



December 19, 2002

Mr. Steve Zappe  
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**Regarding: Amended Panel Closure Plan**

Dear Mr. Zappe,

**Nuclear Watch of New Mexico** (NWNM) was pleased when the New Mexico Environment Department (NMED) determined that the Panel Closure Plan was a Class 3 permit modification request (PMR) rather than a Class 2 PMR. However, we still believe that **the modification must be denied**.

As you know, the New Mexico Hazardous Waste Act (20 NMAC 4.1.900, incorporating 40 CFR 270.42(c)(6)), provides that NMED may deny a Class 3 modification.

The permittees will certainly argue that time is of the utmost importance, and because of this time constraint they will argue that this PMR must be approved expediently. We hold a differing opinion. Because of the permittees' choice to wait until the last minute to submit this PMR, and the permittees have known about the problem with Option D for quite some time, the issue is clearly theirs. The permittees have submitted an incomplete modification that endangers human health and the environment. NMED should not feel pressured to approve this PMR, as the Environmental Protection Agency (EPA) will not be able to consider this PMR until at least the summer of 2004, and as you know both NMED and the EPA must approve this modification before it can be put into effect. A denial by NMED would allow the permittees the opportunity to submit a more complete modification, and will, in fact, assist the permittees in making certain that their PMR for panel closure will actually work.

If NMED does not deny this PMR, and NMED issues a notice of deficiency, NWNM requests that public comment be considered fully and included in any notice of deficiency. NWNM also desires that if NMED proceeds with a notice of deficiency, that it require the permittees to notify the public of its responses through the WIPP mailing list and make its responses available to the public.

The following examples explain why the panel closure modification request should be denied.

1. The permittees have failed to supply a full engineering analysis of the projected performance of the current Panel Closure System (PCS), and the proposed WIPP Panel Closure (WPC) from a major ceiling collapse, and in the event of deflagration and detonation. The permittees should also include a full engineering analysis of the alternative designs suggested in the Design Report, especially any that are

expected to provide increased or equal protection to the environment or human health compared to Option D or the proposed WPC.

The analysis submitted in the request is not complete. It does not account for EEG's report on panel closure (Evaluation of Proposed Panel Closure Modifications at WIPP, EEG-82, December 2001), nor does the analysis account for the effects of detonation.

2. The permittees should be required to provide the report of the design review committee. This report is of the utmost importance as it will explain the committee's decision as to why the WPC was the best system to choose from. It will also allow the public to review that committee's decision.
3. The permittees must provide a more thorough explanation as to why the Salado Mass Concrete (SMC) will not function properly as their current explanation is insufficient. In fact, some of the permittees' data suggests that the SMC could actually work. Furthermore, the permittees should be required to show that the SMC will work in the final closure of WIPP in order to avoid a problem such as this in the future.
4. The permittees have made no explanation as to why the panel closure schedule in Table I-1a and Figure I-2 need to be changed. The PMR states that construction would not even begin until at least 289 days after the final receipt of waste. This is extraordinary as it dramatically goes against the 180-day requirement stated in 40 CFR 264.113(b). This massive extension of time endangers the environment and human health. There is simply no comprehensive need suggested in the PMR that requires that these changes be made.

These are only a few items within the PMR that NWNM has seen that requires NMED to deny this modification.

Thank you for your consideration of our comments.

Sincerely,

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