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FAX COVER SHEET

Date: April 8, 1997
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COMMENTS

Dawn -

Here are my suggested comments on the "Certification and Public Participation" section of your **Frequently Asked Questions on the Waste Isolation Pilot Plant**. Feel free to use whatever you can, editing for available space and subject to the approval of EPA. Thanks for the opportunity to provide input!

Steve

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26. Who decides whether to open the WIPP?

The Secretary of the U.S. Department of Energy (DOE) is responsible for deciding whether or not to open the WIPP for the acceptance of waste. The Secretary is not authorized to make this decision, however, until the U.S. Environmental Protection Agency (EPA) grants a certification of compliance indicating that the WIPP has complied with the agency's disposal standards for transuranic wastes. DOE has applied for this certification by submitting a Compliance Certification Application to EPA on October 29, 1996. Obtaining EPA approval of the Compliance Certification Application is the most crucial hurdle, but several other things must also happen before the WIPP can open. For instance, the New Mexico Environment Department (NMED) must issue a hazardous waste disposal permit, approve environmental permits, and DOE must finalize an environmental impact statement. Also, any lawsuits standing in the way must be resolved. Finally, Congress must fund the disposal activities it has authorized.

27. When will the decision on certification be made, and when might the repository start receiving waste (if certified)?

In the law authorizing the WIPP, Congress made EPA responsible for determining whether or not to issue a certification of compliance to the WIPP. EPA will make its certification decision within one year after receiving a complete application from DOE. DOE is authorized to begin shipping waste to the WIPP 30 days after receipt of a certification by EPA, a permit by NMED, and after resolution of any remaining legal obstacles.

28. Is EPA responsible for certifying the transportation routes?

No. EPA's certification process does not include the choice and approval of transportation routes. Regulations issued by the U.S. Department of Transportation set guidelines for routing waste to the WIPP, but give the states and Indian tribes authority to designate routes within their borders.

29. What happens after the WIPP is full? Who's in charge for the next 10,000 years?

The law limits the amount of waste the WIPP can receive to 6.2 million cubic feet or 5.1 million curies. When the WIPP reaches its legal storage capacity in the estimated 35 years, it will accept no more waste. The repository will be sealed with backfill, cement, and other materials in accordance with an approved closure plan to isolate the waste from the accessible environment. Then begins a long-term process of keeping the waste isolated for the 10,000 years or more it takes to become less radioactive. During the first hundred years or so after the repository is sealed, it will be monitored, fenced, and guarded by DOE. But because it is hard to predict which government institutions may evolve or disappear over the next 10,000 years, DOE will also use "passive" measures to warn people against disturbing the site. Monuments, berms, warning markers, and widespread records will be designed to inform people of the contents of and to keep people from drilling into the WIPP site. Drilling poses the greatest potential danger of releasing material from the repository.

30. What keeps the government from taking arbitrary actions on transuranic waste? How can ordinary citizens influence decisions on the WIPP?

The government is constrained by a wide range of laws and regulations specifying what it can and cannot do. These laws and regulations cover nuclear waste, hazardous waste, transportation, environmental pollution, and even the procedures by which the government makes its decisions. Many of the decisions about the WIPP have already been made, and citizens have influenced those decisions through federal and state government agencies, such as EPA, NMED, and DOE, as well as their elected representatives in the White House, Congress, and state government. The agencies involved have sought extensive public participation through public meetings, hearing, comment periods, and other mechanisms.

31. Are there any upcoming opportunities for public participation or comment?

Before DOE can dispose of waste at the WIPP, federal and state regulatory agencies EPA must determine whether the facility complies with pertinent radioactive disposal standards. DOE has submitted a Compliance Certification to EPA to show how the WIPP meets radioactive these standards, and EPA is reviewing that application. EPA's decision on whether or not to certify that the WIPP complies with these standards will be made through a formal public rulemaking process, and the agency's proposed decision on whether the WIPP should open will be available for public comment. On November 15, 1996, EPA issued an Advance Notice of Proposed Rulemaking to notify the public about the upcoming decision and to invite public comment on DOE's application. EPA will hold public hearings on the Advance Notice of Proposed Rulemaking, and again on the proposed decision, in New Mexico and will consider public comments received during both comment periods before reaching a final decision.

DOE has submitted a permit application to NMED to demonstrate compliance with hazardous waste disposal standards. NMED will issue a draft permit for public comment sometime later in 1997. A public hearing may be scheduled after the draft permit has been released.

Opportunities for Public Comment and Public Hearings

Date	Subject	How the Public Can Participate
To be scheduled in 1997	Public comment period (45 days) on NMED's draft permit.	The public can review the draft permit and submit written comments to NMED.
To be scheduled in 1997	Public hearing scheduled in New Mexico on NMED's draft permit.	The public may submit written and oral testimony at the public hearing.

32. If regulatory agencies EPA certifies that the WIPP complies with disposal EPA standards, is that the end of regulatory oversight EPA's role?

Throughout its operation of the WIPP, DOE must submit a recertification application to EPA every five years. EPA will review the recertification applications to determine whether the facility remains in compliance with

applicable standards, and the public will have an opportunity to inspect and comment on the applications. By law, EPA must consider all public comments before issuing a final recertification on the WIPP's continued operation.

The permit issued by NMED would be effective for no more than ten years, subject to a mandatory NMED review after five years to ensure continued compliance with currently applicable requirements. DOE must submit a new application for renewal before the existing permit expired. Permit renewal follows the same procedures as an initial permit application, with opportunities for public comment before NMED issues a permit decision. NMED will also conduct regular inspections of the WIPP to ensure compliance with the disposal permit, and may revoke the permit with cause.

33. How can the public get information about the upcoming hearings, meetings, and the status of EPA activities regarding the WIPP?

EPA maintains the WIPP Information Line at 1-800-331-WIPP, which provides up-to-date information about upcoming activities, events, and opportunities for public participation, as well as status updates. In addition, callers can leave a request for a publication, a question for EPA WIPP staff, or a request to be added to EPA's WIPP mailing list. The WIPP Information Line is recorded in both English and Spanish. EPA publishes notices of public activities in the Federal Register and advertises in local newspapers, while NMED publishes public notices in newspapers of general and local circulation throughout New Mexico.

More information about the WIPP and current activities ~~are~~ may be found on the World Wide Web at these and other sites:

EPA's WIPP Web site	http://www.epa.gov/radiation/wipp
DOE'S WIPP Web site	http://www.wipp.carlsbad.nm.us
National Safety Council/ Environmental Health Center Web site	http://www.nsc.org/ehc/wipp.htm
State of New Mexico's WIPP Transportation Safety Program	http://www.emnrd.state.nm.us/wipp/