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2/1/99
ENTERED



PETER MAGGIORE
Secretary

VIA FACSIMILE (312)558-5700 AND U.S. MAIL

February 1, 1999

Mr. Kenneth T. Kristl, Esq.
Winston & Strawn
35 West Wacker Drive
Chicago, Ill. 60601-9703

Re: Request for Clarification of the Permittees' Written Public Comment.

Dear Mr. Kristl:

On January 19, 1999, the New Mexico Environment Department (NMED) received substantial written comments from the Department of Energy (DOE), including comments from the Permittees (DOE and the Westinghouse Isolation Division) and from potential DOE generator/storage sites, on the revised Draft RCRA Permit for the Waste Isolation Pilot Plant (WIPP). Upon review of these comments, NMED has determined that certain DOE generator/storage sites provided written comments which are inconsistent or directly in conflict with the Permittees' comments.

For example, many of the eighty-six (86) detailed comments submitted by DOE's Los Alamos National Laboratory are inconsistent or directly conflict with the Permittees' written comments and editorial suggestions. NMED estimates, based on the technical and regulatory issues raised, that it will take approximately four (4) weeks to address these written comments. Furthermore, many of these comments cannot be adequately addressed without clarifying whether these comments represent a change in DOE's position as a Party to the Hearing and as Co-Permittee of WIPP.

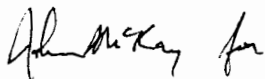


Mr. Kenneth T. Kristl, Esq.
February 1, 1999
Page 2

This inconsistency and conflict between the positions of the Permittees and DOE generator/storage sites poses a significant problem for the Department and other members of the public. Without further written clarification it is impossible to understand DOE's intent and position regarding critical issues in the Revised Draft Permit. NMED requests that you determine which comments represent your position as a Party to the Hearing and as Co-Permittee. Further, NMED requests that DOE withdraw any comment which are inconsistent or in conflict with this position. This determination and clarification will avoid substantial and unnecessary confusion and potential delay of the Hearing.

The Hearing Officer has scheduled a pre-hearing conference this Friday. NMED requests a written response by Wednesday, February 3, 1999. Please call me if you have any questions.

Sincerely,



Susan M. McMichael
WIPP Lead Counsel

cc: Geoffrey H. Fettus, Assistant Attorney General
Don Hancock, Southwest Research and Information Center
Benito Garcia, HRMB Bureau Chief ✓