



SOUTHWEST RESEARCH AND INFORMATION CENTER

P.O. Box 4524 Albuquerque, NM 87196 505-262-1862 FAX: 505-262-1864 www.sric.org

November 29, 2016

Butch Tongate
Secretary, New Mexico Environment Department (NMED)
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

via email

RE: Violations of the WIPP Permit

Dear Secretary Tongate:

Southwest Research and Information Center (SRIC) hereby requests that NMED issue a notice of violation of the WIPP Permit to the permittees - United States Department of Energy (DOE) and Nuclear Waste Partnership LLC. The permittees have knowingly and willingly violated Sections 1.14.2 and 1.14.3 of the WIPP Permit.

At the pre-submittal meeting in Albuquerque on November 15, 2016, representatives of the permittees stated that a Temporary Authorization request related to the Panel Closure permit modification request had been submitted on November 10, 2016. Don Hancock of SRIC asked why the Temporary Authorization had not been posted on the WIPP website as required by the Permit. The permittees' representatives stated that they are not required to post the Temporary Authorization, but would mail a notice of the request to the WIPP mailing list. Mr. Hancock specifically objected to not posting the request and stated that not doing so was a violation of the Permit.

As of this date, the Temporary Authorization request is still not posted on the WIPP website, either in the Information Repository or in the Submitted Modifications/Requests for Comments portions of the website.

However, WIPP Permit Section 1.14.2.3 states that the Information Repository shall include:

“Permit modification notifications and requests associated with this Permit submitted pursuant to 20.4.1. 900 NMAC (incorporating 40 CFR §270.42) and any associated responses from the Secretary;”

Temporary authorizations specifically are provided in 40 CFR §270.42(e) and clearly fall under the requirements of that Permit Section. The permittees have violated the Permit by not including the Temporary Authorization request in the electronic Information Repository (IR).

WIPP Permit Section 1.14.3 states:

“The Permittees shall add new documents to the IR within ten days after the new documents are submitted to, or received from, the Secretary.”

That ten-day period has clearly expired more than a week ago, so the permittees have violated that provision of the Permit.

The stated violations are knowingly and willingly committed by the Permittees because of the specific comments made by Don Hancock of SRIC at the November 15 meeting regarding violating the Permit by not posting the Temporary Authorization request, attended by authorized representatives of the Permit to discuss the Temporary Authorization and Response to the Technical Incompleteness Determination regarding Panel Closure.

Therefore, SRIC requests that NMED issue a notice of violation of those provisions of the Permit.

SRIC also requests that NMED provide a reasonable time of at least 30 days for public comments to be submitted after the Temporary Authorization is posted on the WIPP website. That timeframe is necessary because the current public comment period extends until December 5, 2016 on the Class 3 Permit Modification request for Addition of a Concrete Overpack Container Storage Unit, which is of significant public concern. SRIC also requests that NMED not take action to approve the Temporary Authorization until after it fully considers public comments.

Thank you very much for your careful consideration of these requests.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Hancock". The signature is fluid and cursive, with the first name "Don" being more prominent than the last name "Hancock".

Don Hancock

cc: Kathryn Roberts, John Kieling, Ricardo Maestas