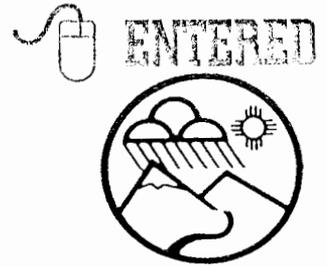




GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544



MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

March 10, 1997

Mr. Bob Light
P.O. Box 1658
Carlsbad, NM 88221

Dear Mr. Light:

Thank you for your meeting with me on February 28, 1997 to discuss environmental issues important to the public of New Mexico. As I promised you at that meeting, I am sending you information related to the permit process for the WIPP site. This information refers to the Resource Conservation Recovery Act (RCRA) application for disposal of transuranic mixed waste at WIPP.

Should you have questions, please contact me at your convenience at (505) 827-2855.

Sincerely,

A handwritten signature in cursive script that reads "Ed Kelley".

Ed Kelley, Ph.D.
Director, Water & Waste Management Division

970304



MEMO

TO:  Ed Kelley, Ph.D., Director, WWMD

FROM:  Steve Zappe, RCRA Permits Management, HRMB

DATE: March 10, 1997

SUBJECT: Factors Affecting WIPP Permitting Process

This memo is in response to your request of 2/27/97 for information about factors affecting the WIPP permitting process and schedule. At your direction, I reviewed the WIPP administrative record and copied the cover letters of correspondence between the Hazardous & Radioactive Materials Bureau (**HRMB**) and the Department of Energy (**DOE**)/Westinghouse (**WID**) which would document our requests for additional information and their responses. I have also attached a three page time line covering all WIPP regulatory activities since 1988. Please note the first page and a half cover test phase activities, which are not relevant to the current disposal phase permitting process.

NMED's involvement with WIPP disposal phase activities dates to Secretary Espinosa's order of 9/2/94, which remanded the draft permit for test phase activities back to HRMB and required DOE to submit a revised application reflecting disposal activities. DOE submitted a complete revision (Rev 5) on 5/26/95, which HRMB then reviewed (with the aid of our technical contractor, A.T. Kearney) and issued several requests for information between 11/2/95 and 11/30/95. These were informal requests, but were written in a style similar to a formal Notice of Deficiency (**NOD**). DOE had asked HRMB to use this informal procedure to avoid the perceived stigma of receiving an NOD on their application. DOE responded to the informal requests on 1/17/96 by providing a new revision of their application (Rev 5.2). Although DOE publicly proclaimed that they had addressed all our concerns at that point and anticipated only one or two items on our forthcoming NOD, HRMB issued nearly 80 pages of deficiencies found in this application.

To ensure that they would respond appropriately to the NOD, DOE requested and was granted several meetings with HRMB and its technical contractors during the 30 day response period mandated by the NOD. HRMB issued several letters clarifying items in the NOD prior to receiving DOE's final revision to the application (Rev 6) on 4/12/96. After receipt, A.T. Kearney reviewed the response to NOD comments and provided HRMB with nearly 100 pages of evaluation on the adequacy of DOE's response. Although many responses appeared to remain inadequate, the bureau rejected DOE's offer to enter into another time-consuming cycle of issuing an NOD, meeting with the applicant, receiving their response, and evaluating the adequacy of that response. The bureau decided that it would address any inadequacies in the application by imposing permit conditions and modifying inadequate portions of the application before attaching them to the permit. However, HRMB allowed DOE to provide

minor editorial changes and a revised Part A form before issuing a completeness determination on 6/27/96. This is the date at which HRMB could begin developing the draft permit.

EPA Region 6 had also been working with DOE/WID since mid-1995 on approving a voluntary release assessment and corrective action plan for solid waste management units (SWMUs) at WIPP. This plan was initiated before NMED was authorized by EPA for corrective action responsibilities under the 1984 Hazardous and Solid Waste Amendments (HSWA). DOE wanted to remove as many SWMUs as possible from inclusion in the future HSWA module of the disposal permit. Even after NMED was authorized in January 1996, EPA Region 6 continued to provide the technical expertise in evaluating the adequacy of DOE/WID's work plan and resulting data acquisition, as well as developing the preliminary HSWA module for the draft permit. HRMB identified numerous information needs relating to SWMUs at the WIPP site (separate from the Part B information requests and NODs mentioned above), and asked for further SWMU information on 4/23/96 (after receiving Rev 6 of the Part B application). During this time, DOE/WID discovered they had incorrectly used the Toxicity Characteristic Leaching Procedure (TCLP) analytical method for determining contaminant concentrations in the soil at SWMUs during their voluntary release assessment instead of analyzing for total concentrations, and as a result they had to perform extensive resampling. They also had to revise previous data summary reports, supplying EPA Region 6 and HRMB with additional data packages between 9/27/96 and 11/22/96. This has had no real effect on the drafting of the waste management permit modules, but EPA Region 6 did not have final data upon which to base the HSWA module until the end of November.

HRMB made a conscious decision after receiving Rev 6 of the Part B application that its staff would develop the preliminary modules for the draft permit. I was the staff permit writer assigned the task of developing these modules and constructing the permit. This was a change from the test phase draft permit, which was initially developed by the technical contractor and then modified by HRMB. One major reason for having the bureau develop the modules was so that we would have intimate knowledge of everything included in the permit when it came time to defend it during the public hearings. I would be a much more credible witness if I had personally written the permit conditions instead of only having reviewed them. One potential negative consequence of this choice was that, instead of 10 to 15 technical contractor staff developing the permit, only one person was writing it. Obviously, putting more staff to work on it in the bureau now would not speed the process up, since it would take time to train them (as we discussed with legislators Heaton and Kidd on 2/17/97).

Another factor slowing the process was that there was no "suggested format" to follow for a geologic disposal permit module anywhere in the U.S., as both A.T. Kearney and EPA Region 6 verified for me. Thus, time and care were required to develop a permit module for something that had never been done before. Thankfully, that task is mostly done, and is currently undergoing legal review. Likewise, I am having to redraft the EPA model permit language for a ground-water detection monitoring program, since it does not reflect the

current regulations. I am currently working on this, and should have it completed in a few weeks. Finally, my initial assumptions about the length of time required to develop the permit were not based upon experience or a complete understanding of the level of effort involved.

Another factor impacting our permitting effort was the exemption of WIPP transuranic mixed waste from treatment standards and land disposal prohibitions by the WIPP Land Withdrawal Act Amendments (Public Law 104-201) on 9/23/96. Before the exemption, EPA's Office of Solid Waste (OSW) was responsible for reviewing DOE's Final No-Migration Variance Petition and determining that no hazardous wastes would be released from WIPP. HRMB's technical evaluation of the Part B permit application was predicated on the belief that all of the unsubstantiated assertions about repository performance made in the permit application would be fully evaluated by EPA OSW, since the supporting information was contained in the No-Migration Variance Petition. Following the exemption from treatment standards and land disposal prohibitions, EPA OSW ceased all work on the No-Migration Variance Petition. HRMB must obtain this additional supporting information for inclusion in the administrative record and confirm its technical adequacy before releasing the draft permit for public comment.

In answer to your original assertion that the permit development and issuance is slower than expected due to a lack of cooperation by DOE, that would be only part of the answer. Some of the delay is due to a lack of willingness by DOE to give the regulator what was requested, and some has been due to error on their part in performing a proper analysis (as in the case of sampling during the voluntary release assessment). Finally, staffing at the bureau level and, until recently, in NMED's Office of General Counsel has resulted in slower development and review of the draft permit modules.

However, DOE has never demonstrated a clear understanding of the time requirements of the permitting process. As an example, consider the attached 4/19/96 fax from Mike McFadden to Benito Garcia, which contains what I have at other times referred to unflatteringly as a "butchered version" of one of our earlier schedules. First, note that this schedule was issued one week after they had submitted Rev 6 in response to our NOD. They estimated the time to develop the permit at 60 working days (12 weeks), which would have to include all internal technical and legal review. However, their schedule had us begin developing the draft permit before finishing our review of their NOD response and issuing a completeness determination. HRMB's response to comments, including comments received at an abbreviated 2-day public hearing, would be written during the comment period and while finalizing the permit. Perhaps most interesting is the fact that the Division Director would be given only one day to review the administrative record and the recommendation of the hearing officer before reaching a permit decision.

