State’s WIPP Permit
Goes Beyond Prudence

SINCE THE Department of Energy filed its lawsuit earlier this month challenging certain provisions of the New Mexico Environment Department’s recently issued permit for the Waste Isolation Pilot Plant in Carlsbad, there has been widespread misunderstanding and in some cases anger.

It is not DOE’s position that it should be free from state regulation at WIPP. As a member of Congress, Secretary Bill Richardson fought to ensure that the state would have an extensive regulatory role. His position has not changed.

After a very long regulatory process, the Environment Department issued a permit, that is roughly 6 inches thick. We have filed suit with respect to only five provisions. In one case, we are simply seeking a clarification of a provision we believe to be unclear.

The remaining challenges, however, relate to provisions that we believe are unprecedented, unduly costly or entail unwarranted exposure of our workers to radiation without any corresponding benefit to the public or the environment.

The so-called financial assurance requirement of the permit has drawn the most attention because complying with it involves using monies that would otherwise go to the same for highway construction.

Some have interpreted that as retribution by DOE for imposing a requirement we don’t like. The reality is that the budget for WIPP competes for dollars with all DOE’s cleanup obligations around the country. Taking the money to meet this unprecedented requirement out of the highway funds provided for in the WIPP budget seemed most equitable and least likely to harm the environment by slowing the cleanup program elsewhere. Congress agreed with this judgment.

Neither the New Mexico Environment Department nor any other state or federal environmental regulator has imposed such a requirement on a DOE facility anywhere else in the country.

Given the budgets for cleanup are flat or shrinking, paying money now for this future need means that some pressing environmental priorities elsewhere cannot be met. We don’t think that’s good for the environment. As a member of Congress, Secretary Bill Richardson fought to ensure that the state would have an extensive regulatory role.

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