



**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) has concluded 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 copies of the comments 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) and by DOE's Carlsbad Area Office.

Based on conversations with NMED staff, we have concluded 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 the State of Idaho to do everything possible to help achieve that very desirable outcome.

The INEEL CAB recommends that the State of Idaho:

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 comment³ period for this permit were designed to allow persons wishing to provide technical testimony³ to speak directly to the appropriate individuals (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.

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.

The INEEL CAB believes that getting WIPP open is of utmost importance to the citizens of Idaho. State personnel from the Division of Environmental Quality and the INEEL Oversight Program who have reviewed the Draft RCRA Permit for WIPP and who are familiar with the TRU waste that DOE-ID intends to ship to WIPP could provide valuable input that will ease implementation of permit requirements upon issuance. Additionally, we trust that Idaho State personnel are uniquely qualified to communicate the importance of this permitting endeavor to DOE's ability to meet the terms and conditions of the legally binding Idaho Settlement Agreement. As a result, the INEEL CAB recommends that the State of Idaho provide oral technical testimony at the public hearing and respond to cross examination in order to help ensure that all comments submitted by the State of Idaho are completely understood and can be accurately incorporated into the RCRA Permit for WIPP.