This lack of understanding of the permitting process, among other things, is what has led to the accelerated schedule of the current DOE Carlsbad Area Office management. Before the WIPP Land Withdrawal Act Amendments, DOE's schedule was just their own. Now, EPA is

WIPP Permitting Factors Memo

March 10, 1997

Page 4

... tied into it, and everyone assumes our permit schedule is also dictated by the sense of Congress. I believe that the "sense of Congress" is to expedite the opening of WIPP and still meet the regulatory requirements which relate to the health and safety of the general public. I will leave it to you and your legal counsel to determine what drives our schedule. I believe we want to take all necessary measures to ensure that we have a technically and legally defensible permit, capable of withstanding public scrutiny at public hearing and any legal challenges brought up by its opponents.

Let me know if you need any further information.

cc: Benito J. Garcia, Chief, HRMB
Stu Dinwiddie, Manager, RCRA Permits Management Program
Susan McMichael, NMED OGC

M E M O R A N D U M

TO:  Edward Kelley, Division Director Water and
Waste Management

FROM: Susan M. McMichael, Assistant General Counsel 

DATE: March 7, 1997

RE: **WIPP MEETING WITH DOE/WESTINGHOUSE LAWYERS**

On ^{February} ~~March~~ 12, 1997, I contacted attorneys from DOE/Westinghouse to set a meeting up regarding procedural requirements and timeframes for the draft WIPP permit. DOE/Westinghouse indicated that they would directly contact me regarding a date for this meeting. Pam Matthews, a Westinghouse attorney contacted me today to tentatively set up a meeting for 9:00 a.m. on March 18th. We also discussed an alternative meeting for Friday, March 21, 1997. Pam Matthews will contact me next week regarding the official date and time for this meeting. The attorneys from DOE/Westinghouse who will attend are: Pam Matthews (Westinghouse), Gloria Barnes (Westinghouse), Cooper Wayman (DOE) and Jose Morales (DOE).

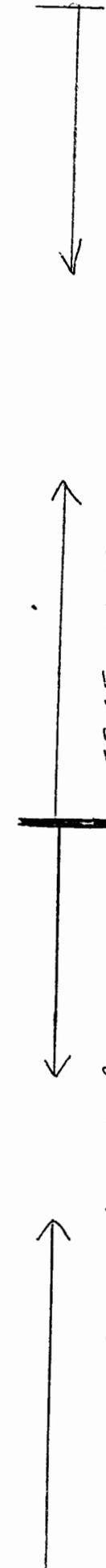
| Event/Status | | |
|--------------|----------|---|
| 7/12/88 | | DOE submits Part A to EID to satisfy interim status req's |
| 11/17/89 | | EID returns Part A to DOE, claiming no authority over MW |
| 8/27/90 | OP010 | NMED calls in RCRA Part B (Richard Mitzelfelt) |
| 1/22/91 | OP001 IS | NMED receives Part A (dated 12/28/90, signed 1/18/91) |
| 2/26/91 | OP020 | DOE submits Part B in response to 8/27/90 request (Rev 0) |
| 6/10/91 | OP100 | NMED issues NOD on Parts A & B (4 deficiencies, 1 comment) |
| 7/1/91 | OP015 08 | NMED preliminary determination, WIPP lacks interim status |
| 7/10/91 | OP001 RS | DOE responds to NOD dated 6/10/91, revised Part A (3 pages) |
| 7/18/91 | | DOE responds to 7/1/91 interim status letter |
| 8/22/91 | | DOE resubmits complete Part A (dated 7/10/91) |
| 9/23/91 | OP002 AK | NMED formally acknowledges Part B receipt |
| 9/25/91 | OP100 | NMED issues second NOD on Part B |
| 10/3/91 | | DOE notifies intent to commence Test Phase after 10/10/91 |
| 10/25/91 | OP001 RS | DOE responds to NOD dated 9/25/91, submits revised Part A maps |
| 11/1/91 | | NMED issues permit fee letter |
| 1/28/92 | | NMED provides itemized estimate of permit fees |
| 3/4/92 | OP020 | NMED receives RCRA Part B, Rev 1 (letter 3/3/92, Part A 7/10/91) |
| 4/23/92 | | NMED requests clarification on Part A signatures |
| ↑ 5/12/92 | | DOE responds to signature clarification request |
| EE 6/10/92 | OP150 | NMED determines Part A administratively complete |
| SC 7/22/92 | OP150 | NMED determines Part B (Rev 1) administratively complete |
| ↓ 8/4/92 | OP100 | NMED issues technical NOD on Part A, Chapter B of Part B |
| 8/7/92 | OP100 | NMED reissues technical NOD on Part A, Chapter B |
| 8/25/92 | OP100 | NMED issues technical NOD on Chapter C of Part B, Rev 1 |
| 9/10/92 | OP110 IN | DOE responds to NOD of 8/4/92, submits revised Ch B |
| 9/12/92 | | Public notice of WIPP application availability (dated 9/8) |
| 9/25/92 | | NMED modifies review process, grants Chapter C NOD extension |
| 9/29/92 | OP100 | NMED clarifies Chapter C NOD, requests info on D & I |
| 10/2/92 | | NMED issues public notice of public comment meetings (dated 9/24) |
| 10/14/92 | OP100 | NMED requests info, Part A & Chapter B (Rev 2) |
| 10/19/92 | OP100 | NMED requests info, Chapters E,F,G,H,J (Rev 2) |
| 10/20/92 | OP100 | NMED requests info, Part A & Chapter B (Rev 2) - modified |
| 10/29/92 | OP110 IN | DOE responds to comments (Ch B,D,I), revised Chapters D & I |
| 1/9/92 | OP170 PM | NMED holds public meeting on WIPP (Las Cruces) |
| 11/10/92 | OP170 PM | NMED holds public meeting on WIPP (Roswell) |
| 11/11/92 | | DOE requests to change Room 3 to Room 4 as HWMU |
| 11/13/92 | OP001 PB | NMED receives revised Parts A & B (Rev 2, dated 11/12/92) |

TEST PHASE PERMIT APPLICATION PROCESS

| Event/Status | | |
|--------------|----------|--|
| 11/16/92 | OP170 PM | NMED holds public meeting on WIPP (Santa Fe) |
| 11/18/92 | OP170 PM | NMED holds public meeting on WIPP (Raton) |
| 12/18/92 | OP100 | NMED issues technical NOD on Part B, Rev 1 & Rev 2 |
| 1/27/93 | OP001 PB | NMED receives Parts A,B (Rev 3), response to NOD of 12/18/92 |
| 4/13/93 | OP100 | NMED requests further information, Part B (Rev 3) |
| 4/19/93 | OP110 IN | DOE responds to 4/13/93 request |
| 4/28/93 | OP100 | NMED responds to 4/19/93 letter, requiring updated pages |
| 5/17/93 | OP110 CO | DOE submits revised pages to Part B (Rev 3.1) |
| 5/20/93 | OP150 | NMED determines application complete, technically adequate? |
| 7/12/93 | | DOE transmits distribution list for Rev 3.1 |
| 8/24/93 | | NMED issues draft permit |
| 8/30/93 | OP160 DP | Begin public comment period on draft permit (until 11/1/93) |
| 10/21/93 | | DOE cancels Test Phase |
| 11/8/93 | | NMED extends public comment period from 11/1/93-12/1/93 (?) |
| 12/16/93 | | NMED extends public comment period to 1/14/94 |
| 1/13/94 | OP180 OT | DOE requests opportunity to revise Part B for Disposal Phase |
| 1/18/94 | | NMED responds to 1/13 request to revise Part B for Disposal |
| 9/2/94 | OP100 | NMED Secretary issues order on WIPP draft permit |
| 9/15/94 | | DOE responds to Secretary's order of 9/22 |
| 9/21/94 | | NMED estimates permit fees for disposal phase permit |
| 9/30/94 | OP110 IN | DOE submits partial revised Part B (B, E, J, K) |
| 10/3/94 | OP110 IN | DOE submits partial revised Part B (G) |
| 10/12/94 | OP110 IN | DOE submits partial revised Part B (F, H) |
| 12/14/94 | | DOE, NMED sign disposal phase permit fee agreement |
| 1/6/95 | OP110 IN | DOE submits partial revised Part B (D, I) |
| 3/2/95 | OP001 PB | DOE submits partial revised Part B (A, C, L, M) (Part A Rev 4) |
| 5/26/95 | OP001 PB | DOE submits complete revision Parts A & B (Rev 5) |
| 6/15/95 | | NMED issues public notice, receipt of revised Part B |
| 6/20/95 | | NMED closes Secretary's order on draft permit |
| 7/25/95 | OP150 | NMED determines administrative completeness - Parts A & B |
| 8/2/95 | | DOE submits replacement page C7-1 - C7-2 |
| 11/2/95 | OP100 | NMED requests info, Chapters A,B,C (Rev 5) |
| 11/16/95 | OP100 | NMED requests info, Chapters D,E,I (Rev 5) |
| 11/30/95 | OP100 | NMED requests info, Chapters F,G,H,K,L,M (Rev 5) |
| 12/1/95 | OP110 IN | DOE responds to comments, submits Chapters A,B (Rev 5.1) |
| 12/6/95 | | DOE requests further meetings to discuss comment responses |
| 12/6/95 | OP110 IN | DOE responds to comments, submits Chapters I,L (Rev 5.1) |

