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Subject: Letter to you

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From: Don Hancock <sricon@earthlink.net>

To: Greg Lewis <greg_lewis@mercury.nmenv.state.nm.us>

June 9, 1999

Greg Lewis, Director
Water and Waste Management Division
New Mexico Environment Department
PO Box 26110
Santa Fe, NM 87502-6110

VIA FAX AND U.S. MAIL

Dear Mr. Lewis:

Southwest Research and Information Center (SRIC) is very concerned about the apparent unwillingness of the Department of Energy (DOE) to comply with NMED requests and legal requirements related to the Waste Isolation Pilot Plant (WIPP). SRIC urges you to immediately take action to require compliance and specifically to stop any shipments from the Rocky Flats Plant (RFETS) to WIPP, including the first shipment planned for June 15.

On March 25, 1999, you wrote to DOE Secretary Bill Richardson requesting, among other things, that he "immediately provide documentation demonstrating the non-hazardous nature of the TRU debris waste at INEEL and RFETS." Only after NMED issued a Compliance Order on April 20, 1999 did DOE submit some information about one waste shipment from INEEL, a shipment that has subsequently arrived at WIPP. SRIC has twice written to you (letter of April 26 and email of May 26) pointing out some of the deficiencies of DOE's response to that Compliance Order.

DOE has provided you with a schedule for 79 shipments from RFETS to WIPP, yet it has provided no detailed information about the approximately 3,000 drums of wastes that could be included in such shipments. Instead, DOE recently provided its "Non-Mixed Waste Determination for TRU Graphite Debris Waste - Profile No. RF003.01" that purports to show that 26 drums are non-hazardous.

That DOE document on its face is not a determination as to 79 shipments, since it only purports to cover drums in one shipment. But the submission does not adequately support the determination on the 26 drums, and is far short of the process used at Los Alamos National Laboratory (LANL) to support its non-hazardous waste determination and does not even match the procedures used at INEEL for its determination. DOE has provided no



supporting documentation with the summary profile, so NMED cannot adequately determine the validity of any statements in the profile.

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Moreover, at RFETS only one drum of the 26 drums was subjected to visual inspection, whereas at LANL and INEEL all drums had such visual inspection. NMED cannot rely on such minimal visual inspection procedures related to RFETS or any site.

In addition, RFETS did no sampling and analysis and had no sampling and analysis plan (SAP), again in contrast to LANL and INEEL where each site had a SAP. RFETS reliance on the INEEL sampling and TCLP results would set a dangerous precedent that DOE would undoubtedly use at other sites and for other waste streams, thereby totally undermining requirements of the Resource Conservation and Recovery Act (RCRA) and the New Mexico Hazardous Waste Act (HWA), including the requirements of any HWA permit.

Based on the profile, NMED cannot determine whether corrosive or chemically incompatible wastes -- which are prohibited at WIPP -- are present in the 26 drums. The lack of TCLP and examination of only one drum cannot be considered an adequate representative sample of the waste stream or the shipment. Further, the actual results of the examination, including documents and videotape of the one drum have not been provided.

Even the minimal data provided in the profile raise concerns. For example, the Appendix E headspace gas summary shows that all 26 drums contain acetone, a RCRA constituent, which is ignitable. Further, since NMED has not made any determination about the adequacy of the RFETS quality assurance and other waste analysis procedures, it cannot rely on the accuracy of the RFETS information.

SRIC urges you to take immediate action to inform DOE that its has not complied with NMED's March 25 request and that the information provided about RFETS does not support a non-hazardous waste determination. NMED should clearly state that no shipments to WIPP from Rocky Flats are approved and that DOE should not ship any wastes from Rocky Flats at least until DOE has submitted adequate information and NMED has determined that the wastes are non-hazardous or that DOE has complied with interim status requirements of RCRA and the HWA. And you should take whatever action is necessary to require DOE's compliance with such legitimate and necessary requests before any waste is shipped to WIPP from Rocky Flats.

Thank you very much for your prompt attention to this matter.

Sincerely,

Don Hancock

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