



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 06 1997

OFFICE OF
THE ADMINISTRATOR

Honorable Tom Udall
Attorney General of New Mexico
P.O. Drawer 1508
Santa Fe, NM 87504-1508

Dear Mr. ~~Udall~~ ^{Tom}:

This letter is a follow-up to our conference call of July 29, 1997, in which Richard Wilson and Lawrence Weinstock of the Office of Air and Radiation and Mark Badalamente of my office participated. I regret that there was a misunderstanding following our June 5, 1997, meeting regarding the steps that EPA is willing to take to provide your office with access to our rulemaking certifying whether the U.S. Department of Energy's (DOE) Waste Isolation Pilot Plant (WIPP) complies with 40 CFR Part 191. As we discussed in our July 29, 1997, conference call, the Agency made several commitments to further accommodate your office's participation in the WIPP certification process.

In our meeting we made the following commitments to you:

(1) EPA will inform the Environmental Evaluation Group (EEG), the New Mexico Environment Department (NMED) and your office of technical meetings among EPA staff and/or contractors and DOE staff and/or contractors. EEG, NMED and your office will be welcome to observe such meetings. The Agency has been informing EEG of interactions among EPA and DOE staff and/or contractors and has invited EEG to observe. EEG has indicated satisfaction with this approach. We will now include NMED and your office in that process, and will place summaries of these meetings in the docket.

(2) In addition to docketing summaries of technical meetings, EPA will now submit detailed summaries of all interactions with DOE, including future management-level meetings and conversations, into the public docket established for the WIPP certification rulemaking.

(3) Larry Weinstock and his staff will schedule a meeting with you and/or your staff, at your earliest convenience. At that time, EPA is willing to provide additional information identifying the various issues that have arisen as EPA continues its compliance evaluation of the



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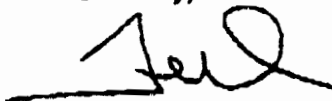
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WIPP. We can also address any questions you may have regarding meeting/conversation summaries docketed between now and the time of that meeting. However, since the Administrator won't have made a proposed decision at that time, we cannot discuss staff recommendations on issues related to the Agency's decision. In addition, we will provide you and your staff an informational briefing on the Agency's proposed certification determination immediately prior to promulgation.

The review process that occurs at the Office of Management and Budget (OMB) is governed by Executive Order 12866, which specifically provides for procedural transparency. All previous EPA rulemakings regarding WIPP have met these transparency requirements. Any request for changes to those procedures would need to be directed to Sally Katzen, Administrator of the OMB Office of Information and Regulatory Affairs. I assure you, however, that all decisions made by EPA in the proposed and final certification decisions will be fully supported and based on the information in the public record at the time those decisions are announced.

If you require clarification regarding these commitments, please contact Richard Wilson at (202) 260-7400.

Sincerely,



Fred Hansen
Deputy Administrator

cc: Robert Neill, EEG
Steve Zappe, NMED