APPLICATION PROCESS
 TEST PHASE PERMIT
 DISPOSAL PHASE PERMIT PROCESS

↑
 SC
 9/2



| Event/Status | | |
|--------------|----------|--|
| 2/8/95 | | NMED adjusts schedule to meet with DOE |
| 12/13/95 | OP110 IN | DOE responds to comments, submits Chapters D,E (Rev 5.1) |
| 12/19/95 | OP110 IN | DOE responds to comments, submits Chapters F,H (Rev 5.1) |
| 12/20/95 | OP110 IN | DOE responds to comments, submits Chapters C,G (Rev 5.1) |
| 1/17/96 | OP110 IN | DOE responds to comments on all chapters, submits Rev 5.2 |
| 3/14/96 | OP100 | NMED issues technical NOD on Part B, Rev 5.2 |
| 3/29/96 | | NMED clarifies issues in 3/14/96 NOD raised by DOE/WID |
| 4/9/96 | | NMED clarifies issues in 3/14/96 NOD raised by DOE/WID |
| 4/12/96 | OP001 PB | DOE responds to NOD, submits Part B Rev 6.0 |
| 4/23/96 | | NMED requests additional info on WIPP SWMUs |
| 4/26/96 | | DOE seeks extension to SWMU info request of 4/24/96 |
| 5/29/96 | | DOE responds to request for info for WIPP SWMUs |
| 5/29/96 | OP001 PB | DOE submits revised Part A, minor page changes to Part B (Rev 6.1) |
| 6/3/96 | OP110 CO | DOE submits Part B editorial pages changes |
| 6/27/96 | OP150 | NMED issues completeness determination on Part B, Rev 6 |
| 9/27/96 | | DOE submits data package for 6 SWMUs |
| 9/27/96 | OP110 CO | DOE submits final Shaft Seal Design Report, response to NOD |
| 0/7/96 | | DOE submits data package for 8 SWMUs |
| 10/18/96 | | WID submits SWMU location maps and total metal sampling summaries |
| 11/22/96 | | DOE submits data package ("final report") for 16 SWMUs |
| 1/29/97 | | DOE submits Final SWMU Assessment Report |
| 2/25/97 | | NMED requests revised WIPP ground-water monitoring plan |

DISPOSAL PHASE PERMIT APPLICATION PROCESS

**OFFICE OF REGULATORY
COMPLIANCE
CARLSBAD AREA OFFICE
U.S. DEPARTMENT OF ENERGY
P.O. BOX 3090
CARLSBAD, NM 88221-3090**



NO. OF PAGES (EXCLUDING COVER) 1

DATE 4/19/96

| | |
|-----------|----------------------|
| TO: | <i>Benito Garcia</i> |
| LOCATION: | <i>NMED</i> |
| FAX # | <i>505-827-1544</i> |

| |
|--|
| FROM: MIKE MCFADDEN ASSISTANT MANAGER FOR REGULATORY COMPLIANCE |
| LOCATION: WOIC, 3RD FLOOR |
| PHONE/FAX #: 505-234-7486 / 505-234-7430 |

MESSAGE: *Just a "head up", George Diab will probably give this schedule to Mark Weidlen and the Governor on Monday.*

SENT BY: CAO
 4-19-96 : 8:33AM :
 2A0-
 5058271544:# 2

WIPP PART B PERMIT DEVELOPMENT

| ID | Task Name | Duration | 1996 | | | | | | | | | | | | | | |
|----|---|----------|--------|------------------|------------------|-----|-----|-------------------|-----|-------------------|-----|-----|--|--|--|--|---------|
| | | | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | | | | | |
| 1 | NMED Issue NOD | 0d | ◆ 3/14 | | | | | | | | | | | | | | |
| 2 | DOE Response to NOD | 0d | | ◆ 4/12 | | | | | | | | | | | | | |
| 3 | NMED Review NOD Response | 20d | | ■ 4/15 thru 5/10 | | | | | | | | | | | | | |
| 4 | NMED Develop Draft Permit | 60d | | | ■ 4/23 thru 7/19 | | | | | | | | | | | | |
| 5 | Issue Draft Permit/Public Hearing Notice | 0d | | | | | | ◆ 7/19 | | | | | | | | | |
| 6 | Public Response to Draft Permit | 32d | | | | | | ■ 7/19 thru 9/2 | | | | | | | | | |
| 7 | Public Meeting in Carlsbad | 0d | | | | | | ◆ 7/26 | | | | | | | | | |
| 8 | NMED Respond to Public Notice Comments | 74d | | | | | | ■ 7/19 thru 10/20 | | | | | | | | | |
| 9 | Public Hearing in Carlsbad (if necessary) | 2d | | | | | | | | ■ 9/5 thru 9/10 | | | | | | | |
| 10 | Finalize Permit/Respond to Hearing Comments | 45d | | | | | | | | ■ 9/11 thru 11/12 | | | | | | | |
| 11 | Submit Permit to NMED Division Director | 0d | | | | | | | | | | | | | | | ◆ 11/12 |
| 12 | Permit Review by Division Director | 0d | | | | | | | | | | | | | | | ◆ 11/13 |
| 13 | Permit Notice of Decision | 0d | | | | | | | | | | | | | | | ◆ 11/14 |
| 14 | Final Permit Decision | 0d | | | | | | | | | | | | | | | ◆ 12/16 |

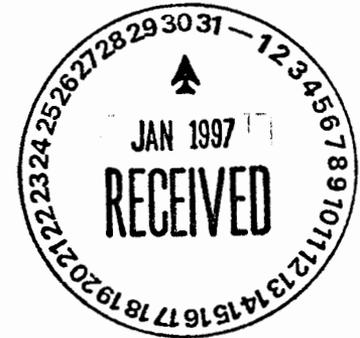
Notes and Differences to NMED's WIPP RCRA Permitting Schedule dated 10/18/95:

1. Public Hearing date and location is determined and set when the public notice of draft permit is issued, not after the public notice for comment deadline or NMED's response to public notice comments.
2. Duration reflects working days, not calendar days.
3. Reduced the time to develop the draft permit from 120 working days to 60 working days.
4. Increased the total time to respond to the public meeting and public notice comments from 22 working days to 74 working days.
5. Identified (as necessary) a public hearing time frame from 22 working days to encompass the hearing(s) to 2 working days for a hearing in Carlsbad.
6. Reduced the time to finalize the permit and complete responses from the public hearing from 75 working days to 45 working days.
7. Reduced the time for NMED Director review of the permit from 22 working days to 1 working day.



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221



January 29, 1997

Mr. Steve Zappe
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 A Galisteo
Santa Fe, New Mexico 87505

Subject: Final Solid Waste Management Unit Assessment Report

Dear Mr. Zappe:

This letter is transmitting the Final Solid Waste Management Unit (SWMU) Assessment Report, DOE/WIPP 97-2220, for the SWMUs at the Waste Isolation Pilot Plant. This Final SWMU Assessment Report replaces the Data Summary Report No. 4, Solid Waste Management Units identified in the Waste Isolation Pilot Plant RCRA Facility Assessment which was sent to you on May 29, 1996.

As you are aware, a total of 97 SWMUs have been identified at the WIPP during and following the Resource Conservation and Recovery Act Facility Assessment (RFA) for WIPP, NMED/DOE/AIP94/1. Sixteen of these 97 SWMUs were addressed in Final Voluntary Release Assessment/Corrective Action Report, DOE/WIPP 96-2209, which was sent to you on November 22, 1996. Information on the remaining SWMUs were originally discussed in Data Summary Report No. 4 but have been updated and finalized in this Final SWMU Assessment Report. This document demonstrates through sampling activities, management practices, inspections, and reports that the potential of these SWMUs to release hazardous constituents to the surrounding environment at or above applicable risk-based action levels is extremely low to nonexistent.

