



**TECHNICAL COMMENTS ON THE REVISED DRAFT RESOURCE
CONSERVATION AND RECOVERY ACT PART B PERMIT FOR THE
WASTE ISOLATION PILOT PLANT**

RECOMMENDATION

The Idaho National Engineering and Environmental Laboratory (INEEL) Citizens Advisory Board's (CAB) concludes that the comments we had on the previous version of the draft Resource Conservation and Recovery Act (RCRA) Part B permit for the Waste Isolation Pilot Plant (WIPP) have been adequately addressed by the New Mexico Environment Department (NMED).¹ In addition, we have determined that we have no additional comments to make on the Draft RCRA Permit for WIPP that will enhance efforts to get WIPP open.

We have a copy of the comments that were transmitted to NMED on the revised Draft RCRA Permit for WIPP submitted by the U.S. Department of Energy's Idaho Operations Office (DOE-ID) as well as the comments prepared and transmitted by the DOE's Carlsbad Area Office.

Based on conversations with NMED staff, we conclude that NMED is making every effort to prepare a Draft RCRA Permit for WIPP that is fully compliant with the law and that will be able to withstand court challenge. We support that endeavor and urge DOE to do everything possible to help achieve that very desirable outcome. We also understand that NMED found the comments submitted by DOE-ID on the previous version of the permit to be very helpful.

The INEEL CAB recommends that DOE-ID:

1. File a "Notice of Intent to Present Technical Testimony" in accordance with NMED requirements² on or before February 1, 1999.
2. Travel to the State of New Mexico to deliver the comments already submitted in writing at the public hearing on the draft permit.
3. Prepare for cross-examination by any "party to the proceeding."

This 3-part recommendation is premised on a conclusion that the provisions for receiving technical testimony during the public comment period for this permit were designed to allow persons wishing to provide technical testimony³ to speak directly to the appropriate individuals

¹ Those comments were transmitted to NMED in INEEL CAB Recommendation #43, dated July 22, 1998.

² The requirements for a "Notice of Intent to Present Technical Testimony" are addressed in the NMED Hazardous and Radioactive Materials Bureau's Legal Notice No. 98-05, dated November 13, 1998. The legal notice is available for review on NMED's Internet homepage located at: "<http://www.nmenv.state.nm.us/>"

³ Technical testimony is defined by NMED as scientific, engineering, economic or other specialized testimony.

(i.e., NMED personnel responsible for preparing the RCRA Permit for WIPP) and to make every effort to ensure that those comments are well understood.

DOE-ID has asserted that it is doing everything possible to support the prompt opening of WIPP. Providing testimony at the public hearing would help document that assertion. Because the INEEL CAB has yet to achieve consensus that any alternative to WIPP is acceptable, we will continue to urge DOE-ID to make every effort to accelerate WIPP opening and to comply with the Idaho Settlement Agreement.

The INEEL CAB believes that getting WIPP open is of utmost importance to DOE-ID and to the citizenry of Idaho. DOE-ID staff who have reviewed the Draft RCRA Permit for WIPP who are also familiar with the TRU waste that DOE-ID intends to ship to WIPP are uniquely qualified to provide input that will be vital to smooth implementation of permit requirements upon issuance. Additionally, we trust that DOE-ID staff can communicate the importance of the permitting endeavor for WIPP to the DOE's ability to meet the terms and conditions of the legally binding Idaho Settlement Agreement. **As a result, the INEEL CAB recommends that DOE-ID provide oral technical testimony and participate in cross-examination as appropriate at the public hearing in order to help ensure that all DOE-ID comments are completely understood and that they can be accurately incorporated into the RCRA Permit for WIPP.**