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MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

March 31, 1997

The Honorable Joseph R. Skeen
United States Representative
2302 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Skeen:

I am writing this letter on behalf of Secretary Mark Weidler in response to your March 6, 1997 letter to Governor Gary Johnson concerning the New Mexico Environment Department's (NMED) progress on the RCRA permit for the Waste Isolation Pilot Plant (WIPP). Please be assured that NMED is proceeding expeditiously to develop and release the WIPP draft hazardous waste facility disposal permit for public comment.

I recently provided former New Mexico legislator Robert Light with additional information concerning the many factors affecting the State's WIPP permitting process. One of these factors concerns the amount of time spent by DOE and its contractor in providing the State with technical information needed for a complete application, as required by regulation. NMED cannot issue a draft permit for public review which is based upon an incomplete application. Thirteen of the twenty-one months NMED has had the WIPP permit application were spent attempting to obtain a technically adequate application from DOE and its contractor. Even after determining the application to be complete on June 26, 1996, NMED has found it necessary to request additional information from DOE to clarify, modify, or supplement previously submitted material. I understand EPA is facing a similar situation in performing its review of the Compliance Certification Application.

NMED has every intent in "leading the nation in responsible permitting," as you stated in your letter. However, ensuring that "all applicable health and safety standards have been met and all applicable laws have been complied with" prior to the November 30, 1997 deadline suggested by Congress is not a foregone conclusion. Responsible permitting, from the State's perspective, requires that we take all necessary measures to ensure development of a technically and legally defensible permit, capable of withstanding scrutiny both during public hearings and potential legal challenges. To produce a permit which falls short of these standards would be a disservice to the citizens of this State, and would fail to meet RCRA's mandate to protect human health and the environment.

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I appreciate your concern about the status of the State's permitting process. If you have further questions or concerns, please contact my office directly at (505) 827-2855.

Sincerely,



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

cc: Governor Gary Johnson
Jennifer Salisbury, NM WIPP Task Force Chair
George Dials, DOE/CAO
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