If you have any questions, or if you would like to discuss the attached results, please contact me at (505) 234-7452.

Sincerely,

Craig A. Snider
Compliance Engineer



Mr. Steve Zappe

- 2 -

January 29, 1997

Enclosure

cc:

R. Casanova, EPA

B. Kraus, EEG

J. Kenney, EEG-Carlsbad

cc w/o enclosure:

P. Kilgore, CAO

L. Frank-Supka, WID

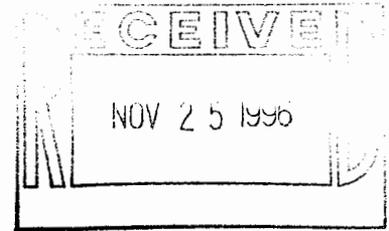
K. Day, WID

C&C File



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221



November 22, 1996

Mr. Steve Zappe
New Mexico Environment Department
Hazardous and Radioactive Materials Bureau
2044 A Galisteo St.
Santa Fe, New Mexico 87505

Subject: Final Voluntary Release Assessment/Corrective Action Report

Dear Mr. Zappe:

This letter transmits the Final Voluntary Release Assessment/Corrective Action (RA/CA) Report for 16 Solid Waste Management Units (SWMUs) at the Waste Isolation Pilot Plant.

This Final Voluntary RA/CA Report documents the results of release assessment sampling at 11 SWMUs (SWMU Nos. 001g, 001h, 001j, 001k, 001L, 001m, 001n, 001s, 001t, 001x, and 004a). Analytical results for release assessment samples collected at these SWMUs demonstrates that total metals concentrations measured in the 11 SWMUs are equivalent to measured soil background concentrations and are well below applicable Subpart S action levels. In addition, no volatile organic compounds (VOCs) were detected in any of the 11 SWMUs, and VOC laboratory method reporting limits are also below applicable Subpart S action levels. Although some metals results were qualified as estimated during data validation, no results were rejected, and data quality is sufficient to demonstrate that concentrations of total metals within the SWMUs are well below the Subpart S levels. Additionally, this report provides information to our request for No Further Action at the Brinderson and Construction Landfill SWMUs, and to support our request for approval of proposed corrective actions at three other SWMUs (the Badger Unit Drill Pad, the Cotton Baby Drill Pad, and the DOE-1 Drill Pad).

If you have any questions, or if you would like to discuss the attached results, please contact me at (505) 234-7452.

Sincerely,

A handwritten signature in black ink, appearing to read "C. A. Snider".

C. A. Snider
Compliance Engineer



Steve Zappe

- 2 -

November 22, 1996

Enclosure

cc w/enclosure:

R. Casanova, EPA VI

B. Kraus, EEG

cc w/o enclosure:

P. Kilgore, CAO

L. Frank-Supka, WID

K. Day, WID

C&C File



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544



MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
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. Pamph. 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.

Mr. Michael McFadden
Page 2
October 31, 1996

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



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544



MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

October 28, 1996

Mr. Craig Snider
Carlsbad Area Office
Department of Energy
P. O. Box 3090
Carlsbad, New Mexico 88221

Dear Mr. Snider:

RE: Request for latest NMED WIPP RCRA Permitting Schedule

The NMED Hazardous and Radioactive Materials Bureau (HRMB) received your letter dated October 24, 1996, in which you requested a copy of the latest schedule developed by NMED for the WIPP RCRA permitting process. You stated that your need for this schedule arose from the necessity to properly allocate resources for the effort of securing a RCRA permit for WIPP.

Enclosed is a copy of the "NMED Tentative WIPP RCRA Permitting Schedule" dated June 27, 1996. HRMB staff distributed copies of this schedule at the July 25, 1996, WIPP Quarterly Meeting held in Santa Fe. Please note that this schedule only provides dates for those events which have already occurred. The primary purpose of the schedule is for HRMB internal planning and tracking purposes. Dates for future activities are tentative and subject to change due to interaction between HRMB staff, NMED Office of General Counsel (OGC) staff, and contractor staff. HRMB is unable to accurately forecast schedule dates for those activities which occur beyond the responsibility or control of HRMB or its contractors.

HRMB staff, contractor staff, and NMED OGC staff are currently developing the preliminary draft permit for disposal of mixed transuranic waste at WIPP. HRMB is moving forward with its development as expeditiously as possible. HRMB will continue to provide general information to all interested parties concerning the issuance of the draft permit for public comment.

Mr. Craig Snider
Page 2
October 28, 1996

If you have any questions on this response to your request, please contact me at (505) 827-1561.

Sincerely,



Steve Zappe
Hazardous Waste Permits Management Program
Hazardous and Radioactive Materials Bureau

cc: Benito Garcia, HRMB
Susan McMichael, NMED OGC
WIPP File - Red '96



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

October 21, 1996



Mr. Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo
Santa Fe, New Mexico 87502

Subject: Meeting request regarding Land Withdrawal Act Amendment

Dear Mr. Garcia:

With the recent Presidential signing of the Defense Authorization Bill, which amended the WIPP Land Withdrawal Act, the WIPP is exempted from conditions outlined in the Land Disposal Restrictions, 40 CFR 268. I understand there may be some discussion on this exemption in the New Mexico Environment Department.

I propose that we, along with our technical and legal teams, meet at the earliest possible time and discuss this most recent development to the environmental regulations applicable to WIPP. I would like to recommend meeting at your office on October 24, 1996.

Please contact me at (505) 234-7486 regarding this request.

Sincerely,

Michael H. McFadden
Assistant Manager
Office of Regulatory Compliance





GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544



MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 25, 1997

Mr. George Dials, Manager
Carlsbad Area Office
Department of Energy
P. O. Box 3090
Carlsbad, New Mexico 88221

Mr. Joe Epstein, General Manager
Westinghouse Electric Corporation
P.O. Box 2078
Carlsbad, New Mexico 88220

Dear Messrs. Dials and Epstein:

RE: Request for revised WIPP Groundwater Monitoring Plan
EPA I.D. Number NM4890139088

The New Mexico Environment Department (NMED) Hazardous and Radioactive Materials Bureau (HRMB) is currently developing a draft permit based upon the RCRA Part B Permit Application (DOE/WIPP 91-005, Revision 6) submitted by the Department of Energy (DOE) and Westinghouse (WID) for the Waste Isolation Pilot Plant (WIPP) on April 12, 1996, with subsequent updates submitted May 29, 1996 and editorial page changes submitted June 3, 1996. The permit will address the management of transuranic mixed waste in portions of the Waste Handling Building and the adjacent parking lot, and the ultimate disposal of this waste into an underground miscellaneous unit.

During development of the permit module pertaining to groundwater detection monitoring, HRMB staff identified several inadequacies with the groundwater monitoring plan contained in the permit application (Appendix D18). During a telephone conversation on February 12 with Craig Snider and Bob Kehrman of your staffs, they informed HRMB of their determination that the groundwater monitoring plan was also insufficient for the purpose of preparing for the WIPP Operational Readiness Review (ORR), and that WID is currently revising the plan. Mr. Kehrman stated that the revision is primarily a consolidation of existing information scattered throughout the permit application, but that some new information may be added.

Based upon HRMB's need for an adequate groundwater monitoring plan and WID's revision of the existing plan, HRMB requests this revised groundwater monitoring plan for inclusion in both the administrative record and the draft permit. As was stated in the July 27, 1996 completeness determination, "This determination does not preclude HRMB from requesting additional information during the development of the draft permit, but only as necessary to clarify, modify or supplement previously submitted material. Requests for additional information will not render the application incomplete." This information is necessary to

Messrs. Dials and Epstein
Page 2
February 25, 1997

clarify, supplement, and possibly modify the material previously submitted as Appendix D18 in the above mentioned RCRA Part B Permit Application.

HRMB requests that the following topics be included and adequately addressed in the revised groundwater monitoring plan:

- Specify explicitly the proposed monitoring network.
- Identify the point of compliance for groundwater monitoring.
- Provide a complete discussion on the appropriateness of monitoring well locations and suitability of monitored intervals to detect releases of hazardous constituents. In particular, address what appears to be a potential detection well gap between WQSP-3 and WQSP-4 to the east of the repository.
- Provide geologic/hydrologic information (or reference other sections of the Part B Permit Application) to support the discussion on well locations and monitoring intervals.
- Provide well construction documentation, including installation methodologies, construction techniques, well development, detailed well diagrams, core logs, soil sampling, and justification for any deviations from typical well construction standards, as defined by the *RCRA Groundwater Monitoring Technical Enforcement Guidance Document (TEGD)* and *RCRA Groundwater Monitoring: Draft Technical Guidance*.
- Identify the proposed monitoring frequency for detection monitoring.
- Include detailed sampling procedures, types of containers used for sample collection, sample collection methodologies, sample preservation requirements, volumes required for analyses, chain of custody programs, etc.
- Describe equipment decontamination, management of investigation-derived waste, and surveying procedures.
- Include discussions of quality assurance/quality control for sample collection, such as frequency of duplicate, trip blank, and other sample collections.
- Provide a complete proposed list of indicator parameters, waste constituents, and reaction products for monitoring, the rationale for their selection, and the analytical methods to be used.
- Identify the contract laboratory performing sample analyses and include all associated SOPs.
- Include applicable and necessary quality assurance information within the plan, rather than reference governing documents.
- Provide procedures to statistically evaluate data.
- Include procedures and frequencies for collecting water level measurements.
- Provide a table summarizing groundwater quality data obtained to date (optional).

Please provide us with three hardcopies and an electronic copy (in WordPerfect 5.2 format) as soon as possible. You may coordinate shipment of the hardcopies to our office and that of our technical contractor with Mr. Steve Zappe of my staff.

Messrs. Dials and Epstein
Page 3
February 25, 1997

Thank you for your cooperation in this permitting process. If you have any questions, please contact Mr. Zappe at (505) 827-1561.

Sincerely,



Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau

cc: Ed Kelley, NMED
Stu Dinwiddie, HRMB
Steve Zappe, HRMB
Susan McMichael, NMED OGC
David Neleigh, EPA Region 6
Frank Marcinoski, EPA ORIA
Connie Walker, A.T. Kearney
File: Red WIPP '97
Track: WIPP, 2/25/97, Dials, Garcia, RE:



Westinghouse
Electric Corporation

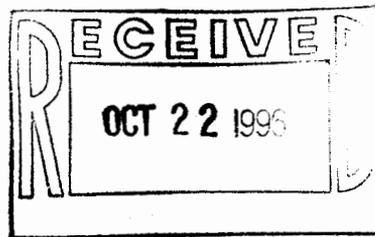
Government Operations

WZ:96:03340
DA:96:2474
Waste Isolation Division

Box 2078
Carlsbad New Mexico 88221

October 18, 1996

Mr. Rafael Casanova, Environmental Scientist
U.S. Environmental Protection Agency
Hazardous Waste Management Division
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733



Subject: TRANSMITTAL OF SAMPLE LOCATION MAPS AND COMPARISON OF
TOTAL METALS RESULTS FOR WIPP SOLID WASTE MANAGEMENT
UNITS

Dear Mr. Casanova:

Per your request during our meeting of October 9, 1996, enclosed are twelve maps identifying the locations of the WIPP Solid Waste Management Units (SWMUs). These twelve maps are identified as Figures 1.1 through 12.1. These maps are accompanied with updated comparison tables. Both of these documents will also be included in the Final Voluntary Release Assessment/Corrective Action Report.

Figure 1.1 encompasses all eleven sites where voluntary release assessments have been completed. The remaining Figures 2.1 through 12.1 provide a detailed breakdown by SWMU of the locations where soil samples were collected. These sample location maps are intended to go hand-in-hand with the final validated analytical results on each SWMU. The final validated analytical results were provided to you on September 27, 1996, and October 7, 1996.

Eleven tables comparing total metals concentrations measured in the SWMU soil samples to background concentrations, and to action levels proposed in 40 CFR 264.521 (Subpart S) are also enclosed. These updated comparison tables will supersede comparison tables provided earlier for these eleven SWMUs. Updates consist of the most recent toxicological criteria/reference, and identify the type of laboratory quality assurance/quality control samples used to validate the analytical results.

Mr. R. Casanova

-2-

WZ:96:03340

If you have any questions, or if you would like to discuss the attached results, please call Mr. S. C. Kouba at (505) 234-8332 or Ms. L. Frank-Supka at (505) 234-8816.

Sincerely,



K. S. Donovan, Manager
Environment, Safety, and Health

LFS:clw

Attachments

cc: C. A. Snider DOE/Regulatory Compliance
 S. Zappe NMED/RCRA Permits Program

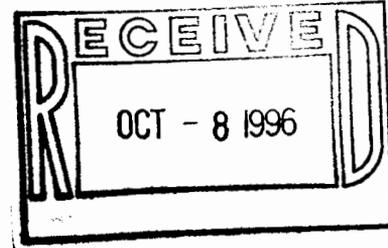


Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

*Sta
Glewe*

October 7, 1996



Mr. Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo
Santa Fe, New Mexico 87502

Dear Mr. Garcia:

Subject: Submittal of (8) SWMU data packages; Recommendation for No-Further Action

This letter provides validated analytical results for eight Solid Waste Management Units (SWMUs) at the Waste Isolation Pilot Plant (WIPP). Results are specifically provided for soil samples collected from the following eight SWMUs during the WIPP Voluntary Release Assessment (VRA) program:

| | |
|--------------------|----------------------|
| SWMU 001n, P-15 | SWMU 001x, WIPP-13 |
| SWMU 001t, IMC 374 | SWMU 001j, P-3 |
| SWMU 001g, P-1 | SWMU 001m, P-6 |
| SWMU 0011, P-5 | SWMU004a, Porta Camp |

A separate attachment is included with this letter for each of these SWMUs. In each attachment the following information is included:

- A table comparing total metals concentrations measured in SWMU soil samples to background concentrations measured near the SWMU and to action levels proposed in 40 CFR 264.521 (Subpart S).
- A complete table of validated analytical data, presenting both total and toxicity characteristic leaching procedure (TCLP) results for samples collected at the SWMU during the VRA program.
- A data review form which presents a summary of data quality for the total analyses results and the findings of an independent data validation.

The data presented in the attached tables demonstrates that total metals concentrations measured in the eight SWMUs are equivalent to measured soil background concentrations and are well below applicable Subpart S action levels. In addition, no volatile organic compounds (VOCs) were detected in any of the eight SWMUs, and VOC laboratory method



Mr. Benito J. Garcia

- 2 -

October 7, 1996

reporting limits are also below applicable Subpart S action levels. Although some metals results were qualified as estimated during data validation, no results were rejected, and data quality is sufficient to demonstrate that concentrations of total metals within the SWMUs are well below the Subpart S action levels.

Analytical results for samples collected at these SWMUs during the VRA program will be included in the final VRA report. However, based on the attached validated data, the WIPP is recommending no further action (NFA) for the eight SWMUs listed above. For your convenience, we have also provided this material to Mr. Rafael Casanova of EPA's Region VI office.

Please contact Craig Snider at (505)234-7452 regarding this request at your earliest convenience.

Sincerely,



Michael H. McFadden
Assistant Manager
Office of Regulatory Compliance

Enclosure

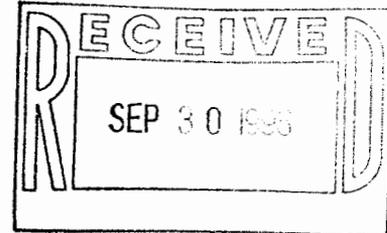


Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

September 27, 1996

Mr. Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo
Santa Fe, New Mexico 87502



Subject: Submittal of (6) SWMU data packages; Request for No-Further Action

Dear Mr. Garcia:

This letter provides validated analytical results for six Solid Waste Management Units (SWMUs) at the Waste Isolation Pilot Plant (WIPP). Results are specifically provided for soil samples collected from the following six SWMUs during the WIPP Voluntary Release Assessment (VRA) program:

| | |
|--------------------|-------------------|
| SWMU 001g, H-14 | SWMU 001h, P-2 |
| SWMU 001i, WIPP-12 | SWMU 001k, P-4 |
| SWMU 001h, H-15 | SWMU 001s, ERDA-9 |

A separate attachment is included with this letter for each of these SWMUs. In each attachment, the following information is included:

- A table comparing total metals concentrations measured in SWMU soil samples to background concentrations measured near the SWMU and to action levels proposed in 40 CFR 264.521 (Subpart S)
- A complete table of validated analytical data, presenting both total and toxicity characteristic leaching procedure (TCLP) results for samples collected at the SWMU during the VRA program
- A data review form which presents a summary of data quality for the total analyses results and the findings of an independent data validation



Mr. Benito J. Garcia

- 2 -

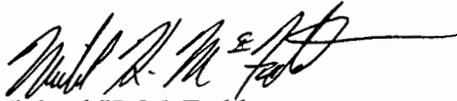
September 27, 1996

The data presented in the attached tables demonstrates that total metals concentrations measured in the six SWMUs are equivalent to measured soil background concentrations and are well below applicable Subpart Saction levels. In addition, no volatile organic compounds (VOCs) were detected in any of the six SWMUs, and VOC laboratory method reporting limits are also below applicable Subpart Saction levels. Although some metals results were qualified as estimated during data validation, no results were rejected, and data quality is sufficient to demonstrate that concentrations of total metals within the SWMUs are well below the Subpart Saction levels.

Analytical results for samples collected at these SWMUs during the VRA program will be included in the final VRA report. However, based on the attached validated data, we request that a no further action (NFA) status be applied for the six SWMUs listed above. For your convenience, we have also provided this material to Mr. Rafael Casanova of EPA's Region VI office.

Please contact Craig Snider at (505) 234-7452 regarding this request at your earliest convenience.

Sincerely,



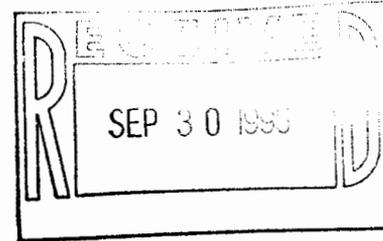
Michael H. McFadden
Assistant Manager
Office of Regulatory Compliance
Carlsbad Area Office



Department of Energy
Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

September 27, 1996

Mr. Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo
Santa Fe, New Mexico 87502



Subject: Submittal of Final Shaft Seal Design Report entitled "Waste Isolation Pilot Plant Shaft Sealing System Compliance Submittal Design Report"

Dear Mr. Garcia:

Please find enclosed two copies of the subject document. This submittal is in accordance with the response to specific comment Number 1 of Appendix I2 from the notice of deficiency. Also, according to directions from your office, two copies will be sent via this letter to Ms. Connie Walker of A.T. Kearney Inc. A copy of this report will also be provided to Mr. Raphael A. Casanova of EPA Region VI.

Please contact Craig Snider at (505) 234-7452 regarding this submittal should you have any questions.

Sincerely,

Michael H. McFadden
Assistant Manager
Office of Regulatory Compliance
Carlsbad Area Office

cc w/ enclosure:
C. Walker, A.T. Kearney
R. Casanova, EPA Region VI





Westinghouse
Electric Corporation

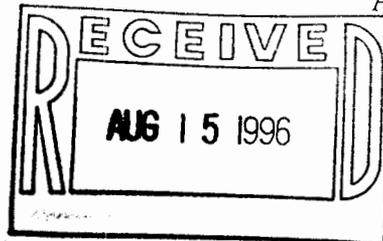
Government Operations

WZ:96:03330
DA:96:2419
Waste Isolation Division

Box 2078
Carlsbad New Mexico 88221

August 14, 1996

Mr. Steve Zappe
New Mexico Environment Department
Hazardous and Radioactive Materials Bureau
2044 A Galisteo
Santa Fe, NM 87502



Subject: INFORMATION COPIES OF TCLP AND TOTAL ANALYTICAL DATA FOR
SELECTED SOLID WASTE MANAGEMENT UNITS AT THE WIPP

Dear Mr. Zappe:

Enclosed are information copies of the data summary tables that provide the TCLP and Total concentrations for constituents tested at the eleven SWMUS described in the WIPP Voluntary Release Assessment/Corrective Action Work Plan. This information has undergone basic data validation as described in the work plan. Independently validated data packages will be provided in the revised Data Summary Reports. The proposed schedule for the submittal of the revised Data Summary Reports is September 1, 1996.

Also enclosed are the raw data packages for all TCLP data collected during the voluntary corrective action program, and information tables that compare the action levels from proposed Subpart S, the EPA Region III Risk Based Concentration Tables, and the proposed HWIR Media Bright Line Action Level Concentrations.

If you have any questions regarding this data or require any additional information, please contact Mr. D. C. Robertson at (505) 234-8240.

Sincerely,

K. S. Donovan

K. S. Donovan, Manager
Environment, Safety, and Health

DCR:clw

Enclosures

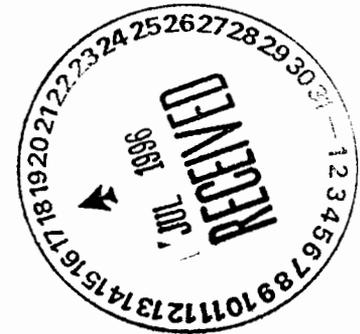
Steve Z



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

July 15, 1996



Mr. Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo
Santa Fe, N.M. 87502

Subject: Reply to June 27, 1996 RCRA Part B Completeness Notification

Dear Mr. Garcia:

Thank you for your recent acknowledgment of completeness for the Waste Isolation Pilot Plant's Resource Conservation and Recovery Act (RCRA) Part B permit application. We look forward to the issuance of the draft permit. Should you require any additional information during the development of the draft permit, I will ensure this material is provided to you and your staff in a most timely fashion.

Please contact me or Craig Snider of my staff at (505) 234-7452 for any clarification or additional material.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael H. McFadden".

Michael H. McFadden
Assistant Manager
Office of Regulatory Compliance

**OFFICE OF REGULATORY COMPLIANCE
 CARLSBAD AREA OFFICE
 U.S. DEPT OF ENERGY
 P.O. BOX 3090
 CARLSBAD, NM 88221-3090**



NO. OF PAGES (excluding cover) 1

DATE 6/27/96

TO: Steve Zappe

LOCATION:

FAX # (505) 827-1544

FROM: Craig A. Snider

LOCATION: WOIC, 3rd Floor

PHONE/FAX #: 505-234-7452 / 505-234-7430

MESSAGES: Steve: Proposed.

Craig

*Still pretty rough -
 be gentle
 Craig*

The purpose of this letter is to describe and submit supplemental data to support the development of a Statement of Basis (SOB) for the Solid Waste Management Units (SWMUs) described in the WIPP Voluntary Release Assessment Work Plan (DOE/WIPP Draft 2115 - July 1995). Based upon discussions held on June 26, 1996, with your staff and from EPA Region VI, we understand the development of the SOB cannot be completed based entirely on the TLCP data contained in Data Summary Reports 1 through 3.

In order to provide this data prior to the issuance of the draft Part B permit, the DOE proposes to collect a series of organic and inorganic samples at a single borehole (sample at 2 horizons) at each of the 11 SWMUs identified in Enclosure I. The Voluntary Release Assessment Workplan originally proposed the sampling from two boreholes within the various SWMUs, nevertheless, with the single borehole, along with the TLCP information, we believe we show with high confidence, these SWMUs pose no threat to human health or the environment. Samples will be collected from the boreholes where the highest TLCP metals concentrations were identified in Data Summary Reports 1 through 3. Samples will be collected using the same sampling and QA protocols described in the Voluntary Release Assessment Work Plan. All samples will be analyzed for the "totals" constituent concentrations, and will be analyzed for the same constituents listed in the Voluntary Release Assessment Workplan. All analytical data will be provided in a series of data summary tables. The location of each borehole will be provided on individual SWMU sample location maps.

We request that any comments you have on this supplemental sampling program be provided at the earliest possible date. As we discussed with your staff, we will begin sampling immediately in an effort to provide this supplemental data prior to the issuance of the draft permit. If you have any questions, or require any additional information please contact Mr. Craig Snider at (505) 234-7452.

DRAFT



GARY E. JOHNSON
GOVERNOR

WIPP File

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544



MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 27, 1996

Mr. George Dials, Manager
Carlsbad Area Office
Department of Energy
P. O. Box 3090
Carlsbad, New Mexico 88221

Mr. Joe Epstein, General Manager
Westinghouse Electric Corporation
P.O. Box 2078
Carlsbad, New Mexico 88220

Dear Messrs. Dials and Epstein:

RE: Completeness of RCRA Part B Application Revision 6
EPA I.D. Number NM4890139088

The New Mexico Environment Department (NMED) has received the RCRA Part B Permit Application (DOE/WIPP 91-005, Revision 6) submitted by the Department of Energy (DOE) and Westinghouse (WID) for the Waste Isolation Pilot Plant (WIPP) on April 12, 1996, with subsequent updates submitted May 29, 1996 and editorial page changes submitted June 3, 1996. The application seeks a permit for the management of transuranic mixed waste in portions of the Waste Handling Building and the adjacent parking lot, and the ultimate disposal of this waste into an underground miscellaneous unit.

NMED has reviewed this permit application for completeness and determined that it meets the requirements for RCRA applications identified in the State's Hazardous Waste Management regulations (20 NMAC 4.1, Subpart IX, §270 Subpart B, effective November 1, 1995). The Hazardous and Radioactive Materials Bureau (HRMB) will begin development of the draft permit later this month. This draft permit, consisting of waste management and corrective action modules, will rely on all relevant information contained in the administrative record, which include the Part B permit application, the RCRA Facility Investigation (RFA), and other documents.

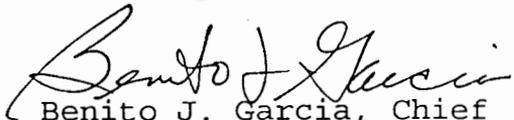
This determination does not preclude HRMB from requesting additional information during the development of the draft permit, but only as necessary to clarify, modify or supplement previously submitted material. Requests for additional information will not render the application incomplete.

Messrs. Dials and Epstein
Page 2
June 27, 1996

HRMB identified a misconception in your May 29 letter, which stated, "I understand that once the New Mexico Environment Department (NMED) begins drafting the permit, any future changes will be required to go through the formal process of a permit modification." DOE/WID may provide written comments on the NMED draft permit and include suggested revisions or additional information during the public comment period. This information would be considered, along with all other comments received during the public comment period, when the Secretary issues a final permit decision.

Thank you for your cooperation in this permitting process. If you have any questions, please contact Mr. Steve Zappe of my staff at (505) 827-1561.

Sincerely,



Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau

cc: Ed Kelley, NMED
Barbara Hoditschek, HRMB
Steve Zappe, HRMB
Susan McMichael, NMED OGC
David Neleigh, EPA Region 6
Matt Hale, EPA OSW
Connie Walker, A.T. Kearney
WIPP File - Red '96



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

June 3, 1996



Ms. Barbara Hoditschek
RCRA Permits Program Manager
New Mexico Environment Department
Hazardous & Radioactive Materials Bureau
P.O. Box 26110
Santa Fe, N.M. 87502

Subject: RCRA Part B Application Editorial Page Change Submission

Dear Ms. Hoditschek:

Enclosed are additional pages of our editorial page change submission to the Resource Conservation and Recovery Act (RCRA) Part B application missing from the May 29, 1996, submittal to Secretary Weidler. As in the May 29, 1996 submittal, we acknowledge this change can be submitted prior to the decision of technical adequacy. This enclosure does not introduce any new or substantive technical information. Pursuant to previous guidance, we are providing three copies of this submittal to Ms. Connie Walker of A. T. Kearney, Inc.

If you need any information or clarification of previous submittals, please contact Mr. Craig Snider of my staff at (505) 234-7452.

Sincerely,

A handwritten signature in cursive script that reads "James A. Mewhinney".

James Mewhinney
Compliance Team Leader
Office of Regulatory Compliance

Enclosure

cc w/enclosure:

S. Zappe, NMED (6)
C. Walker, A.T. Kearney (3)

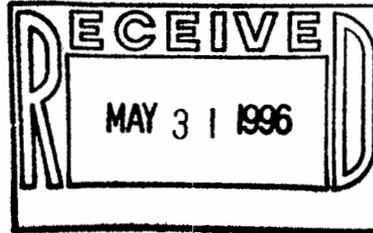


Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

May 29, 1996

Mr. Mark Weidler, Secretary
New Mexico Environment Department
P.O. Box 26110
Santa Fe, N.M. 87502



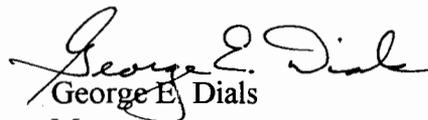
Dear Mr. Weidler:

Please find enclosed an updated Part A segment of the Waste Isolation Pilot Plant (WIPP) Resource Conservation and Recovery Act (RCRA) permit application. The purpose of the update is to include three additional hazardous waste codes recently brought to our attention by the Idaho National Engineering Laboratory. Additionally, we wish to make a few minor page changes for editorial reasons which were identified by both WIPP and your staff in the Hazardous and Radioactive Materials Bureau (HRMB). These page changes will be designated as Revision 6.1. This update does not introduce any new or substantive technical information. Copies of the changes will also be provided to those locations where the Revision 6 version of the application was sent.

We have been in discussion with the HRMB regarding these changes and understand that, at this time, a technical adequacy decision has not been reached. We therefore have the opportunity to submit this updated information. I understand that once the New Mexico Environment Department (NMED) begins drafting the permit, any future changes will be required to go through the formal process of a permit modification.

If you have any questions or require further information, please do not hesitate to contact me at (505) 234-7300.

Sincerely,


George E. Dials
Manager

Enclosure

Mr. Mark E. Weidler

- 2 -

May 29, 1996

cc w/enclosure:

B. Garcia, NMED (6)

C. Walker, A.T. Kearney (3)



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

May 29, 1996

Ms. Barbara Hoditschek
RCRA Permits Program Manager
New Mexico Environment Department
P.O. Box 26110
Santa Fe, N.M. 87502

Dear Ms Hoditschek:

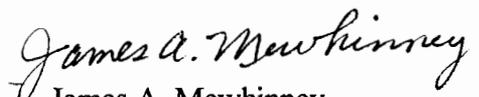
Enclosed are two copies of the Solid Waste Management Units (SWMUs) Data Report Number 4 which contains information requested in your April 23, 1996 letter.

Data Reports 1 through 3 previously sent to you included supporting information on particular SWMUs that was intended to update the Resource Conservation and Recovery Act (RCRA) Facility Assessment for the Waste Isolation Pilot Plant (WIPP). Data Report Number 4 completes our discourse at this time on addressing the SWMUs at the WIPP facility. We believe this information provides the needed documentation for you to complete the Hazardous and Solid Waste Amendments (HSWA) module development of the RCRA Part B permit.

Two copies of this material are also being provided by courtesy copy of this letter to Mr. Rafael Casanova of the Environmental Protection Agency Region VI office.

Should you have any further questions or requests, please do not hesitate to contact Craig Snider of my staff at (505) 234-7452.

Sincerely,


James A. Mewhinney
Compliance Team Leader
Office of Regulatory Compliance

Enclosure

cc w/enclosure:
Rafael Casanova, EPA (2)

Ms. Barbara Hoditschek

- 2 -

May 29, 1996

bcc w/enclosure:

K. Hunter, CAO (1)

C. Wayman, CAO (1)

C. Snider, CAO (4)

B. Bennington, CAO (1)

bcc w/o enclosure:

K. Donovan, WID, MS #150

S. Kouba, WID, MS #170

D. Robertson, WID, MS #170

**WESTINGHOUSE ELECTRIC CORPORATION
WIPP PROJECT - CARLSBAD, NM**

COMPLIANCE AND PERMITTING

FACSIMILE TRANSMITTAL SHEET

FAX NUMBER: (505) 234-8854

| | | | | | |
|------------------------------|---|-------------------------|---------|------|---------|
| PAGES -- INCLUDE COVER | 3 | DATE | 5-17-96 | TIME | 11:15am |
| | | | | | |
| TO: | Steve Zappe | | | | |
| LOCATION: | NMED | | | | |
| PHONE: | (505) 827-1561 | FAX NO.: 1544 | | | |
| | | | | | |
| FROM: | Karen A. Day | | | | |
| LOCATION: | WIPP SITE - SUPPORT BUILDING - CARLSBAD, NM | | | | |
| PHONE: | (505) 234-8720 | FAX NO.: (505) 234-8854 | | | |

SPECIAL INSTRUCTIONS:

Steve -

I'm also sending Table D-6, which contained a few errors. Please call if you have any other questions.

*Thanks,
Karen Day*

**OFFICE OF REGULATORY COMPLIANCE
CARLSBAD AREA OFFICE
U.S. DEPT OF ENERGY
P.O. BOX 3090
CARLSBAD, NM 88221-3090**



NO. OF PAGES (excluding cover) 2

DATE 5/15/96

TO: Steve Zappe

LOCATION:

FAX # (505) 827-1544

FROM: Craig A. Snider

LOCATION: WOIC, 3rd Floor

PHONE/FAX #: 505-234-7452 / 505-234-7430

**MESSAGES: Steve: Here is the changes we talked about yesterday. I do not have a complete list yet of the potential changes to the Part A. I'll have this sent to you very soon. We anticipate that once we have the new codes, it would take approximately 1 1/2 weeks for a compatibility analysis to be run. I'll call you shortly. Thanks
Craig**

Potential Changes to the WIPP RCRA Part B Permit Application

| Page Number | Line Number | Change |
|-------------|-------------------|--|
| C-14 | 28 | §264.601(b) should be §264.601(c) <i>and then</i> |
| C-36 | 25 | delete "discarded" |
| D-6 | 15 | insert "or" before "sending" and delete "or emplacing the TRUPACT-II in the WIPP underground." |
| D-8 | 29 | (3.5m ³) should be (43.5m ³) |
| D-64 | 44 | delete "simply" and add a period. ? |
| D-73 | 28 | delete "closing the regulator and constructing a chain link/brattice cloth barricade" and add "removing the air regulator bulkhead and constructing chain link/brattice cloth barricades at each end." |
| D-112 | Table D-6 | update values to be consistent with the NMVP <i>Received 5/17 fax</i> |
| D-131 | Figure D-11 | change caption "ventilation control point (typical)" to "location of room barricade (typical)" change caption "location of room air stoppage (typical)" to "location of room barricade (typical)" |
| F-30 | Table F-1 | reorder the rows so that the order of the inspections is consistent with Appendix F1 |
| F-39 & F-40 | Figures F-1 & F-2 | replace with pictures that have the correct captions; only incorrect in the first 20 copies |

| | | | | | |
|-------------------|--------------|------|---------|------------|---|
| Post-it™ Fax Note | 7671 | Date | 5/15 | # of pages | 2 |
| To | Craig Snider | | From | Karen G | |
| Co./Dept. | | | Co. | | |
| Phone # | | | Phone # | | |
| Fax # | | | Fax # | | |

| <u>Page Number</u> | <u>Line Number</u> | <u>Change</u> |
|--------------------|--------------------|---|
| I-6 | 4 | delete "mix of 60 percent drums and 40 percent SWBs is used" and add "maximum acheivable volume is used." |
| Appendix D5 | | replace 1st page |
| Appendix D9 | | replace Table D9-8 with a table that includes values consistent with the NMVP |
| Appendix D11 | | copying error; replace complete appendix; only incorrect in the first 20 copies |
| Appendix D19 | | last few pages are copied on the wrong side of the paper |
| Appendix D20 | | insert pages 3-8 and 3-9; they are missing |
| Appendix F1 | | insert a form that is missing change table of contents to be consistent with Table F-1 |

*received
5/17 fix*

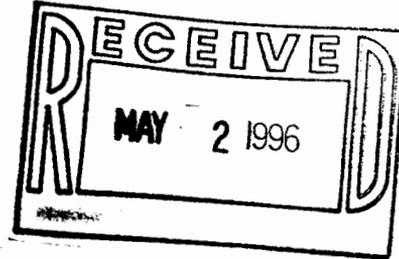


Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

April 26, 1996

Ms. Barbara Hoditschek, Manager
RCRA Permits Program
Hazardous & Radioactive Materials Bureau
New Mexico Environment Department
P.O. Box 26110
Santa Fe, N.M. 87502



Dear Ms. Hoditschek:

This letter provides response to your request delivered by Steve Zappe on April 24, 1996, regarding additional information required on the Solid Waste Management Units (SWMUs). You request additional information on the SWMUs in order to develop the Hazardous and Solid Waste Amendments (HSWA) module of the WIPP draft permit by May 3, 1996.

We are seeking an extension to respond with the requested information in order to fully and adequately address the needs identified in your letter. The additional material will be provided no later than May 24, 1996. My staff will be coordinating with you on this topic.

If you have any questions or require further information, please contact me at (505) 234-7480 or Craig Snider at (505) 234-7452.

Sincerely,

James A. Mewhinney
Compliance Team Leader
Office of Regulatory Compliance





GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544

WIPP file



MARK E. WEIDLER
SECRETARY

→ Hand Delivered ← 4/24/96

EDGAR T. THORNTON, III
DEPUTY SECRETARY

~~CERTIFIED MAIL - RETURN RECEIPT REQUESTED~~

April 23, 1996

Mr. George Dials, Manager
Carlsbad Area Office
Department of Energy
P. O. Box 3090
Carlsbad, New Mexico 88221

Mr. Joe Epstein, General Manager
Westinghouse Electric Corporation
P.O. Box 2078
Carlsbad, New Mexico 88220

Dear Messrs. Dials and Epstein:

RE: Request for additional information on WIPP Solid Waste Management Units (SWMUs)

The New Mexico Environment Department's (NMED) Hazardous and Radioactive Materials Bureau (HRMB) recently received three data summary reports from WIPP describing the results of voluntary release assessments at selected SWMUs. On April 11, staff members from NMED and Mr. Rafael Casanova from EPA Region 6 toured representative surface SWMUs around the WIPP facility. On April 12, Mr. Casanova and Mr. Steve Zappe of my staff attended a briefing conducted by members of your staff (Craig Snider, Dan Robertson, Beth Bennington, Steve Kouba) to discuss the voluntary release assessment results and to determine if additional information was required prior to development of the Hazardous and Solid Waste Amendments (HSWA) module of the WIPP draft permit.

Attachment 1 contains HRMB's request for this additional information. HRMB will use this information to develop the Statement of Basis associated with the draft permit, justifying the inclusion or exclusion of SWMUs from the HSWA module. Much of this information has already been requested verbally either at the April 12 meeting, or during recent discussions related to the DOE/WID responses to the March 14 Notice of Deficiency. DOE/WID should submit the response to this request by May 3, 1996 in the form of another data summary report.

Messrs. Dials and Epstein
Page 2
April 23, 1996

If you have any questions concerning this request for additional information related to SWMUs, please contact me or Mr. Steve Zappe at (505) 827-1561.

Sincerely,

Barbara Hoditschek

Barbara Hoditschek, RCRA Permits Program Manager
Hazardous & Radioactive Materials Bureau

Enclosures

cc: Ed Kelley, NMED
Benito Garcia, HRMB
Steve Zappe, HRMB
Susan McMichael, NMED OGC
Dan Robertson, WID
Craig Snider, DOE
David Neleigh, EPA Region 6
Matt Hale, EPA OSW
WIPP File - Red '95



Department of Energy

Carlsbad Area Office
P. O. Box 3090
Carlsbad, New Mexico 88221

April 12, 1996

Mr. Mark E. Weidler, Secretary
New Mexico Environment Department
P.O. Box 26110
Santa Fe, N.M. 87502

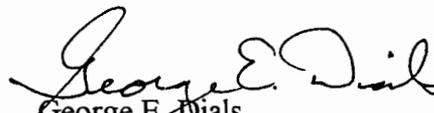


Dear Mr. Weidler:

Please find enclosed a complete revised Resource Conservation and Recovery Act (RCRA) permit application submitted in response to the Technical Adequacy Notice of Deficiency issued March 14, 1996. Additionally, copies of this application are being provided to your staff on disk, including the redline/strikeout version from the previous revision, to ease the review and permit development process.

With this submittal, we have met the regulatory time limit established for responding to notices of deficiencies and continue to meet the milestones we set for ourselves. We appreciate the commitment your staff has shown in meeting with us these past months. I understand the meetings were most beneficial in ensuring this application will stand up to the scrutiny of the regulatory process. I look forward to the next step of dialogue with you and your staff which will involve the development of the draft permit. As I have said in previous correspondence, I commit to making our project participants available to assist your staff in any way to enhance their abilities to review and render a timely decision on this important permit application.

If you have any questions or require further information, please call.


George E. Dials
Manager

Enclosure

cc w/enclosure:
B. Garcia, NMED (4)



Strike 7

RECEIPT

I acknowledge receipt of the following materials from the U.S. Department of Energy:

5 copies of Revision 6 of DOE/WIPP 91-005 entitled "Resource Conservation and Recovery Act Part B Permit Application" for the Waste Isolation Pilot Plant

5 copies of "Responses to New Mexico Environment Department Notice of Deficiency Dated March 14, 1996"

Disks containing the revised permit application (Redline/Strikeout and Final)

Signed: Bernd J. Garcia for the New Mexico Environment Department

Date: 4/12/96